

Calendar No. 807

106TH CONGRESS
2^D SESSION**S. 3046**

To amend title 11 of the United States Code, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2000

Mr. LOTT introduced the following bill; which was read the first time

SEPTEMBER 15, 2000

Read the second time and placed on the calendar

A BILL

To amend title 11 of the United States Code, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Bankruptcy Reform Act of 2000”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 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.
- Sec. 103. Findings and study.
- Sec. 104. Notice of alternatives.
- Sec. 105. Debtor financial management training test program.
- Sec. 106. Credit counseling.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

- Sec. 201. Promotion of alternative dispute resolution.
- Sec. 202. Effect of discharge.
- Sec. 203. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

- Sec. 211. Definition of domestic support obligation.
- Sec. 212. Priorities for claims for domestic support obligations.
- Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
- Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 216. Continued liability of property.
- Sec. 217. Protection of domestic support claims against preferential transfer motions.
- Sec. 218. Disposable income defined.
- Sec. 219. Collection of child support.
- Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

- Sec. 221. Amendments to discourage abusive bankruptcy filings.
- Sec. 222. Sense of Congress.
- Sec. 223. Additional amendments to title 11, United States Code.
- Sec. 224. Protection of retirement savings in bankruptcy.
- Sec. 225. Protection of education savings.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 301. Reinforcement of the fresh start.
- Sec. 302. Discouraging bad faith repeat filings.
- Sec. 303. Curbing abusive filings.
- Sec. 304. Debtor retention of personal property security.
- Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 306. Giving secured creditors fair treatment in chapter 13.
- Sec. 307. Exemptions.
- Sec. 308. Residency requirement for homestead exemption.
- Sec. 309. Protecting secured creditors in chapter 13 cases.
- Sec. 310. Limitation on luxury goods.
- Sec. 311. Automatic stay.
- Sec. 312. Extension of period between bankruptcy discharges.
- Sec. 313. Definition of household goods and antiques.
- Sec. 314. Debt incurred to pay nondischargeable debts.

- Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
- Sec. 316. Dismissal for failure to timely file schedules or provide required information.
- Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
- Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
- Sec. 320. Prompt relief from stay in individual cases.
- Sec. 321. Chapter 11 cases filed by individuals.
- Sec. 322. Excluding employee benefit plan participant contributions and other property from the estate.
- Sec. 323. Clarification of postpetition wages and benefits.
- Sec. 324. Limitation.
- Sec. 325. Exclusive jurisdiction in matters involving bankruptcy professionals.
- Sec. 326. United States trustee program filing fee increase.
- Sec. 327. Compensation of trustees in certain cases under chapter 7 of title 11, United States Code.
- Sec. 328. Nondischargeability of debts incurred through the commission of violence at clinics.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

- Sec. 401. Rolling stock equipment.
- Sec. 402. Adequate protection for investors.
- Sec. 403. Meetings of creditors and equity security holders.
- Sec. 404. Protection of refinance of security interest.
- Sec. 405. Executory contracts and unexpired leases.
- Sec. 406. Creditors and equity security holders committees.
- Sec. 407. Amendment to section 546 of title 11, United States Code.
- Sec. 408. Limitation.
- Sec. 409. Amendment to section 330(a) of title 11, United States Code.
- Sec. 410. Postpetition disclosure and solicitation.
- Sec. 411. Preferences.
- Sec. 412. Venue of certain proceedings.
- Sec. 413. Period for filing plan under chapter 11.
- Sec. 414. Fees arising from certain ownership interests.
- Sec. 415. Creditor representation at first meeting of creditors.
- Sec. 416. Definition of disinterested person.
- Sec. 417. Factors for compensation of professional persons.
- Sec. 418. Appointment of elected trustee.
- Sec. 419. Utility service.
- Sec. 420. Bankruptcy fees.
- Sec. 421. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

- Sec. 431. Flexible rules for disclosure statement and plan.
- Sec. 432. Definitions; effect of discharge.
- Sec. 433. Standard form disclosure statement and plan.
- Sec. 434. Uniform national reporting requirements.
- Sec. 435. Uniform reporting rules and forms for small business cases.
- Sec. 436. Duties in small business cases.
- Sec. 437. Plan filing and confirmation deadlines.

- Sec. 438. Plan confirmation deadline.
- Sec. 439. Duties of the United States trustee.
- Sec. 440. Scheduling conferences.
- Sec. 441. Serial filer provisions.
- Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
- Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
- Sec. 444. Payment of interest.
- Sec. 445. Technical correction.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 501. Petition and proceedings related to petition.
- Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

- Sec. 601. Audit procedures.
- Sec. 602. Improved bankruptcy statistics.
- Sec. 603. Uniform rules for the collection of bankruptcy data.
- Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

- Sec. 701. Treatment of certain liens.
- Sec. 702. Treatment of fuel tax claims.
- Sec. 703. Notice of request for a determination of taxes.
- Sec. 704. Rate of interest on tax claims.
- Sec. 705. Priority of tax claims.
- Sec. 706. Priority property taxes incurred.
- Sec. 707. No discharge of fraudulent taxes in chapter 13.
- Sec. 708. No discharge of fraudulent taxes in chapter 11.
- Sec. 709. Stay of tax proceedings limited to prepetition taxes.
- Sec. 710. Periodic payment of taxes in chapter 11 cases.
- Sec. 711. Avoidance of statutory tax liens prohibited.
- Sec. 712. Payment of taxes in the conduct of business.
- Sec. 713. Tardily filed priority tax claims.
- Sec. 714. Income tax returns prepared by tax authorities.
- Sec. 715. Discharge of the estate's liability for unpaid taxes.
- Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
- Sec. 717. Standards for tax disclosure.
- Sec. 718. Setoff of tax refunds.
- Sec. 719. Special provisions related to the treatment of State and local taxes.
- Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
- Sec. 802. Amendments to other chapters in title 11, United States Code.
- Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Bankruptcy Code amendments.
- Sec. 902. Damage measure.

- Sec. 903. Asset-backed securitizations.
- Sec. 904. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

- Sec. 1001. Reenactment of chapter 12.
- Sec. 1002. Debt limit increase.
- Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
- Sec. 1004. Certain claims owed to governmental units.
- Sec. 1005. Prohibition of retroactive assessment of disposable income.
- Sec. 1006. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

- Sec. 1101. Definitions.
- Sec. 1102. Disposal of patient records.
- Sec. 1103. Administrative expense claim for costs of closing a health care business.
- Sec. 1104. Appointment of ombudsman to act as patient advocate.
- Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
- Sec. 1106. Establishment of policy and protocols relating to bankruptcies of health care businesses.
- Sec. 1107. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

- Sec. 1201. Definitions.
- Sec. 1202. Adjustment of dollar amounts.
- Sec. 1203. Extension of time.
- Sec. 1204. Technical amendments.
- Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
- Sec. 1206. Limitation on compensation of professional persons.
- Sec. 1207. Effect of conversion.
- Sec. 1208. Allowance of administrative expenses.
- Sec. 1209. Exceptions to discharge.
- Sec. 1210. Effect of discharge.
- Sec. 1211. Protection against discriminatory treatment.
- Sec. 1212. Property of the estate.
- Sec. 1213. Preferences.
- Sec. 1214. Postpetition transactions.
- Sec. 1215. Disposition of property of the estate.
- Sec. 1216. General provisions.
- Sec. 1217. Abandonment of railroad line.
- Sec. 1218. Contents of plan.
- Sec. 1219. Discharge under chapter 12.
- Sec. 1220. Bankruptcy cases and proceedings.
- Sec. 1221. Knowing disregard of bankruptcy law or rule.
- Sec. 1222. Transfers made by nonprofit charitable corporations.
- Sec. 1223. Protection of valid purchase money security interests.
- Sec. 1224. Extensions.
- Sec. 1225. Bankruptcy judgeships.
- Sec. 1226. Family fishermen.

- Sec. 1227. Compensating trustees.
- Sec. 1228. Amendment to section 362 of title 11, United States Code.
- Sec. 1229. Provision of electronic FTC pamphlet with electronic credit card applications and solicitations.
- Sec. 1230. No bankruptcy for insolvent political committees.
- Sec. 1231. Federal election law fines and penalties as nondischargeable debt.
- Sec. 1232. Prohibition on certain retroactive finance charges.
- Sec. 1233. Sense of Senate concerning credit worthiness.
- Sec. 1234. Judicial education.
- Sec. 1235. United States trustee program filing fee increase.
- Sec. 1236. Providing requested tax documents to the court.
- Sec. 1237. Definition of family farmer.
- Sec. 1238. Encouraging creditworthiness.
- Sec. 1239. Property no longer subject to redemption.
- Sec. 1240. Availability of toll-free access to information.

TITLE XIII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 1301. Effective date; application of amendments.

TITLE XIV—FINANCIAL INSTITUTIONS INSOLVENCY IMPROVEMENT

- Sec. 1401. Short title.
- Sec. 1402. Treatment of certain agreements by conservators or receivers of insured depository institutions.
- Sec. 1403. Authority of the corporation with respect to failed and failing institutions.
- Sec. 1404. Amendments relating to transfers of qualified financial contracts.
- Sec. 1405. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
- Sec. 1406. Clarifying amendment relating to master agreements.
- Sec. 1407. Federal Deposit Insurance Corporation Improvement Act of 1991.
- Sec. 1408. Recordkeeping requirements.
- Sec. 1409. Exemptions from contemporaneous execution requirement.
- Sec. 1410. SIPC stay.
- Sec. 1411. Federal Reserve collateral requirements.
- Sec. 1412. Effective date; application of amendments.

TITLE XV—METHAMPHETAMINE AND OTHER CONTROLLED SUBSTANCES

- Sec. 1501. Short title.

Subtitle A—Methamphetamine Production, Trafficking, and Abuse

CHAPTER 1—CRIMINAL PENALTIES

- Sec. 1511. Enhanced punishment of amphetamine laboratory operations.
- Sec. 1512. Enhanced punishment of amphetamine or methamphetamine laboratory operators.
- Sec. 1513. Mandatory restitution for violations of Controlled Substances Act and Controlled Substances Import and Export Act relating to amphetamine and methamphetamine.
- Sec. 1514. Methamphetamine paraphernalia.

CHAPTER 2—ENHANCED LAW ENFORCEMENT

- Sec. 1521. Environmental hazards associated with illegal manufacture of amphetamine and methamphetamine.
- Sec. 1522. Reduction in retail sales transaction threshold for non-safe harbor products containing pseudoephedrine or phenylpropanolamine.
- Sec. 1523. Training for Drug Enforcement Administration and State and local law enforcement personnel relating to clandestine laboratories.
- Sec. 1524. Combating methamphetamine and amphetamine in high intensity drug trafficking areas.
- Sec. 1525. Combating amphetamine and methamphetamine manufacturing and trafficking.

CHAPTER 3—ABUSE PREVENTION AND TREATMENT

- Sec. 1531. Expansion of methamphetamine research.
- Sec. 1532. Methamphetamine and amphetamine treatment initiative by Center for Substance Abuse Treatment.
- Sec. 1533. Expansion of methamphetamine abuse prevention efforts.
- Sec. 1534. Study of methamphetamine treatment.

CHAPTER 4—REPORTS

- Sec. 1541. Reports on consumption of methamphetamine and other illicit drugs in rural areas, metropolitan areas, and consolidated metropolitan areas.
- Sec. 1542. Report on diversion of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products.

Subtitle B—Controlled Substances Generally

CHAPTER 1—CRIMINAL MATTERS

- Sec. 1551. Enhanced punishment for trafficking in list I chemicals.
- Sec. 1552. Mail order requirements.
- Sec. 1553. Increased penalties for distributing drugs to minors.
- Sec. 1554. Increased penalty for drug trafficking in or near a school or other protected location.
- Sec. 1555. Advertisements for drug paraphernalia and schedule I controlled substances.
- Sec. 1556. Theft and transportation of anhydrous ammonia for purposes of illicit production of controlled substances.
- Sec. 1557. Criminal prohibition on distribution of certain information relating to the manufacture of controlled substances.

CHAPTER 2—OTHER MATTERS

- Sec. 1561. Waiver authority for physicians who dispense or prescribe certain narcotic drugs for maintenance treatment or detoxification treatment.

Subtitle C—Cocaine Powder

- Sec. 1571. Short title.
- Sec. 1572. Sentencing for violations involving cocaine powder.

Subtitle D—Education Matters

- Sec. 1581. Safe schools.
- Sec. 1582. Student safety and family school choice.
- Sec. 1583. Transfer of revenues.

Subtitle E—Miscellaneous

- Sec. 1591. Notice; clarification.
- Sec. 1592. Domestic terrorism assessment and recovery.
- Sec. 1593. Antidrug messages on Federal Government Internet websites.
- Sec. 1594. State schools.
- Sec. 1595. Student safety and family school choice.
- Sec. 1596. Transfer of revenues.
- Sec. 1597. Increased penalties for distributing drugs to minors.
- Sec. 1598. Increased penalty for drug trafficking in or near a school or other protected location.
- Sec. 1599. Severability.

TITLE XVI—PROTECTION FROM THE IMPACT OF BANKRUPTCY
OF CERTAIN ELECTRIC UTILITIES

- Sec. 1601. Short title.
- Sec. 1602. Findings and purposes.
- Sec. 1603. Unlawful contract and amended contract.
- Sec. 1604. Exclusive enforcement.

TITLE VII—CONSUMER CREDIT DISCLOSURE

- Sec. 1701. Enhanced disclosures under an open end credit plan.
- Sec. 1702. Enhanced disclosure for credit extensions secured by a dwelling.
- Sec. 1703. Disclosures related to “introductory rates”.
- Sec. 1704. Internet-based credit card solicitations.
- Sec. 1705. Disclosures related to late payment deadlines and penalties.
- Sec. 1706. Prohibition on certain actions for failure to incur finance charges.
- Sec. 1707. Dual use debit card.
- Sec. 1708. Study of bankruptcy impact of credit extended to dependent students.

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

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

5 and

6 (2) in subsection (b)—

7 (A) by inserting “(1)” after “(b)”;

8 (B) in paragraph (1), as redesignated by
9 subparagraph (A) of this paragraph—

10 (i) in the first sentence—

11 (I) by striking “but not at the re-
12 quest or suggestion” and inserting “,
13 panel trustee or”;

14 (II) by inserting “, or, with the
15 debtor’s consent, convert such a case
16 to a case under chapter 11 or 13 of
17 this title,” after “consumer debts”;

18 and

19 (III) by striking “substantial
20 abuse” and inserting “abuse”; and

21 (ii) by striking the next to last sen-
22 tence; and

23 (C) by adding at the end the following:

24 “(2)(A)(i) In considering under paragraph (1) wheth-
25 er the granting of relief would be an abuse of the provi-

1 sions of this chapter, the court shall presume abuse exists
2 if the debtor's current monthly income reduced by the
3 amounts determined under clauses (ii), (iii), and (iv), and
4 multiplied by 60 is not less than the lesser of—

5 “(I) 25 percent of the debtor's nonpriority un-
6 secured claims in the case; or

7 “(II) \$15,000.

8 “(ii)(I) The debtor's monthly expenses shall be the
9 applicable monthly (excluding payments for debts) ex-
10 penses under standards issued by the Internal Revenue
11 Service for the area in which the debtor resides, as in ef-
12 fect on the date of the entry of the order for relief, for
13 the debtor, the dependents of the debtor, and the spouse
14 of the debtor in a joint case, if the spouse is not otherwise
15 a dependent. In addition, the debtor's monthly expenses
16 shall include the debtor's reasonably necessary expenses
17 incurred to maintain the safety of the debtor and the fam-
18 ily of the debtor from family violence as identified under
19 section 309 of the Family Violence Prevention and Serv-
20 ices Act (42 U.S.C. 10408), or other applicable Federal
21 law. The expenses included in the debtor's monthly ex-
22 penses described in the preceding sentence shall be kept
23 confidential by the court.

24 “(II) In addition, the debtor's monthly expenses may
25 include, if applicable, the continuation of actual expenses

1 paid by the debtor that are reasonable and necessary for
2 care and support of an elderly, chronically ill, or disabled
3 household member or member of the debtor's immediate
4 family (including parents, grandparents, and siblings of
5 the debtor, the dependents of the debtor, and the spouse
6 of the debtor in a joint case) who is not a dependent and
7 who is unable to pay for such reasonable and necessary
8 expenses.

9 “(iii) The debtor’s average monthly payments on ac-
10 count of secured debts shall be calculated as—

11 “(I) the sum of—

12 “(aa) the total of all amounts scheduled as
13 contractually due to secured creditors in each
14 month of the 60 months following the date of
15 the petition; and

16 “(bb) any additional payments to secured
17 creditors necessary for the debtor, in filing a
18 plan under chapter 13 of this title, to maintain
19 possession of the debtor’s primary residence,
20 motor vehicle, or other property necessary for
21 the support of the debtor and the debtor’s de-
22 pendents, that serves as collateral for secured
23 debts; divided by

24 “(II) 60.

1 “(iv) The debtor’s expenses for payment of all pri-
2 ority claims (including priority child support and alimony
3 claims) shall be calculated as—

4 “(I) the total amount of debts entitled to pri-
5 ority; divided by

6 “(II) 60.

7 “(B)(i) In any proceeding brought under this sub-
8 section, the presumption of abuse may be rebutted by
9 demonstrating special circumstances that justify addi-
10 tional expenses or adjustments of current monthly total
11 income. In order to establish special circumstances, the
12 debtor shall be required to—

13 “(I) itemize each additional expense or adjust-
14 ment of income; and

15 “(II) provide—

16 “(aa) documentation for such expenses;
17 and

18 “(bb) a detailed explanation of the special
19 circumstances that make such expenses nec-
20 essary and reasonable.

21 “(ii) The debtor, and the attorney for the debtor if
22 the debtor has an attorney, shall attest under oath to the
23 accuracy of any information provided to demonstrate that
24 additional expenses or adjustments to income are required.

1 “(iii) The presumption of abuse may be rebutted if
2 the additional expenses or adjustments to income referred
3 to in clause (i) cause the product of the debtor’s current
4 monthly income reduced by the amounts determined under
5 clauses (ii), (iii), and (iv) of subparagraph (A) multiplied
6 by 60 to be less than the lesser of—

7 “(I) 25 percent of the debtor’s nonpriority un-
8 secured claims; or

9 “(II) \$15,000.

10 “(C)(i) As part of the schedule of current income and
11 expenditures required under section 521, the debtor shall
12 include a statement of the debtor’s current monthly in-
13 come, and the calculations that determine whether a pre-
14 sumption arises under subparagraph (A)(i), that shows
15 how each such amount is calculated.

16 “(ii) The Supreme Court shall promulgate rules
17 under section 2075 of title 28, that prescribe a form for
18 a statement under clause (i) and may provide general rules
19 on the content of the statement.

20 “(3) In considering under paragraph (1) whether the
21 granting of relief would be an abuse of the provisions of
22 this chapter in a case in which the presumption in sub-
23 paragraph (A)(i) of such paragraph does not apply or has
24 been rebutted, the court shall consider—

1 “(A) whether the debtor filed the petition in
2 bad faith; or

3 “(B) the totality of the circumstances (includ-
4 ing whether the debtor seeks to reject a personal
5 services contract and the financial need for such re-
6 jection as sought by the debtor) of the debtor’s fi-
7 nancial situation demonstrates abuse.”.

8 (b) DEFINITION.—Title 11, United States Code, is
9 amended—

10 (1) in section 101, by inserting after paragraph
11 (10) the following:

12 “(10A) ‘current monthly income’—

13 “(A) means the average monthly income
14 from all sources which the debtor, or in a joint
15 case, the debtor and the debtor’s spouse, receive
16 without regard to whether the income is taxable
17 income, derived during the 180-day period pre-
18 ceding the date of determination; and

19 “(B) includes any amount paid by any en-
20 tity other than the debtor (or, in a joint case,
21 the debtor and the debtor’s spouse), on a reg-
22 ular basis to the household expenses of the
23 debtor or the debtor’s dependents (and, in a
24 joint case, the debtor’s spouse if not otherwise

1 a dependent), but excludes benefits received
2 under the Social Security Act;” and

3 (2) in section 704—

4 (A) by inserting “(a)” before “The trustee
5 shall—”; and

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

7 “(b)(1) With respect to an individual debtor under
8 this chapter—

9 “(A) the United States trustee or bankruptcy
10 administrator shall review all materials filed by the
11 debtor and, not later than 10 days before the first
12 meeting of creditors, file with the court a statement
13 as to whether the debtor’s case would be presumed
14 to be an abuse under section 707(b); and

15 “(B) not later than 5 days after receiving a
16 statement under subparagraph (A), the court shall
17 provide a copy of the statement to all creditors.

18 “(2) The United States trustee or bankruptcy admin-
19 istrator shall not later than 30 days after receiving a
20 statement filed under paragraph (1) file a motion to dis-
21 miss or convert under section 707(b), or file a statement
22 setting forth the reasons the United States trustee or
23 bankruptcy administrator does not believe that such a mo-
24 tion would be appropriate, if based on the filing of such
25 statement with the court, the United States trustee or

1 bankruptcy administrator determines that the debtor's
2 case should be presumed to be an abuse under section
3 707(b) and the product of the debtor's current monthly
4 income, multiplied by 12 is not less than—

5 “(A) the highest national or applicable State
6 median family income reported for a family of equal
7 or lesser size, whichever is greater; or

8 “(B) in the case of a household of 1 person, the
9 national or applicable State median household in-
10 come for 1 earner, whichever is greater.

11 “(3) In any case in which a motion to dismiss or con-
12 vert, or a statement is required to be filed by this sub-
13 section, the United States trustee or bankruptcy adminis-
14 trator may decline to file a motion to dismiss or convert
15 pursuant to section 704(b)(2) or if the product of the
16 debtor's current monthly income multiplied by 12—

17 “(A)(i) exceeds 100 percent, but does not ex-
18 ceed 150 percent of the national or applicable State
19 median household income reported for a household
20 of equal size, whichever is greater; or

21 “(ii) in the case of a household of 1 person, ex-
22 ceeds 100 percent but does not exceed 150 percent
23 of the national or applicable State median household
24 income reported for 1 earner, whichever is greater;
25 and

1 “(B) the product of the debtor’s current month-
2 ly income (reduced by the amounts determined
3 under section 707(b)(2)(A)(ii)) (except for the
4 amount calculated under the other necessary ex-
5 penses standard issued by the Internal Revenue
6 Service and section 707(b)(2)(A) (iii) and (iv)) mul-
7 tiplied by 60 is less than the greater of—

8 “(i) 25 percent of the debtor’s nonpriority
9 unsecured claims in the case; or

10 “(ii) \$15,000.

11 “(4)(A) The court shall order the counsel for the
12 debtor to reimburse the panel trustee for all reasonable
13 costs in prosecuting a motion brought under section
14 707(b), including reasonable attorneys’ fees, if—

15 “(i) a panel trustee appointed under section
16 586(a)(1) of title 28 brings a motion for dismissal
17 or conversion under this subsection; and

18 “(ii) the court—

19 “(I) grants that motion; and

20 “(II) finds that the action of the counsel
21 for the debtor in filing under this chapter was
22 frivolous.

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

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

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

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

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

10 “(ii) determined that the petition—

11 “(I) is well grounded in fact; and

12 “(II) is warranted by existing law or a
13 good faith argument for the extension, modi-
14 fication, or reversal of existing law and does not
15 constitute an abuse under paragraph (1).

16 “(5)(A) Except as provided in subparagraph (B) and
17 subject to paragraph (6), the court may award a debtor
18 all reasonable costs in contesting a motion brought by a
19 party in interest (other than a panel trustee or United
20 States trustee) under this subsection (including reasonable
21 attorneys’ fees) if—

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

23 “(ii) the court finds that—

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

1 “(II) the party brought the motion solely
2 for the purpose of coercing a debtor into
3 waiving a right guaranteed to the debtor under
4 this title.

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

8 “(6)(A) Only the judge, United States trustee, bank-
9 ruptcy administrator, or panel trustee may bring a motion
10 under section 707(b), if the current monthly income of the
11 debtor, or in a joint case, the debtor and the debtor’s
12 spouse, as of the date of the order for relief, when multi-
13 plied by 12, is equal to or less than—

14 “(i) the national or applicable State median
15 family income reported for a family of equal or less-
16 er size, whichever is greater; or

17 “(ii) in the case of a household of 1 person, the
18 national or applicable State median household in-
19 come last reported by the Bureau of the Census for
20 1 earner, whichever is greater.

21 “(B) Notwithstanding subparagraph (A), the na-
22 tional or applicable State median family income for a fam-
23 ily of more than 4 individuals shall be the national or ap-
24 plicable State median family income last reported by the
25 Bureau of the Census for a family of 4 individuals, which-

1 ever is greater, plus \$583 for each additional member of
2 that family.”.

3 (c) NONLIMITATION OF INFORMATION.—Nothing in
4 this title shall limit the ability of a creditor to provide in-
5 formation to a judge, United States trustee, bankruptcy
6 administrator or panel trustee.

7 (d) DISMISSAL FOR CERTAIN CRIMES.—Section 707
8 of title 11, United States Code, as amended by subsection
9 (a) of this section, is amended by adding at the end the
10 following:

11 “(c)(1) In this subsection—

12 “(A) the term ‘crime of violence’ has the mean-
13 ing given that term in section 16 of title 18; and

14 “(B) the term ‘drug trafficking crime’ has the
15 meaning given that term in section 924(c)(2) of title
16 18.

17 “(2) Except as provided in paragraph (3), after no-
18 tice and a hearing, the court, on a motion by the victim
19 of a crime of violence or a drug trafficking crime, or at
20 the request of a party in interest, shall dismiss a voluntary
21 case filed by an individual debtor under this chapter if
22 that individual was convicted of that crime.

23 “(3) The court may not dismiss a case under para-
24 graph (2) if the debtor establishes by a preponderance of
25 the evidence that the filing of a case under this chapter

1 is necessary to satisfy a claim for a domestic support obli-
2 gation.”.

3 (e) CLERICAL AMENDMENT.—The table of sections
4 for chapter 7 of title 11, United States Code, is amended
5 by striking the item relating to section 707 and inserting
6 the following:

“707. Dismissal of a case or conversion to a case under chapter 11 or 13.”.

7 **SEC. 103. FINDINGS AND STUDY.**

8 (a) FINDINGS.—Congress finds that the Secretary of
9 the Treasury has the inherent authority to alter the Inter-
10 nal Revenue Service standards established to set guide-
11 lines for repayment plans as needed to accommodate their
12 use under section 707(b) of title 11, United States Code.

13 (b) STUDY.—

14 (1) IN GENERAL.—Not later than 3 years after
15 the date of enactment of this Act, the Secretary of
16 the Treasury, in consultation with the Director of
17 the Executive Office of United States Trustees, shall
18 submit a report to the Committee on the Judiciary
19 of the Senate and the Committee on the Judiciary
20 of the House of Representatives containing the find-
21 ings of the Secretary concerning the utilization of
22 Internal Revenue Service standards for
23 determining—

1 (A) the current monthly expenses of a
2 debtor under section 707(b) of title 11, United
3 States Code; and

4 (B) the impact that the application of
5 those standards has had on debtors and on the
6 bankruptcy courts.

7 (2) RECOMMENDATION.—The report under
8 paragraph (1) may include recommendations for
9 amendments to title 11, United States Code, that
10 are consistent with the findings of the Secretary of
11 the Treasury under paragraph (1).

12 **SEC. 104. NOTICE OF ALTERNATIVES.**

13 Section 342(b) of title 11, United States Code, is
14 amended to read as follows:

15 “(b)(1) Before the commencement of a case under
16 this title by an individual whose debts are primarily con-
17 sumer debts, that individual shall be given or obtain (as
18 required in section 521(a)(1), as part of the certification
19 process under subchapter I of chapter 5) a written notice
20 prescribed by the United States trustee for the district in
21 which the petition is filed under section 586 of title 28.

22 “(2) The notice shall contain the following:

23 “(A) A brief description of chapters 7, 11, 12,
24 and 13 and the general purpose, benefits, and costs
25 of proceeding under each of those chapters.

1 training curriculum and materials developed under
2 subsection (a).

3 (2) AVAILABILITY OF CURRICULUM AND MATE-
4 RIALS.—For a 1-year period beginning not later
5 than 270 days after the date of enactment of this
6 Act, the curriculum and materials referred to in
7 paragraph (1) shall be made available by the Direc-
8 tor, directly or indirectly, on request to individual
9 debtors in cases filed during that 1-year period
10 under chapter 7 or 13 of title 11, United States
11 Code.

12 (c) EVALUATION.—

13 (1) IN GENERAL.—During the 1-year period re-
14 ferred to in subsection (b), the Director shall evalu-
15 ate the effectiveness of—

16 (A) the financial management training cur-
17 rriculum and materials developed under sub-
18 section (a); and

19 (B) a sample of existing consumer edu-
20 cation programs such as those described in the
21 report of the National Bankruptcy Review Com-
22 mission issued on October 20, 1997, that are
23 representative of consumer education programs
24 carried out by—

25 (i) the credit industry;

- 1 (ii) trustees serving under chapter 13
2 of title 11, United States Code; and
3 (iii) consumer counseling groups.

4 (2) REPORT.—Not later than 3 months after
5 concluding the evaluation under paragraph (1), the
6 Director shall submit a report to the Speaker of the
7 House of Representatives and the President pro
8 tempore of the Senate, for referral to the appro-
9 priate committees of Congress, containing the find-
10 ings of the Director regarding the effectiveness of
11 such curriculum, such materials, and such programs.

12 **SEC. 106. CREDIT COUNSELING.**

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

16 “(h)(1) Subject to paragraphs (2) and (3), and not-
17 withstanding any other provision of this section, an indi-
18 vidual may not be a debtor under this title unless that
19 individual has, during the 180-day period preceding the
20 date of filing of the petition of that individual, received
21 from an approved nonprofit budget and credit counseling
22 agency described in section 111(a) an individual or group
23 briefing (including a briefing conducted by telephone or
24 on the Internet) that outlined the opportunities for avail-

1 able credit counseling and assisted that individual in per-
2 forming a related budget analysis.

3 “(2)(A) Paragraph (1) shall not apply with respect
4 to a debtor who resides in a district for which the United
5 States trustee or bankruptcy administrator of the bank-
6 ruptcy court of that district determines that the approved
7 nonprofit budget and credit counseling agency for that dis-
8 trict is not reasonably able to provide adequate services
9 to the additional individuals who would otherwise seek
10 credit counseling from that agency by reason of the re-
11 quirements of paragraph (1).

12 “(B) Each United States trustee or bankruptcy ad-
13 ministrator that makes a determination described in sub-
14 paragraph (A) shall review that determination not later
15 than 1 year after the date of that determination, and not
16 less frequently than every year thereafter. Notwith-
17 standing the preceding sentence, a nonprofit budget and
18 credit counseling service may be disapproved by the
19 United States trustee or bankruptcy administrator at any
20 time.

21 “(3)(A) Subject to subparagraph (B), the require-
22 ments of paragraph (1) shall not apply with respect to
23 a debtor who submits to the court a certification that—

24 “(i) describes exigent circumstances that merit
25 a waiver of the requirements of paragraph (1);

1 “(ii) states that the debtor requested credit
2 counseling services from an approved nonprofit
3 budget and credit counseling agency, but was unable
4 to obtain the services referred to in paragraph (1)
5 during the 5-day period beginning on the date on
6 which the debtor made that request; and

7 “(iii) is satisfactory to the court.

8 “(B) With respect to a debtor, an exemption under
9 subparagraph (A) shall cease to apply to that debtor on
10 the date on which the debtor meets the requirements of
11 paragraph (1), but in no case may the exemption apply
12 to that debtor after the date that is 30 days after the debt-
13 or files a petition, except that the court, for cause, may
14 order an additional 15 days.”.

15 (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title
16 11, United States Code, is amended—

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

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

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

22 “(11) after the filing of the petition, the debtor
23 failed to complete an instructional course concerning
24 personal financial management described in section
25 111.”.

1 (c) CHAPTER 13 DISCHARGE.—Section 1328 of title
2 11, United States Code, is amended by adding at the end
3 the following:

4 “(g) The court shall not grant a discharge under this
5 section to a debtor, unless after filing a petition the debtor
6 has completed an instructional course concerning personal
7 financial management described in section 111.

8 “(h) Subsection (g) shall not apply with respect to
9 a debtor who resides in a district for which the United
10 States trustee or bankruptcy administrator of the bank-
11 ruptcy court of that district determines that the approved
12 instructional courses are not adequate to service the addi-
13 tional individuals who would be required to complete the
14 instructional course by reason of the requirements of this
15 section.

16 “(i) Each United States trustee or bankruptcy ad-
17 ministrator that makes a determination described in sub-
18 section (h) shall review that determination not later than
19 1 year after the date of that determination, and not less
20 frequently than every year thereafter.”.

21 (d) DEBTOR’S DUTIES.—Section 521 of title 11,
22 United States Code, is amended—

23 (1) by inserting “(a)” before “The debtor
24 shall—”; and

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

1 “(b) For inclusion on the approved list under sub-
2 section (a), the United States trustee or bankruptcy ad-
3 ministrator shall require the credit counseling service, at
4 a minimum—

5 “(1) to be a nonprofit budget and credit coun-
6 seling agency, the majority of the board of directors
7 of which—

8 “(A) are not employed by the agency; and

9 “(B) will not directly or indirectly benefit
10 financially from the outcome of a credit coun-
11 seling session;

12 “(2) if a fee is charged for counseling services,
13 to charge a reasonable fee, and to provide services
14 without regard to ability to pay the fee;

15 “(3) to provide for safekeeping and payment of
16 client funds, including an annual audit of the trust
17 accounts and appropriate employee bonding;

18 “(4) to provide full disclosures to clients, in-
19 cluding funding sources, counselor qualifications,
20 and possible impact on credit reports;

21 “(5) to provide adequate counseling with re-
22 spect to client credit problems that includes an anal-
23 ysis of their current situation, what brought them to
24 that financial status, and how they can develop a

1 plan to handle the problem without incurring nega-
2 tive amortization of their debts; and

3 “(6) to provide trained counselors who receive
4 no commissions or bonuses based on the counseling
5 session outcome.

6 “(c)(1) No credit counseling service may provide to
7 a credit reporting agency information concerning whether
8 an individual debtor has received or sought instruction
9 concerning personal financial management from the credit
10 counseling service.

11 “(2) A credit counseling service that willfully or neg-
12 ligently fails to comply with any requirement under this
13 title with respect to a debtor shall be liable for damages
14 in an amount equal to the sum of—

15 “(A) any actual damages sustained by the debt-
16 or as a result of the violation; and

17 “(B) any court costs or reasonable attorneys’
18 fees (as determined by the court) incurred in an ac-
19 tion to recover those damages.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 1 of title 11, United States Code,
22 is amended by adding at the end the following:

“111. Nonprofit budget and credit counseling agencies; financial management
instructional courses.”.

1 (f) LIMITATION.—Section 362 of title 11, United
 2 States Code, is amended by adding at the end the fol-
 3 lowing:

4 “(i) If a case commenced under chapter 7, 11, or 13
 5 is dismissed due to the creation of a debt repayment plan,
 6 for purposes of subsection (c)(3), any subsequent case
 7 commenced by the debtor under any such chapter shall
 8 not be presumed to be filed not in good faith.”.

9 **TITLE II—ENHANCED**
 10 **CONSUMER PROTECTION**
 11 **Subtitle A—Penalties for Abusive**
 12 **Creditor Practices**

13 **SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**
 14 **TION.**

15 (a) REDUCTION OF CLAIM.—Section 502 of title 11,
 16 United States Code, is amended by adding at the end the
 17 following:

18 “(k)(1) The court, on the motion of the debtor and
 19 after a hearing, may reduce a claim filed under this sec-
 20 tion based in whole on unsecured consumer debts by not
 21 more than 20 percent of the claim, if—

22 “(A) the claim was filed by a creditor who un-
 23 reasonably refused to negotiate a reasonable alter-
 24 native repayment schedule proposed by an approved

1 credit counseling agency acting on behalf of the
2 debtor;

3 “(B) the offer of the debtor under subpara-
4 graph (A)—

5 “(i) was made at least 60 days before the
6 filing of the petition; and

7 “(ii) provided for payment of at least 60
8 percent of the amount of the debt over a period
9 not to exceed the repayment period of the loan,
10 or a reasonable extension thereof; and

11 “(C) no part of the debt under the alternative
12 repayment schedule is nondischargeable.

13 “(2) The debtor shall have the burden of proving, by
14 clear and convincing evidence, that—

15 “(A) the creditor unreasonably refused to con-
16 sider the debtor’s proposal; and

17 “(B) the proposed alternative repayment sched-
18 ule was made in the 60-day period specified in para-
19 graph (1)(B)(i).”.

20 (b) LIMITATION ON AVOIDABILITY.—Section 547 of
21 title 11, United States Code, is amended by adding at the
22 end the following:

23 “(h) The trustee may not avoid a transfer if such
24 transfer was made as a part of an alternative repayment

1 plan between the debtor and any creditor of the debtor
2 created by an approved credit counseling agency.”.

3 **SEC. 202. EFFECT OF DISCHARGE.**

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

6 “(i) The willful failure of a creditor to credit pay-
7 ments received under a plan confirmed under this title (in-
8 cluding a plan of reorganization confirmed under chapter
9 11 of this title) in the manner required by the plan (in-
10 cluding crediting the amounts required under the plan)
11 shall constitute a violation of an injunction under sub-
12 section (a)(2).”.

13 **SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION**
14 **PRACTICES.**

15 (a) IN GENERAL.—Section 524 of title 11, United
16 States Code, as amended by section 202 of this Act, is
17 amended—

18 (1) in subsection (c) by striking paragraph (2)
19 and inserting the following:

20 “(2) the debtor received the disclosures de-
21 scribed in subsection (i) at or before the time the
22 debtor signed the agreement.”;

23 (2) by inserting at the end of the section the
24 following:

1 “(i)(1) The disclosures required under subsection (c)
2 paragraph (2) of this section shall consist of the disclosure
3 statement described in paragraph (3), completed as re-
4 quired in that paragraph, together with the agreement,
5 statement, declaration, motion and order described, re-
6 spectively, in paragraphs (4) through (8) of this sub-
7 section, and shall be the only disclosures required in con-
8 nection with the reaffirmation.

9 “(2) Disclosures made under this paragraph shall be
10 made clearly and conspicuously and in writing. The terms
11 ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall
12 be disclosed more conspicuously than other terms, data or
13 information provided in connection with this disclosure,
14 except that the phrases ‘Before agreeing to reaffirm a
15 debt, review these important disclosures’ and ‘Summary
16 of Reaffirmation Agreement’ may be equally conspicuous.
17 Disclosures may be made in a different order and may
18 use terminology different from that set forth in para-
19 graphs (2) through (8), except that the terms ‘Amount
20 Reaffirmed’ and ‘Annual Percentage Rate’ must be used
21 where indicated.

22 “(3) The disclosure statement required under this
23 paragraph shall consist of the following:

1 “(A) The statement: ‘Part A: Before agreeing
2 to reaffirm a debt, review these important disclo-
3 sures.’;

4 “(B) Under the heading ‘Summary of Reaffir-
5 mation Agreement’, the statement: ‘This Summary
6 is made pursuant to the requirements of the Bank-
7 ruptcy Code’;

8 “(C) The ‘Amount Reaffirmed’, using that
9 term, which shall be—

10 “(i) the total amount which the debtor
11 agrees to reaffirm, and

12 “(ii) the total of any other fees or cost ac-
13 crued as of the date of the disclosure statement.

14 “(D) In conjunction with the disclosure of the
15 ‘Amount Reaffirmed’, the statements—

16 “(i) ‘The amount of debt you have agreed
17 to reaffirm’; and

18 “(ii) ‘Your credit agreement may obligate
19 you to pay additional amounts which may come
20 due after the date of this disclosure. Consult
21 your credit agreement.’.

22 “(E) The ‘Annual Percentage Rate’, using that
23 term, which shall be disclosed as—

24 “(i) if, at the time the petition is filed, the
25 debt is open end credit as defined pursuant to

1 the Truth in Lending Act, title 15, United
2 States Code, section 1601 et. seq., then—

3 “(I) the annual percentage rate deter-
4 mined pursuant to title 15, United States
5 Code, section 1637(b) (5) and (6), as ap-
6 plicable, as disclosed to the debtor in the
7 most recent periodic statement prior to the
8 agreement or, if no such periodic state-
9 ment has been provided the debtor during
10 the prior six months, the annual percent-
11 age rate as it would have been so disclosed
12 at the time the disclosure statement is
13 given the debtor, or to the extent this an-
14 nual percentage rate is not readily avail-
15 able or not applicable, then

16 “(II) the simple interest rate applica-
17 ble to the amount reaffirmed as of the date
18 the disclosure statement is given to the
19 debtor, or if different simple interest rates
20 apply to different balances, the simple in-
21 terest rate applicable to each such balance,
22 identifying the amount of each such bal-
23 ance included in the amount reaffirmed, or

24 “(III) if the entity making the disclo-
25 sure elects, to disclose the annual percent-

1 age rate under (I) and the simple interest
2 rate under (II);

3 “(ii) if, at the time the petition is filed, the
4 debt is closed end credit as defined pursuant to
5 the Truth in Lending Act, title 15, United
6 States Code, section 1601 et seq., then—

7 “(I) the annual percentage rate pur-
8 suant to title 15, United States Code, sec-
9 tion 1638(a)(4) as disclosed to the debtor
10 in the most recent disclosure statement
11 given the debtor prior to the reaffirmation
12 agreement with respect to the debt, or, if
13 no such disclosure statement was provided
14 the debtor, the annual percentage rate as
15 it would have been so disclosed at the time
16 the disclosure statement is given the debt-
17 or, or to the extent this annual percentage
18 rate is not readily available or not applica-
19 ble, then

20 “(II) the simple interest rate applica-
21 ble to the amount reaffirmed as of the date
22 the disclosure statement is given the debt-
23 or, or if different simple interest rates
24 apply to different balances, the simple in-
25 terest rate applicable to each such balance,

1 identifying the amount of such balance in-
2 cluded in the amount reaffirmed, or

3 “(III) if the entity making the disclo-
4 sure elects, to disclose the annual percent-
5 age rate under (I) and the simple interest
6 rate under (II).

7 “(F) If the underlying debt transaction was dis-
8 closed as a variable rate transaction on the most re-
9 cent disclosure given pursuant to the Truth in Lend-
10 ing Act, title 15, United States Code, section 1601
11 et seq., by stating ‘The interest rate on your loan
12 may be a variable interest rate which changes from
13 time to time, so that the annual percentage rate dis-
14 closed here may be higher or lower.’.

15 “(G) If the debt is secured by a security inter-
16 est which has not been waived in whole or in part
17 or determined to be void by a final order of the
18 court at the time of the disclosure, by disclosing that
19 a security interest or lien in goods or property is as-
20 serted over some or all of the obligations you are re-
21 affirming and listing the items and their original
22 purchase price that are subject to the asserted secu-
23 rity interest, or if not a purchase-money security in-
24 terest then listing by items or types and the original
25 amount of the loan.

1 “(H) At the election of the creditor, a state-
2 ment of the repayment schedule using one or a com-
3 bination of the following—

4 “(i) by making the statement: ‘Your first
5 payment in the amount \$_____ is due on
6 _____ but the future payment amount may be
7 different. Consult your reaffirmation or credit
8 agreement, as applicable.’, and stating the
9 amount of the first payment and the due date
10 of that payment in the places provided;

11 “(ii) by making the statement: ‘Your pay-
12 ment schedule will be:’, and describing the re-
13 payment schedule with the number, amount and
14 due dates or period of payments scheduled to
15 repay the obligations reaffirmed to the extent
16 then known by the disclosing party; or

17 “(iii) by describing the debtor’s repayment
18 obligations with reasonable specificity to the ex-
19 tent then known by the disclosing party.

20 “(I) The following statement: ‘Note: When this
21 disclosure talks about what a creditor “may” do, it
22 does not use the word “may” to give the creditor
23 specific permission. The word “may” is used to tell
24 you what might occur if the law permits the creditor
25 to take the action. If you have questions about your

1 reaffirmation or what the law requires, talk to the
2 attorney who helped you negotiate this agreement. If
3 you don't have an attorney helping you, the judge
4 will explain the effect of your reaffirmation when the
5 reaffirmation hearing is held.'.

6 “(J) The following additional statements:

7 “‘Reaffirming a debt is a serious financial decision.
8 The law requires you to take certain steps to make sure
9 the decision is in your best interest. If these steps are not
10 completed, the reaffirmation agreement is not effective,
11 even though you have signed it.

12 “‘1. Read the disclosures in this Part A care-
13 fully. Consider the decision to reaffirm carefully.
14 Then, if you want to reaffirm, sign the reaffirmation
15 agreement in Part B (or you may use a separate
16 agreement you and your creditor agree on).

17 “‘2. Complete and sign Part D and be sure you
18 can afford to make the payments you are agreeing
19 to make and have received a copy of the disclosure
20 statement and a completed and signed reaffirmation
21 agreement.

22 “‘3. If you were represented by an attorney
23 during the negotiation of the reaffirmation agree-
24 ment, the attorney must have signed the certification
25 in Part C.

1 “4. If you were not represented by an attorney
2 during the negotiation of the reaffirmation agree-
3 ment, you must have completed and signed Part E.

4 “5. The original of this disclosure must be
5 filed with the court by you or your creditor. If a sep-
6 arate reaffirmation agreement (other than the one in
7 Part B) has been signed, it must be attached.

8 “6. If you were represented by an attorney
9 during the negotiation of the reaffirmation agree-
10 ment, your reaffirmation agreement becomes effec-
11 tive upon filing with the court unless the reaffirma-
12 tion is presumed to be an undue hardship as ex-
13 plained in Part D.

14 “7. If you were not represented by an attorney
15 during the negotiation of the reaffirmation agree-
16 ment, it will not be effective unless the court ap-
17 proves it. The court will notify you of the hearing on
18 your reaffirmation agreement. You must attend this
19 hearing in bankruptcy court where the judge will re-
20 view your agreement. The bankruptcy court must
21 approve the agreement as consistent with your best
22 interests, except that no court approval is required
23 if the agreement is for a consumer debt secured by
24 a mortgage, deed of trust, security deed or other lien
25 on your real property, like your home.

1 “Your right to rescind a reaffirmation. You may re-
2 scind (cancel) your reaffirmation at any time before the
3 bankruptcy court enters a discharge order or within 60
4 days after the agreement is filed with the court, whichever
5 is longer. To rescind or cancel, you must notify the cred-
6 itor that the agreement is canceled.

7 “What are your obligations if you reaffirm the debt?
8 A reaffirmed debt remains your personal legal obligation.
9 It is not discharged in your bankruptcy. That means that
10 if you default on your reaffirmed debt after your bank-
11 ruptcy is over, your creditor may be able to take your
12 property or your wages. Otherwise, your obligations will
13 be determined by the reaffirmation agreement which may
14 have changed the terms of the original agreement. For ex-
15 ample, if you are reaffirming an open end credit agree-
16 ment, the creditor may be permitted by that agreement
17 and/or applicable law to change the terms of the agree-
18 ment in the future under certain conditions.

19 “Are you required to enter into a reaffirmation
20 agreement by any law? No, you are not required to reaf-
21 firm a debt by any law. Only agree to reaffirm a debt if
22 it is in your best interest. Be sure you can afford the pay-
23 ments you agree to make.

24 “What if your creditor has a security interest or
25 lien? Your bankruptcy discharge does not eliminate any

1 lien on your property. A “lien” is often referred to as a
2 security interest, deed of trust, mortgage or security deed.
3 Even if you do not reaffirm and your personal liability
4 on the debt is discharged, because of the lien your creditor
5 may still have the right to take the security property if
6 you do not pay the debt or default on it. If the lien is
7 on an item of personal property that is exempt under your
8 State’s law or that the trustee has abandoned, you may
9 be able to redeem the item rather than reaffirm the debt.
10 To redeem, you make a single payment to the creditor
11 equal to the current value of the security property, as
12 agreed by the parties or determined by the court.’.

13 “(4) The form of reaffirmation agreement required
14 under this paragraph shall consist of the following:

15 “‘Part B: Reaffirmation Agreement. I/we agree to re-
16 affirm the obligations arising under the credit agreement
17 described below.

18 “‘Brief description of credit agreement:

19 “‘Description of any changes to the credit agreement
20 made as part of this reaffirmation agreement:

21 “‘Signature: Date:

22 “‘Borrower:

23 “‘Co-borrower, if also reaffirming:

24 “‘Accepted by creditor:

25 “‘Date of creditor acceptance:’.

1 “(5)(A) The declaration shall consist of the following:

2 “‘Part C: Certification by Debtor’s Attorney (If
3 Any).

4 “‘I hereby certify that (1) this agreement represents
5 a fully informed and voluntary agreement by the debtor(s);
6 (2) this agreement does not impose an undue hardship on
7 the debtor or any dependent of the debtor; and (3) I have
8 fully advised the debtor of the legal effect and con-
9 sequences of this agreement and any default under this
10 agreement.

11 “‘Signature of Debtor’s Attorney: Date:’.

12 “(B) In the case of reaffirmations in which a pre-
13 sumption of undue hardship has been established, the cer-
14 tification shall state that in the opinion of the attorney,
15 the debtor is able to make the payment.

16 “(6) The statement in support of reaffirmation agree-
17 ment, which the debtor shall sign and date prior to filing
18 with the court, shall consist of the following:

19 “‘Part D: Debtor’s Statement in Support of Reaffir-
20 mation Agreement.

21 “‘1. I believe this agreement will not impose an
22 undue hardship on my dependents or me. I can afford to
23 make the payments on the reaffirmed debt because my
24 monthly income (take home pay plus any other income re-
25 ceived) is \$_____, and my actual current monthly ex-

1 penses including monthly payments on post-bankruptcy
2 debt and other reaffirmation agreements total \$_____,
3 leaving \$_____ to make the required payments on this
4 reaffirmed debt. I understand that if my income less my
5 monthly expenses does not leave enough to make the pay-
6 ments, this reaffirmation agreement is presumed to be an
7 undue hardship on me and must be reviewed by the court.
8 However, this presumption may be overcome if I explain
9 to the satisfaction of the court how I can afford to make
10 the payments here: _____.

11 “‘2. I received a copy of the Reaffirmation Disclosure
12 Statement in Part A and a completed and signed reaffir-
13 mation agreement.’.

14 “(7) The motion, which may be used if approval of
15 the agreement by the court is required in order for it to
16 be effective and shall be signed and dated by the moving
17 party, shall consist of the following:

18 “‘Part E: Motion for Court Approval (To be com-
19 pleted only where debtor is not represented by an attor-
20 ney.). I (we), the debtor, affirm the following to be true
21 and correct:

22 “‘I am not represented by an attorney in connection
23 with this reaffirmation agreement.

24 “‘I believe this agreement is in my best interest
25 based on the income and expenses I have disclosed in my

1 Statement in Support of this reaffirmation agreement
2 above, and because (provide any additional relevant rea-
3 sons the court should consider):

4 “‘Therefore, I ask the court for an order approving
5 this reaffirmation agreement.’.

6 “(8) The court order, which may be used to approve
7 a reaffirmation, shall consist of the following:

8 “‘Court Order: The court grants the debtor’s motion
9 and approves the reaffirmation agreement described
10 above.’.

11 “(j) Notwithstanding any other provision of this title:

12 “(1) A creditor may accept payments from a
13 debtor before and after the filing of a reaffirmation
14 agreement with the court.

15 “(2) A creditor may accept payments from a
16 debtor under a reaffirmation agreement which the
17 creditor believes in good faith to be effective.

18 “(3) The requirements of subsections (c)(2) and
19 (i) shall be satisfied if disclosures required under
20 those subsections are given in good faith.

21 “(k) Until 60 days after a reaffirmation agreement
22 is filed with the court (or such additional period as the
23 court, after notice and hearing and for cause, orders be-
24 fore the expiration of such period), it shall be presumed
25 that the reaffirmation agreement is an undue hardship on

1 the debtor if the debtor's monthly income less the debtor's
2 monthly expenses as shown on the debtor's completed and
3 signed statement in support of the reaffirmation agree-
4 ment required under subsection (i)(6) of this section is
5 less than the scheduled payments on the reaffirmed debt.
6 This presumption must be reviewed by the court. The pre-
7 sumption may be rebutted in writing by the debtor if the
8 statement includes an explanation which identifies addi-
9 tional sources of funds to make the payments as agreed
10 upon under the terms of the reaffirmation agreement. If
11 the presumption is not rebutted to the satisfaction of the
12 court, the court may disapprove the agreement. However,
13 no agreement shall be disapproved without notice and
14 hearing to the debtor and creditor and such hearing must
15 be concluded before the entry of the debtor's discharge.''.
16

(b) LAW ENFORCEMENT.—

17 (1) IN GENERAL.—Chapter 9 of title 18, United
18 States Code, is amended by adding at the end the
19 following:

1 **“§ 158. Designation of United States attorneys and**
2 **agents of the Federal Bureau of Inves-**
3 **tigation to address abusive reaffirma-**
4 **tions of debt and materially fraudulent**
5 **statements in bankruptcy schedules**

6 “(a) IN GENERAL.—The Attorney General of the
7 United States shall designate the individuals described in
8 subsection (b) to have primary responsibility in carrying
9 out enforcement activities in addressing violations of sec-
10 tion 152 or 157 relating to abusive reaffirmations of debt.
11 In addition to addressing the violations referred to in the
12 preceding sentence, the individuals described under sub-
13 section (b) shall address violations of section 152 or 157
14 relating to materially fraudulent statements in bankruptcy
15 schedules that are intentionally false or intentionally mis-
16 leading.

17 “(b) UNITED STATES DISTRICT ATTORNEYS AND
18 AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—
19 The individuals referred to in subsection (a) are—

20 “(1) a United States attorney for each judicial
21 district of the United States; and

22 “(2) an agent of the Federal Bureau of Inves-
23 tigation (within the meaning of section 3107) for
24 each field office of the Federal Bureau of Investiga-
25 tion.

1 “(c) BANKRUPTCY INVESTIGATIONS.—Each United
 2 States attorney designated under this section shall have
 3 primary responsibility for carrying out the duties of a
 4 United States attorney under section 3057.

5 “(d) BANKRUPTCY PROCEDURES.—The bankruptcy
 6 courts shall establish procedures for referring any case
 7 which may contain a materially fraudulent statement in
 8 a bankruptcy schedule to the individuals designated under
 9 this section.”.

10 (2) CLERICAL AMENDMENT.—The analysis for
 11 chapter 9 of title 18, United States Code, is amend-
 12 ed by adding at the end the following:

“158. Designation of United States attorneys and agents of the Federal Bureau
 of Investigation to address abusive reaffirmations of debt and
 materially fraudulent statements in bankruptcy schedules.”.

13 **Subtitle B—Priority Child Support**

14 **SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGA-** 15 **TION.**

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

18 (1) by striking paragraph (12A); and

19 (2) by inserting after paragraph (14) the fol-
 20 lowing:

21 “(14A) ‘domestic support obligation’ means a
 22 debt that accrues before or after the entry of an
 23 order for relief under this title, including interest
 24 that accrues on that debt as provided under applica-

1 ble nonbankruptcy law notwithstanding any other
2 provision of this title, that is—

3 “(A) owed to or recoverable by—

4 “(i) a spouse, former spouse, or child
5 of the debtor or such child’s parent, legal
6 guardian, or responsible relative; or

7 “(ii) a governmental unit;

8 “(B) in the nature of alimony, mainte-
9 nance, or support (including assistance provided
10 by a governmental unit) of such spouse, former
11 spouse, or child of the debtor or such child’s
12 parent, without regard to whether such debt is
13 expressly so designated;

14 “(C) established or subject to establish-
15 ment before or after entry of an order for relief
16 under this title, by reason of applicable provi-
17 sions of—

18 “(i) a separation agreement, divorce
19 decree, or property settlement agreement;

20 “(ii) an order of a court of record; or

21 “(iii) a determination made in accord-
22 ance with applicable nonbankruptcy law by
23 a governmental unit; and

24 “(D) not assigned to a nongovernmental
25 entity, unless that obligation is assigned volun-

1 tarily by the spouse, former spouse, child, or
2 parent, legal guardian, or responsible relative of
3 the child for the purpose of collecting the
4 debt.”.

5 **SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP-**
6 **PORT OBLIGATIONS.**

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

9 (1) by striking paragraph (7);

10 (2) by redesignating paragraphs (1) through
11 (6) as paragraphs (2) through (7), respectively;

12 (3) in paragraph (2), as redesignated, by strik-
13 ing “First” and inserting “Second”;

14 (4) in paragraph (3), as redesignated, by strik-
15 ing “Second” and inserting “Third”;

16 (5) in paragraph (4), as redesignated, by strik-
17 ing “Third” and inserting “Fourth”;

18 (6) in paragraph (5), as redesignated, by strik-
19 ing “Fourth” and inserting “Fifth”;

20 (7) in paragraph (6), as redesignated, by strik-
21 ing “Fifth” and inserting “Sixth”;

22 (8) in paragraph (7), as redesignated, by strik-
23 ing “Sixth” and inserting “Seventh”; and

24 (9) by inserting before paragraph (2), as redesi-
25 gnated, the following:

1 “(1) First:

2 “(A) Allowed unsecured claims for domes-
3 tic support obligations that, as of the date of
4 the filing of the petition, are owed to or recover-
5 able by a spouse, former spouse, or child of the
6 debtor, or the parent, legal guardian, or respon-
7 sible relative of such child, without regard to
8 whether the claim is filed by such person or is
9 filed by a governmental unit on behalf of that
10 person, on the condition that funds received
11 under this paragraph by a governmental unit
12 under this title after the date of filing of the pe-
13 tition shall be applied and distributed in accord-
14 ance with applicable nonbankruptcy law.

15 “(B) Subject to claims under subpara-
16 graph (A), allowed unsecured claims for domes-
17 tic support obligations that, as of the date the
18 petition was filed are assigned by a spouse,
19 former spouse, child of the debtor, or such
20 child’s parent, legal guardian, or responsible
21 relative to a governmental unit (unless such ob-
22 ligation is assigned voluntarily by the spouse,
23 former spouse, child, parent, legal guardian, or
24 responsible relative of the child for the purpose
25 of collecting the debt) or are owed directly to or

1 recoverable by a government unit under applica-
2 ble nonbankruptcy law, on the condition that
3 funds received under this paragraph by a gov-
4 ernmental unit under this title after the date of
5 filing of the petition be applied and distributed
6 in accordance with applicable nonbankruptcy
7 law.”.

8 **SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND**
9 **DISCHARGE IN CASES INVOLVING DOMESTIC**
10 **SUPPORT OBLIGATIONS.**

11 Title 11, United States Code, is amended—

12 (1) in section 1129(a), by adding at the end the
13 following:

14 “(14) If the debtor is required by a judicial or
15 administrative order or statute to pay a domestic
16 support obligation, the debtor has paid all amounts
17 payable under such order or statute for such obliga-
18 tion that first become payable after the date on
19 which the petition is filed.”;

20 (2) in section 1208(c)—

21 (A) in paragraph (8), by striking “or” at
22 the end;

23 (B) in paragraph (9), by striking the pe-
24 riod at the end and inserting “; and”; and

25 (C) by adding at the end the following:

1 “(10) failure of the debtor to pay any domestic
2 support obligation that first becomes payable after
3 the date on which the petition is filed.”;

4 (3) in section 1222(a)—

5 (A) in paragraph (2), by striking “and” at
6 the end;

7 (B) in paragraph (3), by striking the pe-
8 riod at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(4) notwithstanding any other provision of this
11 section, a plan may provide for less than full pay-
12 ment of all amounts owed for a claim entitled to pri-
13 ority under section 507(a)(1)(B) only if the plan
14 provides that all of the debtor’s projected disposable
15 income for a 5-year period, beginning on the date
16 that the first payment is due under the plan, will be
17 applied to make payments under the plan.”;

18 (4) in section 1222(b)—

19 (A) by redesignating paragraph (10) as
20 paragraph (11); and

21 (B) by inserting after paragraph (9) the
22 following:

23 “(10) provide for the payment of interest accru-
24 ing after the date of the filing of the petition on un-
25 secured claims that are nondischargeable under sec-

1 tion 1328(a), except that such interest may be paid
2 only to the extent that the debtor has disposable in-
3 come available to pay such interest after making
4 provision for full payment of all allowed claims;”;

5 (5) in section 1225(a)—

6 (A) in paragraph (5), by striking “and” at
7 the end;

8 (B) in paragraph (6), by striking the pe-
9 riod at the end and inserting “; and”; and

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

11 “(7) if the debtor is required by a judicial or
12 administrative order or statute to pay a domestic
13 support obligation, the debtor has paid all amounts
14 payable under such order for such obligation that
15 first become payable after the date on which the pe-
16 tition is filed.”;

17 (6) in section 1228(a), in the matter preceding
18 paragraph (1), by inserting “, and in the case of a
19 debtor who is required by a judicial or administra-
20 tive order to pay a domestic support obligation, after
21 such debtor certifies that all amounts payable under
22 such order or statute that are due on or before the
23 date of the certification (including amounts due be-
24 fore the petition was filed, but only to the extent
25 provided for in the plan) have been paid” after

1 “completion by the debtor of all payments under the
2 plan”;

3 (7) in section 1307(c)—

4 (A) in paragraph (9), by striking “or” at
5 the end;

6 (B) in paragraph (10), by striking the pe-
7 riod at the end and inserting “; or”; and

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

9 “(11) failure of the debtor to pay any domestic
10 support obligation that first becomes payable after
11 the date on which the petition is filed.”;

12 (8) in section 1322(a)—

13 (A) in paragraph (2), by striking “and” at
14 the end;

15 (B) in paragraph (3), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (C) by adding in the end the following:

18 “(4) notwithstanding any other provision of this
19 section, a plan may provide for less than full pay-
20 ment of all amounts owed for a claim entitled to pri-
21 ority under section 507(a)(1)(B) only if the plan
22 provides that all of the debtor’s projected disposable
23 income for a 5-year period beginning on the date
24 that the first payment is due under the plan will be
25 applied to make payments under the plan.”;

1 (9) in section 1322(b)—

2 (A) in paragraph (9), by striking “; and”
3 and inserting a semicolon;

4 (B) by redesignating paragraph (10) as
5 paragraph (11); and

6 (C) inserting after paragraph (9) the fol-
7 lowing:

8 “(10) provide for the payment of interest accru-
9 ing after the date of the filing of the petition on un-
10 secured claims that are nondischargeable under sec-
11 tion 1328(a), except that such interest may be paid
12 only to the extent that the debtor has disposable in-
13 come available to pay such interest after making
14 provision for full payment of all allowed claims;
15 and”;

16 (10) in section 1325(a)—

17 (A) in paragraph (5), by striking “and” at
18 the end;

19 (B) in paragraph (6), by striking the pe-
20 riod at the end and inserting “; and”; and

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

22 “(7) if the debtor is required by a judicial or
23 administrative order or statute to pay a domestic
24 support obligation, the debtor has paid amounts pay-

1 able after the date on which the petition is filed.”;
2 and

3 (11) in section 1328(a), in the matter preceding
4 paragraph (1), by inserting “, and in the case of a
5 debtor who is required by a judicial or administra-
6 tive order to pay a domestic support obligation, after
7 such debtor certifies that all amounts payable under
8 such order or statute that are due on or before the
9 date of the certification (including amounts due be-
10 fore the petition was filed, but only to the extent
11 provided for in the plan) have been paid” after
12 “completion by the debtor of all payments under the
13 plan”.

14 **SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
15 **SUPPORT OBLIGATION PROCEEDINGS.**

16 Section 362(b) of title 11, United States Code, is
17 amended by striking paragraph (2) and inserting the fol-
18 lowing:

19 “(2) under subsection (a)—
20 “(A) of the commencement or continuation
21 of a civil action or proceeding—
22 “(i) for the establishment of paternity;
23 “(ii) for the establishment or modi-
24 fication of an order for domestic support
25 obligations;

1 “(iii) concerning child custody or visi-
2 tation;

3 “(iv) for the dissolution of a marriage
4 except to the extent that such a proceeding
5 seeks to determine the division of property
6 which is property of the estate; or

7 “(v) regarding domestic violence;

8 “(B) the collection of a domestic support
9 obligation from property that is not property of
10 the estate;

11 “(C) with respect to the withholding of in-
12 come that is property of the estate or property
13 of the debtor for payment of a domestic support
14 obligation pursuant to a judicial or administra-
15 tive order;

16 “(D) the withholding, suspension, or re-
17 striction of drivers’ licenses, professional and
18 occupational licenses, and recreational licenses
19 under State law, as specified in section
20 466(a)(16) of the Social Security Act (42
21 U.S.C. 666(a)(16));

22 “(E) the reporting of overdue support
23 owed by a parent to any consumer reporting
24 agency as specified in section 466(a)(7) of the
25 Social Security Act (42 U.S.C. 666(a)(7));

1 “(F) the interception of tax refunds, as
2 specified in sections 464 and 466(a)(3) of the
3 Social Security Act (42 U.S.C. 664 and
4 666(a)(3)) or under an analogous State law; or

5 “(G) the enforcement of medical obliga-
6 tions as specified under title IV of the Social
7 Security Act (42 U.S.C. 601 et seq.).”;

8 **SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
9 **ALIMONY, MAINTENANCE, AND SUPPORT.**

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

12 (1) in subsection (a)—

13 (A) by striking paragraph (5) and insert-
14 ing the following:

15 “(5) for a domestic support obligation;”;

16 (B) in paragraph (15)—

17 (i) by inserting “to a spouse, former
18 spouse, or child of the debtor and” before
19 “not of the kind”;

20 (ii) by inserting “or” after “court of
21 record”; and

22 (iii) by striking “unless—” and all
23 that follows through the end of the para-
24 graph and inserting a semicolon; and

25 (C) by striking paragraph (18); and

1 (2) in subsection (c), by striking “(6), or (15)”
2 and inserting “or (6)”.

3 **SEC. 216. CONTINUED LIABILITY OF PROPERTY.**

4 Section 522 of title 11, United States Code, is
5 amended—

6 (1) in subsection (c), by striking paragraph (1)
7 and inserting the following:

8 “(1) a debt of a kind specified in paragraph (1)
9 or (4) of section 523(a) (in which case, notwith-
10 standing any provision of applicable nonbankruptcy
11 law to the contrary, such property shall be liable for
12 a debt of a kind specified in section 523(a)(4));”;
13 and

14 (2) in subsection (f)(1)(A), by striking the dash
15 and all that follows through the end of the subpara-
16 graph and inserting “of a kind that is specified in
17 section 523(a)(4); or”.

18 **SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS**
19 **AGAINST PREFERENTIAL TRANSFER MO-**
20 **TIONS.**

21 Section 547(c)(7) of title 11, United States Code, is
22 amended to read as follows:

23 “(7) to the extent such transfer was a bona fide
24 payment of a debt for a domestic support obligation;
25 or”.

1 **SEC. 218. DISPOSABLE INCOME DEFINED.**

2 (a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—
3 Section 1225(b)(2)(A) of title 11, United States Code, is
4 amended by inserting “or for a domestic support obliga-
5 tion that first becomes payable after the date on which
6 the petition is filed” after “dependent of the debtor”.

7 (b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—
8 Section 1325(b)(2)(A) of title 11, United States Code, is
9 amended by inserting “or for a domestic support obliga-
10 tion that first becomes payable after the date on which
11 the petition is filed” after “dependent of the debtor”.

12 **SEC. 219. COLLECTION OF CHILD SUPPORT.**

13 (a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-
14 tion 704 of title 11, United States Code, as amended by
15 section 102(b) of this Act, is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (8), by striking “and” at
18 the end;

19 (B) in paragraph (9), by striking the pe-
20 riod and inserting “; and”; and

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

22 “(10) if, with respect to an individual debtor,
23 there is a claim for a domestic support obligation,
24 provide the applicable notification specified in sub-
25 section (c).”; and

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

1 “(c)(1) In any case described in subsection (a)(10),
2 the trustee shall—

3 “(A)(i) notify in writing the holder of the claim
4 of the right of that holder to use the services of a
5 State child support enforcement agency established
6 under sections 464 and 466 of the Social Security
7 Act (42 U.S.C. 664 and 666, respectively) for the
8 State in which the holder resides for assistance in
9 collecting child support during and after the bank-
10 ruptcy procedures;

11 “(ii) include in the notice under this paragraph
12 the address and telephone number of the child sup-
13 port enforcement agency; and

14 “(iii) include in the notice an explanation of the
15 rights of the holder of the claim to payment of the
16 claim under this chapter; and

17 “(B)(i) notify in writing the State child support
18 agency of the State in which the holder of the claim
19 resides of the claim;

20 “(ii) include in the notice under this paragraph
21 the name, address, and telephone number of the
22 holder of the claim; and

23 “(iii) at such time as the debtor is granted a
24 discharge under section 727, notify the holder of

1 that claim and the State child support agency of the
2 State in which that holder resides of—

3 “(I) the granting of the discharge;

4 “(II) the last recent known address of the
5 debtor;

6 “(III) the last recent known name and ad-
7 dress of the debtor’s employer; and

8 “(IV) with respect to the debtor’s case, the
9 name of each creditor that holds a claim that—

10 “(aa) is not discharged under para-
11 graph (2), (4), or (14A) of section 523(a);

12 or

13 “(bb) was reaffirmed by the debtor
14 under section 524(c).

15 “(2)(A) A holder of a claim or a State child support
16 agency may request from a creditor described in para-
17 graph (1)(B)(iii)(IV) the last known address of the debtor.

18 “(B) Notwithstanding any other provision of law, a
19 creditor that makes a disclosure of a last known address
20 of a debtor in connection with a request made under sub-
21 paragraph (A) shall not be liable to the debtor or any
22 other person by reason of making that disclosure.”.

23 (b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—
24 Section 1106 of title 11, United States Code, is
25 amended—

1 (1) in subsection (a)—

2 (A) in paragraph (6), by striking “and” at
3 the end;

4 (B) in paragraph (7), by striking the pe-
5 riod and inserting “; and”; and

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

7 “(8) if, with respect to an individual debtor,
8 there is a claim for a domestic support obligation,
9 provide the applicable notification specified in sub-
10 section (c).”; and

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

12 “(c)(1) In any case described in subsection (a)(7), the
13 trustee shall—

14 “(A)(i) notify in writing the holder of the claim
15 of the right of that holder to use the services of a
16 State child support enforcement agency established
17 under sections 464 and 466 of the Social Security
18 Act (42 U.S.C. 664 and 666) for the State in which
19 the holder resides; and

20 “(ii) include in the notice under this paragraph
21 the address and telephone number of the child sup-
22 port enforcement agency; and

23 “(B)(i) notify, in writing, the State child sup-
24 port agency (of the State in which the holder of the
25 claim resides) of the claim;

1 “(ii) include in the notice under this paragraph
2 the name, address, and telephone number of the
3 holder of the claim; and

4 “(iii) at such time as the debtor is granted a
5 discharge under section 1141, notify the holder of
6 the claim and the State child support agency of the
7 State in which that holder resides of—

8 “(I) the granting of the discharge;

9 “(II) the last recent known address of the
10 debtor;

11 “(III) the last recent known name and ad-
12 dress of the debtor’s employer; and

13 “(IV) with respect to the debtor’s case, the
14 name of each creditor that holds a claim that—

15 “(aa) is not discharged under para-
16 graph (2), (3), or (14) of section 523(a);

17 or

18 “(bb) was reaffirmed by the debtor
19 under section 524(c).

20 “(2)(A) A holder of a claim or a State child support
21 agency may request from a creditor described in para-
22 graph (1)(B)(iii)(IV) the last known address of the debtor.

23 “(B) Notwithstanding any other provision of law, a
24 creditor that makes a disclosure of a last known address
25 of a debtor in connection with a request made under sub-

1 paragraph (A) shall not be liable to the debtor or any
2 other person by reason of making that disclosure.”.

3 (c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—
4 Section 1202 of title 11, United States Code, is
5 amended—

6 (1) in subsection (b)—

7 (A) in paragraph (4), by striking “and” at
8 the end;

9 (B) in paragraph (5), by striking the pe-
10 riod and inserting “; and”; and

11 (C) by adding at the end the following:

12 “(6) if, with respect to an individual debtor,
13 there is a claim for a domestic support obligation,
14 provide the applicable notification specified in sub-
15 section (c).”; and

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

17 “(c)(1) In any case described in subsection (b)(6), the
18 trustee shall—

19 “(A)(i) notify in writing the holder of the claim
20 of the right of that holder to use the services of a
21 State child support enforcement agency established
22 under sections 464 and 466 of the Social Security
23 Act (42 U.S.C. 664 and 666) for the State in which
24 the holder resides; and

1 “(ii) include in the notice under this paragraph
2 the address and telephone number of the child sup-
3 port enforcement agency; and

4 “(B)(i) notify, in writing, the State child sup-
5 port agency (of the State in which the holder of the
6 claim resides) of the claim;

7 “(ii) include in the notice under this paragraph
8 the name, address, and telephone number of the
9 holder of the claim; and

10 “(iii) at such time as the debtor is granted a
11 discharge under section 1228, notify the holder of
12 the claim and the State child support agency of the
13 State in which that holder resides of—

14 “(I) the granting of the discharge;

15 “(II) the last recent known address of the
16 debtor;

17 “(III) the last recent known name and ad-
18 dress of the debtor’s employer; and

19 “(IV) with respect to the debtor’s case, the
20 name of each creditor that holds a claim that—

21 “(aa) is not discharged under para-
22 graph (2), (3), or (14) of section 523(a);

23 or

24 “(bb) was reaffirmed by the debtor
25 under section 524(c).

1 “(2)(A) A holder of a claim or a State child support
2 agency may request from a creditor described in para-
3 graph (1)(B)(iii)(IV) the last known address of the debtor.

4 “(B) Notwithstanding any other provision of law, a
5 creditor that makes a disclosure of a last known address
6 of a debtor in connection with a request made under sub-
7 paragraph (A) shall not be liable to the debtor or any
8 other person by reason of making that disclosure.”.

9 (d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—
10 Section 1302 of title 11, United States Code, is
11 amended—

12 (1) in subsection (b)—

13 (A) in paragraph (4), by striking “and” at
14 the end;

15 (B) in paragraph (5), by striking the pe-
16 riod and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(6) if, with respect to an individual debtor,
19 there is a claim for a domestic support obligation,
20 provide the applicable notification specified in sub-
21 section (d); and

22 “(7) provide information relating to the admin-
23 istration of cases that is practical to any not-for-
24 profit entity which shall provide information to par-
25 ties in interest in a timely and convenient manner,

1 including telephonic and Internet access, at no cost
2 or a nominal cost.

3 An entity described in paragraph (7) shall provide
4 parties in interest with reasonable information about
5 each case on behalf of the trustee of that case, in-
6 cluding the status of the debtor's payments to the
7 plan, the unpaid balance payable to each creditor
8 treated by the plan, and the amount and date of
9 payments made under the plan. The trustee shall
10 have no duty to provide information under para-
11 graph (7) if no such entity has been established.”;
12 and

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

14 “(d)(1) In any case described in subsection (b)(6),
15 the trustee shall—

16 “(A)(i) notify in writing the holder of the claim
17 of the right of that holder to use the services of a
18 State child support enforcement agency established
19 under sections 464 and 466 of the Social Security
20 Act (42 U.S.C. 664 and 666, respectively) for the
21 State in which the holder resides; and

22 “(ii) include in the notice under this paragraph
23 the address and telephone number of the child sup-
24 port enforcement agency; and

1 “(B)(i) notify in writing the State child support
2 agency of the State in which the holder of the claim
3 resides of the claim;

4 “(ii) include in the notice under this paragraph
5 the name, address, and telephone number of the
6 holder of the claim; and

7 “(iii) at such time as the debtor is granted a
8 discharge under section 1328, notify the holder of
9 the claim and the State child support agency of the
10 State in which that holder resides of—

11 “(I) the granting of the discharge;

12 “(II) the last recent known address of the
13 debtor;

14 “(III) the last recent known name and ad-
15 dress of the debtor’s employer; and

16 “(IV) with respect to the debtor’s case, the
17 name of each creditor that holds a claim that—

18 “(aa) is not discharged under para-
19 graph (2), (3), or (14) of section 523(a);

20 or

21 “(bb) was reaffirmed by the debtor
22 under section 524(c).

23 “(2)(A) A holder of a claim or a State child support
24 agency may request from a creditor described in para-
25 graph (1)(B)(iii)(IV) the last known address of the debtor.

1 “(B) Notwithstanding any other provision of law, a
2 creditor that makes a disclosure of a last known address
3 of a debtor in connection with a request made under sub-
4 paragraph (A) shall not be liable to the debtor or any
5 other person by reason of making that disclosure.”.

6 **SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDU-**
7 **CATIONAL BENEFITS AND LOANS.**

8 Section 523(a) of title 11, United States Code, is
9 amended by striking paragraph (8) and inserting the fol-
10 lowing:

11 “(8) unless excepting such debt from discharge
12 under this paragraph would impose an undue hard-
13 ship on the debtor and the debtor’s dependents,
14 for—

15 “(A)(i) an educational benefit overpayment
16 or loan made, insured, or guaranteed by a gov-
17 ernmental unit, or made under any program
18 funded in whole or in part by a governmental
19 unit or nonprofit institution; or

20 “(ii) an obligation to repay funds received
21 as an educational benefit, scholarship, or sti-
22 pend; or

23 “(B) any other educational loan that is a
24 qualified education loan, as that term is defined
25 in section 221(e)(1) of the Internal Revenue

1 Code of 1986, incurred by an individual debt-
 2 or;”.

3 **Subtitle C—Other Consumer** 4 **Protections**

5 **SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANK-** 6 **RUPTCY FILINGS.**

7 Section 110 of title 11, United States Code, is
 8 amended—

9 (1) in subsection (a)(1), by inserting “, under
 10 the direct supervision of an attorney,” after “who”;

11 (2) in subsection (b)—

12 (A) in paragraph (1), by adding at the end
 13 the following: “If a bankruptcy petition pre-
 14 parer is not an individual, then an officer, prin-
 15 cipal, responsible person, or partner of the pre-
 16 parer shall be required to—

17 “(A) sign the document for filing; and

18 “(B) print on the document the name and ad-
 19 dress of that officer, principal, responsible person or
 20 partner.”;

21 (B) by striking paragraph (2) and insert-
 22 ing the following:

23 “(2)(A) Before preparing any document for filing or
 24 accepting any fees from a debtor, the bankruptcy petition
 25 preparer shall provide to the debtor a written notice to

1 debtors concerning bankruptcy petition preparers, which
2 shall be on an official form issued by the Judicial Con-
3 ference of the United States.

4 “(B) The notice under subparagraph (A)—

5 “(i) shall inform the debtor in simple language
6 that a bankruptcy petition preparer is not an attor-
7 ney and may not practice law or give legal advice;

8 “(ii) may contain a description of examples of
9 legal advice that a bankruptcy petition preparer is
10 not authorized to give, in addition to any advice that
11 the preparer may not give by reason of subsection
12 (e)(2); and

13 “(iii) shall—

14 “(I) be signed by—

15 “(aa) the debtor; and

16 “(bb) the bankruptcy petition pre-
17 parer, under penalty of perjury; and

18 “(II) be filed with any document for fil-
19 ing.”;

20 (3) in subsection (c)—

21 (A) in paragraph (2)—

22 (i) by striking “(2) For purposes” and
23 inserting “(2)(A) Subject to subparagraph
24 (B), for purposes”; and

1 (ii) by adding at the end the fol-
2 lowing:

3 “(B) If a bankruptcy petition preparer is not an indi-
4 vidual, the identifying number of the bankruptcy petition
5 preparer shall be the Social Security account number of
6 the officer, principal, responsible person, or partner of the
7 preparer.”; and

8 (B) by striking paragraph (3);

9 (4) in subsection (d)—

10 (A) by striking “(d)(1)” and inserting
11 “(d)”; and

12 (B) by striking paragraph (2);

13 (5) in subsection (e)—

14 (A) by striking paragraph (2); and

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

16 “(2)(A) A bankruptcy petition preparer may not offer
17 a potential bankruptcy debtor any legal advice, including
18 any legal advice described in subparagraph (B).

19 “(B) The legal advice referred to in subparagraph
20 (A) includes advising the debtor—

21 “(i) whether—

22 “(I) to file a petition under this title; or

23 “(II) commencing a case under chapter 7,
24 11, 12, or 13 is appropriate;

1 “(ii) whether the debtor’s debts will be elimi-
2 nated or discharged in a case under this title;

3 “(iii) whether the debtor will be able to retain
4 the debtor’s home, car, or other property after com-
5 mencing a case under this title;

6 “(iv) concerning—

7 “(I) the tax consequences of a case
8 brought under this title; or

9 “(II) the dischargeability of tax claims;

10 “(v) whether the debtor may or should promise
11 to repay debts to a creditor or enter into a reaffir-
12 mation agreement with a creditor to reaffirm a debt;

13 “(vi) concerning how to characterize the nature
14 of the debtor’s interests in property or the debtor’s
15 debts; or

16 “(vii) concerning bankruptcy procedures and
17 rights.”;

18 (6) in subsection (f)—

19 (A) by striking “(f)(1)” and inserting
20 “(f)”; and

21 (B) by striking paragraph (2);

22 (7) in subsection (g)—

23 (A) by striking “(g)(1)” and inserting
24 “(g)”; and

25 (B) by striking paragraph (2);

1 (8) in subsection (h)—

2 (A) by redesignating paragraphs (1)
3 through (4) as paragraphs (2) through (5), re-
4 spectively;

5 (B) by inserting before paragraph (2), as
6 so redesignated, the following:

7 “(h)(1) The Supreme Court may promulgate rules
8 under section 2075 of title 28, or the Judicial Conference
9 of the United States may prescribe guidelines, for setting
10 a maximum allowable fee chargeable by a bankruptcy peti-
11 tion preparer. A bankruptcy petition preparer shall notify
12 the debtor of any such maximum amount before preparing
13 any document for filing for a debtor or accepting any fee
14 from the debtor.”;

15 (C) in paragraph (2), as redesignated by
16 subparagraph (A) of this paragraph—

17 (i) by striking “Within 10 days after
18 the date of filing a petition, a bankruptcy
19 petition preparer shall file a” and inserting
20 “A”;

21 (ii) by inserting “by the bankruptcy
22 petition preparer shall be filed together
23 with the petition,” after “perjury”; and

24 (iii) by adding at the end the fol-
25 lowing: “If rules or guidelines setting a

1 maximum fee for services have been pro-
2 mulgated or prescribed under paragraph
3 (1), the declaration under this paragraph
4 shall include a certification that the bank-
5 ruptcy petition preparer complied with the
6 notification requirement under paragraph
7 (1).”;

8 (D) by striking paragraph (3), as redesign-
9 nated by subparagraph (A) of this paragraph,
10 and inserting the following:

11 “(3)(A) The court shall disallow and order the
12 immediate turnover to the bankruptcy trustee any
13 fee referred to in paragraph (2) found to be in ex-
14 cess of the value of any services—

15 “(i) rendered by the preparer during the
16 12-month period immediately preceding the
17 date of filing of the petition; or

18 “(ii) found to be in violation of any rule or
19 guideline promulgated or prescribed under
20 paragraph (1).

21 “(B) All fees charged by a bankruptcy petition
22 preparer may be forfeited in any case in which the
23 bankruptcy petition preparer fails to comply with
24 this subsection or subsection (b), (c), (d), (e), (f), or
25 (g).

1 “(C) An individual may exempt any funds re-
2 covered under this paragraph under section
3 522(b).”; and

4 (E) in paragraph (4), as redesignated by
5 subparagraph (A) of this paragraph, by striking
6 “or the United States trustee” and inserting
7 “the United States trustee, or the court, on the
8 initiative of the court,”;

9 (9) in subsection (i)(1), by striking the matter
10 preceding subparagraph (A) and inserting the fol-
11 lowing:

12 “(i) If a bankruptcy petition preparer violates this
13 section or commits any act that the court finds to be
14 fraudulent, unfair, or deceptive, on motion of the debtor,
15 trustee, or United States trustee, and after the court holds
16 a hearing with respect to that violation or act, the court
17 shall order the bankruptcy petition preparer to pay to the
18 debtor—”;

19 (10) in subsection (j)—

20 (A) in paragraph (2)—

21 (i) in subparagraph (A)(i)(I), by strik-
22 ing “a violation of which subjects a person
23 to criminal penalty”;

24 (ii) in subparagraph (B)—

1 (I) by striking “or has not paid
2 a penalty” and inserting “has not
3 paid a penalty”; and

4 (II) by inserting “or failed to dis-
5 gorge all fees ordered by the court”
6 after “a penalty imposed under this
7 section,”;

8 (B) by redesignating paragraph (3) as
9 paragraph (4); and

10 (C) by inserting after paragraph (2) the
11 following:

12 “(3) The court, as part of its contempt power, may
13 enjoin a bankruptcy petition preparer that has failed to
14 comply with a previous order issued under this section.
15 The injunction under this paragraph may be issued upon
16 motion of the court, the trustee, or the United States
17 trustee.”; and

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

19 “(1)(1) A bankruptcy petition preparer who fails to
20 comply with any provision of subsection (b), (c), (d), (e),
21 (f), (g), or (h) may be fined not more than \$500 for each
22 such failure.

23 “(2) The court shall triple the amount of a fine as-
24 sessed under paragraph (1) in any case in which the court
25 finds that a bankruptcy petition preparer—

1 “(A) advised the debtor to exclude assets or in-
2 come that should have been included on applicable
3 schedules;

4 “(B) advised the debtor to use a false Social
5 Security account number;

6 “(C) failed to inform the debtor that the debtor
7 was filing for relief under this title; or

8 “(D) prepared a document for filing in a man-
9 ner that failed to disclose the identity of the pre-
10 parer.

11 “(3) The debtor, the trustee, a creditor, or the United
12 States trustee may file a motion for an order imposing
13 a fine on the bankruptcy petition preparer for each viola-
14 tion of this section.

15 “(4) All fines imposed under this section shall be paid
16 to the United States trustee, who shall deposit an amount
17 equal to such fines in a special account of the United
18 States Trustee System Fund referred to in section
19 586(e)(2) of title 28. Amounts deposited under this para-
20 graph shall be available to fund the enforcement of this
21 section on a national basis.”.

22 **SEC. 222. SENSE OF CONGRESS.**

23 It is the sense of Congress that States should develop
24 curricula relating to the subject of personal finance, de-
25 signed for use in elementary and secondary schools.

1 **SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED**
2 **STATES CODE.**

3 (a) IN GENERAL.—Section 507(a) of title 11, United
4 States Code, as amended by section 212 of this Act, is
5 amended by inserting after paragraph (9) the following:

6 “(10) Tenth, allowed claims for death or per-
7 sonal injuries resulting from the operation of a
8 motor vehicle or vessel if such operation was unlaw-
9 ful because the debtor was intoxicated from using al-
10 cohol, a drug, or another substance.”.

11 (b) VESSELS.—Section 523(a)(8) of title 11, United
12 States Code, is amended by inserting “or vessel” after
13 “vehicle”.

14 **SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANK-**
15 **RUPTCY.**

16 (a) IN GENERAL.—Section 522 of title 11, United
17 States Code, as amended by section 215 of this Act, is
18 amended—

19 (1) in subsection (b)—

20 (A) in paragraph (2)—

21 (i) by striking “(2)(A) any property”
22 and inserting:

23 “(3) Property listed in this paragraph is—

24 “(A) any property”;

25 (ii) in subparagraph (A), by striking
26 “and” at the end;

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

4 (iv) by adding at the end the fol-
5 lowing:

6 “(C) retirement funds to the extent that those
7 funds are in a fund or account that is exempt from
8 taxation under section 401, 403, 408, 408A, 414,
9 457, or 501(a) of the Internal Revenue Code of
10 1986.”;

11 (B) by striking paragraph (1) and insert-
12 ing:

13 “(2) Property listed in this paragraph is property
14 that is specified under subsection (d), unless the State law
15 that is applicable to the debtor under paragraph (3)(A)
16 specifically does not so authorize.”;

17 (C) in the matter preceding paragraph
18 (2)—

19 (i) by striking “(b)” and inserting
20 “(b)(1)”;

21 (ii) by striking “paragraph (2)” both
22 places it appears and inserting “paragraph
23 (3)”;

1 (iii) by striking “paragraph (1)” each
2 place it appears and inserting “paragraph
3 (2)”; and

4 (iv) by striking “Such property is—”;
5 and

6 (D) by adding at the end of the subsection
7 the following:

8 “(4) For purposes of paragraph (3)(C) and sub-
9 section (d)(12), the following shall apply:

10 “(A) If the retirement funds are in a retirement
11 fund that has received a favorable determination
12 pursuant to section 7805 of the Internal Revenue
13 Code of 1986, and that determination is in effect as
14 of the date of the commencement of the case under
15 section 301, 302, or 303 of this title, those funds
16 shall be presumed to be exempt from the estate.

17 “(B) If the retirement funds are in a retirement
18 fund that has not received a favorable determination
19 pursuant to such section 7805, those funds are ex-
20 empt from the estate if the debtor demonstrates
21 that—

22 “(i) no prior determination to the contrary
23 has been made by a court or the Internal Rev-
24 enue Service; and

1 “(ii)(I) the retirement fund is in substan-
2 tial compliance with the applicable requirements
3 of the Internal Revenue Code of 1986; or

4 “(II) the retirement fund fails to be in
5 substantial compliance with the applicable re-
6 quirements of the Internal Revenue Code of
7 1986 and the debtor is not materially respon-
8 sible for that failure.

9 “(C) A direct transfer of retirement funds from
10 1 fund or account that is exempt from taxation
11 under section 401, 403, 408, 408A, 414, 457, or
12 501(a) of the Internal Revenue Code of 1986, pur-
13 suant to section 401(a)(31) of the Internal Revenue
14 Code of 1986, or otherwise, shall not cease to qualify
15 for exemption under paragraph (3)(C) or subsection
16 (d)(12) by reason of that direct transfer.

17 “(D)(i) Any distribution that qualifies as an eli-
18 gible rollover distribution within the meaning of sec-
19 tion 402(c) of the Internal Revenue Code of 1986 or
20 that is described in clause (ii) shall not cease to
21 qualify for exemption under paragraph (3)(C) or
22 subsection (d)(12) by reason of that distribution.

23 “(ii) A distribution described in this clause is
24 an amount that—

1 “(I) has been distributed from a fund or
2 account that is exempt from taxation under sec-
3 tion 401, 403, 408, 408A, 414, 457, or 501(a)
4 of the Internal Revenue Code of 1986; and

5 “(II) to the extent allowed by law, is de-
6 posited in such a fund or account not later than
7 60 days after the distribution of that amount.”;
8 and

9 (2) in subsection (d)—

10 (A) in the matter preceding paragraph (1),
11 by striking “subsection (b)(1)” and inserting
12 “subsection (b)(2)”; and

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

14 “(12) Retirement funds to the extent that those
15 funds are in a fund or account that is exempt from tax-
16 ation under section 401, 403, 408, 408A, 414, 457, or
17 501(a) of the Internal Revenue Code of 1986.”.

18 (b) *AUTOMATIC STAY*.—Section 362(b) of title 11,
19 United States Code, as amended by section 214 of this
20 Act, is amended—

21 (1) in paragraph (18), by striking “or” at the
22 end;

23 (2) in paragraph (19), by striking the period
24 and inserting “; or”;

1 (3) by inserting after paragraph (19) the fol-
2 lowing:

3 “(20) under subsection (a), of withholding of
4 income from a debtor’s wages and collection of
5 amounts withheld, pursuant to the debtor’s agree-
6 ment authorizing that withholding and collection for
7 the benefit of a pension, profit-sharing, stock bonus,
8 or other plan established under section 401, 403,
9 408, 408A, 414, 457, or 501(a) of the Internal Rev-
10 enue Code of 1986 that is sponsored by the em-
11 ployer of the debtor, or an affiliate, successor, or
12 predecessor of such employer—

13 “(A) to the extent that the amounts with-
14 held and collected are used solely for payments
15 relating to a loan from a plan that satisfies the
16 requirements of section 408(b)(1) of the Em-
17 ployee Retirement Income Security Act of 1974
18 or is subject to section 72(p) of the Internal
19 Revenue Code of 1986; or

20 “(B) in the case of a loan from a thrift
21 savings plan described in subchapter III of title
22 5, that satisfies the requirements of section
23 8433(g) of such title;” and

24 (4) by adding at the end of the flush material
25 at the end of the subsection, the following: “Nothing

1 in paragraph (20) may be construed to provide that
2 any loan made under a governmental plan under
3 section 414(d), or a contract or account under sec-
4 tion 403(b), of the Internal Revenue Code of 1986
5 constitutes a claim or a debt under this title.”.

6 (c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of
7 title 11, United States Code, is amended by adding at the
8 end the following:

9 “(18) owed to a pension, profit-sharing, stock
10 bonus, or other plan established under section 401,
11 403, 408, 408A, 414, 457, or 501(c) of the Internal
12 Revenue Code of 1986, pursuant to—

13 “(A) a loan permitted under section
14 408(b)(1) of the Employee Retirement Income
15 Security Act of 1974, or subject to section
16 72(p) of the Internal Revenue Code of 1986; or

17 “(B) a loan from the thrift savings plan
18 described in subchapter III of title 5, that satis-
19 fies the requirements of section 8433(g) of such
20 title.

21 Nothing in paragraph (19) may be construed to pro-
22 vide that any loan made under a governmental plan
23 under section 414(d), or a contract or account under
24 section 403(b), of the Internal Revenue Code of
25 1986 constitutes a claim or a debt under this title.”

1 (d) PLAN CONTENTS.—Section 1322 of title 11,
2 United States Code, is amended by adding at the end the
3 following:

4 “(f) A plan may not materially alter the terms of a
5 loan described in section 362(b)(20).”.

6 **SEC. 225. PROTECTION OF EDUCATION SAVINGS.**

7 (a) EXCLUSIONS.—Section 541 of title 11, United
8 States Code, as amended by section 903, is amended—

9 (1) in subsection (b)—

10 (A) by redesignating paragraph (6) as
11 paragraph (8); and

12 (B) by inserting after paragraph (5) the
13 following:

14 “(6) funds placed in an education individual re-
15 tirement account (as defined in section 530(b)(1) of
16 the Internal Revenue Code of 1986) not later than
17 365 days before the date of filing of the petition,
18 but—

19 “(A) only if the designated beneficiary of
20 such account was a son, daughter, stepson,
21 stepdaughter, grandchild, or step-grandchild of
22 the debtor for the taxable year for which funds
23 were placed in such account;

24 “(B) only to the extent that such funds—

1 “(i) are not pledged or promised to
2 any entity in connection with any extension
3 of credit; and

4 “(ii) are not excess contributions (as
5 described in section 4973(e) of the Internal
6 Revenue Code of 1986); and

7 “(C) in the case of funds placed in all such
8 accounts having the same designated bene-
9 ficiary not earlier than 720 days nor later than
10 365 days before such date, only so much of
11 such funds as does not exceed \$5,000;

12 “(7) funds used to purchase a tuition credit or
13 certificate or contributed to an account in accord-
14 ance with section 529(b)(1)(A) of the Internal Rev-
15 enue Code of 1986 under a qualified State tuition
16 program (as defined in section 529(b)(1) of such
17 Code) not later than 365 days before the date of fil-
18 ing of the petition, but—

19 “(A) only if the designated beneficiary of
20 the amounts paid or contributed to such tuition
21 program was a son, daughter, stepson, step-
22 daughter, grandchild, or step-grandchild of the
23 debtor for the taxable year for which funds
24 were paid or contributed;

1 “(B) with respect to the aggregate amount
2 paid or contributed to such program having the
3 same designated beneficiary, only so much of
4 such amount as does not exceed the total con-
5 tributions permitted under section 529(b)(7) of
6 such Code with respect to such beneficiary, as
7 adjusted beginning on the date of the filing of
8 the petition by the annual increase or decrease
9 (rounded to the nearest tenth of 1 percent) in
10 the education expenditure category of the Con-
11 sumer Price Index prepared by the Department
12 of Labor; and

13 “(C) in the case of funds paid or contrib-
14 uted to such program having the same des-
15 ignated beneficiary not earlier than 720 days
16 nor later than 365 days before such date, only
17 so much of such funds as does not exceed
18 \$5,000; or”; and

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

20 “(g) In determining whether any of the relationships
21 specified in paragraph (6)(A) or (7)(A) of subsection (b)
22 exists, a legally adopted child of an individual (and a child
23 who is a member of an individual’s household, if placed
24 with such individual by an authorized placement agency
25 for legal adoption by such individual), or a foster child

1 of an individual (if such child has as the child’s principal
 2 place of abode the home of the debtor and is a member
 3 of the debtor’s household) shall be treated as a child of
 4 such individual by blood.”.

5 (b) DEBTOR’S DUTIES.—Section 521 of title 11,
 6 United States Code, as amended by sections 105(d),
 7 304(c)(1), 305(2), 315(b), and 316 of this Act, is amend-
 8 ed by adding at the end the following:

9 “(k) In addition to meeting the requirements under
 10 subsection (a), a debtor shall file with the court a record
 11 of any interest that a debtor has in an education individual
 12 retirement account (as defined in section 530(b)(1) of the
 13 Internal Revenue Code of 1986) or under a qualified State
 14 tuition program (as defined in section 529(b)(1) of such
 15 Code).”.

16 **TITLE III—DISCOURAGING** 17 **BANKRUPTCY ABUSE**

18 **SEC. 301. REINFORCEMENT OF THE FRESH START.**

19 Section 523(a)(17) of title 11, United States Code,
 20 is amended—

21 (1) by striking “by a court” and inserting “on
 22 a prisoner by any court”,

23 (2) by striking “section 1915(b) or (f)” and in-
 24 serting “subsection (b) or (f)(2) of section 1915”,

25 and

1 (3) by inserting “(or a similar non-Federal
2 law)” after “title 28” each place it appears.

3 **SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.**

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

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

8 (2) in paragraph (2), by striking the period at
9 the end and inserting a semicolon; and

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

11 “(3) if a single or joint case is filed by or
12 against an individual debtor under chapter 7, 11, or
13 13, and if a single or joint case of the debtor was
14 pending within the preceding 1-year period but was
15 dismissed, other than a case refiled under a chapter
16 other than chapter 7 after dismissal under section
17 707(b)—

18 “(A) the stay under subsection (a) with re-
19 spect to any action taken with respect to a debt
20 or property securing such debt or with respect
21 to any lease will terminate with respect to the
22 debtor on the 30th day after the filing of the
23 later case;

24 “(B) upon motion by a party in interest
25 for continuation of the automatic stay and upon

1 notice and a hearing, the court may extend the
2 stay in particular cases as to any or all credi-
3 tors (subject to such conditions or limitations
4 as the court may then impose) after notice and
5 a hearing completed before the expiration of the
6 30-day period only if the party in interest dem-
7 onstrates that the filing of the later case is in
8 good faith as to the creditors to be stayed; and

9 “(C) for purposes of subparagraph (B), a
10 case is presumptively filed not in good faith
11 (but such presumption may be rebutted by clear
12 and convincing evidence to the contrary)—

13 “(i) as to all creditors, if—

14 “(I) more than 1 previous case
15 under any of chapter 7, 11, or 13 in
16 which the individual was a debtor was
17 pending within the preceding 1-year
18 period;

19 “(II) a previous case under any
20 of chapter 7, 11, or 13 in which the
21 individual was a debtor was dismissed
22 within such 1-year period, after the
23 debtor failed to—

24 “(aa) file or amend the peti-
25 tion or other documents as re-

1 required by this title or the court
2 without substantial excuse (but
3 mere inadvertence or negligence
4 shall not be a substantial excuse
5 unless the dismissal was caused
6 by the negligence of the debtor's
7 attorney);

8 “(bb) provide adequate pro-
9 tection as ordered by the court;
10 or

11 “(cc) perform the terms of a
12 plan confirmed by the court; or

13 “(III) there has not been a sub-
14 stantial change in the financial or per-
15 sonal affairs of the debtor since the
16 dismissal of the next most previous
17 case under chapter 7, 11, or 13 or
18 any other reason to conclude that the
19 later case will be concluded—

20 “(aa) if a case under chap-
21 ter 7, with a discharge; or

22 “(bb) if a case under chap-
23 ter 11 or 13, with a confirmed
24 plan which will be fully per-
25 formed; and

1 “(ii) as to any creditor that com-
2 menced an action under subsection (d) in
3 a previous case in which the individual was
4 a debtor if, as of the date of dismissal of
5 such case, that action was still pending or
6 had been resolved by terminating, condi-
7 tioning, or limiting the stay as to actions
8 of such creditor; and

9 “(4)(A)(i) if a single or joint case is filed by or
10 against an individual debtor under this title, and if
11 2 or more single or joint cases of the debtor were
12 pending within the previous year but were dismissed,
13 other than a case refiled under section 707(b), the
14 stay under subsection (a) shall not go into effect
15 upon the filing of the later case; and

16 “(ii) on request of a party in interest, the court
17 shall promptly enter an order confirming that no
18 stay is in effect;

19 “(B) if, within 30 days after the filing of the
20 later case, a party in interest requests the court may
21 order the stay to take effect in the case as to any
22 or all creditors (subject to such conditions or limita-
23 tions as the court may impose), after notice and
24 hearing, only if the party in interest demonstrates

1 that the filing of the later case is in good faith as
2 to the creditors to be stayed;

3 “(C) a stay imposed under subparagraph (B)
4 shall be effective on the date of entry of the order
5 allowing the stay to go into effect; and

6 “(D) for purposes of subparagraph (B), a case
7 is presumptively not filed in good faith (but such
8 presumption may be rebutted by clear and con-
9 vincing evidence to the contrary)—

10 “(i) as to all creditors if—

11 “(I) 2 or more previous cases under
12 this title in which the individual was a
13 debtor were pending within the 1-year pe-
14 riod;

15 “(II) a previous case under this title
16 in which the individual was a debtor was
17 dismissed within the time period stated in
18 this paragraph after the debtor failed to
19 file or amend the petition or other docu-
20 ments as required by this title or the court
21 without substantial excuse (but mere inad-
22 vertence or negligence shall not be sub-
23 stantial excuse unless the dismissal was
24 caused by the negligence of the debtor’s at-
25 torney), failed to pay adequate protection

1 as ordered by the court, or failed to per-
2 form the terms of a plan confirmed by the
3 court; or

4 “(III) there has not been a substan-
5 tial change in the financial or personal af-
6 fairs of the debtor since the dismissal of
7 the next most previous case under this
8 title, or any other reason to conclude that
9 the later case will not be concluded, if a
10 case under chapter 7, with a discharge,
11 and if a case under chapter 11 or 13, with
12 a confirmed plan that will be fully per-
13 formed; or

14 “(ii) as to any creditor that commenced an
15 action under subsection (d) in a previous case
16 in which the individual was a debtor if, as of
17 the date of dismissal of such case, such action
18 was still pending or had been resolved by termi-
19 nating, conditioning, or limiting the stay as to
20 action of such creditor.”.

21 **SEC. 303. CURBING ABUSIVE FILINGS.**

22 (a) IN GENERAL.—Section 362(d) of title 11, United
23 States Code, is amended—

24 (1) in paragraph (2), by striking “or” at the
25 end;

1 (2) in paragraph (3), by striking the period at
2 the end and inserting “; or”; and

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

4 “(4) with respect to a stay of an act against
5 real property under subsection (a), by a creditor
6 whose claim is secured by an interest in such real
7 estate, if the court finds that the filing of the bank-
8 ruptcy petition was part of a scheme to delay,
9 hinder, and defraud creditors that involved either—

10 “(A) transfer of all or part ownership of,
11 or other interest in, the real property without
12 the consent of the secured creditor or court ap-
13 proval; or

14 “(B) multiple bankruptcy filings affecting
15 the real property.

16 If recorded in compliance with applicable State laws gov-
17 erning notices of interests or liens in real property, an
18 order entered under this subsection shall be binding in any
19 other case under this title purporting to affect the real
20 property filed not later than 2 years after that recording,
21 except that a debtor in a subsequent case may move for
22 relief from such order based upon changed circumstances
23 or for good cause shown, after notice and a hearing.”.

1 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
2 United States Code, as amended by section 224 of this
3 Act, is amended—

4 (1) in paragraph (19), by striking “or” at the
5 end;

6 (2) in paragraph (20), by striking the period at
7 the end; and

8 (3) by inserting after paragraph (20) the fol-
9 lowing:

10 “(21) under subsection (a), of any act to en-
11 force any lien against or security interest in real
12 property following the entry of an order under sec-
13 tion 362(d)(4) as to that property in any prior bank-
14 ruptcy case for a period of 2 years after entry of
15 such an order, except that the debtor, in a subse-
16 quent case, may move the court for relief from such
17 order based upon changed circumstances or for
18 other good cause shown, after notice and a hearing;
19 or

20 “(22) under subsection (a), of any act to en-
21 force any lien against or security interest in real
22 property—

23 “(A) if the debtor is ineligible under sec-
24 tion 109(g) to be a debtor in a bankruptcy case;
25 or

1 “(B) if the bankruptcy case was filed in
2 violation of a bankruptcy court order in a prior
3 bankruptcy case prohibiting the debtor from
4 being a debtor in another bankruptcy case.”.

5 (c) MODIFICATION OF A RESTRICTION RELATING TO
6 WAIVERS.—Section 522(e) of title 11, United States
7 Code, is amended—

8 (1) in the first sentence, by striking “subsection
9 (b) of this section” and inserting “subsection (b),
10 other than under paragraph (3)(C) of that sub-
11 section”; and

12 (2) in the second sentence—

13 (A) by inserting “(other than property de-
14 scribed in subsection (b)(3)(C))” after “prop-
15 erty” each place it appears; and

16 (B) by inserting “(other than a transfer of
17 property described in subsection (b)(3)(C))”
18 after “transfer” each place it appears.

19 **SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY**
20 **SECURITY.**

21 Title 11, United States Code, is amended—

22 (1) in section 521(a), as so redesignated by sec-
23 tion 106(d) of this Act—

24 (A) in paragraph (4), by striking “and” at
25 the end;

1 (B) in paragraph (5), by striking the pe-
2 riod at the end and inserting “; and”; and

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

4 “(6) in an individual case under chapter 7, not
5 retain possession of personal property as to which a
6 creditor has an allowed claim for the purchase price
7 secured in whole or in part by an interest in that
8 personal property unless, in the case of an individual
9 debtor, the debtor within 45 days after the first
10 meeting of creditors under section 341(a)—

11 “(A) enters into an agreement with the
12 creditor under section 524(c) with respect to
13 the claim secured by such property; or

14 “(B) redeems such property from the secu-
15 rity interest under section 722.”; and

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

17 “(c) For purposes of subsection (a)(6), if the debtor
18 fails to so act within the 45-day period specified in sub-
19 section (a)(6), the personal property affected shall no
20 longer be property of the estate, and the creditor may take
21 whatever action as to such property as is permitted by
22 applicable nonbankruptcy law, unless the court determines
23 on the motion of the trustee, and after notice and a hear-
24 ing, that such property is of consequential value or benefit
25 to the estate.”; and

1 (2) in section 722, by inserting “in full at the
2 time of redemption” before the period at the end.

3 **SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE**
4 **DEBTOR DOES NOT COMPLETE INTENDED**
5 **SURRENDER OF CONSUMER DEBT COLLAT-**
6 **ERAL.**

7 Title 11, United States Code, is amended—

8 (1) in section 362—

9 (A) in subsection (c), by striking “(e), and
10 (f)” and inserting “(e), (f), and (h)”; and

11 (B) by redesignating subsection (h), as
12 amended by section 227 of this Act, as sub-
13 section (j) and by inserting after subsection (g)
14 the following:

15 “(h)(1) Subject to paragraph (2), in an individual
16 case under chapter 7, 11, or 13 the stay provided by sub-
17 section (a) is terminated with respect to property of the
18 estate securing in whole or in part a claim, or subject to
19 an unexpired lease, if the debtor fails within the applicable
20 period of time set by section 521(a)(2) to—

21 “(A) file timely any statement of intention re-
22 quired under section 521(a)(2) with respect to that
23 property or to indicate therein that the debtor—

24 “(i) will either surrender the property or
25 retain the property; and

1 “(ii) if retaining the property, will, as
2 applicable—

3 “(I) redeem the property under sec-
4 tion 722;

5 “(II) reaffirm the debt the property
6 secures under section 524(c); or

7 “(III) assume the unexpired lease
8 under section 365(p) if the trustee does
9 not do so; or

10 “(B) take timely the action specified in that
11 statement of intention, as the statement may be
12 amended before expiration of the period for taking
13 action, unless the statement of intention specifies re-
14 affirmation and the creditor refuses to reaffirm on
15 the original contract terms.

16 “(2) Paragraph (1) shall not apply if the court deter-
17 mines on the motion of the trustee, and after notice and
18 a hearing, that such property is of consequential value or
19 benefit to the estate.”; and

20 (2) in section 521, as amended by section 304
21 of this Act—

22 (A) in subsection (a)(2), as redesignated
23 by section 106(d) of this Act—

24 (i) by striking “consumer”;

25 (ii) in subparagraph (B)—

1 (I) by striking “forty-five days
2 after the filing of a notice of intent
3 under this section” and inserting “30
4 days after the first date set for the
5 meeting of creditors under section
6 341(a)”; and

7 (II) by striking “forty-five day
8 period” and inserting “30-day pe-
9 riod”; and

10 (iii) in subparagraph (C), by inserting
11 “except as provided in section 362(h)” be-
12 fore the semicolon; and

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

14 “(d) If the debtor fails timely to take the action speci-
15 fied in subsection (a)(6), or in paragraph (1) or (2) of
16 section 362(h), with respect to property which a lessor or
17 bailor owns and has leased, rented, or bailed to the debtor
18 or as to which a creditor holds a security interest not oth-
19 erwise voidable under section 522(f), 544, 545, 547, 548,
20 or 549, nothing in this title shall prevent or limit the oper-
21 ation of a provision in the underlying lease or agreement
22 that has the effect of placing the debtor in default under
23 that lease or agreement by reason of the occurrence, pend-
24 ency, or existence of a proceeding under this title or the
25 insolvency of the debtor. Nothing in this subsection shall

1 be deemed to justify limiting such a provision in any other
2 circumstance.”.

3 **SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT**

4 **IN CHAPTER 13.**

5 (a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title
6 11, United States Code, is amended to read as follows:

7 “(i) the plan provides that—

8 “(I) the holder of such claim retain
9 the lien securing such claim until the ear-
10 lier of—

11 “(aa) the payment of the under-
12 lying debt determined under nonbank-
13 ruptcy law; or

14 “(bb) discharge under section
15 1328; and

16 “(II) if the case under this chapter is
17 dismissed or converted without completion
18 of the plan, such lien shall also be retained
19 by such holder to the extent recognized by
20 applicable nonbankruptcy law; and”.

21 (b) RESTORING THE FOUNDATION FOR SECURED
22 CREDIT.—Section 1325(a) of title 11, United States Code,
23 is amended by adding at the end the following flush sen-
24 tence:

1 “For purposes of paragraph (5), section 506 shall not
2 apply to a claim described in that paragraph if the debt
3 that is the subject of the claim was incurred within the
4 5-year period preceding the filing of the petition and the
5 collateral for that debt consists of a motor vehicle (as de-
6 fined in section 30102 of title 49) acquired for the per-
7 sonal use of the debtor, or if collateral for that debt con-
8 sists of any other thing of value, if the debt was incurred
9 during the 6-month period preceding that filing.”.

10 (c) DEFINITIONS.—Section 101 of title 11, United
11 States Code, as amended by section 211 of this Act, is
12 amended—

13 (1) by inserting after paragraph (13) the fol-
14 lowing:

15 “(13A) ‘debtor’s principal residence’—

16 “(A) means a residential structure, includ-
17 ing incidental property, without regard to
18 whether that structure is attached to real prop-
19 erty; and

20 “(B) includes an individual condominium
21 or cooperative unit;”; and

22 (2) by inserting after paragraph (27), the fol-
23 lowing:

24 “(27A) ‘incidental property’ means, with re-
25 spect to a debtor’s principal residence—

1 “(A) property commonly conveyed with a
2 principal residence in the area where the real
3 estate is located;

4 “(B) all easements, rights, appurtenances,
5 fixtures, rents, royalties, mineral rights, oil or
6 gas rights or profits, water rights, escrow
7 funds, or insurance proceeds; and

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

9 **SEC. 307. EXEMPTIONS.**

10 Section 522(b)(3)(A) of title 11, United States Code,
11 as so designated by section 224 of this Act, is amended—

12 (1) by striking “180” and inserting “730”; and

13 (2) by striking “, or for a longer portion of
14 such 180-day period than in any other place”.

15 **SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EX-**
16 **EMPTION.**

17 Section 522 of title 11, United States Code, as
18 amended by section 307 of this Act, is amended—

19 (1) in subsection (b)(3)(A), by inserting “sub-
20 ject to subsection (n),” before “any property”; and

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

22 “(n) For purposes of subsection (b)(3)(A), and not-
23 withstanding subsection (a), the value of an interest in—

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

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

4 “(3) a burial plot for the debtor or a dependent
5 of the debtor;

6 shall be reduced to the extent such value is attributable
7 to any portion of any property that the debtor disposed
8 of in the 730-day period ending on the date of the filing
9 of the petition, with the intent to hinder, delay, or defraud
10 a creditor and that the debtor could not exempt, or that
11 portion that the debtor could not exempt, under subsection
12 (b) if on such date the debtor had held the property so
13 disposed of.”.

14 **SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER**
15 **13 CASES.**

16 (a) STOPPING ABUSIVE CONVERSIONS FROM CHAP-
17 TER 13.—Section 348(f)(1) of title 11, United States
18 Code, is amended—

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

21 (2) in subparagraph (B)—

22 (A) by striking “in the converted case,
23 with allowed secured claims” and inserting

24 “only in a case converted to chapter 11 or 12
25 but not in a case converted to chapter 7, with

1 allowed secured claims in cases under chapters
2 11 and 12”; and

3 (B) by striking the period and inserting “;
4 and”; and

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

6 “(C) with respect to cases converted from chap-
7 ter 13—

8 “(i) the claim of any creditor holding secu-
9 rity as of the date of the petition shall continue
10 to be secured by that security unless the full
11 amount of such claim determined under appli-
12 cable nonbankruptcy law has been paid in full
13 as of the date of conversion, notwithstanding
14 any valuation or determination of the amount
15 of an allowed secured claim made for the pur-
16 poses of the chapter 13 proceeding; and

17 “(ii) unless a prebankruptcy default has
18 been fully cured under the plan at the time of
19 conversion, in any proceeding under this title or
20 otherwise, the default shall have the effect given
21 under applicable nonbankruptcy law.”.

22 (b) GIVING DEBTORS THE ABILITY TO KEEP
23 LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section
24 365 of title 11, United States Code, is amended by adding
25 at the end the following:

1 “(p)(1) If a lease of personal property is rejected or
2 not timely assumed by the trustee under subsection (d),
3 the leased property is no longer property of the estate and
4 the stay under section 362(a) is automatically terminated.

5 “(2)(A) In the case of an individual under chapter
6 7, the debtor may notify the creditor in writing that the
7 debtor desires to assume the lease. Upon being so notified,
8 the creditor may, at its option, notify the debtor that it
9 is willing to have the lease assumed by the debtor and
10 may condition such assumption on cure of any outstanding
11 default on terms set by the contract.

12 “(B) If within 30 days after notice is provided under
13 subparagraph (A), the debtor notifies the lessor in writing
14 that the lease is assumed, the liability under the lease will
15 be assumed by the debtor and not by the estate.

16 “(C) The stay under section 362 and the injunction
17 under section 524(a)(2) shall not be violated by notifica-
18 tion of the debtor and negotiation of cure under this sub-
19 section.

20 “(3) In a case under chapter 11 in which the debtor
21 is an individual and in a case under chapter 13, if the
22 debtor is the lessee with respect to personal property and
23 the lease is not assumed in the plan confirmed by the
24 court, the lease is deemed rejected as of the conclusion
25 of the hearing on confirmation. If the lease is rejected,

1 the stay under section 362 and any stay under section
 2 1301 is automatically terminated with respect to the prop-
 3 erty subject to the lease.”.

4 (c) ADEQUATE PROTECTION OF LESSORS AND PUR-
 5 CHASE MONEY SECURED CREDITORS.—

6 (1) CONFIRMATION OF PLAN.—Section
 7 1325(a)(5)(B) of title 11, United States Code, is
 8 amended—

9 (A) in clause (i), by striking “and” at the
 10 end;

11 (B) in clause (ii), by striking “or” at the
 12 end and inserting “and”; and

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

14 “(iii) if—

15 “(I) property to be distributed
 16 pursuant to this subsection is in the
 17 form of periodic payments, such pay-
 18 ments shall be in equal monthly
 19 amounts; and

20 “(II) the holder of the claim is
 21 secured by personal property the
 22 amount of such payments shall not be
 23 less than an amount sufficient to pro-
 24 vide to the holder of such claim ade-

1 quate protection during the period of
2 the plan; or”.

3 (2) PAYMENTS.—Section 1326(a) of title 11,
4 United States Code, is amended to read as follows:

5 “(a)(1) Unless the court orders otherwise, the debtor
6 shall—

7 “(A) commence making the payments proposed
8 by a plan within 30 days after the plan is filed; or

9 “(B) if no plan is filed then as specified in the
10 proof of claim, within 30 days after the order for re-
11 lief or within 15 days after the plan is filed, which-
12 ever is earlier.

13 “(2) A payment made under this section shall be re-
14 tained by the trustee until confirmation, denial of con-
15 firmation, or paid by the trustee as adequate protection
16 payments in accordance with paragraph (3). If a plan is
17 confirmed, the trustee shall distribute any such payment
18 in accordance with the plan as soon as is practicable. If
19 a plan is not confirmed, the trustee shall return any such
20 payments not previously paid and not yet due and owing
21 to creditors pursuant to paragraph (3) to the debtor, after
22 deducting any unpaid claim allowed under section 503(b).

23 “(3)(A) As soon as is practicable, and not later than
24 40 days after the filing of the case, the trustee shall—

1 “(i) pay from payments made under this section
2 the adequate protection payments proposed in the
3 plan; or

4 “(ii) if no plan is filed then, according to the
5 terms of the proof of claim.

6 “(B) The court may, upon notice and a hearing, mod-
7 ify, increase, or reduce the payments required under this
8 paragraph pending confirmation of a plan.”.

9 **SEC. 310. LIMITATION ON LUXURY GOODS.**

10 Section 523(a)(2)(C) of title 11, United States Code,
11 is amended to read as follows:

12 “(C)(i) for purposes of subparagraph (A)—

13 “(I) consumer debts owed to a single cred-
14 itor and aggregating more than \$250 for luxury
15 goods or services incurred by an individual
16 debtor on or within 90 days before the order for
17 relief under this title are presumed to be non-
18 dischargeable; and

19 “(II) cash advances aggregating more than
20 \$750 that are extensions of consumer credit
21 under an open end credit plan obtained by an
22 individual debtor on or within 70 days before
23 the order for relief under this title, are pre-
24 sumed to be nondischargeable; and

25 “(ii) for purposes of this subparagraph—

1 “(I) the term ‘extension of credit under an
2 open end credit plan’ means an extension of
3 credit under an open end credit plan, within the
4 meaning of the Consumer Credit Protection Act
5 (15 U.S.C. 1601 et seq.);

6 “(II) the term ‘open end credit plan’ has
7 the meaning given that term under section 103
8 of Consumer Credit Protection Act (15 U.S.C.
9 1602); and

10 “(III) the term ‘luxury goods or services’
11 does not include goods or services reasonably
12 necessary for the support or maintenance of the
13 debtor or a dependent of the debtor.”.

14 **SEC. 311. AUTOMATIC STAY.**

15 Section 362(b) of title 11, United States Code, as
16 amended by section 303(b) of this Act, is amended—

17 (1) in paragraph (21), by striking “or” at the
18 end;

19 (2) in paragraph (22), by striking the period at
20 the end and inserting a semicolon; and

21 (3) by inserting after paragraph (22) the fol-
22 lowing:

23 “(23) under subsection (a)(3), of the continu-
24 ation of any eviction, unlawful detainer action, or
25 similar proceeding by a lessor against a debtor in-

1 volving residential real property in which the debtor
2 resides as a tenant under a rental agreement;

3 “(24) under subsection (a)(3), of the com-
4 mencement of any eviction, unlawful detainer action,
5 or similar proceeding by a lessor against a debtor in-
6 volving residential real property in which the debtor
7 resides as a tenant under a rental agreement that
8 has terminated under the lease agreement or appli-
9 cable State law; or

10 “(25) under subsection (a)(3), of eviction ac-
11 tions based on endangerment to property or person
12 or the use of illegal drugs.”.

13 **SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY**
14 **DISCHARGES.**

15 Title 11, United States Code, is amended—

16 (1) in section 727(a)(8), by striking “six” and
17 inserting “8”; and

18 (2) in section 1328, by inserting after sub-
19 section (e) the following:

20 “(f) Notwithstanding subsections (a) and (b), the
21 court shall not grant a discharge of all debts provided for
22 by the plan or disallowed under section 502 if the debtor
23 has received a discharge in any case filed under this title
24 within 5 years before the order for relief under this chap-
25 ter.”.

1 **SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND AN-**
2 **TIQUES.**

3 Section 522(f) of title 11, United States Code, is
4 amended by adding at the end the following:

5 “(4)(A) Subject to subparagraph (B), for pur-
6 poses of paragraph (1)(B), the term ‘household
7 goods’ means—

8 “(i) clothing;

9 “(ii) furniture;

10 “(iii) appliances;

11 “(iv) 1 radio;

12 “(v) 1 television;

13 “(vi) 1 VCR;

14 “(vii) linens;

15 “(viii) china;

16 “(ix) crockery;

17 “(x) kitchenware;

18 “(xi) educational materials and educational
19 equipment primarily for the use of minor de-
20 pendent children of the debtor, but only 1 per-
21 sonal computer only if used primarily for the
22 education or entertainment of such minor chil-
23 dren;

24 “(xii) medical equipment and supplies;

1 “(xiii) furniture exclusively for the use of
2 minor children, or elderly or disabled depend-
3 ents of the debtor; and

4 “(xiv) personal effects (including wedding
5 rings and the toys and hobby equipment of
6 minor dependent children) of the debtor and the
7 dependents of the debtor.

8 “(B) The term ‘household goods’ does not
9 include—

10 “(i) works of art (unless by or of the debt-
11 or or the dependents of the debtor);

12 “(ii) electronic entertainment equipment
13 (except 1 television, 1 radio, and 1 VCR);

14 “(iii) items acquired as antiques;

15 “(iv) jewelry (except wedding rings); and

16 “(v) a computer (except as otherwise pro-
17 vided for in this section), motor vehicle (includ-
18 ing a tractor or lawn tractor), boat, or a motor-
19 ized recreational device, conveyance, vehicle,
20 watercraft, or aircraft.”.

21 **SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE**
22 **DEBTS.**

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

1 “(14A)(A) incurred to pay a debt that is non-
2 dischargeable by reason of section 727, 1141,
3 1228(a), 1228(b), or 1328(b), or any other provision
4 of this subsection, if the debtor incurred the debt to
5 pay such a nondischargeable debt with the intent to
6 discharge in bankruptcy the newly created debt; ex-
7 cept that

8 “(B) all debts incurred to pay nondischargeable
9 debts shall be presumed to be nondischargeable
10 debts if incurred within 70 days before the filing of
11 the petition (except that, in any case in which there
12 is an allowed claim under section 502 for child sup-
13 port or spousal support entitled to priority under
14 section 507(a)(1) and that was filed in a timely
15 manner, debts that would otherwise be presumed to
16 be nondischargeable debts by reason of this subpara-
17 graph shall be treated as dischargeable debts);”.

18 (b) DISCHARGE UNDER CHAPTER 13.—Section
19 1328(a) of title 11, United States Code, is amended by
20 striking paragraphs (1) through (3) and inserting the fol-
21 lowing:

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

23 “(2) of the kind specified in paragraph (2), (3),
24 (4), (7), or (8), of section 523(a);

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

4 “(4) for restitution, or damages, awarded in a
5 civil action against the debtor as a result of willful
6 or malicious injury by the debtor that caused per-
7 sonal injury to an individual or the death of an indi-
8 vidual.”.

9 **SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7**
10 **AND 13 CASES.**

11 (a) NOTICE.—Section 342 of title 11, United States
12 Code, is amended—

13 (1) in subsection (c)—

14 (A) by inserting “(1)” after “(c)”; and

15 (B) by striking “, but the failure of such
16 notice to contain such information shall not in-
17 validate the legal effect of such notice”; and

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

19 “(d) At any time, a creditor, in a case of an individual
20 debtor under chapter 7 or 13, may file with the court and
21 serve on the debtor a notice of the address to be used to
22 notify the creditor in that case. Five days after receipt
23 of such notice, if the court or the debtor is required to
24 give the creditor notice, such notice shall be given at that
25 address.

1 “(e) An entity may file with the court a notice stating
2 its address for notice in cases under chapters 7 and 13.
3 After 30 days following the filing of such notice, any notice
4 in any case filed under chapter 7 or 13 given by the court
5 shall be to that address unless specific notice is given
6 under subsection (d) with respect to a particular case.

7 “(f)(1) Notice given to a creditor other than as pro-
8 vided in this section shall not be effective notice until that
9 notice has been brought to the attention of the creditor.
10 If the creditor designates a person or department to be
11 responsible for receiving notices concerning bankruptcy
12 cases and establishes reasonable procedures so that bank-
13 ruptcy notices received by the creditor are to be delivered
14 to such department or person, notice shall not be consid-
15 ered to have been brought to the attention of the creditor
16 until received by such person or department.

17 “(2) No sanction under section 362(h) or any other
18 sanction that a court may impose on account of violations
19 of the stay under section 362(a) or failure to comply with
20 section 542 or 543 may be imposed on any action of the
21 creditor unless the action takes place after the creditor
22 has received notice of the commencement of the case effec-
23 tive under this section.”.

1 (b) DEBTOR'S DUTIES.—Section 521 of title 11,
2 United States Code, as amended by section 305 of this
3 Act, is amended—

4 (1) in subsection (a), by striking paragraph (1)
5 and inserting the following:

6 “(1) file—

7 “(A) a list of creditors; and

8 “(B) unless the court orders otherwise—

9 “(i) a schedule of assets and liabil-
10 ities;

11 “(ii) a schedule of current income and
12 current expenditures;

13 “(iii) a statement of the debtor’s fi-
14 nancial affairs and, if applicable, a
15 certificate—

16 “(I) of an attorney whose name
17 is on the petition as the attorney for
18 the debtor or any bankruptcy petition
19 preparer signing the petition under
20 section 110(b)(1) indicating that such
21 attorney or bankruptcy petition pre-
22 parer delivered to the debtor any no-
23 tice required by section 342(b); or

24 “(II) if no attorney for the debt-
25 or is indicated and no bankruptcy pe-

1 tition preparer signed the petition, of
2 the debtor that such notice was ob-
3 tained and read by the debtor;

4 “(iv) copies of all payment advices or
5 other evidence of payment, if any, received
6 by the debtor from any employer of the
7 debtor in the period 60 days before the fil-
8 ing of the petition;

9 “(v) a statement of the amount of
10 projected monthly net income, itemized to
11 show how the amount is calculated; and

12 “(vi) a statement disclosing any rea-
13 sonably anticipated increase in income or
14 expenditures over the 12-month period fol-
15 lowing the date of filing”; and

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

17 “(e)(1) At any time, a creditor, in the case of an indi-
18 vidual under chapter 7 or 13, may file with the court no-
19 tice that the creditor requests the petition, schedules, and
20 a statement of affairs filed by the debtor in the case and
21 the court shall make those documents available to the
22 creditor who request those documents.

23 “(2)(A) At any time, a creditor in a case under chap-
24 ter 13 may file with the court notice that the creditor re-
25 quests the plan filed by the debtor in the case.

1 “(B) The court shall make such plan available to the
2 creditor who request such plan—

3 “(i) at a reasonable cost; and

4 “(ii) not later than 5 days after such request.

5 “(f) An individual debtor in a case under chapter 7,
6 11, or 13 shall file with the court at the request of any
7 party in interest—

8 “(1) at the time filed with the taxing authority,
9 all tax returns required under applicable law, includ-
10 ing any schedules or attachments, with respect to
11 the period from the commencement of the case until
12 such time as the case is closed;

13 “(2) at the time filed with the taxing authority,
14 all tax returns required under applicable law, includ-
15 ing any schedules or attachments, that were not
16 filed with the taxing authority when the schedules
17 under subsection (a)(1) were filed with respect to
18 the period that is 3 years before the order of relief;

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

22 “(4) in a case under chapter 13, a statement
23 subject to the penalties of perjury by the debtor of
24 the debtor’s income and expenditures in the pre-

1 ceding tax year and monthly income, that shows how
2 the amounts are calculated—

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

7 “(B) thereafter, on or before the date that
8 is 45 days before each anniversary of the con-
9 firmation of the plan until the case is closed.

10 “(g)(1) A statement referred to in subsection (f)(4)
11 shall disclose—

12 “(A) the amount and sources of income of the
13 debtor;

14 “(B) the identity of any person responsible with
15 the debtor for the support of any dependent of the
16 debtor; and

17 “(C) the identity of any person who contrib-
18 uted, and the amount contributed, to the household
19 in which the debtor resides.

20 “(2) The tax returns, amendments, and statement of
21 income and expenditures described in paragraph (1) shall
22 be available to the United States trustee, any bankruptcy
23 administrator, any trustee, and any party in interest for
24 inspection and copying, subject to the requirements of
25 subsection (h).

1 “(h)(1) Not later than 30 days after the date of en-
2 actment of the Bankruptcy Reform Act of 2000, the Di-
3 rector of the Administrative Office of the United States
4 Courts shall establish procedures for safeguarding the con-
5 fidentiality of any tax information required to be provided
6 under this section.

7 “(2) The procedures under paragraph (1) shall in-
8 clude restrictions on creditor access to tax information
9 that is required to be provided under this section.

10 “(3) Not later than 1 year after the date of enact-
11 ment of the Bankruptcy Reform Act of 2000, the Director
12 of the Administrative Office of the United States Courts
13 shall prepare and submit to Congress a report that—

14 “(A) assesses the effectiveness of the proce-
15 dures under paragraph (1); and

16 “(B) if appropriate, includes proposed legisla-
17 tion to—

18 “(i) further protect the confidentiality of
19 tax information; and

20 “(ii) provide penalties for the improper use
21 by any person of the tax information required
22 to be provided under this section.

23 “(i) If requested by the United States trustee or a
24 trustee serving in the case, the debtor shall provide—

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

7 **SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON**
8 **CONFIRMATION OF THE PLAN.**

9 (a) HEARING.—Section 1324 of title 11, United
10 States Code, is amended—

11 (1) by striking “After” and inserting the fol-
12 lowing:

13 “(a) Except as provided in subsection (b) and after”;
14 and

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

16 “(b) The hearing on confirmation of the plan may
17 be held not later than 45 days after the meeting of credi-
18 tors under section 341(a).”.

19 (b) FILING OF PLAN.—Section 1321 of title 11,
20 United States Code, is amended to read as follows:

21 **“§ 1321. Filing of plan**

22 “Not later than 90 days after the order for relief
23 under this chapter, the debtor shall file a plan, except that
24 the court may extend such period if the need for an exten-

1 sion is attributable to circumstances for which the debtor
2 should not justly be held accountable.”.

3 **SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**
4 **IN CERTAIN CASES.**

5 Section 1322(d) of title 11, United States Code, is
6 amended to read as follows:

7 “(d)(1) Except as provided in paragraph (2), the plan
8 may not provide for payments over a period that is longer
9 than 3 years.

10 “(2) The plan may provide for payments over a pe-
11 riod that is longer than 3 years if—

12 “(A) the plan is for a case that was converted
13 to a case under this chapter from a case under chap-
14 ter 7, or the plan is for a debtor who has been dis-
15 missed from chapter 7 by reason of section 707(b),
16 in which case the plan shall provide for payments
17 over a period of 5 years; or

18 “(B) the plan is for a case that is not described
19 in subparagraph (A), and the court, for cause, ap-
20 proves a period longer than 3 years, but not to ex-
21 ceed 5 years.”.

1 **SEC. 319. SENSE OF THE CONGRESS REGARDING EXPAN-**
2 **SION OF RULE 9011 OF THE FEDERAL RULES**
3 **OF BANKRUPTCY PROCEDURE.**

4 It is the sense of Congress that Rule 9011 of the Fed-
5 eral Rules of Bankruptcy Procedure (11 U.S.C. App.)
6 should be modified to include a requirement that all docu-
7 ments (including schedules), signed and unsigned, sub-
8 mitted to the court or to a trustee by debtors who rep-
9 resent themselves and debtors who are represented by an
10 attorney be submitted only after the debtor or the debtor's
11 attorney has made reasonable inquiry to verify that the
12 information contained in such documents is—

13 (1) well grounded in fact; and

14 (2) warranted by existing law or a good-faith
15 argument for the extension, modification, or reversal
16 of existing law.

17 **SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
18 **CASES.**

19 Section 362(e) of title 11, United States Code, is
20 amended—

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

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

23 “(2) Notwithstanding paragraph (1), in the case of
24 an individual filing under chapter 7, 11, or 13, the stay
25 under subsection (a) shall terminate on the date that is

1 60 days after a request is made by a party in interest
 2 under subsection (d), unless—

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

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

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

8 or

9 “(ii) by the court for such specific period
 10 of time as the court finds is required for good
 11 cause, as described in findings made by the
 12 court.”.

13 **SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.**

14 (a) PROPERTY OF THE ESTATE.—

15 (1) IN GENERAL.—Subchapter I of chapter 11
 16 of title 11, United States Code, is amended by add-
 17 ing at the end the following:

18 **“§ 1115. Property of the estate**

19 “In a case concerning an individual, property of the
 20 estate includes, in addition to the property specified in sec-
 21 tion 541—

22 “(1) all property of the kind specified in section
 23 541 that the debtor acquires after the commence-
 24 ment of the case but before the case is closed, dis-

1 missed, or converted to a case under chapter 7, 12,
2 or 13, whichever occurs first; and

3 “(2) earnings from services performed by the
4 debtor after the commencement of the case but be-
5 fore the case is closed, dismissed, or converted to a
6 case under chapter 7, 12, or 13, whichever occurs
7 first.”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions for chapter 11 of title 11, United States Code,
10 is amended by adding at the end of the matter relat-
11 ing to subchapter I the following:

“1115. Property of the estate.”.

12 (b) CONTENTS OF PLAN.—Section 1123(a) of title
13 11, United States Code, is amended—

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

16 (2) in paragraph (7), by striking the period and
17 inserting “; and”; and

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

19 “(8) in a case concerning an individual, provide
20 for the payment to creditors through the plan of all
21 or such portion of earnings from personal services
22 performed by the debtor after the commencement of
23 the case or other future income of the debtor as is
24 necessary for the execution of the plan.”.

25 (c) CONFIRMATION OF PLAN.—

1 (1) REQUIREMENTS RELATING TO VALUE OF
2 PROPERTY.—Section 1129(a) of title 11, United
3 States Code, is amended by adding at the end the
4 following:

5 “(14) In a case concerning an individual in
6 which the holder of an allowed unsecured claim ob-
7 jects to the confirmation of the plan—

8 “(A) the value of the property to be dis-
9 tributed under the plan on account of such
10 claim is, as of the effective date of the plan, not
11 less than the amount of such claim; or

12 “(B) the value of the property to be dis-
13 tributed under the plan is not less than the
14 debtor’s projected disposable income (as that
15 term is defined in section 1325(b)(2)) to be re-
16 ceived during the 3-year period beginning on
17 the date that the first payment is due under the
18 plan, or during the term of the plan, whichever
19 is longer.”.

20 (2) REQUIREMENT RELATING TO INTERESTS IN
21 PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11,
22 United States Code, is amended by inserting before
23 the period at the end the following: “, except that
24 in a case concerning an individual, the debtor may
25 retain property included in the estate under section

1 1115, subject to the requirements of subsection
2 (a)(14)”.

3 (d) EFFECT OF CONFIRMATION—Section 1141(d) of
4 title 11, United States Code, is amended—

5 (1) in paragraph (2), by striking “The con-
6 firmation of a plan does not discharge an individual
7 debtor” and inserting “A discharge under this chap-
8 ter does not discharge a debtor”; and

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

10 “(5) In a case concerning an individual—

11 “(A) except as otherwise ordered for cause
12 shown, the discharge is not effective until completion
13 of all payment under the plan; and

14 “(B) at any time after the confirmation of the
15 plan and after notice and a hearing, the court may
16 grant a discharge to a debtor that has not completed
17 payments under the plan only if—

18 “(i) for each allowed unsecured claim, the
19 value as of the effective date of the plan, of
20 property actually distributed under the plan on
21 account of that claim is not less than the
22 amount that would have been paid on such
23 claim if the estate of the debtor had been liq-
24 uidated under chapter 7 of this title on such
25 date; and

1 “(ii) modification of the plan under 1127
2 of this title is not practicable.”.

3 (e) MODIFICATION OF PLAN.—Section 1127 of title
4 11, United States Code, is amended by adding at the end
5 the following:

6 “(e) In a case concerning an individual, the plan may
7 be modified at any time after confirmation of the plan but
8 before the completion of payments under the plan, whether
9 or not the plan has been substantially consummated, upon
10 request of the debtor, the trustee, the United States trust-
11 ee, or the holder of an allowed unsecured claim, to—

12 “(1) increase or reduce the amount of payments
13 on claims of a particular class provided for by the
14 plan;

15 “(2) extend or reduce the time period for such
16 payments; or

17 “(3) alter the amount of the distribution to a
18 creditor whose claim is provided for by the plan to
19 the extent necessary to take account of any payment
20 of such claim made other than under the plan.

21 “(f)(1) Sections 1121 through 1128 of this title and
22 the requirements of section 1129 of this title apply to any
23 modification under subsection (a).

24 “(2) The plan, as modified, shall become the plan
25 only after there has been disclosure under section 1125,

1 as the court may direct, notice and a hearing, and such
2 modification is approved.”.

3 **SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICI-**
4 **PANT CONTRIBUTIONS AND OTHER PROP-**
5 **ERTY FROM THE ESTATE.**

6 (a) IN GENERAL.—Section 541(b) of title 11, United
7 States Code, as amended by section 903 of this Act, is
8 amended—

9 (1) by striking “or” at the end of paragraph
10 (5);

11 (2) by redesignating paragraph (6) as para-
12 graph (7); and

13 (3) by inserting after paragraph (5) the fol-
14 lowing:

15 “(6) any amount—

16 “(A) withheld by an employer from the
17 wages of employees for payment as contribu-
18 tions to—

19 “(i) an employee benefit plan subject
20 to title I of the Employee Retirement In-
21 come Security Act of 1974 (29 U.S.C.
22 1001 et seq.); or

23 “(ii) a health insurance plan regulated
24 by State law whether or not subject to
25 such title; or

1 “(B) received by the employer from em-
2 ployees for payment as contributions to—

3 “(i) an employee benefit plan subject
4 to title I of the Employee Retirement In-
5 come Security Act of 1974 (29 U.S.C.
6 1001 et seq.); or

7 “(ii) a health insurance plan regulated
8 by State law whether or not subject to
9 such title;”.

10 (b) APPLICATION OF AMENDMENT.—The amendment
11 made by this section shall not apply to cases commenced
12 under title 11, United States Code, before the expiration
13 of the 180-day period beginning on the date of the enact-
14 ment of this Act.

15 **SEC. 323. CLARIFICATION OF POSTPETITION WAGES AND**
16 **BENEFITS.**

17 Section 503(b)(1)(A) of title 11, United States Code,
18 is amended to read as follows:

19 “(A) the actual, necessary costs and expenses of
20 preserving the estate, including wages, salaries, or
21 commissions for services rendered after the com-
22 mencement of the case, and wages and benefits
23 awarded as back pay attributable to any period of
24 time after commencement of the case as a result of
25 the debtor’s violation of Federal or State law, with-

1 out regard to when the original unlawful act oc-
2 curred or to whether any services were rendered;”.

3 **SEC. 324. LIMITATION.**

4 (a) EXEMPTIONS.—Section 522 of title 11, United
5 States Code, as amended by sections 224 and 307 of this
6 Act, is amended—

7 (1) in subsection (b)(3)(A), by inserting “sub-
8 ject to subsection (n),” before “any property”; and

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

10 “(n)(1) Except as provided in paragraph (2), as a
11 result of electing under subsection (b)(3)(A) to exempt
12 property under State or local law, a debtor may not ex-
13 empt any amount of interest that exceeds in the aggregate
14 \$100,000 in value in—

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

17 “(B) a cooperative that owns property that the
18 debtor or a dependent of the debtor uses as a resi-
19 dence; or

20 “(C) a burial plot for the debtor or a dependent
21 of the debtor.

22 “(2) The limitation under paragraph (1) shall not
23 apply to an exemption claimed under subsection (b)(3)(A)
24 by a family farmer for the principal residence of that
25 farmer.”.

1 (b) ADJUSTMENT OF DOLLAR AMOUNTS.—Section
2 104(b) of title 11, United States Code, is amended—

3 (1) in paragraph (1), by striking “522(d),” and
4 inserting “522 (d) or (n),”; and

5 (2) in paragraph (3), by striking “522(d),” and
6 inserting “522 (d) or (n),”.

7 **SEC. 325. EXCLUSIVE JURISDICTION IN MATTERS INVOLV-**
8 **ING BANKRUPTCY PROFESSIONALS.**

9 Section 1334 of title 28, United States Code, is
10 amended—

11 (1) in subsection (b) by striking “Notwith-

12 standing” and inserting “Except as provided in sub-

13 section (e)(2), and notwithstanding”; and

14 (2) amending subsection (e) to read as follows:

15 “(e) The district court in which a case under title
16 11 is commenced or is pending shall have exclusive
17 jurisdiction—

18 “(1) of all the property, wherever located, of the
19 debtor as of the commencement of such case, and of
20 property of the estate; and

21 “(2) over all claims or causes of action that in-

22 volve construction of section 327 of title 11, United

23 States Code, or rules relating to disclosure require-

24 ments under section 327.”.

1 **SEC. 326. UNITED STATES TRUSTEE PROGRAM FILING FEE**
2 **INCREASE.**

3 (a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11,
4 UNITED STATES CODE.—Section 1930(a) of title 28,
5 United States Code, is amended by striking paragraph (1)
6 and inserting the following:

7 “(1) For a case commenced—

8 “(A) under chapter 7 of title 11, \$160; or

9 “(B) under chapter 13 of title 11, \$150.”.

10 (b) UNITED STATES TRUSTEE SYSTEM FUND.—Sec-
11 tion 589a(b) of title 28, United States Code, is amended—

12 (1) by striking paragraph (1) and inserting the
13 following:

14 “(1)(A) 40.63 percent of the fees collected
15 under section 1930(a)(1)(A) of this title in cases
16 commenced under chapter 7 of title 11; and

17 “(B) 70.00 percent of the fees collected under
18 section 1930(a)(1)(B) of this title in cases com-
19 menced under chapter 13 of title 11;”;

20 (2) in paragraph (2) by striking “one-half” and
21 inserting “three-fourths”; and

22 (3) in paragraph (4) by striking “one-half” and
23 inserting “100 percent”.

24 (c) COLLECTION AND DEPOSIT OF MISCELLANEOUS
25 BANKRUPTCY FEES.—Section 406(b) of the Judiciary Ap-
26 propriations Act, 1990 (28 U.S.C. 1931 note) is amended

1 by striking “pursuant to 28 U.S.C. section 1930(b) and
 2 30.76 per centum of the fees hereafter collected under 28
 3 U.S.C. section 1930(a)(1) and 25 percent of the fees here-
 4 after collected under 28 U.S.C. section 1930(a)(3) shall
 5 be deposited as offsetting receipts to the fund established
 6 under 28 U.S.C. section 1931” and inserting “under sec-
 7 tion 1930(b) of title 28, United States Code, and 31.25
 8 percent of the fees collected under section 1930(a)(1)(A)
 9 of that title, 30.00 percent of the fees collected under sec-
 10 tion 1930(a)(1)(B) of that title, and 25 percent of the fees
 11 collected under section 1930(a)(3) of that title shall be
 12 deposited as offsetting receipts to the fund established
 13 under section 1931 of that title”.

14 **SEC. 327. COMPENSATION OF TRUSTEES IN CERTAIN CASES**

15 **UNDER CHAPTER 7 OF TITLE 11, UNITED**
 16 **STATES CODE.**

17 Section 326 of title 11, United States Code, is
 18 amended by adding at the end the following:

19 “(e) In a case that has been converted under section
 20 706, or after a case has been converted or dismissed under
 21 section 707 or the debtor has been denied a discharge
 22 under section 727—

23 “(1) the court may allow reasonable compensa-
 24 tion under section 330 for the trustee’s services ren-
 25 dered, payable after the trustee renders services; and

1 “(2) any allowance made by a court under
2 paragraph (1) shall not be subject to the limitations
3 under subsection (a).”.

4 **SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED**
5 **THROUGH THE COMMISSION OF VIOLENCE**
6 **AT CLINICS.**

7 Section 523(a) of title 11, United States Code, as
8 amended by section 224 of this Act, is amended—

9 (1) in paragraph (18), by striking “or” at the
10 end;

11 (2) in paragraph (19)(B), by striking the period
12 and inserting “; or”; and

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

14 “(20) that results from any judgment, order,
15 consent order, or decree entered in any Federal or
16 State court, or contained in any settlement agree-
17 ment entered into by the debtor, including any dam-
18 ages, fine, penalty, citation, or attorney fee or cost
19 owed by the debtor, arising from—

20 “(A) an actual or potential action under
21 section 248 of title 18;

22 “(B) an actual or potential action under
23 any Federal, State, or local law, the purpose of
24 which is to protect—

1 “(i) access to a health care facility, in-
2 cluding a facility providing reproductive
3 health services, as defined in section
4 248(e) of title 18 (referred to in this para-
5 graph as a ‘health care facility’); or

6 “(ii) the provision of health services,
7 including reproductive health services (re-
8 ferred to in this paragraph as ‘health serv-
9 ices’);

10 “(C) an actual or potential action alleging
11 the violation of any Federal, State, or local
12 statutory or common law, including chapter 96
13 of title 18 and the Federal civil rights laws (in-
14 cluding sections 1977 through 1980 of the Re-
15 vised Statutes) that results from the debtor’s
16 actual, attempted, or alleged—

17 “(i) harassment of, intimidation of,
18 interference with, obstruction of, injury to,
19 threat to, or violence against any person—

20 “(I) because that person provides
21 or has provided health services;

22 “(II) because that person is or
23 has been obtaining health services; or

24 “(III) to deter that person, any
25 other person, or a class of persons

1 from obtaining or providing health
2 services; or

3 “(ii) damage or destruction of prop-
4 erty of a health care facility; or

5 “(D) an actual or alleged violation of a
6 court order or injunction that protects access to
7 a health care facility or the provision of health
8 services.”.

9 **TITLE IV—GENERAL AND SMALL**
10 **BUSINESS BANKRUPTCY PRO-**
11 **VISIONS**

12 **Subtitle A—General Business**
13 **Bankruptcy Provisions**

14 **SEC. 401. ROLLING STOCK EQUIPMENT.**

15 (a) IN GENERAL.—Section 1168 of title 11, United
16 States Code, is amended to read as follows:

17 **“§ 1168. Rolling stock equipment**

18 “(a)(1) The right of a secured party with a security
19 interest in or of a lessor or conditional vendor of equip-
20 ment described in paragraph (2) to take possession of such
21 equipment in compliance with an equipment security
22 agreement, lease, or conditional sale contract, and to en-
23 force any of its other rights or remedies under such secu-
24 rity agreement, lease, or conditional sale contract, to sell,
25 lease, or otherwise retain or dispose of such equipment,

1 is not limited or otherwise affected by any other provision
2 of this title or by any power of the court, except that the
3 right to take possession and enforce those other rights and
4 remedies shall be subject to section 362, if—

5 “(A) before the date that is 60 days after the
6 date of commencement of a case under this chapter,
7 the trustee, subject to the court’s approval, agrees to
8 perform all obligations of the debtor under such se-
9 curity agreement, lease, or conditional sale contract;
10 and

11 “(B) any default, other than a default of a kind
12 described in section 365(b)(2), under such security
13 agreement, lease, or conditional sale contract that—

14 “(i) occurs before the date of commence-
15 ment of the case and is an event of default
16 therewith is cured before the expiration of such
17 60-day period;

18 “(ii) occurs or becomes an event of default
19 after the date of commencement of the case and
20 before the expiration of such 60-day period is
21 cured before the later of—

22 “(I) the date that is 30 days after the
23 date of the default or event of the default;
24 or

1 “(II) the expiration of such 60-day
2 period; and

3 “(iii) occurs on or after the expiration of
4 such 60-day period is cured in accordance with
5 the terms of such security agreement, lease, or
6 conditional sale contract, if cure is permitted
7 under that agreement, lease, or conditional sale
8 contract.

9 “(2) The equipment described in this paragraph—

10 “(A) is rolling stock equipment or accessories
11 used on rolling stock equipment, including super-
12 structures or racks, that is subject to a security in-
13 terest granted by, leased to, or conditionally sold to
14 a debtor; and

15 “(B) includes all records and documents relat-
16 ing to such equipment that are required, under the
17 terms of the security agreement, lease, or conditional
18 sale contract, to be surrendered or returned by the
19 debtor in connection with the surrender or return of
20 such equipment.

21 “(3) Paragraph (1) applies to a secured party, lessor,
22 or conditional vendor acting in its own behalf or acting
23 as trustee or otherwise in behalf of another party.

24 “(b) The trustee and the secured party, lessor, or
25 conditional vendor whose right to take possession is pro-

1 tected under subsection (a) may agree, subject to the
2 court's approval, to extend the 60-day period specified in
3 subsection (a)(1).

4 “(c)(1) In any case under this chapter, the trustee
5 shall immediately surrender and return to a secured party,
6 lessor, or conditional vendor, described in subsection
7 (a)(1), equipment described in subsection (a)(2), if at any
8 time after the date of commencement of the case under
9 this chapter such secured party, lessor, or conditional ven-
10 dor is entitled under subsection (a)(1) to take possession
11 of such equipment and makes a written demand for such
12 possession of the trustee.

13 “(2) At such time as the trustee is required under
14 paragraph (1) to surrender and return equipment de-
15 scribed in subsection (a)(2), any lease of such equipment,
16 and any security agreement or conditional sale contract
17 relating to such equipment, if such security agreement or
18 conditional sale contract is an executory contract, shall be
19 deemed rejected.

20 “(d) With respect to equipment first placed in service
21 on or before October 22, 1994, for purposes of this
22 section—

23 “(1) the term ‘lease’ includes any written agree-
24 ment with respect to which the lessor and the debt-
25 or, as lessee, have expressed in the agreement or in

1 a substantially contemporaneous writing that the
2 agreement is to be treated as a lease for Federal in-
3 come tax purposes; and

4 “(2) the term ‘security interest’ means a pur-
5 chase-money equipment security interest.

6 “(e) With respect to equipment first placed in service
7 after October 22, 1994, for purposes of this section, the
8 term ‘rolling stock equipment’ includes rolling stock equip-
9 ment that is substantially rebuilt and accessories used on
10 such equipment.”.

11 (b) AIRCRAFT EQUIPMENT AND VESSELS.—Section
12 1110 of title 11, United States Code, is amended to read
13 as follows:

14 **“§ 1110. Aircraft equipment and vessels**

15 “(a)(1) Except as provided in paragraph (2) and sub-
16 ject to subsection (b), the right of a secured party with
17 a security interest in equipment described in paragraph
18 (3), or of a lessor or conditional vendor of such equipment,
19 to take possession of such equipment in compliance with
20 a security agreement, lease, or conditional sale contract,
21 and to enforce any of its other rights or remedies, under
22 such security agreement, lease, or conditional sale con-
23 tract, to sell, lease, or otherwise retain or dispose of such
24 equipment, is not limited or otherwise affected by any
25 other provision of this title or by any power of the court.

1 “(2) The right to take possession and to enforce the
2 other rights and remedies described in paragraph (1) shall
3 be subject to section 362 if—

4 “(A) before the date that is 60 days after the
5 date of the order for relief under this chapter, the
6 trustee, subject to the approval of the court, agrees
7 to perform all obligations of the debtor under such
8 security agreement, lease, or conditional sale con-
9 tract; and

10 “(B) any default, other than a default of a kind
11 specified in section 365(b)(2), under such security
12 agreement, lease, or conditional sale contract that
13 occurs—

14 “(i) before the date of the order is cured
15 before the expiration of such 60-day period;

16 “(ii) after the date of the order and before
17 the expiration of such 60-day period is cured
18 before the later of—

19 “(I) the date that is 30 days after the
20 date of the default; or

21 “(II) the expiration of such 60-day
22 period; and

23 “(iii) on or after the expiration of such 60-
24 day period is cured in compliance with the
25 terms of such security agreement, lease, or con-

1 ditional sale contract, if a cure is permitted
2 under that agreement, lease, or contract.

3 “(3) The equipment described in this paragraph—

4 “(A) is—

5 “(i) an aircraft, aircraft engine, propeller,
6 appliance, or spare part (as defined in section
7 40102 of title 49) that is subject to a security
8 interest granted by, leased to, or conditionally
9 sold to a debtor that, at the time such trans-
10 action is entered into, holds an air carrier oper-
11 ating certificate issued under chapter 447 of
12 title 49 for aircraft capable of carrying 10 or
13 more individuals or 6,000 pounds or more of
14 cargo; or

15 “(ii) a documented vessel (as defined in
16 section 30101(1) of title 46) that is subject to
17 a security interest granted by, leased to, or con-
18 ditionally sold to a debtor that is a water car-
19 rier that, at the time such transaction is en-
20 tered into, holds a certificate of public conven-
21 ience and necessity or permit issued by the De-
22 partment of Transportation; and

23 “(B) includes all records and documents relat-
24 ing to such equipment that are required, under the
25 terms of the security agreement, lease, or conditional

1 sale contract, to be surrendered or returned by the
2 debtor in connection with the surrender or return of
3 such equipment.

4 “(4) Paragraph (1) applies to a secured party, lessor,
5 or conditional vendor acting in its own behalf or acting
6 as trustee or otherwise in behalf of another party.

7 “(b) The trustee and the secured party, lessor, or
8 conditional vendor whose right to take possession is pro-
9 tected under subsection (a) may agree, subject to the ap-
10 proval of the court, to extend the 60-day period specified
11 in subsection (a)(1).

12 “(c)(1) In any case under this chapter, the trustee
13 shall immediately surrender and return to a secured party,
14 lessor, or conditional vendor, described in subsection
15 (a)(1), equipment described in subsection (a)(3), if at any
16 time after the date of the order for relief under this chap-
17 ter such secured party, lessor, or conditional vendor is en-
18 titled under subsection (a)(1) to take possession of such
19 equipment and makes a written demand for such posses-
20 sion to the trustee.

21 “(2) At such time as the trustee is required under
22 paragraph (1) to surrender and return equipment de-
23 scribed in subsection (a)(3), any lease of such equipment,
24 and any security agreement or conditional sale contract
25 relating to such equipment, if such security agreement or

1 conditional sale contract is an executory contract, shall be
2 deemed rejected.

3 “(d) With respect to equipment first placed in service
4 on or before October 22, 1994, for purposes of this
5 section—

6 “(1) the term ‘lease’ includes any written agree-
7 ment with respect to which the lessor and the debt-
8 or, as lessee, have expressed in the agreement or in
9 a substantially contemporaneous writing that the
10 agreement is to be treated as a lease for Federal in-
11 come tax purposes; and

12 “(2) the term ‘security interest’ means a pur-
13 chase-money equipment security interest.”.

14 **SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.**

15 (a) DEFINITION.—Section 101 of title 11, United
16 States Code, as amended by section 306(c) of this Act,
17 is amended by inserting after paragraph (48) the fol-
18 lowing:

19 “(48A) ‘securities self regulatory organization’
20 means either a securities association registered with
21 the Securities and Exchange Commission under sec-
22 tion 15A of the Securities Exchange Act of 1934 (15
23 U.S.C. 78o–3) or a national securities exchange reg-
24 istered with the Securities and Exchange Commis-

1 sion under section 6 of the Securities Exchange Act
2 of 1934 (15 U.S.C. 78f);”.

3 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
4 United States Code, as amended by section 311 of this
5 Act, is amended—

6 (1) in paragraph (24), by striking “or” at the
7 end;

8 (2) in paragraph (25), by striking the period at
9 the end and inserting “; or”; and

10 (3) by inserting after paragraph (25) the fol-
11 lowing:

12 “(26) under subsection (a), of—

13 “(A) the commencement or continuation of
14 an investigation or action by a securities self
15 regulatory organization to enforce such organi-
16 zation’s regulatory power;

17 “(B) the enforcement of an order or deci-
18 sion, other than for monetary sanctions, ob-
19 tained in an action by the securities self regu-
20 latory organization to enforce such organiza-
21 tion’s regulatory power; or

22 “(C) any act taken by the securities self
23 regulatory organization to delist, delete, or
24 refuse to permit quotation of any stock that

1 does not meet applicable regulatory require-
2 ments.”.

3 **SEC. 403. MEETINGS OF CREDITORS AND EQUITY SECURITY**
4 **HOLDERS.**

5 Section 341 of title 11, United States Code, is
6 amended by adding at the end the following:

7 “(e) Notwithstanding subsections (a) and (b), the
8 court, on the request of a party in interest and after notice
9 and a hearing, for cause may order that the United States
10 trustee not convene a meeting of creditors or equity secu-
11 rity holders if the debtor has filed a plan as to which the
12 debtor solicited acceptances prior to the commencement
13 of the case.”.

14 **SEC. 404. PROTECTION OF REFINANCE OF SECURITY IN-**
15 **TEREST.**

16 Subparagraphs (A), (B), and (C) of section 547(e)(2)
17 of title 11, United States Code, are each amended by strik-
18 ing “10” each place it appears and inserting “30”.

19 **SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED**
20 **LEASES.**

21 Section 365(d)(4) of title 11, United States Code, is
22 amended to read as follows:

23 “(4)(A) Subject to subparagraph (B), in any case
24 under any chapter of this title, an unexpired lease of non-
25 residential real property under which the debtor is the les-

1 see shall be deemed rejected and the trustee shall imme-
2 diately surrender that nonresidential real property to the
3 lessor if the trustee does not assume or reject the unex-
4 pired lease by the earlier of—

5 “(i) the date that is 120 days after the date of
6 the order for relief; or

7 “(ii) the date of the entry of an order con-
8 firming a plan.

9 “(B) The court may extend the period determined
10 under subparagraph (A) only upon a motion of the les-
11 sor.”.

12 **SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS**
13 **COMMITTEES.**

14 (a) APPOINTMENT.—Section 1102(a)(2) of title 11,
15 United States Code, is amended by inserting before the
16 first sentence the following: “On its own motion or on re-
17 quest of a party in interest, and after notice and hearing,
18 the court may order a change in the membership of a com-
19 mittee appointed under this subsection, if the court deter-
20 mines that the change is necessary to ensure adequate rep-
21 resentation of creditors or equity security holders. The
22 court may increase the number of members of a committee
23 to include a creditor that is a small business concern (as
24 described in section 3(a)(1) of the Small Business Act (15
25 U.S.C. 632(a)(1))), if the court determines that the cred-

1 itor holds claims (of the kind represented by the com-
 2 mittee) the aggregate amount of which, in comparison to
 3 the annual gross revenue of that creditor, is disproportion-
 4 ately large.”.

5 (b) INFORMATION.—Section 1102(b) of title 11,
 6 United States Code, is amended by adding at the end the
 7 following:

8 “(3) A committee appointed under subsection (a)
 9 shall—

10 “(A) provide access to information for creditors
 11 who—

12 “(i) hold claims of the kind represented by
 13 that committee; and

14 “(ii) are not appointed to the committee;

15 “(B) solicit and receive comments from the
 16 creditors described in subparagraph (A); and

17 “(C) be subject to a court order that compels
 18 any additional report or disclosure to be made to the
 19 creditors described in subparagraph (A).”.

20 **SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11,**
 21 **UNITED STATES CODE.**

22 Section 546 of title 11, United States Code, is
 23 amended—

24 (1) by redesignating the second subsection des-
 25 ignated as subsection (g) (as added by section

1 222(a) of Public Law 103–394) as subsection (i);
2 and

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

4 “(j)(1) Notwithstanding section 545 (2) and (3), the
5 trustee may not avoid a warehouseman’s lien for storage,
6 transportation or other costs incidental to the storage and
7 handling of goods.

8 “(2) The prohibition under paragraph (1) shall be ap-
9 plied in a manner consistent with any applicable State
10 statute that is similar to section 7–209 of the Uniform
11 Commercial Code.”.

12 **SEC. 408. LIMITATION.**

13 Section 546(c)(1)(B) of title 11, United States Code,
14 is amended by striking “20” and inserting “45”.

15 **SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11,**

16 **UNITED STATES CODE.**

17 Section 330(a)(3) of title 11, United States Code, is
18 amended—

19 (1) by striking “(A) the; and inserting “(i)
20 the”;

21 (2) by striking “(B)” and inserting “(ii)”;

22 (3) by striking “(C)” and inserting “(iii)”;

23 (4) by striking “(D)” and inserting “(iv)”;

24 (5) by striking “(E)” and inserting “(v)”;

1 (6) in subparagraph (A), by inserting “to an
2 examiner, trustee under chapter 11, or professional
3 person” after “awarded”; and

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

5 “(B) In determining the amount of reasonable com-
6 pensation to be awarded a trustee, the court shall treat
7 such compensation as a commission based on the results
8 achieved.”.

9 **SEC. 410. POSTPETITION DISCLOSURE AND SOLICITATION.**

10 Section 1125 of title 11, United States Code, is
11 amended by adding at the end the following:

12 “(g) Notwithstanding subsection (b), an acceptance
13 or rejection of the plan may be solicited from a holder
14 of a claim or interest if such solicitation complies with ap-
15 plicable nonbankruptcy law and if such holder was solici-
16 ited before the commencement of the case in a manner
17 complying with applicable nonbankruptcy law.”.

18 **SEC. 411. PREFERENCES.**

19 Section 547(e) of title 11, United States Code, is
20 amended—

21 (1) by striking paragraph (2) and inserting the
22 following:

23 “(2) to the extent that such transfer was in
24 payment of a debt incurred by the debtor in the or-

1 ordinary course of business or financial affairs of the
2 debtor and the transferee, and such transfer was—

3 “(A) made in the ordinary course of busi-
4 ness or financial affairs of the debtor and the
5 transferee; or

6 “(B) made according to ordinary business
7 terms;”;

8 (2) in paragraph (7) by striking “or” at the
9 end;

10 (3) in paragraph (8) by striking the period at
11 the end and inserting “; or”; and

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

13 “(9) if, in a case filed by a debtor whose debts
14 are not primarily consumer debts, the aggregate
15 value of all property that constitutes or is affected
16 by such transfer is less than \$5,000.”.

17 **SEC. 412. VENUE OF CERTAIN PROCEEDINGS.**

18 Section 1409(b) of title 28, United States Code, is
19 amended by inserting “, or a nonconsumer debt against
20 a noninsider of less than \$10,000,” after “\$5,000”.

21 **SEC. 413. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

22 Section 1121(d) of title 11, United States Code, is
23 amended—

24 (1) by striking “On” and inserting “(1) Subject
25 to paragraph (1), on”; and

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

2 “(2)(A) The 120-day period specified in paragraph
3 (1) may not be extended beyond a date that is 18 months
4 after the date of the order for relief under this chapter.

5 “(B) The 180-day period specified in paragraph (1)
6 may not be extended beyond a date that is 20 months after
7 the date of the order for relief under this chapter.”.

8 **SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP IN-**
9 **TERESTS.**

10 Section 523(a)(16) of title 11, United States Code,
11 is amended—

12 (1) by striking “dwelling” the first place it ap-
13 pears;

14 (2) by striking “ownership or” and inserting
15 “ownership,”;

16 (3) by striking “housing” the first place it ap-
17 pears; and

18 (4) by striking “but only” and all that follows
19 through “but nothing in this paragraph” and insert-
20 ing “or a lot in a homeowners association, for as
21 long as the debtor or the trustee has a legal, equi-
22 table, or possessory ownership interest in such unit,
23 such corporation, or such lot, and until such time as
24 the debtor or trustee has surrendered any legal, eq-
25 uitable or possessory interest in such unit, such cor-

1 poration, or such lot, but nothing in this para-
2 graph”.

3 **SEC. 415. CREDITOR REPRESENTATION AT FIRST MEETING**
4 **OF CREDITORS.**

5 Section 341(e) of title 11, United States Code, is
6 amended by inserting after the first sentence the fol-
7 lowing: “Notwithstanding any local court rule, provision
8 of a State constitution, any other Federal or State law
9 that is not a bankruptcy law, or other requirement that
10 representation at the meeting of creditors under sub-
11 section (a) be by an attorney, a creditor holding a con-
12 sumer debt or any representative of the creditor (which
13 may include an entity or an employee of an entity and
14 may be a representative for more than 1 creditor) shall
15 be permitted to appear at and participate in the meeting
16 of creditors in a case under chapter 7 or 13, either alone
17 or in conjunction with an attorney for the creditor. Noth-
18 ing in this subsection shall be construed to require any
19 creditor to be represented by an attorney at any meeting
20 of creditors.”.

21 **SEC. 416. DEFINITION OF DISINTERESTED PERSON.**

22 Section 101(14) of title 11, United States Code, is
23 amended to read as follows:

24 “(14) ‘disinterested person’ means a person
25 that—

1 “(A) is not a creditor, an equity security
2 holder, or an insider;

3 “(B) is not and was not, within 2 years be-
4 fore the date of the filing of the petition, a di-
5 rector, officer, or employee of the debtor; and

6 “(C) does not have an interest materially
7 adverse to the interest of the estate or of any
8 class of creditors or equity security holders, by
9 reason of any direct or indirect relationship to,
10 connection with, or interest in, the debtor, or
11 for any other reason;”.

12 **SEC. 417. FACTORS FOR COMPENSATION OF PROFES-**
13 **SIONAL PERSONS.**

14 Section 330(a)(3)(A) of title 11, United States Code,
15 as amended by section 409 of this Act, is amended—

16 (1) in clause (i), by striking “and” at the end;

17 (2) by redesignating clause (v) as clause (vi);

18 and

19 (3) by inserting after clause (iv) the following:

20 “(v) with respect to a professional person,
21 whether the person is board certified or otherwise
22 has demonstrated skill and experience in the bank-
23 ruptcy field;”.

1 **SEC. 418. APPOINTMENT OF ELECTED TRUSTEE.**

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

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

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

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

9 “(B) Upon the filing of a report under subparagraph
10 (A)—

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

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

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

19 **SEC. 419. UTILITY SERVICE.**

20 Section 366 of title 11, United States Code, is
21 amended—

22 (1) in subsection (a), by striking “subsection
23 (b)” and inserting “subsections (b) and (c)”; and

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

25 “(c)(1)(A) For purposes of this subsection, the term
26 ‘assurance of payment’ means—

1 “(i) a cash deposit;

2 “(ii) a letter of credit;

3 “(iii) a certificate of deposit;

4 “(iv) a surety bond;

5 “(v) a prepayment of utility consumption; or

6 “(vi) another form of security that is mutually
7 agreed on between the utility and the debtor or the
8 trustee.

9 “(B) For purposes of this subsection an administra-
10 tive expense priority shall not constitute an assurance of
11 payment.

12 “(2) Subject to paragraphs (3) through (5), with re-
13 spect to a case filed under chapter 11, a utility referred
14 to in subsection (a) may alter, refuse, or discontinue util-
15 ity service, if during the 20-day period beginning on the
16 date of filing of the petition, the utility does not receive
17 from the debtor or the trustee adequate assurance of pay-
18 ment for utility service that is satisfactory to the utility.

19 “(3)(A) On request of a party in interest and after
20 notice and a hearing, the court may order modification
21 of the amount of an assurance of payment under para-
22 graph (2).

23 “(B) In making a determination under this para-
24 graph whether an assurance of payment is adequate, the
25 court may not consider—

1 “(i) the absence of security before the date of
2 filing of the petition;

3 “(ii) the payment by the debtor of charges for
4 utility service in a timely manner before the date of
5 filing of the petition; or

6 “(iii) the availability of an administrative ex-
7 pense priority.

8 “(4) Notwithstanding any other provision of law, with
9 respect to a case subject to this subsection, a utility may
10 recover or set off against a security deposit provided to
11 the utility by the debtor before the date of filing of the
12 petition without notice or order of the court.”.

13 **SEC. 420. BANKRUPTCY FEES.**

14 Section 1930 of title 28, United States Code, is
15 amended—

16 (1) in subsection (a), by striking “Notwith-
17 standing section 1915 of this title, the parties” and
18 inserting “Subject to subsection (f), the parties”;
19 and

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

21 “(f)(1) The Judicial Conference of the United States
22 shall prescribe procedures for waiving fees under this sub-
23 section.

24 “(2) Under the procedures described in paragraph
25 (1), the district court or the bankruptcy court may waive

1 a filing fee described in paragraph (3) for a case com-
 2 menced under chapter 7 of title 11 if the court determines
 3 that an individual debtor whose income is less than 125
 4 percent of the income official poverty line (as defined by
 5 the Office of Management and Budget, and revised annu-
 6 ally in accordance with section 673(2) of the Omnibus
 7 Budget Reconciliation Act of 1981) applicable to a family
 8 of the size involved is unable to pay that fee in install-
 9 ments.

10 “(3) A filing fee referred to in paragraph (2) is—

11 “(A) a filing fee under subsection (a)(1); or

12 “(B) any other fee prescribed by the Judicial
 13 Conference of the United States under subsection
 14 (b) that is payable to the clerk of the district court
 15 or the clerk of the bankruptcy court upon the com-
 16 mencement of a case under chapter 7 of title 11.

17 “(4) In addition to waiving a fee under paragraph
 18 (2), the district court or the bankruptcy court may waive
 19 any other fee prescribed under subsection (b) or (c) if the
 20 court determines that the individual with an income at a
 21 level described in paragraph (2) is unable to pay that fee
 22 in installments.”.

23 **SEC. 421. MORE COMPLETE INFORMATION REGARDING AS-**
 24 **SETS OF THE ESTATE.**

25 (a) IN GENERAL.—

1 (1) DISCLOSURE.—The Advisory Committee on
2 Bankruptcy Rules of the Judicial Conference of the
3 United States, after consideration of the views of the
4 Director of the Executive Office for the United
5 States Trustees, shall propose for adoption amended
6 Federal Rules of Bankruptcy Procedure and Official
7 Bankruptcy Forms directing debtors under chapter
8 11 of title 11, United States Code, to disclose the
9 information described in paragraph (2) by filing and
10 serving periodic financial and other reports designed
11 to provide such information.

12 (2) INFORMATION.—The information referred
13 to in paragraph (1) is the value, operations, and
14 profitability of any closely held corporation, partner-
15 ship, or of any other entity in which the debtor holds
16 a substantial or controlling interest.

17 (b) PURPOSE.—The purpose of the rules and reports
18 under subsection (a) shall be to assist parties in interest
19 taking steps to ensure that the debtor's interest in any
20 entity referred to in subsection (a)(2) is used for the pay-
21 ment of allowed claims against debtor.

1 **Subtitle B—Small Business**
2 **Bankruptcy Provisions**

3 **SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT**
4 **AND PLAN.**

5 Section 1125 of title 11, United States Code, is
6 amended by striking subsection (f) and inserting the fol-
7 lowing:

8 “(f) Notwithstanding subsection (b), in a small busi-
9 ness case—

10 “(1) in determining whether a disclosure state-
11 ment provides adequate information, the court shall
12 consider the complexity of the case, the benefit of
13 additional information to creditors and other parties
14 in interest, and the cost of providing additional in-
15 formation;

16 “(2) the court may determine that the plan
17 itself provides adequate information and that a sepa-
18 rate disclosure statement is not necessary;

19 “(3) the court may approve a disclosure state-
20 ment submitted on standard forms approved by the
21 court or adopted under section 2075 of title 28; and

22 “(4)(A) the court may conditionally approve a
23 disclosure statement subject to final approval after
24 notice and a hearing;

1 “(B) acceptances and rejections of a plan may
2 be solicited based on a conditionally approved disclo-
3 sure statement if the debtor provides adequate infor-
4 mation to each holder of a claim or interest that is
5 solicited, but a conditionally approved disclosure
6 statement shall be mailed not later than 20 days be-
7 fore the date of the hearing on confirmation of the
8 plan; and

9 “(C) the hearing on the disclosure statement
10 may be combined with the hearing on confirmation
11 of a plan.”.

12 **SEC. 432. DEFINITIONS; EFFECT OF DISCHARGE.**

13 (a) DEFINITIONS.—Section 101 of title 11, United
14 States Code, as amended by section 402 of this Act, is
15 amended by striking paragraph (51C) and inserting the
16 following:

17 “(51C) ‘small business case’ means a case filed
18 under chapter 11 of this title in which the debtor is
19 a small business debtor;

20 “(51D) ‘small business debtor’—

21 “(A) subject to subparagraph (B), means a
22 person (including any affiliate of such person
23 that is also a debtor under this title and exclud-
24 ing a person whose primary activity is the busi-
25 ness of owning and operating real property and

1 activities incidental thereto) that has aggregate
2 noncontingent, liquidated secured and unse-
3 curred debts as of the date of the petition or the
4 order for relief in an amount not more than
5 \$3,000,000 (excluding debts owed to 1 or more
6 affiliates or insiders) for a case in which the
7 United States trustee has appointed under sec-
8 tion 1102(a)(1) a committee of unsecured credi-
9 tors that the court has determined is suffi-
10 ciently active and representative to provide ef-
11 fective oversight of the debtor; and

12 “(B) does not include any member of a
13 group of affiliated debtors that has aggregate
14 noncontingent liquidated secured and unsecured
15 debts in an amount greater than \$4,000,000
16 (excluding debt owed to 1 or more affiliates or
17 insiders);”.

18 (b) CONFORMING AMENDMENT.—Section 1102(a)(3)
19 of title 11, United States Code, is amended by inserting
20 “debtor” after “small business”.

21 **SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND**
22 **PLAN.**

23 Within a reasonable period of time after the date of
24 the enactment of this Act, the Advisory Committee on
25 Bankruptcy Rules of the Judicial Conference of the

1 United States shall propose for adoption standard form
 2 disclosure statements and plans of reorganization for
 3 small business debtors (as defined in section 101 of title
 4 11, United States Code, as amended by this Act), designed
 5 to achieve a practical balance between—

6 (1) the reasonable needs of the courts, the
 7 United States trustee, creditors, and other parties in
 8 interest for reasonably complete information; and

9 (2) economy and simplicity for debtors.

10 **SEC. 434. UNIFORM NATIONAL REPORTING REQUIRE-**
 11 **MENTS.**

12 (a) REPORTING REQUIRED.—

13 (1) IN GENERAL.—Chapter 3 of title 11, United
 14 States Code, is amended by inserting after section
 15 307 the following:

16 **“§ 308. Debtor reporting requirements**

17 “(1) For purposes of this section, the term ‘profit-
 18 ability’ means, with respect to a debtor, the amount of
 19 money that the debtor has earned or lost during current
 20 and recent fiscal periods.

21 “(2) A small business debtor shall file periodic finan-
 22 cial and other reports containing information including—

23 “(A) the debtor’s profitability;

1 “(B) reasonable approximations of the debtor’s
2 projected cash receipts and cash disbursements over
3 a reasonable period;

4 “(C) comparisons of actual cash receipts and
5 disbursements with projections in prior reports;

6 “(D)(i) whether the debtor is—

7 “(I) in compliance in all material respects
8 with postpetition requirements imposed by this
9 title and the Federal Rules of Bankruptcy Pro-
10 cedure; and

11 “(II) timely filing tax returns and other re-
12 quired government filings and paying taxes and
13 other administrative claims when due; and

14 “(ii) if the debtor is not in compliance with the
15 requirements referred to in clause (i)(I) or filing tax
16 returns and other required government filings and
17 making the payments referred to in clause (i)(II),
18 what the failures are and how, at what cost, and
19 when the debtor intends to remedy such failures;
20 and

21 “(iii) such other matters as are in the best in-
22 terests of the debtor and creditors, and in the public
23 interest in fair and efficient procedures under chap-
24 ter 11 of this title.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions for chapter 3 of title 11, United States Code,
3 is amended by inserting after the item relating to
4 section 307 the following:

“308. Debtor reporting requirements.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect 60 days after the date on
7 which rules are prescribed under section 2075 of title 28,
8 United States Code, to establish forms to be used to com-
9 ply with section 308 of title 11, United States Code, as
10 added by subsection (a).

11 **SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR**
12 **SMALL BUSINESS CASES.**

13 (a) PROPOSAL OF RULES AND FORMS.—The Advi-
14 sory Committee on Bankruptcy Rules of the Judicial Con-
15 ference of the United States shall propose for adoption
16 amended Federal Rules of Bankruptcy Procedure and Of-
17 ficial Bankruptcy Forms to be used by small business
18 debtors to file periodic financial and other reports con-
19 taining information, including information relating to—

20 (1) the debtor’s profitability;

21 (2) the debtor’s cash receipts and disburse-
22 ments; and

23 (3) whether the debtor is timely filing tax re-
24 turns and paying taxes and other administrative
25 claims when due.

1 (b) PURPOSE.—The rules and forms proposed under
2 subsection (a) shall be designed to achieve a practical bal-
3 ance among—

4 (1) the reasonable needs of the bankruptcy
5 court, the United States trustee, creditors, and other
6 parties in interest for reasonably complete informa-
7 tion;

8 (2) the small business debtor’s interest that re-
9 quired reports be easy and inexpensive to complete;
10 and

11 (3) the interest of all parties that the required
12 reports help the small business debtor to understand
13 the small business debtor’s financial condition and
14 plan the small business debtor’s future.

15 **SEC. 436. DUTIES IN SMALL BUSINESS CASES.**

16 (a) DUTIES IN CHAPTER 11 CASES.—Subchapter I
17 of title 11, United States Code, as amended by section
18 321 of this Act, is amended by adding at the end the fol-
19 lowing:

20 **“§ 1116. Duties of trustee or debtor in possession in**
21 **small business cases**

22 “In a small business case, a trustee or the debtor in
23 possession, in addition to the duties provided in this title
24 and as otherwise required by law, shall—

1 “(1) append to the voluntary petition or, in an
2 involuntary case, file within 7 days after the date of
3 the order for relief—

4 “(A) its most recent balance sheet, state-
5 ment of operations, cash-flow statement, Fed-
6 eral income tax return; or

7 “(B) a statement made under penalty of
8 perjury that no balance sheet, statement of op-
9 erations, or cash-flow statement has been pre-
10 pared and no Federal tax return has been filed;

11 “(2) attend, through its senior management
12 personnel and counsel, meetings scheduled by the
13 court or the United States trustee, including initial
14 debtor interviews, scheduling conferences, and meet-
15 ings of creditors convened under section 341 unless
16 the court waives that requirement after notice and
17 hearing, upon a finding of extraordinary and com-
18 pelling circumstances;

19 “(3) timely file all schedules and statements of
20 financial affairs, unless the court, after notice and a
21 hearing, grants an extension, which shall not extend
22 such time period to a date later than 30 days after
23 the date of the order for relief, absent extraordinary
24 and compelling circumstances;

1 “(4) file all postpetition financial and other re-
2 ports required by the Federal Rules of Bankruptcy
3 Procedure or by local rule of the district court;

4 “(5) subject to section 363(c)(2), maintain in-
5 surance customary and appropriate to the industry;

6 “(6)(A) timely file tax returns and other re-
7 quired government filings; and

8 “(B) subject to section 363(c)(2), timely pay all
9 administrative expense tax claims, except those
10 being contested by appropriate proceedings being
11 diligently prosecuted; and

12 “(7) allow the United States trustee, or a des-
13 ignated representative of the United States trustee,
14 to inspect the debtor’s business premises, books, and
15 records at reasonable times, after reasonable prior
16 written notice, unless notice is waived by the debt-
17 or.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 11 of title 11, United States Code, is amended
20 by adding at the end of the matter relating to subchapter
21 I the following:

“1116. Duties of trustee or debtor in possession in small business cases.”.

22 **SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.**

23 Section 1121 of title 11, United States Code, is
24 amended by striking subsection (e) and inserting the fol-
25 lowing:

1 “(e) In a small business case—

2 “(1) only the debtor may file a plan until after
3 180 days after the date of the order for relief, unless
4 that period is—

5 “(A) extended as provided by this sub-
6 section, after notice and hearing; or

7 “(B) the court, for cause, orders otherwise;

8 “(2) the plan, and any necessary disclosure
9 statement, shall be filed not later than 300 days
10 after the date of the order for relief; and

11 “(3) the time periods specified in paragraphs
12 (1) and (2), and the time fixed in section 1129(e),
13 within which the plan shall be confirmed, may be ex-
14 tended only if—

15 “(A) the debtor, after providing notice to
16 parties in interest (including the United States
17 trustee), demonstrates by a preponderance of
18 the evidence that it is more likely than not that
19 the court will confirm a plan within a reason-
20 able period of time;

21 “(B) a new deadline is imposed at the time
22 the extension is granted; and

23 “(C) the order extending time is signed be-
24 fore the existing deadline has expired.”.

1 **SEC. 438. PLAN CONFIRMATION DEADLINE.**

2 Section 1129 of title 11, United States Code, is
3 amended by adding at the end the following:

4 “(e) In a small business case, the plan shall be con-
5 firmed not later than 175 days after the date of the order
6 for relief, unless such 175-day period is extended as pro-
7 vided in section 1121(e)(3).”.

8 **SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.**

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

11 (1) in paragraph (3)—

12 (A) in subparagraph (G), by striking
13 “and” at the end;

14 (B) by redesignating subparagraph (H) as
15 subparagraph (I); and

16 (C) by inserting after subparagraph (G)
17 the following:

18 “(H) in small business cases (as defined in
19 section 101 of title 11), performing the addi-
20 tional duties specified in title 11 pertaining to
21 such cases;”;

22 (2) in paragraph (5), by striking “and” at the
23 end;

24 (3) in paragraph (6), by striking the period at
25 the end and inserting “; and”; and

1 (4) by inserting after paragraph (6) the fol-
2 lowing:

3 “(7) in each of such small business cases—

4 “(A) conduct an initial debtor interview as
5 soon as practicable after the entry of order for
6 relief but before the first meeting scheduled
7 under section 341(a) of title 11, at which time
8 the United States trustee shall—

9 “(i) begin to investigate the debtor’s
10 viability;

11 “(ii) inquire about the debtor’s busi-
12 ness plan;

13 “(iii) explain the debtor’s obligations
14 to file monthly operating reports and other
15 required reports;

16 “(iv) attempt to develop an agreed
17 scheduling order; and

18 “(v) inform the debtor of other obliga-
19 tions;

20 “(B) if determined to be appropriate and
21 advisable, visit the appropriate business prem-
22 ises of the debtor and ascertain the state of the
23 debtor’s books and records and verify that the
24 debtor has filed its tax returns; and

1 “(C) review and monitor diligently the
2 debtor’s activities, to identify as promptly as
3 possible whether the debtor will be unable to
4 confirm a plan; and

5 “(8) in any case in which the United States
6 trustee finds material grounds for any relief under
7 section 1112 of title 11, the United States trustee
8 shall apply promptly after making that finding to
9 the court for relief.”.

10 **SEC. 440. SCHEDULING CONFERENCES.**

11 Section 105(d) of title 11, United States Code, is
12 amended—

13 (1) in the matter preceding paragraph (1), by
14 striking “, may”;

15 (2) by striking paragraph (1) and inserting the
16 following:

17 “(1) shall hold such status conferences as are
18 necessary to further the expeditious and economical
19 resolution of the case; and”;

20 (3) in paragraph (2), by striking “unless incon-
21 sistent with another provision of this title or with
22 applicable Federal Rules of Bankruptcy Procedure,”.

23 **SEC. 441. SERIAL FILER PROVISIONS.**

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

1 (1) in subsection (j), as redesignated by section
2 305(1) of this Act—

3 (A) by striking “An” and inserting “(1)
4 Except as provided in paragraph (2), an”; and

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

6 “(2) If such violation is based on an action taken by
7 an entity in the good faith belief that subsection (h) ap-
8 plies to the debtor, the recovery under paragraph (1)
9 against such entity shall be limited to actual damages.”;
10 and

11 (2) by inserting after subsection (j) the fol-
12 lowing:

13 “(k)(1) Except as provided in paragraph (2), the fil-
14 ing of a petition under chapter 11 operates as a stay of
15 the acts described in subsection (a) only in an involuntary
16 case involving no collusion by the debtor with creditors
17 and in which the debtor—

18 “(A) is a debtor in a small business case pend-
19 ing at the time the petition is filed;

20 “(B) was a debtor in a small business case that
21 was dismissed for any reason by an order that be-
22 came final in the 2-year period ending on the date
23 of the order for relief entered with respect to the pe-
24 tition;

1 “(C) was a debtor in a small business case in
2 which a plan was confirmed in the 2-year period
3 ending on the date of the order for relief entered
4 with respect to the petition; or

5 “(D) is an entity that has succeeded to sub-
6 stantially all of the assets or business of a small
7 business debtor described in subparagraph (A), (B),
8 or (C).

9 “(2) Paragraph (1) does not apply to the filing of
10 a petition if the debtor proves by a preponderance of the
11 evidence that—

12 “(A) the filing of that petition resulted from
13 circumstances beyond the control of the debtor not
14 foreseeable at the time the case then pending was
15 filed; and

16 “(B) it is more likely than not that the court
17 will confirm a feasible plan, but not a liquidating
18 plan, within a reasonable period of time.”.

19 **SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
20 **VERSION AND APPOINTMENT OF TRUSTEE.**

21 (a) **EXPANDED GROUNDS FOR DISMISSAL OR CON-**
22 **VERSION.**—Section 1112 of title 11, United States Code,
23 is amended by striking subsection (b) and inserting the
24 following:

1 “(b)(1) Except as provided in paragraph (2), in sub-
2 section (c), and section 1104(a)(3), on request of a party
3 in interest, and after notice and a hearing, the court shall
4 convert a case under this chapter to a case under chapter
5 7 or dismiss a case under this chapter, whichever is in
6 the best interest of creditors and the estate, if the movant
7 establishes cause.

8 “(2) The relief provided in paragraph (1) shall not
9 be granted if the debtor or another party in interest ob-
10 jects and establishes by a preponderance of the evidence
11 that—

12 “(A) a plan with a reasonable possibility of
13 being confirmed will be filed within a reasonable pe-
14 riod of time; and

15 “(B) if the grounds include an act or omission
16 of the debtor—

17 “(i) for which there exists a reasonable
18 justification for the act or omission; and

19 “(ii) which will be cured within a reason-
20 able period of time fixed by the court.

21 “(3) The court shall commence the hearing on any
22 motion under this subsection not later than 30 days after
23 filing of the motion, and shall decide the motion within
24 15 days after commencement of the hearing, unless the
25 movant expressly consents to a continuance for a specific

1 period of time or compelling circumstances prevent the
2 court from meeting the time limits established by this
3 paragraph.

4 “(4) For purposes of this subsection, cause
5 includes—

6 “(A) substantial or continuing loss to or dimi-
7 nution of the estate;

8 “(B) gross mismanagement of the estate;

9 “(C) failure to maintain appropriate insurance
10 that poses a risk to the estate or to the public;

11 “(D) unauthorized use of cash collateral harm-
12 ful to 1 or more creditors;

13 “(E) failure to comply with an order of the
14 court;

15 “(F) repeated failure timely to satisfy any filing
16 or reporting requirement established by this title or
17 by any rule applicable to a case under this chapter;

18 “(G) failure to attend the meeting of creditors
19 convened under section 341(a) or an examination or-
20 dered under Rule 2004 of the Federal Rules of
21 Bankruptcy Procedure;

22 “(H) failure timely to provide information or
23 attend meetings reasonably requested by the United
24 States trustee;

1 “(I) failure timely to pay taxes due after the
2 date of the order for relief or to file tax returns due
3 after the order for relief;

4 “(J) failure to file a disclosure statement, or to
5 file or confirm a plan, within the time fixed by this
6 title or by order of the court;

7 “(K) failure to pay any fees or charges required
8 under chapter 123 of title 28;

9 “(L) revocation of an order of confirmation
10 under section 1144;

11 “(M) inability to effectuate substantial con-
12 summation of a confirmed plan;

13 “(N) material default by the debtor with re-
14 spect to a confirmed plan;

15 “(O) termination of a confirmed plan by reason
16 of the occurrence of a condition specified in the plan;
17 and

18 “(P) failure of the debtor to pay any domestic
19 support obligation that first becomes payable after
20 the date on which the petition is filed.

21 “(5) The court shall commence the hearing on any
22 motion under this subsection not later than 30 days after
23 filing of the motion, and shall decide the motion within
24 15 days after commencement of the hearing, unless the
25 movant expressly consents to a continuance for a specific

1 period of time or compelling circumstances prevent the
2 court from meeting the time limits established by this
3 paragraph.”.

4 (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF
5 TRUSTEE.—Section 1104(a) of title 11, United States
6 Code, is amended—

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

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

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

12 “(3) if grounds exist to convert or dismiss the
13 case under section 1112, but the court determines
14 that the appointment of a trustee or an examiner is
15 in the best interests of creditors and the estate.”.

16 **SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED**
17 **STATES CODE, WITH RESPECT TO SMALL**
18 **BUSINESSES.**

19 Not later than 2 years after the date of the enact-
20 ment of this Act, the Administrator of the Small Business
21 Administration, in consultation with the Attorney General
22 of the United States, the Director of the Administrative
23 Office of United States Trustees, and the Director of the
24 Administrative Office of the United States Courts, shall—

25 (1) conduct a study to determine—

1 (A) the internal and external factors that
2 cause small businesses, especially sole propri-
3 etorships, to become debtors in cases under title
4 11, United States Code, and that cause certain
5 small businesses to successfully complete cases
6 under chapter 11 of such title; and

7 (B) how Federal laws relating to bank-
8 ruptcy may be made more effective and efficient
9 in assisting small businesses to remain viable;
10 and

11 (2) submit to the President pro tempore of the
12 Senate and the Speaker of the House of Representa-
13 tives a report summarizing that study.

14 **SEC. 444. PAYMENT OF INTEREST.**

15 Section 362(d)(3) of title 11, United States Code, is
16 amended—

17 (1) by inserting “or 30 days after the court de-
18 termines that the debtor is subject to this para-
19 graph, whichever is later” after “90-day period”;
20 and

21 (2) by striking subparagraph (B) and inserting
22 the following:

23 “(B) the debtor has commenced monthly
24 payments that—

1 “(i) may, in the debtor’s sole discre-
 2 tion, notwithstanding section 363(c)(2), be
 3 made from rents or other income generated
 4 before or after the commencement of the
 5 case by or from the property to each cred-
 6 itor whose claim is secured by such real es-
 7 tate (other than a claim secured by a judg-
 8 ment lien or by an unmatured statutory
 9 lien); and

10 “(ii) are in an amount equal to inter-
 11 est at the then applicable nondefault con-
 12 tract rate of interest on the value of the
 13 creditor’s interest in the real estate; or”.

14 **SEC. 445. TECHNICAL CORRECTION.**

15 Section 365(b)(2)(D) of title 11, United States Code,
 16 is amended by striking “penalty rate or provision” and
 17 inserting “penalty rate or penalty provision”.

18 **TITLE V—MUNICIPAL**
 19 **BANKRUPTCY PROVISIONS**

20 **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**
 21 **TION.**

22 (a) **TECHNICAL AMENDMENT RELATING TO MUNICI-**
 23 **PALITIES.**—Section 921(d) of title 11, United States
 24 Code, is amended by inserting “, notwithstanding section
 25 301(b)” before the period at the end.

1 (b) CONFORMING AMENDMENT.—Section 301 of title
2 11, United States Code, is amended—

3 (1) by inserting “(a)” before “A voluntary”;

4 (2) by striking the last sentence; and

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

6 “(b) The commencement of a voluntary case under
7 a chapter of this title constitutes an order for relief under
8 such chapter.”.

9 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAP-**

10 **TER 9.**

11 Section 901(a) of title 11, United States Code, is
12 amended—

13 (1) by inserting “555, 556,” after “553,”; and

14 (2) by inserting “559, 560,” after “557,”.

15 **TITLE VI—IMPROVED BANK-**
16 **RUPTCY STATISTICS AND**
17 **DATA**

18 **SEC. 601. AUDIT PROCEDURES.**

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

21 (1) in subsection (a), by striking paragraph (6)
22 and inserting the following:

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

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

2 “(f)(1)(A) The Attorney General shall establish pro-
3 cedures to determine the accuracy, veracity, and complete-
4 ness of petitions, schedules, and other information which
5 the debtor is required to provide under sections 521 and
6 1322 of title 11, and, if applicable, section 111 of title
7 11, in individual cases filed under chapter 7 or 13 of such
8 title.

9 “(B) Those procedures shall—

10 “(i) establish a method of selecting appropriate
11 qualified persons to contract to perform those au-
12 dits;

13 “(ii) establish a method of randomly selecting
14 cases to be audited, except that not less than 1 out
15 of every 250 cases in each Federal judicial district
16 shall be selected for audit;

17 “(iii) require audits for schedules of income and
18 expenses which reflect greater than average
19 variances from the statistical norm of the district in
20 which the schedules were filed if those variances
21 occur by reason of higher income or higher expenses
22 than the statistical norm of the district in which the
23 schedules were filed; and

24 “(iv) include procedures for providing, not less
25 frequently than annually, public information con-

1 cerning the aggregate results of the audits referred
2 to in this subparagraph, including the percentage of
3 cases, by district, in which a material misstatement
4 of income or expenditures is reported.

5 “(2) The United States trustee for each district may
6 contract with auditors to perform audits in cases des-
7 ignated by the United States trustee according to the pro-
8 cedures established under paragraph (1).

9 “(3)(A) The report of each audit conducted under
10 this subsection shall be filed with the court and trans-
11 mitted to the United States trustee. Each report shall
12 clearly and conspicuously specify any material
13 misstatement of income or expenditures or of assets iden-
14 tified by the person performing the audit. In any case
15 where a material misstatement of income or expenditures
16 or of assets has been reported, the clerk of the bankruptcy
17 court shall give notice of the misstatement to the creditors
18 in the case.

19 “(B) If a material misstatement of income or expend-
20 itures or of assets is reported, the United States trustee
21 shall—

22 “(i) report the material misstatement, if appro-
23 priate, to the United States Attorney under section
24 3057 of title 18; and

1 “(ii) if advisable, take appropriate action, in-
2 cluding commencing an adversary proceeding to re-
3 voke the debtor’s discharge under section 727(d) of
4 title 11.”.

5 (b) AMENDMENTS TO SECTION 521 OF TITLE 11,
6 UNITED STATES CODE.—Paragraphs (3) and (4) of sec-
7 tion 521(a) of title 11, United States Code, as amended
8 by section 315 of this Act, are each amended by inserting
9 “or an auditor appointed under section 586 of title 28”
10 after “serving in the case” each place that term appears.

11 (c) AMENDMENTS TO SECTION 727 OF TITLE 11,
12 UNITED STATES CODE.—Section 727(d) of title 11,
13 United States Code, is amended—

14 (1) in paragraph (2), by striking “or” at the
15 end;

16 (2) in paragraph (3), by striking the period at
17 the end and inserting “; or”; and

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

19 “(4) the debtor has failed to explain
20 satisfactorily—

21 “(A) a material misstatement in an audit
22 performed under section 586(f) of title 28; or

23 “(B) a failure to make available for inspec-
24 tion all necessary accounts, papers, documents,
25 financial records, files, and any other papers,

1 things, or property belonging to the debtor that
2 are requested for an audit conducted under sec-
3 tion 586(f).”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect 18 months after the date of
6 enactment of this Act.

7 **SEC. 602. IMPROVED BANKRUPTCY STATISTICS.**

8 (a) AMENDMENT.—Chapter 6 of title 28, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 **“§ 159. Bankruptcy statistics**

12 “(a) The clerk of each district court shall compile sta-
13 tistics regarding individual debtors with primarily con-
14 sumer debts seeking relief under chapters 7, 11, and 13
15 of title 11. Those statistics shall be in a form prescribed
16 by the Director of the Administrative Office of the United
17 States 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, 1999, and an-
24 nually thereafter, prepare, and submit to Congress a
25 report concerning the information collected under

1 subsection (a) that contains an analysis of the infor-
2 mation.

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

5 “(1) be itemized, by chapter, with respect to
6 title 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 under section
14 2075 and filed by those debtors;

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

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

1 in categories which are predominantly non-
2 dischargeable;

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

6 “(E) for the reporting period—

7 “(i) the number of cases in which a
8 reaffirmation 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 the cases under each of sub-
16 clauses (I) and (II), the number of cases in
17 which the reaffirmation was approved by
18 the court;

19 “(F) with respect to cases filed under
20 chapter 13 of title 11, for the reporting
21 period—

22 “(i)(I) the number of cases in which a
23 final order was entered determining the
24 value of property securing a claim in an

1 amount less than the amount of the claim;
2 and

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

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

9 “(iii) the number of cases in which
10 the debtor filed another case during the 6-
11 year period preceding the date of filing;

12 “(G) the number of cases in which credi-
13 tors were fined for misconduct and any amount
14 of punitive damages awarded by the court for
15 creditor misconduct; and

16 “(H) the number of cases in which sanc-
17 tions under Rule 9011 of the Federal Rules of
18 Bankruptcy Procedure were imposed against
19 debtor’s counsel and damages awarded under
20 such rule.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for chapter 6 of title 28, United States Code, is amended
23 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. 603. UNIFORM RULES FOR THE COLLECTION OF BANK-**
5 **RUPTCY DATA.**

6 (a) AMENDMENT.—Chapter 39 of title 28, United
7 States Code, is amended by inserting after section 589a
8 the following:

9 **“§ 589b. Bankruptcy data**

10 “(a) Within a reasonable period of time after the ef-
11 fective date of this section, the Attorney General of the
12 United States shall issue rules requiring uniform forms
13 for (and from time to time thereafter to appropriately
14 modify and approve)—

15 “(1) final reports by trustees in cases under
16 chapters 7, 12, and 13 of title 11; and

17 “(2) periodic reports by debtors in possession or
18 trustees, as the case may be, in cases under chapter
19 11 of title 11.

20 “(b) Each report referred to in subsection (a) shall
21 be designed (and the requirements as to place and manner
22 of filing shall be established) so as to facilitate compilation
23 of data and maximum practicable access of the public,
24 by—

1 “(1) physical inspection at 1 or more central fil-
2 ing locations; and

3 “(2) electronic access through the Internet or
4 other appropriate media.

5 “(c)(1) The information required to be filed in the
6 reports referred to in subsection (b) shall be information
7 that is—

8 “(A) in the best interests of debtors and credi-
9 tors, and in the public interest; and

10 “(B) reasonable and adequate information to
11 evaluate the efficiency and practicality of the Fed-
12 eral bankruptcy system.

13 “(2) In issuing rules proposing the forms referred to
14 in subsection (a), the Attorney General shall strike the
15 best achievable practical balance between—

16 “(A) the reasonable needs of the public for in-
17 formation about the operational results of the Fed-
18 eral bankruptcy system; and

19 “(B) economy, simplicity, and lack of undue
20 burden on persons with a duty to file reports.

21 “(d)(1) Final reports proposed for adoption by trust-
22 ees under chapters 7, 12, and 13 of title 11 shall include
23 with respect to a case under such title, by appropriate
24 category—

1 “(A) information about the length of time the
2 case was pending;

3 “(B) assets abandoned;

4 “(C) assets exempted;

5 “(D) receipts and disbursements of the estate;

6 “(E) expenses of administration;

7 “(F) claims asserted;

8 “(G) claims allowed; and

9 “(H) distributions to claimants and claims dis-
10 charged without payment.

11 “(2) In cases under chapters 12 and 13 of title 11,
12 final reports proposed for adoption by trustees shall
13 include—

14 “(A) the date of confirmation of the plan;

15 “(B) each modification to the plan; and

16 “(C) defaults by the debtor in performance
17 under the plan.

18 “(3) The information described in paragraphs (1)
19 and (2) shall be in addition to such other matters as are
20 required by law for a final report or as the Attorney Gen-
21 eral, in the discretion of the Attorney General, may pro-
22 pose for a final report.

23 “(e)(1) Periodic reports proposed for adoption by
24 trustees or debtors in possession under chapter 11 of title
25 11 shall include—

1 “(A) information about the standard industry
2 classification, published by the Department of Com-
3 merce, for the businesses conducted by the debtor;

4 “(B) the length of time the case has been pend-
5 ing;

6 “(C) the number of full-time employees—

7 “(i) as of the date of the order for relief;
8 and

9 “(ii) at the end of each reporting period
10 since the case was filed;

11 “(D) cash receipts, cash disbursements, and
12 profitability of the debtor for the most recent period
13 and cumulatively since the date of the order for re-
14 lief;

15 “(E) compliance with title 11, whether or not
16 tax returns and tax payments since the date of the
17 order for relief have been timely filed and made;

18 “(F) all professional fees approved by the court
19 in the case for the most recent period and cumula-
20 tively since the date of the order for relief (sepa-
21 rately reported, for the professional fees incurred by
22 or on behalf of the debtor, between those that would
23 have been incurred absent a bankruptcy case and
24 those that would not have been so incurred); and

1 (2) there should be established a bankruptcy
2 data system in which—

3 (A) a single set of data definitions and
4 forms are used to collect data nationwide; and

5 (B) data for any particular bankruptcy
6 case are aggregated in the same electronic
7 record.

8 **TITLE VII—BANKRUPTCY TAX**
9 **PROVISIONS**

10 **SEC. 701. TREATMENT OF CERTAIN LIENS.**

11 (a) TREATMENT OF CERTAIN LIENS.—Section 724
12 of title 11, United States Code, is amended—

13 (1) in subsection (b), in the matter preceding
14 paragraph (1), by inserting “(other than to the ex-
15 tent that there is a properly perfected unavoidable
16 tax lien arising in connection with an ad valorem tax
17 on real or personal property of the estate)” after
18 “under this title”;

19 (2) in subsection (b)(2), by inserting “(except
20 that such expenses, other than claims for wages, sal-
21 aries, or commissions which arise after the filing of
22 a petition, shall be limited to expenses incurred
23 under chapter 7 of this title and shall not include ex-
24 penses incurred under chapter 11 of this title)” after
25 “507(a)(1)”; and

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

2 “(e) Before subordinating a tax lien on real or per-
3 sonal property of the estate, the trustee shall—

4 “(1) exhaust the unencumbered assets of the
5 estate; and

6 “(2) in a manner consistent with section
7 506(c), recover from property securing an allowed
8 secured claim the reasonable, necessary costs and
9 expenses of preserving or disposing of that property.

10 “(f) Notwithstanding the exclusion of ad valorem tax
11 liens under this section and subject to the requirements
12 of subsection (e), the following may be paid from property
13 of the estate which secures a tax lien, or the proceeds of
14 such property:

15 “(1) Claims for wages, salaries, and commis-
16 sions that are entitled to priority under section
17 507(a)(4).

18 “(2) Claims for contributions to an employee
19 benefit plan entitled to priority under section
20 507(a)(5).”.

21 (b) DETERMINATION OF TAX LIABILITY.—Section
22 505(a)(2) of title 11, United States Code, is amended—

23 (1) in subparagraph (A), by striking “or” at
24 the end;

1 (2) by striking “(1) upon payment” and insert-
2 ing “(2)(A) upon payment”;

3 (3) by striking “(A) such governmental unit”
4 and inserting “(i) such governmental unit”;

5 (4) by striking “(B) such governmental unit”
6 and inserting “(ii) such governmental unit”;

7 (5) by striking “(2) upon payment” and insert-
8 ing “(B) upon payment”;

9 (6) by striking “(3) upon payment” and insert-
10 ing “(C) upon payment”;

11 (7) by striking “(b)” and inserting “(2)”; and

12 (8) by inserting before paragraph (2), as so
13 designated, the following:

14 “(b)(1)(A) The clerk of each district shall maintain
15 a listing under which a Federal, State, or local govern-
16 mental unit responsible for the collection of taxes within
17 the district may—

18 “(i) designate an address for service of requests
19 under this subsection; and

20 “(ii) describe where further information con-
21 cerning additional requirements for filing such re-
22 quests may be found.

23 “(B) If a governmental unit referred to in subpara-
24 graph (A) does not designate an address and provide that
25 address to the clerk under that subparagraph, any request

1 made under this subsection may be served at the address
 2 for the filing of a tax return or protest with the appro-
 3 priate taxing authority of that governmental unit.”.

4 **SEC. 704. RATE OF INTEREST ON TAX CLAIMS.**

5 (a) IN GENERAL.—Subchapter I of chapter 5 of title
 6 11, United States Code, is amended by adding at the end
 7 the following:

8 **“§ 511. Rate of interest on tax claims**

9 “(a) If any provision of this title requires the pay-
 10 ment of interest on a tax claim or the payment of interest
 11 to enable a creditor to receive the present value of the
 12 allowed amount of a tax claim, the rate of interest shall
 13 be the rate shall be determined under applicable nonbank-
 14 ruptcy law.

15 “(b) In the case of taxes paid under a confirmed plan
 16 under this title, the rate of interest shall be determined
 17 as of the calendar month in which the plan is confirmed.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
 19 for chapter 5 of title 11, United States Code, is amended
 20 by inserting after the item relating to section 510 the fol-
 21 lowing:

“511. Rate of interest on tax claims.”.

22 **SEC. 705. PRIORITY OF TAX CLAIMS.**

23 Section 507(a)(8) of title 11, United States Code, is
 24 amended—

25 (1) in subparagraph (A)—

1 (A) in the matter preceding clause (i), by
2 inserting “for a taxable year ending on or be-
3 fore the date of filing of the petition” after
4 “gross receipts”;

5 (B) in clause (i)—

6 (i) by striking “for a taxable year
7 ending on or before the date of filing of
8 the petition”; and

9 (ii) by inserting before the semicolon
10 at the end, the following: “, plus any time
11 during which the stay of proceedings was
12 in effect in a prior case under this title or
13 during which collection was precluded by
14 the existence of 1 or more confirmed plans
15 under this title, plus 90 days”; and

16 (C) by striking clause (ii) and inserting the
17 following:

18 “(ii) assessed within 240 days before
19 the date of the filing of the petition, exclu-
20 sive of—

21 “(I) any time during which an
22 offer in compromise with respect to
23 that tax was pending or in effect dur-
24 ing that 240-day period, plus 30 days;
25 and

1 “(II) any time during which a
2 stay of proceedings against collections
3 was in effect in a prior case under
4 this title during that 240-day period;
5 plus 90 days.”; and

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

7 “(H) An otherwise applicable time period
8 specified in this paragraph shall be suspended
9 for—

10 “(i) any period during which a gov-
11 ernmental unit is prohibited under applica-
12 ble nonbankruptcy law from collecting a
13 tax as a result of a request by the debtor
14 for a hearing and an appeal of any collec-
15 tion action taken or proposed against the
16 debtor; plus

17 “(ii) 90 days.”.

18 **SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

19 Section 507(a)(9)(B) of title 11, United States Code,
20 is amended by striking “assessed” and inserting “in-
21 curred”.

1 **SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**
2 **TER 13.**

3 Section 1328(a)(2) of title 11, United States Code,
4 as amended by sections 105, 213, and 314 of this Act,
5 is amended—

6 (1) by inserting “(1)(B), (1)(C),” after “para-
7 graph”; and

8 (2) by inserting “and in section 507(a)(8)(C)”
9 after “section 523(a)”.

10 **SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**
11 **TER 11.**

12 Section 1141(d) of title 11, United States Code, is
13 amended by adding at the end the following:

14 “(5) Notwithstanding paragraph (1), the confirma-
15 tion of a plan does not discharge a debtor that is a cor-
16 poration from any debt for a tax or customs duty with
17 respect to which the debtor—

18 “(A) made a fraudulent return; or

19 “(B) willfully attempted in any manner to
20 evade or defeat that tax or duty.”.

21 **SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO**
22 **PREPETITION TAXES.**

23 Section 362(a)(8) of title 11, United States Code, is
24 amended by inserting “, with respect to a tax liability for
25 a taxable period ending before the order for relief under
26 this title” before the semicolon at the end.

1 **SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**
2 **CASES.**

3 Section 1129(a)(9) of title 11, United States Code,
4 is amended—

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

7 (2) in subparagraph (C), by striking “deferred
8 cash payments, over a period not exceeding six years
9 after the date of assessment of such claim,” and all
10 that follows through the end of the subparagraph,
11 and inserting “regular installment payments in
12 cash—

13 “(i) of a total value, as of the effective
14 date of the plan, equal to the allowed
15 amount of such claim;

16 “(ii) with interest thereon calculated
17 at the rate provided in section 6621(a)(2)
18 of the Internal Revenue Code of 1986;

19 “(iii) over a period ending not later
20 than 5 years after the date of the entry of
21 the order for relief under section 301, 302,
22 or 303; and

23 “(iv) in a manner not less favorable
24 than the most favored nonpriority unse-
25 cured claim provided for in the plan (other
26 than cash payments made to a class of

1 creditors under section 1122(b)); and”;

2 and

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

4 “(D) with respect to a secured claim which
5 would otherwise meet the description of an un-
6 secured claim of a governmental unit under sec-
7 tion 507(a)(8), but for the secured status of
8 that claim, the holder of that claim will receive
9 on account of that claim, cash payments, in the
10 same manner and over the same period, as pre-
11 scribed in subparagraph (C).”.

12 **SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**
13 **ITED.**

14 Section 545(2) of title 11, United States Code, is
15 amended by striking the semicolon at the end and insert-
16 ing “, except in any case in which a purchaser is a pur-
17 chaser described in section 6323 of the Internal Revenue
18 Code of 1986, or in any other similar provision of State
19 or local law;”.

20 **SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
21 **NESS.**

22 (a) PAYMENT OF TAXES REQUIRED.—Section 960 of
23 title 28, United States Code, is amended—

24 (1) by inserting “(a)” before “Any”; and

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

1 “(b) A tax under subsection (a) shall be paid on or
2 before the due date of the tax under applicable nonbank-
3 ruptcy law, unless—

4 “(1) the tax is a property tax secured by a lien
5 against property that is abandoned within a reason-
6 able period of time after the lien attaches by the
7 trustee of a bankruptcy estate under section 554 of
8 title 11; or

9 “(2) payment of the tax is excused under a spe-
10 cific provision of title 11.

11 “(c) In a case pending under chapter 7 of title 11,
12 payment of a tax may be deferred until final distribution
13 is made under section 726 of title 11, if—

14 “(1) the tax was not incurred by a trustee duly
15 appointed under chapter 7 of title 11; or

16 “(2) before the due date of the tax, an order of
17 the court makes a finding of probable insufficiency
18 of funds of the estate to pay in full the administra-
19 tive expenses allowed under section 503(b) of title
20 11 that have the same priority in distribution under
21 section 726(b) of title 11 as the priority of that
22 tax.”.

23 (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—
24 Section 503(b)(1)(B)(i) of title 11, United States Code,
25 is amended by inserting “whether secured or unsecured,

1 including property taxes for which liability is in rem, in
2 personam, or both,” before “except”.

3 (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE
4 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of
5 title 11, United States Code, is amended—

6 (1) in subparagraph (B), by striking “and” at
7 the end;

8 (2) in subparagraph (C), by adding “and” at
9 the end; and

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

11 “(D) notwithstanding the requirements of sub-
12 section (a), a governmental unit shall not be re-
13 quired to file a request for the payment of an ex-
14 pense described in subparagraph (B) or (C), as a
15 condition of its being an allowed administrative ex-
16 pense;”.

17 (d) PAYMENT OF TAXES AND FEES AS SECURED
18 CLAIMS.—Section 506 of title 11, United States Code, is
19 amended—

20 (1) in subsection (b), by inserting “or State
21 statute” after “agreement”; and

22 (2) in subsection (c), by inserting “, including
23 the payment of all ad valorem property taxes with
24 respect to the property” before the period at the
25 end.

1 **SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.**

2 Section 726(a)(1) of title 11, United States Code, is
3 amended by striking “before the date on which the trustee
4 commences distribution under this section;” and inserting
5 the following: “on or before the earlier of—

6 “(A) the date that is 10 days after the
7 mailing to creditors of the summary of the
8 trustee’s final report; or

9 “(B) the date on which the trustee com-
10 mences final distribution under this section;”.

11 **SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AU-**
12 **THORITIES.**

13 Section 523(a) of title 11, United States Code, is
14 amended—

15 (1) in paragraph (1)(B)—

16 (A) in the matter preceding clause (i), by
17 inserting “or equivalent report or notice,” after
18 “a return,”;

19 (B) in clause (i)—

20 (i) by inserting “or given” after
21 “filed”; and

22 (ii) by striking “or” at the end; and

23 (C) in clause (ii)—

24 (i) by inserting “or given” after
25 “filed”; and

1 (ii) by inserting “, report, or notice”
2 after “return”; and

3 (2) by adding at the end the following flush
4 sentences:

5 “For purposes of this subsection, the term ‘return’ means
6 a return that satisfies the requirements of applicable non-
7 bankruptcy law (including applicable filing requirements).
8 Such term includes a return prepared pursuant to section
9 6020(a) of the Internal Revenue Code of 1986, or similar
10 State or local law, or a written stipulation to a judgment
11 or a final order entered by a nonbankruptcy tribunal, but
12 does not include a return made pursuant to section
13 6020(b) of the Internal Revenue Code of 1986, or a simi-
14 lar State or local law.”.

15 **SEC. 715. DISCHARGE OF THE ESTATE’S LIABILITY FOR UN-**
16 **PAID TAXES.**

17 The second sentence of section 505(b) of title 11,
18 United States Code, as amended by section 703 of this
19 Act, is amended by inserting “the estate,” after “mis-
20 representation,”.

21 **SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CON-**
22 **FIRM CHAPTER 13 PLANS.**

23 (a) **FILING OF PREPETITION TAX RETURNS RE-**
24 **QUIRED FOR PLAN CONFIRMATION.**—Section 1325(a) of

1 title 11, United States Code, as amended by section 213
2 of this Act, is amended—

3 (1) in paragraph (6), by striking “and” at the
4 end;

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

7 (3) by inserting after paragraph (7) the fol-
8 lowing:

9 “(8) if the debtor has filed all applicable Fed-
10 eral, State, and local tax returns as required by sec-
11 tion 1308.”.

12 (b) ADDITIONAL TIME PERMITTED FOR FILING TAX
13 RETURNS.—

14 (1) IN GENERAL.—Chapter 13 of title 11,
15 United States Code, is amended by adding at the
16 end the following:

17 **“§ 1308. Filing of prepetition tax returns**

18 “(a) Not later than the day before the date on which
19 the meeting of the creditors is first scheduled to be held
20 under section 341(a), the debtor shall file with appropriate
21 tax authorities all tax returns for all taxable periods end-
22 ing during the 4-year period ending on the date of the
23 filing of the petition.

24 “(b)(1) Subject to paragraph (2), if the tax returns
25 required by subsection (a) have not been filed by the date

1 on which the meeting of creditors is first scheduled to be
2 held under section 341(a), the trustee may hold open that
3 meeting for a reasonable period of time to allow the debtor
4 an additional period of time to file any unfiled returns,
5 but such additional period of time shall not extend
6 beyond—

7 “(A) for any return that is past due as of the
8 date of the filing of the petition, the date that is 120
9 days after the date of that meeting; or

10 “(B) for any return that is not past due as of
11 the date of the filing of the petition, the later of—

12 “(i) the date that is 120 days after the
13 date of that meeting; or

14 “(ii) the date on which the return is due
15 under the last automatic extension of time for
16 filing that return to which the debtor is enti-
17 tled, and for which request is timely made, in
18 accordance with applicable nonbankruptcy law.

19 “(2) Upon notice and hearing, and order entered be-
20 fore the tolling of any applicable filing period determined
21 under this subsection, if the debtor demonstrates by clear
22 and convincing evidence that the failure to file a return
23 as required under this subsection is attributable to cir-
24 cumstances beyond the control of the debtor, the court

1 may extend the filing period established by the trustee
2 under this subsection for—

3 “(A) a period of not more than 30 days for re-
4 turns described in paragraph (1); and

5 “(B) a period not to extend after the applicable
6 extended due date for a return described in para-
7 graph (2).

8 “(c) For purposes of this section, the term ‘return’
9 includes a return prepared pursuant to section 6020 (a)
10 or (b) of the Internal Revenue Code of 1986, or a similar
11 State or local law, or a written stipulation to a judgment
12 or a final order entered by a nonbankruptcy tribunal.”.

13 (2) CONFORMING AMENDMENT.—The table of
14 sections for chapter 13 of title 11, United States
15 Code, is amended by inserting after the item relating
16 to section 1307 the following:

“1308. Filing of prepetition tax returns.”.

17 (c) DISMISSAL OR CONVERSION ON FAILURE TO
18 COMPLY.—Section 1307 of title 11, United States Code,
19 is amended—

20 (1) by redesignating subsections (e) and (f) as
21 subsections (f) and (g), respectively; and

22 (2) by inserting after subsection (d), the fol-
23 lowing:

24 “(e) Upon the failure of the debtor to file a tax return
25 under section 1308, on request of a party in interest or

1 the United States trustee and after notice and a hearing,
2 the court shall dismiss a case or convert a case under this
3 chapter to a case under chapter 7 of this title, whichever
4 is in the best interest of the creditors and the estate.”.

5 (d) **TIMELY FILED CLAIMS.**—Section 502(b)(9) of
6 title 11, United States Code, is amended by inserting be-
7 fore the period at the end the following “, and except that
8 in a case under chapter 13, a claim of a governmental
9 unit for a tax with respect to a return filed under section
10 1308 shall be timely if the claim is filed on or before the
11 date that is 60 days after the date on which such return
12 was filed as required”.

13 (e) **RULES FOR OBJECTIONS TO CLAIMS AND TO**
14 **CONFIRMATION.**—It is the sense of Congress that the Ad-
15 visory Committee on Bankruptcy Rules of the Judicial
16 Conference should, as soon as practicable after the date
17 of enactment of this Act, propose for adoption amended
18 Federal Rules of Bankruptcy Procedure which provide
19 that—

20 (1) notwithstanding the provisions of Rule
21 3015(f), in cases under chapter 13 of title 11,
22 United States Code, an objection to the confirmation
23 of a plan filed by a governmental unit on or before
24 the date that is 60 days after the date on which the
25 debtor files all tax returns required under sections

1 1308 and 1325(a)(7) of title 11, United States
2 Code, shall be treated for all purposes as if such ob-
3 jection had been timely filed before such confirma-
4 tion; and

5 (2) in addition to the provisions of Rule 3007,
6 in a case under chapter 13 of title 11, United States
7 Code, no objection to a tax with respect to which a
8 return is required to be filed under section 1308 of
9 title 11, United States Code, shall be filed until such
10 return has been filed as required.

11 **SEC. 717. STANDARDS FOR TAX DISCLOSURE.**

12 Section 1125(a)(1) of title 11, United States Code,
13 is amended—

14 (1) by inserting “including a discussion of the
15 potential material Federal tax consequences of the
16 plan to the debtor, any successor to the debtor, and
17 a hypothetical investor typical of the holders of
18 claims or interests in the case,” after “records”; and

19 (2) by striking “a hypothetical reasonable inves-
20 tor typical of holders of claims or interests” and in-
21 serting “such a hypothetical investor”.

22 **SEC. 718. SETOFF OF TAX REFUNDS.**

23 Section 362(b) of title 11, United States Code, as
24 amended by section 402 of this Act, is amended—

1 (1) in paragraph (25), by striking “or” at the
2 end;

3 (2) in paragraph (26), by striking the period at
4 the end and inserting “; or”; and

5 (3) by inserting after paragraph (26) the fol-
6 lowing:

7 “(27) under subsection (a), of the setoff under
8 applicable nonbankruptcy law of an income tax re-
9 fund, by a governmental unit, with respect to a tax-
10 able period that ended before the order for relief
11 against an income tax liability for a taxable period
12 that also ended before the order for relief, except
13 that in any case in which the setoff of an income tax
14 refund is not permitted under applicable nonbank-
15 ruptcy law because of a pending action to determine
16 the amount or legality of a tax liability, the govern-
17 mental unit may hold the refund pending the resolu-
18 tion of the action, unless the court, upon motion of
19 the trustee and after notice and hearing, grants the
20 taxing authority adequate protection (within the
21 meaning of section 361) for the secured claim of
22 that authority in the setoff under section 506(a).”.

1 **SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREAT-**
2 **MENT OF STATE AND LOCAL TAXES.**

3 (a) IN GENERAL.—Section 346 of title 11, United
4 States Code, is amended to read as follows:

5 **“SEC. 346. SPECIAL PROVISIONS RELATED TO THE TREAT-**
6 **MENT OF STATE AND LOCAL TAXES.**

7 “(a) Whenever the Internal Revenue Code of 1986
8 provides that a separate taxable estate or entity is created
9 in a case concerning a debtor under this title, and the in-
10 come, gain, loss, deductions, and credits of such estate
11 shall be taxed to or claimed by the estate, a separate tax-
12 able estate is also created for purposes of any State and
13 local law imposing a tax on or measured by income and
14 such income, gain, loss, deductions, and credits shall be
15 taxed to or claimed by the estate and may not be taxed
16 to or claimed by the debtor. The preceding sentence shall
17 not apply if the case is dismissed. The trustee shall make
18 tax returns of income required under any such State or
19 local law.

20 “(b) Whenever the Internal Revenue Code of 1986
21 provides that no separate taxable estate shall be created
22 in a case concerning a debtor under this title, and the in-
23 come, gain, loss, deductions, and credits of an estate shall
24 be taxed to or claimed by the debtor, such income, gain,
25 loss, deductions, and credits shall be taxed to or claimed
26 by the debtor under a State or local law imposing a tax

1 on or measured by income and may not be taxed to or
2 claimed by the estate. The trustee shall make such tax
3 returns of income of corporations and of partnerships as
4 are required under any State or local law, but with respect
5 to partnerships, shall make said returns only to the extent
6 such returns are also required to be made under such
7 Code. The estate shall be liable for any tax imposed on
8 such corporation or partnership, but not for any tax im-
9 posed on partners or members.

10 “(c) With respect to a partnership or any entity treat-
11 ed as a partnership under a State or local law imposing
12 a tax on or measured by income that is a debtor in a case
13 under this title, any gain or loss resulting from a distribu-
14 tion of property from such partnership, or any distributive
15 share of any income, gain, loss, deduction, or credit of a
16 partner or member that is distributed, or considered dis-
17 tributed, from such partnership, after the commencement
18 of the case, is gain, loss, income, deduction, or credit, as
19 the case may be, of the partner or member, and if such
20 partner or member is a debtor in a case under this title,
21 shall be subject to tax in accordance with subsection (a)
22 or (b).

23 “(d) For purposes of any State or local law imposing
24 a tax on or measured by income, the taxable period of
25 a debtor in a case under this title shall terminate only

1 if and to the extent that the taxable period of such debtor
2 terminates under the Internal Revenue Code of 1986.

3 “(e) The estate in any case described in subsection
4 (a) shall use the same accounting method as the debtor
5 used immediately before the commencement of the case,
6 if such method of accounting complies with applicable non-
7 bankruptcy tax law.

8 “(f) For purposes of any State or local law imposing
9 a tax on or measured by income, a transfer of property
10 from the debtor to the estate or from the estate to the
11 debtor shall not be treated as a disposition for purposes
12 of any provision assigning tax consequences to a disposi-
13 tion, except to the extent that such transfer is treated as
14 a disposition under the Internal Revenue Code of 1986.

15 “(g) Whenever a tax is imposed pursuant to a State
16 or local law imposing a tax on or measured by income pur-
17 suant to subsection (a) or (b), such tax shall be imposed
18 at rates generally applicable to the same types of entities
19 under such State or local law.

20 “(h) The trustee shall withhold from any payment of
21 claims for wages, salaries, commissions, dividends, inter-
22 est, or other payments, or collect, any amount required
23 to be withheld or collected under applicable State or local
24 tax law, and shall pay such withheld or collected amount
25 to the appropriate governmental unit at the time and in

1 the manner required by such tax law, and with the same
2 priority as the claim from which such amount was with-
3 held or collected was paid.

4 “(i)(1) To the extent that any State or local law im-
5 posing a tax on or measured by income provides for the
6 carryover of any tax attribute from one taxable period to
7 a subsequent taxable period, the estate shall succeed to
8 such tax attribute in any case in which such estate is sub-
9 ject to tax under subsection (a).

10 “(2) After such a case is closed or dismissed, the
11 debtor shall succeed to any tax attribute to which the es-
12 tate succeeded under paragraph (1) to the extent con-
13 sistent with the Internal Revenue Code of 1986.

14 “(3) The estate may carry back any loss or tax at-
15 tribute to a taxable period of the debtor that ended before
16 the order for relief under this title to the extent that—

17 “(A) applicable State or local tax law provides
18 for a carryback in the case of the debtor; and

19 “(B) the same or a similar tax attribute may be
20 carried back by the estate to such a taxable period
21 of the debtor under the Internal Revenue Code of
22 1986.

23 “(j)(1) For purposes of any State or local law impos-
24 ing a tax on or measured by income, income is not realized
25 by the estate, the debtor, or a successor to the debtor by

1 reason of discharge of indebtedness in a case under this
2 title, except to the extent, if any, that such income is sub-
3 ject to tax under the Internal Revenue Code of 1986.

4 “(2) Whenever the Internal Revenue Code of 1986
5 provides that the amount excluded from gross income in
6 respect of the discharge of indebtedness in a case under
7 this title shall be applied to reduce the tax attributes of
8 the debtor or the estate, a similar reduction shall be made
9 under any State or local law imposing a tax on or meas-
10 ured by income to the extent such State or local law recog-
11 nizes such attributes. Such State or local law may also
12 provide for the reduction of other attributes to the extent
13 that the full amount of income from the discharge of in-
14 debtedness has not been applied.

15 “(k)(1) Except as provided in this section and section
16 505, the time and manner of filing tax returns and the
17 items of income, gain, loss, deduction, and credit of any
18 taxpayer shall be determined under applicable nonbank-
19 ruptcy law.

20 “(2) For Federal tax purposes, the provisions of this
21 section are subject to the Internal Revenue Code of 1986
22 and other applicable Federal nonbankruptcy law.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 728 of title 11, United States Code,
25 is repealed.

1 (2) Section 1146 of title 11, United States
2 Code, is amended by striking subsections (a) and (b)
3 and by redesignating subsections (c) and (d) as sub-
4 sections (a) and (b), respectively.

5 (3) Section 1231 of title 11, United States
6 Code, is amended by striking subsections (a) and (b)
7 and by redesignating subsections (c) and (d) as sub-
8 sections (a) and (b), respectively.

9 **SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX**
10 **RETURNS.**

11 Section 521 of title 11, United States Code, as
12 amended by this Act, is amended by adding at the end
13 the following:

14 “(k)(1) Notwithstanding any other provision of this
15 title, if the debtor fails to file a tax return that becomes
16 due after the commencement of the case or to properly
17 obtain an extension of the due date for filing such return,
18 the taxing authority may request that the court enter an
19 order converting or dismissing the case.

20 “(2) If the debtor does not file the required return
21 or obtain the extension referred to in paragraph (1) within
22 90 days after a request is filed by the taxing authority
23 under that paragraph, the court shall convert or dismiss
24 the case, whichever is in the best interests of creditors and
25 the estate.”.

1 **TITLE VIII—ANCILLARY AND**
 2 **OTHER CROSS-BORDER CASES**

3 **SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**
 4 **UNITED STATES CODE.**

5 (a) IN GENERAL.—Title 11, United States Code, is
 6 amended by inserting after chapter 13 the following:

7 **“CHAPTER 15—ANCILLARY AND OTHER**
 8 **CROSS-BORDER CASES**

“Sec.

“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.

“1503. International obligations of the United States.

“1504. Commencement of ancillary case.

“1505. Authorization to act in a foreign country.

“1506. Public policy exception.

“1507. Additional assistance.

“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND
 CREDITORS TO THE COURT

“1509. Right of direct access.

“1510. Limited jurisdiction.

“1511. Commencement of case under section 301 or 303.

“1512. Participation of a foreign representative in a case under this title.

“1513. Access of foreign creditors to a case under this title.

“1514. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING
 AND RELIEF

“1515. Application for recognition of a foreign proceeding.

“1516. Presumptions concerning recognition.

“1517. Order recognizing a foreign proceeding.

“1518. Subsequent information.

“1519. Relief that may be granted upon petition for recognition of a foreign
 proceeding.

“1520. Effects of recognition of a foreign main proceeding.

“1521. Relief that may be granted upon recognition of a foreign proceeding.

“1522. Protection of creditors and other interested persons.

“1523. Actions to avoid acts detrimental to creditors.

“1524. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND
FOREIGN REPRESENTATIVES

“1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.

“1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.

“1527. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. Commencement of a case under this title after recognition of a foreign main proceeding.

“1529. Coordination of a case under this title and a foreign proceeding.

“1530. Coordination of more than 1 foreign proceeding.

“1531. Presumption of insolvency based on recognition of a foreign main proceeding.

“1532. Rule of payment in concurrent proceedings.

1 “§ 1501. Purpose and scope of application

2 “(a) The purpose of this chapter is to incorporate the
3 Model Law on Cross-Border Insolvency so as to provide
4 effective mechanisms for dealing with cases of cross-border
5 insolvency with the objectives of—

6 “(1) cooperation between—

7 “(A) United States courts, United States
8 Trustees, trustees, examiners, debtors, and
9 debtors in possession; and

10 “(B) the courts and other competent au-
11 thorities of foreign countries involved in cross-
12 border insolvency cases;

13 “(2) greater legal certainty for trade and in-
14 vestment;

15 “(3) fair and efficient administration of cross-
16 border insolvencies that protects the interests of all

1 creditors, and other interested entities, including the
2 debtor;

3 “(4) protection and maximization of the value
4 of the debtor’s assets; and

5 “(5) facilitation of the rescue of financially
6 troubled businesses, thereby protecting investment
7 and preserving employment.

8 “(b) This chapter applies if—

9 “(1) assistance is sought in the United States
10 by a foreign court or a foreign representative in con-
11 nection with a foreign proceeding;

12 “(2) assistance is sought in a foreign country in
13 connection with a case under this title;

14 “(3) a foreign proceeding and a case under this
15 title with respect to the same debtor are taking place
16 concurrently; or

17 “(4) creditors or other interested persons in a
18 foreign country have an interest in requesting the
19 commencement of, or participating in, a case or pro-
20 ceeding under this title.

21 “(c) This chapter does not apply to—

22 “(1) a proceeding concerning an entity identi-
23 fied by exclusion in subsection 109(b);

24 “(2) an individual, or to an individual and such
25 individual’s spouse, who have debts within the limits

1 specified in section 109(e) and who are citizens of
2 the United States or aliens lawfully admitted for
3 permanent residence in the United States; or

4 “(3) an entity subject to a proceeding under the
5 Securities Investor Protection Act of 1970 (84 Stat.
6 1636 et seq.), a stockbroker subject to subchapter
7 III of chapter 7 of this title, or a commodity broker
8 subject to subchapter IV of chapter 7 of this title.

9 “SUBCHAPTER I—GENERAL PROVISIONS

10 “§ 1502. **Definitions**

11 “For the purposes of this chapter, the term—

12 “(1) ‘debtor’ means an entity that is the subject
13 of a foreign proceeding;

14 “(2) ‘establishment’ means any place of oper-
15 ations where the debtor carries out a nontransitory
16 economic activity;

17 “(3) ‘foreign court’ means a judicial or other
18 authority competent to control or supervise a foreign
19 proceeding;

20 “(4) ‘foreign main proceeding’ means a foreign
21 proceeding taking place in the country where the
22 debtor has the center of its main interests;

23 “(5) ‘foreign nonmain proceeding’ means a for-
24 eign proceeding, other than a foreign main pro-

1 ceeding, taking place in a country where the debtor
2 has an establishment;

3 “(6) ‘trustee’ includes a trustee, a debtor in
4 possession in a case under any chapter of this title,
5 or a debtor under chapter 9 of this title; and

6 “(7) ‘within the territorial jurisdiction of the
7 United States’ when used with reference to property
8 of a debtor refers to tangible property located within
9 the territory of the United States and intangible
10 property deemed under applicable nonbankruptcy
11 law to be located within that territory, including any
12 property subject to attachment or garnishment that
13 may properly be seized or garnished by an action in
14 a Federal or State court in the United States.

15 **“§ 1503. International obligations of the United States**

16 “To the extent that this chapter conflicts with an ob-
17 ligation of the United States arising out of any treaty or
18 other form of agreement to which it is a party with 1 or
19 more other countries, the requirements of the treaty or
20 agreement prevail.

21 **“§ 1504. Commencement of ancillary case**

22 “A case under this chapter is commenced by the filing
23 of a petition for recognition of a foreign proceeding under
24 section 1515.

1 **“§ 1505. Authorization to act in a foreign country**

2 “A trustee or another entity, including an examiner,
3 may be authorized by the court to act in a foreign country
4 on behalf of an estate created under section 541. An entity
5 authorized to act under this section may act in any way
6 permitted by the applicable foreign law.

7 **“§ 1506. Public policy exception**

8 “Nothing in this chapter prevents the court from re-
9 fusing to take an action governed by this chapter if the
10 action would be manifestly contrary to the public policy
11 of the United States.

12 **“§ 1507. Additional assistance**

13 “(a) Subject to the specific limitations under other
14 provisions of this chapter, the court, upon recognition of
15 a foreign proceeding, may provide additional assistance to
16 a foreign representative under this title or under other
17 laws of the United States.

18 “(b) In determining whether to provide additional as-
19 sistance under this title or under other laws of the United
20 States, the court shall consider whether such additional
21 assistance, consistent with the principles of comity, will
22 reasonably assure—

23 “(1) just treatment of all holders of claims
24 against or interests in the debtor’s property;

1 “(2) protection of claim holders in the United
2 States against prejudice and inconvenience in the
3 processing of claims in such foreign proceeding;

4 “(3) prevention of preferential or fraudulent
5 dispositions of property of the debtor;

6 “(4) distribution of proceeds of the debtor’s
7 property substantially in accordance with the order
8 prescribed by this title; and

9 “(5) if appropriate, the provision of an oppor-
10 tunity for a fresh start for the individual that such
11 foreign proceeding concerns.

12 **“§ 1508. Interpretation**

13 “In interpreting this chapter, the court shall consider
14 its international origin, and the need to promote an appli-
15 cation of this chapter that is consistent with the applica-
16 tion of similar statutes adopted by foreign jurisdictions.

17 **“SUBCHAPTER II—ACCESS OF FOREIGN REP-**
18 **RESENTATIVES AND CREDITORS TO THE**
19 **COURT**

20 **“§ 1509. Right of direct access**

21 “(a) A foreign representative is entitled to commence
22 a case under section 1504 by filing a petition for recogni-
23 tion under section 1515, and upon recognition, to apply
24 directly to other Federal and State courts for appropriate
25 relief in those courts.

1 “(b) Upon recognition, and subject to section 1510,
2 a foreign representative shall have the capacity to sue and
3 be sued, and shall be subject to the laws of the United
4 States of general applicability.

5 “(c) Subject to section 1510, a foreign representative
6 is subject to laws of general application.

7 “(d) Recognition under this chapter is prerequisite to
8 the granting of comity or cooperation to a foreign rep-
9 resentative in any Federal or State court in the United
10 States. Any request for comity or cooperation by a foreign
11 representative in any court shall be accompanied by a
12 sworn statement setting forth whether recognition under
13 section 1515 has been sought and the status of any such
14 petition.

15 “(e) Upon denial of recognition under this chapter,
16 the court may issue appropriate orders necessary to pre-
17 vent an attempt to obtain comity or cooperation from
18 courts in the United States without such recognition.

19 **“§ 1510. Limited jurisdiction**

20 “The sole fact that a foreign representative files a
21 petition under section 1515 does not subject the foreign
22 representative to the jurisdiction of any court in the
23 United States for any other purpose.

1 **“§ 1511. Commencement of case under section 301 or**
2 **303**

3 “(a) Upon recognition, a foreign representative may
4 commence—

5 “(1) an involuntary case under section 303; or

6 “(2) a voluntary case under section 301 or 302,
7 if the foreign proceeding is a foreign main pro-
8 ceeding.

9 “(b) The petition commencing a case under sub-
10 section (a) must be accompanied by a statement describ-
11 ing the petition for recognition and its current status. The
12 court where the petition for recognition has been filed
13 must be advised of the foreign representative’s intent to
14 commence a case under subsection (a) prior to such com-
15 mencement.

16 **“§ 1512. Participation of a foreign representative in a**
17 **case under this title**

18 “Upon recognition of a foreign proceeding, the for-
19 eign representative in that proceeding is entitled to par-
20 ticipate as a party in interest in a case regarding the debt-
21 or under this title.

22 **“§ 1513. Access of foreign creditors to a case under**
23 **this title**

24 “(a) Foreign creditors have the same rights regarding
25 the commencement of, and participation in, a case under
26 this title as domestic creditors.

1 a view to notifying any creditor whose address is not yet
2 known.

3 “(b) Such notification to creditors with foreign ad-
4 dresses described in subsection (a) shall be given individ-
5 ually, unless the court considers that, under the cir-
6 cumstances, some other form of notification would be
7 more appropriate. No letters rogatory or other similar for-
8 mality is required.

9 “(c) When a notification of commencement of a case
10 is to be given to foreign creditors, the notification shall—

11 “(1) indicate the time period for filing proofs of
12 claim and specify the place for their filing;

13 “(2) indicate whether secured creditors need to
14 file their proofs of claim; and

15 “(3) contain any other information required to
16 be included in such a notification to creditors pursu-
17 ant to this title and the orders of the court.

18 “(d) Any rule of procedure or order of the court as
19 to notice or the filing of a claim shall provide such addi-
20 tional time to creditors with foreign addresses as is rea-
21 sonable under the circumstances.

1 “SUBCHAPTER III—RECOGNITION OF A
2 FOREIGN PROCEEDING AND RELIEF

3 **“§ 1515. Application for recognition of a foreign pro-**
4 **ceeding**

5 “(a) A foreign representative applies to the court for
6 recognition of the foreign proceeding in which the foreign
7 representative has been appointed by filing a petition for
8 recognition.

9 “(b) A petition for recognition shall be accompanied
10 by—

11 “(1) a certified copy of the decision com-
12 mencing the foreign proceeding and appointing the
13 foreign representative;

14 “(2) a certificate from the foreign court affirm-
15 ing the existence of the foreign proceeding and of
16 the appointment of the foreign representative; or

17 “(3) in the absence of evidence referred to in
18 paragraphs (1) and (2), any other evidence accept-
19 able to the court of the existence of the foreign pro-
20 ceeding and of the appointment of the foreign rep-
21 resentative.

22 “(c) A petition for recognition shall also be accom-
23 panied by a statement identifying all foreign proceedings
24 with respect to the debtor that are known to the foreign
25 representative.

1 “(d) The documents referred to in paragraphs (1)
2 and (2) of subsection (b) must be translated into English.
3 The court may require a translation into English of addi-
4 tional documents.

5 **“§ 1516. Presumptions concerning recognition**

6 “(a) If the decision or certificate referred to in section
7 1515(b) indicates that the foreign proceeding is a foreign
8 proceeding as defined in section 101 and that the person
9 or body is a foreign representative as defined in section
10 101, the court is entitled to so presume.

11 “(b) The court is entitled to presume that documents
12 submitted in support of the petition for recognition are
13 authentic, whether or not they have been legalized.

14 “(c) In the absence of evidence to the contrary, the
15 debtor’s registered office, or habitual residence in the case
16 of an individual, is presumed to be the center of the debt-
17 or’s main interests.

18 **“§ 1517. Order recognizing a foreign proceeding**

19 “(a) Subject to section 1506, after notice and a hear-
20 ing an order recognizing a foreign proceeding shall be en-
21 tered if—

22 “(1) the foreign proceeding is a foreign main
23 proceeding or foreign nonmain proceeding within the
24 meaning of section 1502;

1 “(2) the foreign representative applying for rec-
2 ognition is a person or body as defined in section
3 101; and

4 “(3) the petition meets the requirements of sec-
5 tion 1515.

6 “(b) The foreign proceeding shall be recognized—

7 “(1) as a foreign main proceeding if it is taking
8 place in the country where the debtor has the center
9 of its main interests; or

10 “(2) as a foreign nonmain proceeding if the
11 debtor has an establishment within the meaning of
12 section 1502 in the foreign country where the pro-
13 ceeding is pending.

14 “(c) A petition for recognition of a foreign proceeding
15 shall be decided upon at the earliest possible time. Entry
16 of an order recognizing a foreign proceeding shall con-
17 stitute recognition under this chapter.

18 “(d) The provisions of this subchapter do not prevent
19 modification or termination of recognition if it is shown
20 that the grounds for granting it were fully or partially
21 lacking or have ceased to exist, but in considering such
22 action the court shall give due weight to possible prejudice
23 to parties that have relied upon the granting of recogni-
24 tion. The case under this chapter may be closed in the
25 manner prescribed for a case under section 350.

1 **“§ 1518. Subsequent information**

2 “After the petition for recognition of the foreign pro-
3 ceeding is filed, the foreign representative shall file with
4 the court promptly a notice of change of status
5 concerning—

6 “(1) any substantial change in the status of the
7 foreign proceeding or the status of the foreign rep-
8 resentative’s appointment; and

9 “(2) any other foreign proceeding regarding the
10 debtor that becomes known to the foreign represent-
11 ative.

12 **“§ 1519. Relief that may be granted upon petition for**
13 **recognition of a foreign proceeding**

14 “(a) Beginning on the date on which a petition for
15 recognition is filed and ending on the date on which the
16 petition is decided upon, the court may, at the request of
17 the foreign representative, where relief is urgently needed
18 to protect the assets of the debtor or the interests of the
19 creditors, grant relief of a provisional nature, including—

20 “(1) staying execution against the debtor’s as-
21 sets;

22 “(2) entrusting the administration or realiza-
23 tion of all or part of the debtor’s assets located in
24 the United States to the foreign representative or
25 another person authorized by the court, including an
26 examiner, in order to protect and preserve the value

1 of assets that, by their nature or because of other
2 circumstances, are perishable, susceptible to devalu-
3 ation, or otherwise in jeopardy; and

4 “(3) any relief referred to in paragraph (3),
5 (4), or (7) of section 1521(a).

6 “(b) Unless extended under section 1521(a)(6), the
7 relief granted under this section terminates when the peti-
8 tion for recognition is decided upon.

9 “(c) It is a ground for denial of relief under this sec-
10 tion that such relief would interfere with the administra-
11 tion of a foreign main proceeding.

12 “(d) The court may not enjoin a police or regulatory
13 act of a governmental unit, including a criminal action or
14 proceeding, under this section.

15 “(e) The standards, procedures, and limitations ap-
16 plicable to an injunction shall apply to relief under this
17 section.

18 **“§ 1520. Effects of recognition of a foreign main pro-**
19 **ceeding**

20 “(a) Upon recognition of a foreign proceeding that
21 is a foreign main proceeding—

22 “(1) section 362 applies with respect to the
23 debtor and that property of the debtor that is within
24 the territorial jurisdiction of the United States;

1 “(2) a transfer, an encumbrance, or any other
2 disposition of an interest of the debtor in property
3 within the territorial jurisdiction of the United
4 States is restrained as and to the extent that is pro-
5 vided for property of an estate under sections 363,
6 549, and 552; and

7 “(3) unless the court orders otherwise, the for-
8 eign representative may operate the debtor’s busi-
9 ness and may exercise the powers of a trustee under
10 section 549, subject to sections 363 and 552.

11 “(b) The scope, and the modification or termination,
12 of the stay and restraints referred to in subsection (a) are
13 subject to the exceptions and limitations provided in sub-
14 sections (b), (c), and (d) of section 362, subsections (b)
15 and (c) of section 363, and sections 552, 555 through 557,
16 559, and 560.

17 “(c) Subsection (a) does not affect the right to com-
18 mence individual actions or proceedings in a foreign coun-
19 try to the extent necessary to preserve a claim against the
20 debtor.

21 “(d) Subsection (a) does not affect the right of a for-
22 eign representative or an entity to file a petition com-
23 mencing a case under this title or the right of any party
24 to file claims or take other proper actions in such a case.

1 **“§ 1521. Relief that may be granted upon recognition**
2 **of a foreign proceeding**

3 “(a) Upon recognition of a foreign proceeding, wheth-
4 er main or nonmain, where necessary to effectuate the
5 purpose of this chapter and to protect the assets of the
6 debtor or the interests of the creditors, the court may, at
7 the request of the foreign representative, grant any appro-
8 priate relief, including—

9 “(1) staying the commencement or continuation
10 of individual actions or individual proceedings con-
11 cerning the debtor’s assets, rights, obligations or li-
12 abilities to the extent the actions or proceedings
13 have not been stayed under section 1520(a);

14 “(2) staying execution against the debtor’s as-
15 sets to the extent the execution has not been stayed
16 under section 1520(a);

17 “(3) suspending the right to transfer, encumber
18 or otherwise dispose of any assets of the debtor to
19 the extent that right has not been suspended under
20 section 1520(a);

21 “(4) providing for the examination of witnesses,
22 the taking of evidence or the delivery of information
23 concerning the debtor’s assets, affairs, rights, obliga-
24 tions or liabilities;

25 “(5) entrusting the administration or realiza-
26 tion of all or part of the debtor’s assets within the

1 territorial jurisdiction of the United States to the
2 foreign representative or another person, including
3 an examiner, authorized by the court;

4 “(6) extending relief granted under section
5 1519(a); and

6 “(7) granting any additional relief that may be
7 available to a trustee, except for relief available
8 under sections 522, 544, 545, 547, 548, 550, and
9 724(a).

10 “(b) Upon recognition of a foreign proceeding, wheth-
11 er main or nonmain, the court may, at the request of the
12 foreign representative, entrust the distribution of all or
13 part of the debtor’s assets located in the United States
14 to the foreign representative or another person, including
15 an examiner, authorized by the court, if the court is satis-
16 fied that the interests of creditors in the United States
17 are sufficiently protected.

18 “(c) In granting relief under this section to a rep-
19 resentative of a foreign nonmain proceeding, the court
20 must be satisfied that the relief relates to assets that,
21 under the law of the United States, should be adminis-
22 tered in the foreign nonmain proceeding or concerns infor-
23 mation required in that proceeding.

1 comply with the qualification requirements imposed on a
2 trustee by section 322.

3 **“§ 1523. Actions to avoid acts detrimental to creditors**

4 “(a) Upon recognition of a foreign proceeding, the
5 foreign representative has standing in a case concerning
6 the debtor pending under another chapter of this title to
7 initiate actions under sections 522, 544, 545, 547, 548,
8 550, and 724(a).

9 “(b) In any case in which the foreign proceeding is
10 a foreign nonmain proceeding, the court must be satisfied
11 that an action under subsection (a) relates to assets that,
12 under United States law, should be administered in the
13 foreign nonmain proceeding.

14 **“§ 1524. Intervention by a foreign representative**

15 “Upon recognition of a foreign proceeding, the for-
16 eign representative may intervene in any proceedings in
17 a State or Federal court in the United States in which
18 the debtor is a party.

1 “SUBCHAPTER IV—COOPERATION WITH FOR-
2 EIGN COURTS AND FOREIGN REPRESENTA-
3 TIVES

4 **“§ 1525. Cooperation and direct communication be-
5 tween the court and foreign courts or for-
6 eign representatives**

7 “(a) Consistent with section 1501, the court shall co-
8 operate to the maximum extent possible with foreign
9 courts or foreign representatives, either directly or
10 through the trustee.

11 “(b) The court is entitled to communicate directly
12 with, or to request information or assistance directly from,
13 foreign courts or foreign representatives, subject to the
14 rights of parties in interest to notice and participation.

15 **“§ 1526. Cooperation and direct communication be-
16 tween the trustee and foreign courts or
17 foreign representatives**

18 “(a) Consistent with section 1501, the trustee or
19 other person, including an examiner, authorized by the
20 court, shall, subject to the supervision of the court, cooper-
21 ate to the maximum extent possible with foreign courts
22 or foreign representatives.

23 “(b) The trustee or other person, including an exam-
24 iner, authorized by the court is entitled, subject to the su-

1 pervision of the court, to communicate directly with for-
2 eign courts or foreign representatives.

3 **“§ 1527. Forms of cooperation**

4 “Cooperation referred to in sections 1525 and 1526
5 may be implemented by any appropriate means,
6 including—

7 “(1) appointment of a person or body, including
8 an examiner, to act at the direction of the court;

9 “(2) communication of information by any
10 means considered appropriate by the court;

11 “(3) coordination of the administration and su-
12 pervision of the debtor’s assets and affairs;

13 “(4) approval or implementation of agreements
14 concerning the coordination of proceedings; and

15 “(5) coordination of concurrent proceedings re-
16 garding the same debtor.

17 **“SUBCHAPTER V—CONCURRENT PROCEEDINGS**

18 **“§ 1528. Commencement of a case under this title**
19 **after recognition of a foreign main pro-**
20 **ceeding**

21 “After recognition of a foreign main proceeding, a
22 case under another chapter of this title may be commenced
23 only if the debtor has assets in the United States. The
24 effects of such case shall be restricted to the assets of the
25 debtor that are within the territorial jurisdiction of the

1 United States and, to the extent necessary to implement
2 cooperation and coordination under sections 1525, 1526,
3 and 1527, to other assets of the debtor that are within
4 the jurisdiction of the court under sections 541(a), and
5 1334(e) of title 28, to the extent that such other assets
6 are not subject to the jurisdiction and control of a foreign
7 proceeding that has been recognized under this chapter.

8 **“§ 1529. Coordination of a case under this title and a**
9 **foreign proceeding**

10 “In any case in which a foreign proceeding and a case
11 under another chapter of this title are taking place concu-
12 rrently regarding the same debtor, the court shall seek co-
13 operation and coordination under sections 1525, 1526,
14 and 1527, and the following shall apply:

15 “(1) If the case in the United States is taking
16 place at the time the petition for recognition of the
17 foreign proceeding is filed—

18 “(A) any relief granted under sections
19 1519 or 1521 must be consistent with the relief
20 granted in the case in the United States; and

21 “(B) even if the foreign proceeding is rec-
22 ognized as a foreign main proceeding, section
23 1520 does not apply.

24 “(2) If a case in the United States under this
25 title commences after recognition, or after the filing

1 of the petition for recognition, of the foreign
2 proceeding—

3 “(A) any relief in effect under sections
4 1519 or 1521 shall be reviewed by the court
5 and shall be modified or terminated if incon-
6 sistent with the case in the United States; and

7 “(B) if the foreign proceeding is a foreign
8 main proceeding, the stay and suspension re-
9 ferred to in section 1520(a) shall be modified or
10 terminated if inconsistent with the relief grant-
11 ed in the case in the United States.

12 “(3) In granting, extending, or modifying relief
13 granted to a representative of a foreign nonmain
14 proceeding, the court must be satisfied that the re-
15 lief relates to assets that, under the law of the
16 United States, should be administered in the foreign
17 nonmain proceeding or concerns information re-
18 quired in that proceeding.

19 “(4) In achieving cooperation and coordination
20 under sections 1528 and 1529, the court may grant
21 any of the relief authorized under section 305.

22 **“§ 1530. Coordination of more than 1 foreign pro-**
23 **ceeding**

24 “In matters referred to in section 1501, with respect
25 to more than 1 foreign proceeding regarding the debtor,

1 the court shall seek cooperation and coordination under
2 sections 1525, 1526, and 1527, and the following shall
3 apply:

4 “(1) Any relief granted under section 1519 or
5 1521 to a representative of a foreign nonmain pro-
6 ceeding after recognition of a foreign main pro-
7 ceeding must be consistent with the foreign main
8 proceeding.

9 “(2) If a foreign main proceeding is recognized
10 after recognition, or after the filing of a petition for
11 recognition, of a foreign nonmain proceeding, any
12 relief in effect under section 1519 or 1521 shall be
13 reviewed by the court and shall be modified or termi-
14 nated if inconsistent with the foreign main pro-
15 ceeding.

16 “(3) If, after recognition of a foreign nonmain
17 proceeding, another foreign nonmain proceeding is
18 recognized, the court shall grant, modify, or termi-
19 nate relief for the purpose of facilitating coordina-
20 tion of the proceedings.

21 **“§ 1531. Presumption of insolvency based on recogni-**
22 **tion of a foreign main proceeding**

23 “‘In the absence of evidence to the contrary, recogni-
24 tion of a foreign main proceeding is for the purpose of
25 commencing a proceeding under section 303, proof that

1 the debtor is generally not paying its debts as such debts
2 become due.

3 **“§ 1532. Rule of payment in concurrent proceedings**

4 “Without prejudice to secured claims or rights in
5 rem, a creditor who has received payment with respect to
6 its claim in a foreign proceeding pursuant to a law relating
7 to insolvency may not receive a payment for the same
8 claim in a case under any other chapter of this title re-
9 garding the debtor, so long as the payment to other credi-
10 tors of the same class is proportionately less than the pay-
11 ment the creditor has already received.”.

12 (b) CLERICAL AMENDMENT.—The table of chapters
13 for title 11, United States Code, is amended by inserting
14 after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Cases 1501”.

15 **SEC. 802. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**
16 **UNITED STATES CODE.**

17 (a) APPLICABILITY OF CHAPTERS.—Section 103 of
18 title 11, United States Code, is amended—

19 (1) in subsection (a), by inserting before the pe-
20 riod the following: “, and this chapter, sections 307,
21 304, 555 through 557, 559, and 560 apply in a case
22 under chapter 15”; and

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

24 “(j) Chapter 15 applies only in a case under such
25 chapter, except that—

1 “(1) sections 1513 and 1514 apply in all cases
2 under this title; and

3 “(2) section 1505 applies to trustees and to any
4 other entity (including an examiner) authorized by
5 the court under chapter 7, 11, or 12, to debtors in
6 possession under chapter 11 or 12, and to debtors
7 under chapter 9 who are authorized to act under
8 section 1505.”.

9 (b) DEFINITIONS.—Paragraphs (23) and (24) of sec-
10 tion 101 of title 11, United States Code, are amended to
11 read as follows:

12 “(23) ‘foreign proceeding’ means a collective ju-
13 dicial or administrative proceeding in a foreign coun-
14 try, including an interim proceeding, pursuant to a
15 law relating to insolvency in which proceeding the
16 assets and affairs of the debtor are subject to con-
17 trol or supervision by a foreign court, for the pur-
18 pose of reorganization or liquidation;

19 “(24) ‘foreign representative’ means a person
20 or body, including a person or body appointed on an
21 interim basis, authorized in a foreign proceeding to
22 administer the reorganization or the liquidation of
23 the debtor’s assets or affairs or to act as a rep-
24 resentative of the foreign proceeding;”.

1 (c) AMENDMENTS TO TITLE 28, UNITED STATES
2 CODE.—

3 (1) PROCEDURES.—Section 157(b)(2) of title
4 28, United States Code, is amended—

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

7 (B) in subparagraph (O), by striking the
8 period at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(P) recognition of foreign proceedings and
11 other matters under chapter 15 of title 11.”.

12 (2) BANKRUPTCY CASES AND PROCEEDINGS.—
13 Section 1334(c)(1) of title 28, United States Code,
14 is amended by striking “Nothing in” and inserting
15 “Except with respect to a case under chapter 15 of
16 title 11, nothing in”.

17 (3) DUTIES OF TRUSTEES.—Section 586(a)(3)
18 of title 28, United States Code, is amended by in-
19 serting “15,” after “chapter”.

20 **SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN**
21 **CASES ANCILLARY TO FOREIGN PRO-**
22 **CEEDINGS.**

23 Section 304 of title 11, United States Code, is
24 amended to read as follows:

1 **“§ 304. Cases ancillary to foreign proceedings**

2 “(a) For purposes of this section—

3 “(1) the term ‘domestic insurance company’
4 means a domestic insurance company, as such term
5 is used in section 109(b)(2);

6 “(2) the term ‘foreign insurance company’
7 means a foreign insurance company, as such term is
8 used in section 109(b)(3);

9 “(3) the term ‘United States claimant’ means a
10 beneficiary of any deposit referred to in subsection
11 (b) or any multibeneficiary trust referred to in sub-
12 section (b);

13 “(4) the term ‘United States creditor’ means,
14 with respect to a foreign insurance company—

15 “(i) a United States claimant; or

16 “(ii) any business entity that operates in
17 the United States and that is a creditor; and

18 “(5) the term ‘United States policyholder’
19 means a holder of an insurance policy issued in the
20 United States.

21 “(b) The court may not grant relief under chapter
22 15 of this title with respect to any deposit, escrow, trust
23 fund, or other security required or permitted under any
24 applicable State insurance law or regulation for the benefit
25 of claim holders in the United States.”.

1 **TITLE IX—FINANCIAL**
2 **CONTRACT PROVISIONS**

3 **SEC. 901. BANKRUPTCY CODE AMENDMENTS.**

4 (a) DEFINITIONS OF FORWARD CONTRACT, REPUR-
5 CHASE AGREEMENT, SECURITIES CLEARING AGENCY,
6 SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES
7 CONTRACT.—Title 11, United States Code, is
8 amended—

9 (1) in section 101—

10 (A) in paragraph (25)—

11 (i) by striking “means a contract”

12 and inserting “means—

13 “(A) a contract”;

14 (ii) by striking “, or any combination

15 thereof or option thereon;” and inserting

16 “, or any other similar agreement;”; and

17 (iii) by adding at the end the fol-

18 lowing:

19 “(B) a combination of agreements or

20 transactions referred to in subparagraphs (A)

21 and (C);

22 “(C) an option to enter into an agreement

23 or transaction referred to in subparagraph (A)

24 or (B);

1 “(D) a master netting agreement that pro-
2 vides for an agreement or transaction referred
3 to in subparagraph (A), (B), or (C), together
4 with all supplements to such master netting
5 agreement, without regard to whether such
6 master netting agreement provides for an
7 agreement or transaction that is not a forward
8 contract under this paragraph, except that such
9 master netting agreement shall be considered to
10 be a forward contract under this paragraph
11 only with respect to each agreement or trans-
12 action under such master netting agreement
13 that is referred to in subparagraph (A), (B) or
14 (C); or

15 “(E) a security agreement or arrangement,
16 or other credit enhancement, directly pertaining
17 to a contract, option, agreement, or transaction
18 referred to in subparagraph (A), (B), (C), or
19 (D), but not to exceed the actual value of such
20 contract, option, agreement, or transaction on
21 the date of the filing of the petition;”;

22 (B) by striking paragraph (47) and insert-
23 ing the following:

24 “(47) ‘repurchase agreement’ and ‘reverse re-
25 purchase agreement’—

1 “(A) mean—

2 “(i) an agreement, including related
3 terms, which provides for the transfer of—

4 “(I) a certificate of deposit,
5 mortgage related security (as defined
6 in section 3 of the Securities Ex-
7 change Act of 1934), mortgage loan,
8 interest in a mortgage related security
9 or mortgage loan, eligible bankers’ ac-
10 ceptance, or qualified foreign govern-
11 ment security (defined for purposes of
12 this paragraph to mean a security
13 that is a direct obligation of, or that
14 is fully guaranteed by, the central
15 government of a member of the Orga-
16 nization for Economic Cooperation
17 and Development); or

18 “(II) a security that is a direct
19 obligation of, or that is fully guaran-
20 teed by, the United States or an agen-
21 cy of the United States against the
22 transfer of funds by the transferee of
23 such certificate of deposit, eligible
24 bankers’ acceptance, security, loan, or
25 interest;

1 with a simultaneous agreement by such
2 transferee to transfer to the transferor
3 thereof a certificate of deposit, eligible
4 bankers' acceptance, security, loan, or in-
5 terest of the kind described in subclause
6 (I) or (II), at a date certain that is not
7 later than 1 year after the date of the
8 transferor's transfer or on demand, against
9 the transfer of funds;

10 “(ii) a combination of agreements or
11 transactions referred to in clauses (i) and
12 (iii);

13 “(iii) an option to enter into an agree-
14 ment or transaction referred to in clause
15 (i) or (ii); or

16 “(iv) a master netting agreement that
17 provides for an agreement or transaction
18 referred to in clause (i), (ii), or (iii), to-
19 gether with all supplements to such master
20 netting agreement, without regard to
21 whether such master netting agreement
22 provides for an agreement or transaction
23 that is not a repurchase agreement under
24 this subparagraph, except that such master
25 netting agreement shall be considered to be

1 a repurchase agreement under this sub-
2 paragraph only with respect to each agree-
3 ment or transaction under such master
4 netting agreement that is referred to in
5 clause (i), (ii), or (iii); or

6 “(v) a security agreement or arrange-
7 ment, or other credit enhancement, directly
8 pertaining to a contract referred to in
9 clause (i), (ii), (iii), or (iv), but not to ex-
10 ceed the actual value of such contract on
11 the date of the filing of the petition; and

12 “(B) do not include a repurchase obliga-
13 tion under a participation in a commercial
14 mortgage loan;”;

15 (C) in paragraph (48) by inserting “, or
16 exempt from such registration under such sec-
17 tion pursuant to an order of the Securities and
18 Exchange Commission” after “1934”; and

19 (D) by striking paragraph (53B) and in-
20 serting the following:

21 “(53B) ‘swap agreement’—

22 “(A) means—

23 “(i) an agreement, including the
24 terms and conditions incorporated by ref-
25 erence in such agreement, that is—

1 “(I) an interest rate swap, op-
2 tion, future, or forward agreement, in-
3 cluding a rate floor, rate cap, rate col-
4 lar, cross-currency rate swap, and
5 basis swap;

6 “(II) a spot, same day-tomorrow,
7 tomorrow-next, forward, or other for-
8 eign exchange or precious metals
9 agreement;

10 “(III) a currency swap, option,
11 future, or forward agreement;

12 “(IV) an equity index or an eq-
13 uity swap, option, future, or forward
14 agreement;

15 “(V) a debt index or a debt swap,
16 option, future, or forward agreement;

17 “(VI) a credit spread or a credit
18 swap, option, future, or forward
19 agreement; or

20 “(VII) a commodity index or a
21 commodity swap, option, future, or
22 forward agreement;

23 “(ii) an agreement or transaction that
24 is similar to an agreement or transaction
25 referred to in clause (i) that—

1 “(I) is currently, or in the future
2 becomes, regularly entered into in the
3 swap market (including terms and
4 conditions incorporated by reference
5 therein); and

6 “(II) is a forward, swap, future,
7 or option on a rate, currency, com-
8 modity, equity security, or other eq-
9 uity instrument, on a debt security or
10 other debt instrument, or on an eco-
11 nomic index or measure of economic
12 risk or value;

13 “(iii) a combination of agreements or
14 transactions referred to in clauses (i) and
15 (ii);

16 “(iv) an option to enter into an agree-
17 ment or transaction referred to in this sub-
18 paragraph;

19 “(v) a master netting agreement that
20 provides for an agreement or transaction
21 referred to in clause (i), (ii), (iii), or (iv),
22 together with all supplements to such mas-
23 ter netting agreement and without regard
24 to whether such master netting agreement
25 contains an agreement or transaction de-

1 scribed in any such clause, but only with
2 respect to each agreement or transaction
3 referred to in any such clause that is under
4 such master netting agreement; except that
5 “(B) the definition under subparagraph
6 (A) is applicable for purposes of this title only,
7 and shall not be construed or applied so as to
8 challenge or affect the characterization, defini-
9 tion, or treatment of any swap agreement under
10 any other statute, regulation, or rule, including
11 the Securities Act of 1933, the Securities Ex-
12 change Act of 1934, the Public Utility Holding
13 Company Act of 1935, the Trust Indenture Act
14 of 1939, the Investment Company Act of 1940,
15 the Investment Advisers Act of 1940, the Secu-
16 rities Investor Protection Act of 1970, the Com-
17 modity Exchange Act, and the regulations pre-
18 scribed by the Securities and Exchange Com-
19 mission or the Commodity Futures Trading
20 Commission.”;

21 (2) in section 741, by striking paragraph (7)
22 and inserting the following:

23 “(7) ‘securities contract’—

24 “(A) means—

1 “(i) a contract for the purchase, sale,
2 or loan of a security, a mortgage loan or
3 an interest in a mortgage loan, a group or
4 index of securities, or mortgage loans or
5 interests therein (including an interest
6 therein or based on the value thereof), or
7 option on any of the foregoing, including
8 an option to purchase or sell any of the
9 foregoing;

10 “(ii) an option entered into on a na-
11 tional securities exchange relating to for-
12 eign currencies;

13 “(iii) the guarantee by or to a securi-
14 ties clearing agency of a settlement of
15 cash, securities, mortgage loans or inter-
16 ests therein, group or index of securities,
17 or mortgage loans or interests therein (in-
18 cluding any interest therein or based on
19 the value thereof), or option on any of the
20 foregoing, including an option to purchase
21 or sell any of the foregoing;

22 “(iv) a margin loan;

23 “(v) any other agreement or trans-
24 action that is similar to an agreement or

1 transaction referred to in this subpara-
2 graph;

3 “(vi) a combination of the agreements
4 or transactions referred to in this subpara-
5 graph;

6 “(vii) an option to enter into an
7 agreement or transaction referred to in
8 this subparagraph;

9 “(viii) a master netting agreement
10 that provides for an agreement or trans-
11 action referred to in clause (i), (ii), (iii),
12 (iv), (v), (vi), or (vii), together with all
13 supplements to such master netting agree-
14 ment, without regard to whether such mas-
15 ter netting agreement provides for an
16 agreement or transaction that is not a se-
17 curities contract under this subparagraph,
18 except that such master netting agreement
19 shall be considered to be a securities con-
20 tract under this subparagraph only with
21 respect to each agreement or transaction
22 under such master netting agreement that
23 is referred to in clause (i), (ii), (iii), (iv),
24 (v), (vi), or (vii); or

1 “(ix) a security agreement or arrange-
2 ment, or other credit enhancement, directly
3 pertaining to a contract referred to in this
4 subparagraph, but not to exceed the actual
5 value of such contract on the date of the
6 filing of the petition; and

7 “(B) does not include a purchase, sale, or
8 repurchase obligation under a participation in a
9 commercial mortgage loan;”;

10 (3) in section 761(4)—

11 (A) by striking “or” at the end of subpara-
12 graph (D); and

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

14 “(F) any other agreement or transaction
15 that is similar to an agreement or transaction
16 referred to in this paragraph;

17 “(G) a combination of the agreements or
18 transactions referred to in this paragraph;

19 “(H) an option to enter into an agreement
20 or transaction referred to in this paragraph;

21 “(I) a master netting agreement that pro-
22 vides for an agreement or transaction referred
23 to in subparagraph (A), (B), (C), (D), (E), (F),
24 (G), or (H), together with all supplements to
25 such master netting agreement, without regard

1 to whether such master netting agreement pro-
2 vides for an agreement or transaction that is
3 not a commodity contract under this paragraph,
4 except that such master netting agreement shall
5 be considered to be a commodity contract under
6 this paragraph only with respect to each agree-
7 ment or transaction under such master netting
8 agreement that is referred to in subparagraph
9 (A), (B), (C), (D), (E), (F), (G), or (H); or

10 “(J) a security agreement or arrangement,
11 or other credit enhancement, directly pertaining
12 to a contract referred to in this paragraph, but
13 not to exceed the actual value of such contract
14 on the date of the filing of the petition.”.

15 (b) DEFINITIONS OF FINANCIAL INSTITUTION, FI-
16 NANCIAL PARTICIPANT, AND FORWARD CONTRACT MER-
17 CHANT.—Section 101 of title 11, United States Code, as
18 amended by section 802(b) of this Act, is amended—

19 (1) by striking paragraph (22) and inserting
20 the following:

21 “(22) ‘financial institution’ means—

22 “(A)(i) a Federal reserve bank, or an enti-
23 ty that is a commercial or savings bank, indus-
24 trial savings bank, savings and loan association,

1 trust company, or receiver or conservator for
2 such entity; and

3 “(ii) if such Federal reserve bank, receiver,
4 or conservator or entity is acting as agent or
5 custodian for a customer in connection with a
6 securities contract, as defined in section 741,
7 such customer; or

8 “(B) in connection with a securities con-
9 tract, as defined in section 741 of this title, an
10 investment company registered under the In-
11 vestment Company Act of 1940;”;

12 (2) by inserting after paragraph (22) the fol-
13 lowing:

14 “(22A) ‘financial participant’ means an entity
15 that is a party to a securities contract, commodity
16 contract or forward contract, or on the date of the
17 filing of the petition, has a commodity contract (as
18 defined in section 761) with the debtor or any other
19 entity (other than an affiliate) of a total gross dollar
20 value of not less than \$1,000,000,000 in notional or
21 actual principal amount outstanding on any day dur-
22 ing the previous 15-month period, or has gross
23 mark-to-market positions of not less than
24 \$100,000,000 (aggregated across counterparties) in
25 any such agreement or transaction with the debtor

1 or any other entity (other than an affiliate) on any
2 day during the previous 15-month period;” and

3 (3) by striking paragraph (26) and inserting
4 the following:

5 “(26) ‘forward contract merchant’ means a
6 Federal reserve bank, or an entity, the business of
7 which consists in whole or in part of entering into
8 forward contracts as or with merchants or in a com-
9 modity, as defined or in section 761, or any similar
10 good, article, service, right, or interest that is pres-
11 ently or in the future becomes the subject of dealing
12 or in the forward contract trade;”.

13 (c) DEFINITION OF MASTER NETTING AGREEMENT
14 AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-
15 tion 101 of title 11, United States Code, as amended by
16 subsection (b) of this section, is amended by inserting
17 after paragraph (38) the following new paragraphs:

18 “(38A) the term ‘master netting agreement’—

19 “(A) means an agreement providing for
20 the exercise of rights, including rights of net-
21 ting, setoff, liquidation, termination, accelera-
22 tion, or closeout, under or in connection with 1
23 or more contracts that are described in any 1
24 or more of paragraphs (1) through (5) of sec-
25 tion 561(a), or any security agreement or ar-

1 rangement or other credit enhancement related
2 to 1 or more of the foregoing; except that

3 “(B) if a master netting agreement con-
4 tains provisions relating to agreements or trans-
5 actions that are not contracts described in para-
6 graphs (1) through (5) of section 561(a), the
7 master netting agreement shall be deemed to be
8 a master netting agreement only with respect to
9 those agreements or transactions that are de-
10 scribed in any 1 or more of the paragraphs (1)
11 through (5) of section 561(a);

12 “(38B) the term ‘master netting agreement
13 participant’ means an entity that, at any time before
14 the filing of the petition, is a party to an out-
15 standing master netting agreement with the debt-
16 or;”.

17 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,
18 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-
19 CHASE AGREEMENTS, AND MASTER NETTING AGREE-
20 MENTS UNDER THE AUTOMATIC STAY.—

21 (1) IN GENERAL.—Section 362(b) of title 11,
22 United States Code, as amended by section 718 of
23 this Act, is amended—

1 (A) in paragraph (6), by inserting “,
2 pledged to, and under the control of,” after
3 “held by”;

4 (B) in paragraph (7), by inserting “,
5 pledged to, and under the control of,” after
6 “held by”;

7 (C) by striking paragraph (17) and insert-
8 ing the following:

9 “(17) under subsection (a), of the setoff by a
10 swap participant of a mutual debt and claim under
11 or in connection with a swap agreement that con-
12 stitutes the setoff of a claim against the debtor for
13 a payment or transfer due from the debtor under or
14 in connection with a swap agreement against a pay-
15 ment due to the debtor from the swap participant
16 under or in connection with a swap agreement or
17 against cash, securities, or other property held by,
18 pledged to, and under the control of, or due from
19 such swap participant to guarantee, secure, or settle
20 a swap agreement;”;

21 (D) in paragraph (26), by striking “or” at
22 the end;

23 (E) in paragraph (27), by striking the pe-
24 riod at the end and inserting “; or”; and

1 (F) by inserting after paragraph (27) the
2 following:

3 “(28) under subsection (a), of the setoff by a
4 master netting agreement participant of a mutual
5 debt and claim under or in connection with 1 or
6 more master netting agreements or any contract or
7 agreement subject to such agreements that con-
8 stitutes the setoff of a claim against the debtor for
9 any payment or other transfer of property due from
10 the debtor under or in connection with such agree-
11 ments or any contract or agreement subject to such
12 agreements against any payment due to the debtor
13 from such master netting agreement participant
14 under or in connection with such agreements or any
15 contract or agreement subject to such agreements or
16 against cash, securities, or other property held by,
17 pledged or and under the control of, or due from
18 such master netting agreement participant to mar-
19 gin, guarantee, secure, or settle such agreements or
20 any contract or agreement subject to such agree-
21 ments, to the extent such participant is eligible to
22 exercise such offset rights under paragraph (6), (7),
23 or (17) for each individual contract covered by the
24 master netting agreement in issue.”.

1 (2) LIMITATION.—Section 362 of title 11,
2 United States Code, as amended by section 441(2)
3 of this Act, is amended by adding at the end the fol-
4 lowing:

5 “(1) LIMITATION.—The exercise of rights not subject
6 to the stay arising under subsection (a) pursuant to para-
7 graph (6), (7), or (17) of subsection (b) shall not be stayed
8 by an order of a court or administrative agency in any
9 proceeding under this title.”.

10 (e) LIMITATION OF AVOIDANCE POWERS UNDER
11 MASTER NETTING AGREEMENT.—Section 546 of title 11,
12 United States Code, is amended—

13 (1) in subsection (g) (as added by section 103
14 of Public Law 101–311 (104 Stat. 267 et seq.))—

15 (A) by striking “under a swap agreement”;

16 and

17 (B) by striking “in connection with a swap
18 agreement” and inserting “under or in connec-
19 tion with any swap agreement”; and

20 (2) by inserting before subsection (i) (as redes-
21 ignated by section 407 of this Act) the following new
22 subsection:

23 “(h) Notwithstanding sections 544, 545, 547,
24 548(a)(2)(B), and 548(b), the trustee may not avoid a
25 transfer made by or to a master netting agreement partici-

1 pant under or in connection with any master netting
2 agreement or any individual contract covered thereby that
3 is made before the commencement of the case, and except
4 to the extent that the trustee could otherwise avoid such
5 a transfer made under an individual contract covered by
6 such master netting agreement (except under section
7 548(a)(1)(A)).”.

8 (f) FRAUDULENT TRANSFERS OF MASTER NETTING
9 AGREEMENTS.—Section 548(d)(2) of title 11, United
10 States Code, is amended—

11 (1) in subparagraph (C), by striking “and”;

12 (2) in subparagraph (D), by striking the period
13 at the end and inserting “; and”; and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(E) a master netting agreement partici-
17 pant that receives a transfer in connection with
18 a master netting agreement or any individual
19 contract covered thereby takes for value to the
20 extent of such transfer, except, with respect to
21 a transfer under any individual contract covered
22 thereby, to the extent that such master netting
23 agreement participant otherwise did not take
24 (or is otherwise not deemed to have taken) such
25 transfer for value.”.

1 (g) TERMINATION OR ACCELERATION OF SECURITIES
2 CONTRACTS.—Section 555 of title 11, United States Code,
3 is amended—

4 (1) by striking the section heading and insert-
5 ing the following:

6 **“§ 555. Contractual right to liquidate, terminate, or**
7 **accelerate a securities contract”;**

8 and

9 (2) in the first sentence, by striking “liquida-
10 tion” and inserting “liquidation, termination, or ac-
11 celeration”.

12 (h) TERMINATION OR ACCELERATION OF COMMOD-
13 ITIES OR FORWARD CONTRACTS.—Section 556 of title 11,
14 United States Code, is amended—

15 (1) by striking the section heading and insert-
16 ing the following:

17 **“§ 556. Contractual right to liquidate, terminate, or**
18 **accelerate a commodities contract or for-**
19 **ward contract”;**

20 and

21 (2) in the first sentence, by striking “liquida-
22 tion” and inserting “liquidation, termination, or ac-
23 celeration”.

1 (i) TERMINATION OR ACCELERATION OF REPUR-
2 CHASE AGREEMENTS.—Section 559 of title 11, United
3 States Code, is amended—

4 (1) by striking the section heading and insert-
5 ing the following:

6 **“§ 559. Contractual right to liquidate, terminate, or**
7 **accelerate a repurchase agreement”;**

8 and

9 (2) in the first sentence, by striking “liquida-
10 tion” and inserting “liquidation, termination, or ac-
11 celeration”.

12 (j) LIQUIDATION, TERMINATION, OR ACCELERATION
13 OF SWAP AGREEMENTS.—Section 560 of title 11, United
14 States Code, is amended—

15 (1) by striking the section heading and insert-
16 ing following:

17 **“§ 560. Contractual right to liquidate, terminate, or**
18 **accelerate a swap agreement”;**

19 (2) in the first sentence, by striking “termi-
20 nation of a swap agreement” and inserting “liquida-
21 tion, termination, or acceleration of a swap agree-
22 ment”; and

23 (3) by striking “in connection with any swap
24 agreement” and inserting “in connection with the

1 termination, liquidation, or acceleration of a swap
2 agreement”.

3 (k) LIQUIDATION, TERMINATION, ACCELERATION, OR
4 OFFSET UNDER A MASTER NETTING AGREEMENT AND
5 ACROSS CONTRACTS.—Title 11, United States Code, is
6 amended by inserting after section 560 the following:

7 **“§ 561. Contractual right to terminate, liquidate, ac-**
8 **celerate, or offset under a master netting**
9 **agreement and across contracts**

10 “(a) Subject to subsection (b), the exercise of any
11 contractual right, because of a condition of the kind speci-
12 fied in section 365(e)(1), to cause the termination, liquida-
13 tion, or acceleration of or to offset or net termination val-
14 ues, payment amounts or other transfer obligations arising
15 under or in connection with 1 or more (or the termination,
16 liquidation, or acceleration of 1 or more)—

17 “(1) securities contracts, as defined in section
18 741(7);

19 “(2) commodity contracts, as defined in section
20 761(4);

21 “(3) forward contracts;

22 “(4) repurchase agreements;

23 “(5) swap agreements; or

24 “(6) master netting agreements,

1 shall not be stayed, avoided, or otherwise limited by oper-
2 ation of any provision of this title or by any order of a
3 court or administrative agency in any proceeding under
4 this title.

5 “(b)(1) A party may exercise a contractual right de-
6 scribed in subsection (a) to terminate, liquidate, or accel-
7 erate only to the extent that such party could exercise such
8 a right under section 555, 556, 559, or 560 for each indi-
9 vidual contract covered by the master netting agreement
10 in issue.

11 “(2) If a debtor is a commodity broker subject to sub-
12 chapter IV of chapter 7—

13 “(A) a party may not net or offset an obligation
14 to the debtor arising under, or in connection with,
15 a commodity contract against any claim arising
16 under, or in connection with, other instruments, con-
17 tracts, or agreements listed in subsection (a), except
18 to the extent that the party has positive net equity
19 in the commodity accounts at the debtor, as cal-
20 culated under such subchapter IV; and

21 “(B) another commodity broker may not net or
22 offset an obligation to the debtor arising under, or
23 in connection with, a commodity contract entered
24 into or held on behalf of a customer of the debtor
25 against any claim arising under, or in connection

1 with, other instruments, contracts, or agreements re-
2 ferred to in subsection (a).

3 “(c) As used in this section, the term ‘contractual
4 right’ includes a right set forth in a rule or bylaw of a
5 national securities exchange, a national securities associa-
6 tion, or a securities clearing agency, a right set forth in
7 a bylaw of a clearing organization or contract market or
8 in a resolution of the governing board thereof, and a right,
9 whether or not evidenced in writing, arising under com-
10 mon law, under law merchant, or by reason of normal
11 business practice.”.

12 (l) ANCILLARY PROCEEDINGS.—Section 304 of title
13 11, United States Code, is amended by adding at the end
14 the following:

15 “(d) Any provisions of this title relating to securities
16 contracts, commodity contracts, forward contracts, repur-
17 chase agreements, swap agreements, or master netting
18 agreements shall apply in a case ancillary to a foreign pro-
19 ceeding under this section or any other section of this title,
20 so that enforcement of contractual provisions of such con-
21 tracts and agreements in accordance with their terms—

22 “(1) shall not be stayed or otherwise limited
23 by—

24 “(A) operation of any provision of this
25 title; or

1 “(B) order of a court in any case under
2 this title;

3 “(2) shall limit avoidance powers to the same
4 extent as in a proceeding under chapter 7 or 11; and

5 “(3) shall not be limited based on the presence
6 or absence of assets of the debtor in the United
7 States.”.

8 (m) COMMODITY BROKER LIQUIDATIONS.—Title 11,
9 United States Code, is amended by inserting after section
10 766 the following:

11 “**§ 767. Commodity broker liquidation and forward**
12 **contract merchants, commodity brokers,**
13 **stockbrokers, financial institutions, secu-**
14 **rities clearing agencies, swap partici-**
15 **pants, repo participants, and master net-**
16 **ting agreement participants**

17 “Notwithstanding any other provision of this title,
18 the exercise of rights by a forward contract merchant,
19 commodity broker, stockbroker, financial institution, secu-
20 rities clearing agency, swap participant, repo participant,
21 or master netting agreement participant under this title
22 shall not affect the priority of any unsecured claim it may
23 have after the exercise of such rights.”.

1 (n) STOCKBROKER LIQUIDATIONS.—Title 11, United
2 States Code, is amended by inserting after section 752 the
3 following:

4 **“§ 753. Stockbroker liquidation and forward contract**
5 **merchants, commodity brokers, stock-**
6 **brokers, financial institutions, securities**
7 **clearing agencies, swap participants,**
8 **repo participants, and master netting**
9 **agreement participants**

10 “Notwithstanding any other provision of this title,
11 the exercise of rights by a forward contract merchant,
12 commodity broker, stockbroker, financial institution, secu-
13 rities clearing agency, swap participant, repo participant,
14 financial participant, or master netting agreement partici-
15 pant under this title shall not affect the priority of any
16 unsecured claim it may have after the exercise of such
17 rights.”.

18 (o) SETOFF.—Section 553 of title 11, United States
19 Code, is amended—

20 (1) in subsection (a)(3)(C), by inserting “(ex-
21 cept for a setoff of a kind described in section
22 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(28), 555,
23 556, 559, or 560)” before the period; and

1 (2) in subsection (b)(1), by striking
2 “362(b)(14),” and inserting “362(b)(17),
3 362(b)(28), 555, 556, 559, 560.”

4 (p) SECURITIES CONTRACTS, COMMODITY CON-
5 TRACTS, AND FORWARD CONTRACTS.—Title 11, United
6 States Code, is amended—

7 (1) in section 362(b)(6), by striking “financial
8 institutions,” each place such term appears and in-
9 serting “financial institution, financial participant”;

10 (2) in section 546(e), by inserting “financial
11 participant” after “financial institution,”;

12 (3) in section 548(d)(2)(B), by inserting “fi-
13 nancial participant” after “financial institution,”;

14 (4) in section 555—

15 (A) by inserting “financial participant”
16 after “financial institution,”; and

17 (B) by inserting before the period “, a
18 right set forth in a bylaw of a clearing organi-
19 zation or contract market or in a resolution of
20 the governing board thereof, and a right,
21 whether or not in writing, arising under com-
22 mon law, under law merchant, or by reason of
23 normal business practice”; and

24 (5) in section 556, by inserting “, financial par-
25 ticipant” after “commodity broker”.

1 (q) CONFORMING AMENDMENTS.—Title 11, United
2 States Code, is amended—

3 (1) in the table of sections for chapter 5—

4 (A) by striking the items relating to sec-
5 tions 555 and 556 and inserting the following:

“555. Contractual right to liquidate, terminate, or accelerate a securities con-
tract.

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

6 (B) by striking the items relating to sec-
7 tions 559 and 560 and inserting the following:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase
agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agree-
ment.”;

8 and

9 (C) by adding after the item relating to
10 section 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a
master netting agreement and across contracts.”;

11 and

12 (2) in the table of sections for chapter 7—

13 (A) by inserting after the item relating to
14 section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, com-
modity brokers, stockbrokers, financial institutions, securities
clearing agencies, swap participants, repo participants, and
master netting agreement participants.”;

15 and

16 (B) by inserting after the item relating to
17 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

1 **SEC. 902. DAMAGE MEASURE.**

2 (a) IN GENERAL.—Title 11, United States Code, is
3 amended—

4 (1) by inserting after section 561 the following:

5 **“§ 562. Damage measure in connection with swap**
6 **agreements, securities contracts, forward**
7 **contracts, commodity contracts, repur-**
8 **chase agreements, or master netting**
9 **agreements**

10 “If the trustee rejects a swap agreement, securities
11 contract (as defined in section 741), forward contract,
12 commodity contract (as defined in section 761) repurchase
13 agreement, or master netting agreement under section
14 365(a), or if a forward contract merchant, stockbroker,
15 financial institution, securities clearing agency, repo par-
16 ticipant, financial participant, master netting agreement
17 participant, or swap participant liquidates, terminates, or
18 accelerates such contract or agreement, damages shall be
19 measured as of the earlier of—

20 “(1) the date of such rejection; or

21 “(2) the date of such liquidation, termination,
22 or acceleration.”; and

1 (2) in the table of sections for chapter 5 by in-
2 serting after the item relating to section 561 the fol-
3 lowing:

“562. Damage measure in connection with swap agreements, securities con-
tracts, forward contracts, commodity contracts, repurchase
agreements, or master netting agreements.”.

4 (b) CLAIMS ARISING FROM REJECTION.—Section
5 502(g) of title 11, United States Code, is amended—

6 (1) by inserting “(1)” after “(g)”; and

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

8 “(2) A claim for damages calculated in accordance
9 with section 561 shall be allowed under subsection (a), (b),
10 or (c) of this section, or disallowed under subsection (d)
11 or (e) of this section, as if such claim had arisen before
12 the date of the filing of the petition.”.

13 **SEC. 903. ASSET-BACKED SECURITIZATIONS.**

14 Section 541 of title 11, United States Code, is
15 amended—

16 (1) in subsection (b), by striking “or” at the
17 end of paragraph (4);

18 (2) by redesignating paragraph (5) of sub-
19 section (b) as paragraph (6);

20 (3) by inserting after paragraph (4) of sub-
21 section (b) the following new paragraph:

22 “(5) any eligible asset (or proceeds thereof), to
23 the extent that such eligible asset was transferred by
24 the debtor, before the date of commencement of the

1 case, to an eligible entity in connection with an
2 asset-backed securitization, except to the extent that
3 such asset (or proceeds or value thereof) may be re-
4 covered by the trustee under section 550 by virtue
5 of avoidance under section 548(a); or”;

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

7 “(e) For purposes of this section, the following defini-
8 tions shall apply:

9 “(1) The term ‘asset-backed securitization’
10 means a transaction in which eligible assets trans-
11 ferred to an eligible entity are used as the source of
12 payment on securities, the most senior of which are
13 rated investment grade by 1 or more nationally rec-
14 ognized securities rating organizations, issued by an
15 issuer.

16 “(2) The term ‘eligible asset’ means—

17 “(A) financial assets (including interests
18 therein and proceeds thereof), either fixed or re-
19 volving, including residential and commercial
20 mortgage loans, consumer receivables, trade re-
21 ceivables, and lease receivables, that, by their
22 terms, convert into cash within a finite time pe-
23 riod, plus any rights or other assets designed to
24 assure the servicing or timely distribution of
25 proceeds to security holders;

1 “(B) cash; and

2 “(C) securities.

3 “(3) The term ‘eligible entity’ means—

4 “(A) an issuer; or

5 “(B) a trust, corporation, partnership, or
6 other entity engaged exclusively in the business
7 of acquiring and transferring eligible assets di-
8 rectly or indirectly to an issuer and taking ac-
9 tions ancillary thereto.

10 “(4) The term ‘issuer’ means a trust, corpora-
11 tion, partnership, or other entity engaged exclusively
12 in the business of acquiring and holding eligible as-
13 sets, issuing securities backed by eligible assets, and
14 taking actions ancillary thereto.

15 “(5) The term ‘transferred’ means the debtor,
16 under a written agreement, represented and war-
17 ranted that eligible assets were sold, contributed, or
18 otherwise conveyed with the intention of removing
19 them from the estate of the debtor pursuant to sub-
20 section (b)(5), irrespective, without limitation of—

21 “(A) whether the debtor directly or indi-
22 rectly obtained or held an interest in the issuer
23 or in any securities issued by the issuer;

24 “(B) whether the debtor had an obligation
25 to repurchase or to service or supervise the

1 servicing of all or any portion of such eligible
2 assets; or

3 “(C) the characterization of such sale, con-
4 tribution, or other conveyance for tax, account-
5 ing, regulatory reporting, or other purposes.”.

6 **SEC. 904. EFFECTIVE DATE; APPLICATION OF AMEND-**
7 **MENTS.**

8 (a) **EFFECTIVE DATE.**—This title shall take effect on
9 the date of enactment of this Act.

10 (b) **APPLICATION OF AMENDMENTS.**—The amend-
11 ments made by this title shall apply with respect to cases
12 commenced or appointments made under any Federal or
13 State law after the date of enactment of this Act, but shall
14 not apply with respect to cases commenced or appoint-
15 ments made under any Federal or State law before the
16 date of enactment of this Act.

17 **TITLE X—PROTECTION OF FAM-**
18 **ILY FARMERS AND FAMILY**
19 **FISHERMEN**

20 **SEC. 1001. REENACTMENT OF CHAPTER 12.**

21 (a) **REENACTMENT.**—

22 (1) **IN GENERAL.**—Chapter 12 of title 11,
23 United States Code, as reenacted by section 149 of
24 division C of the Omnibus Consolidated and Emer-
25 gency Supplemental Appropriations Act, 1999 (Pub-

1 lic Law 105–277), and amended by this Act, is reen-
2 acted.

3 (2) **EFFECTIVE DATE.**—Subsection (a) shall
4 take effect on October 1, 1999.

5 (b) **CONFORMING AMENDMENT.**—Section 302 of the
6 Bankruptcy, Judges, United States Trustees, and Family
7 Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is
8 amended by striking subsection (f).

9 **SEC. 1002. DEBT LIMIT INCREASE.**

10 Section 104(b) of title 11, United States Code, is
11 amended by adding at the end the following:

12 “(4) The dollar amount in section 101(18) shall be
13 adjusted at the same times and in the same manner as
14 the dollar amounts in paragraph (1) of this subsection,
15 beginning with the adjustment to be made on April 1,
16 2001.”.

17 **SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY**
18 **FARMER AND SPOUSE RECEIVE OVER 50 PER-**
19 **CENT OF INCOME FROM FARMING OPER-**
20 **ATION IN YEAR PRIOR TO BANKRUPTCY.**

21 Section 101(18)(A) of title 11, United States Code,
22 is amended by striking “the taxable year preceding the
23 taxable year” and inserting “at least 1 of the 3 calendar
24 years preceding the year”.

1 **SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL**
2 **UNITS.**

3 (a) CONTENTS OF PLAN.—Section 1222(a)(2) of title
4 11, United States Code, is amended to read as follows:

5 “(2) provide for the full payment, in deferred
6 cash payments, of all claims entitled to priority
7 under section 507, unless—

8 “(A) the claim is a claim owed to a govern-
9 mental unit that arises as a result of the sale,
10 transfer, exchange, or other disposition of any
11 farm asset used in the debtor’s farming oper-
12 ation, in which case the claim shall be treated
13 as an unsecured claim that is not entitled to
14 priority under section 507, but the debt shall be
15 treated in such manner only if the debtor re-
16 ceives a discharge; or

17 “(B) the holder of a particular claim
18 agrees to a different treatment of that claim;
19 and”.

20 (b) SPECIAL NOTICE PROVISIONS.—Section 1231(b)
21 of title 11, United States Code, is amended by striking
22 “a State or local governmental unit” and inserting “any
23 governmental unit”.

1 **SEC. 1005. PROHIBITION OF RETROACTIVE ASSESSMENT OF**
2 **DISPOSABLE INCOME.**

3 (a) IN GENERAL.—Section 1225(b) of title 11,
4 United States Code, is amended by adding at the end the
5 following:

6 “(3) If the plan provides for specific amounts
7 of property to be distributed on account of allowed
8 unsecured claims as required by paragraph (1)(B),
9 those amounts equal or exceed the debtor’s projected
10 disposable income for that period, and the plan
11 meets the requirements for confirmation other than
12 those of this subsection, the plan shall be con-
13 firmed.”.

14 (b) MODIFICATION.—Section 1229 of title 11, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 “(d)(1) A modification of the plan under this section
18 may not increase the amount of payments that were due
19 prior to the date of the order modifying the plan.

20 “(2) A modification of the plan under this section to
21 increase payments based on an increase in the debtor’s
22 disposable income may not require payments to unsecured
23 creditors in any particular month greater than the debt-
24 or’s disposable income for that month unless the debtor
25 proposes such a modification.

1 “(3) A modification of the plan in the last year of
2 the plan shall not require payments that would leave the
3 debtor with insufficient funds to carry on the farming op-
4 eration after the plan is completed unless the debtor pro-
5 poses such a modification.”.

6 **SEC. 1006. FAMILY FISHERMEN.**

7 (a) DEFINITIONS.—Section 101 of title 11, United
8 States Code, is amended—

9 (1) by inserting after paragraph (7) the fol-
10 lowing:

11 “(7A) ‘commercial fishing operation’ includes—

12 “(A) the catching or harvesting of fish,
13 shrimp, lobsters, urchins, seaweed, shellfish, or
14 other aquatic species or products; and

15 “(B) for purposes of section 109 and chap-
16 ter 12, aquaculture activities consisting of rais-
17 ing for market any species or product described
18 in subparagraph (A);”;

19 “(7B) ‘commercial fishing vessel’ means a ves-
20 sel used by a fisherman to carry out a commercial
21 fishing operation;”;

22 (2) by inserting after paragraph (19) the fol-
23 lowing:

24 “(19A) ‘family fisherman’ means—

1 “(A) an individual or individual and spouse
2 engaged in a commercial fishing operation (in-
3 cluding aquiculture for purposes of chapter
4 12)—

5 “(i) whose aggregate debts do not ex-
6 ceed \$1,500,000 and not less than 80 per-
7 cent of whose aggregate noncontingent, liq-
8 uidated debts (excluding a debt for the
9 principal residence of such individual or
10 such individual and spouse, unless such
11 debt arises out of a commercial fishing op-
12 eration), on the date the case is filed, arise
13 out of a commercial fishing operation
14 owned or operated by such individual or
15 such individual and spouse; and

16 “(ii) who receive from such commer-
17 cial fishing operation more than 50 percent
18 of such individual’s or such individual’s
19 and spouse’s gross income for the taxable
20 year preceding the taxable year in which
21 the case concerning such individual or such
22 individual and spouse was filed; or

23 “(B) a corporation or partnership—

1 “(i) in which more than 50 percent of
2 the outstanding stock or equity is held
3 by—

4 “(I) 1 family that conducts the
5 commercial fishing operation; or

6 “(II) 1 family and the relatives
7 of the members of such family, and
8 such family or such relatives conduct
9 the commercial fishing operation; and

10 “(ii)(I) more than 80 percent of the
11 value of its assets consists of assets related
12 to the commercial fishing operation;

13 “(II) its aggregate debts do not ex-
14 ceed \$1,500,000 and not less than 80 per-
15 cent of its aggregate noncontingent, liq-
16 uidated debts (excluding a debt for 1
17 dwelling which is owned by such corpora-
18 tion or partnership and which a share-
19 holder or partner maintains as a principal
20 residence, unless such debt arises out of a
21 commercial fishing operation), on the date
22 the case is filed, arise out of a commercial
23 fishing operation owned or operated by
24 such corporation or such partnership; and

1 “(III) if such corporation issues stock,
2 such stock is not publicly traded;” and

3 (3) by inserting after paragraph (19A) the fol-
4 lowing:

5 “(19B) ‘family fisherman with regular annual
6 income’ means a family fisherman whose annual in-
7 come is sufficiently stable and regular to enable such
8 family fisherman to make payments under a plan
9 under chapter 12 of this title;”.

10 (b) WHO MAY BE A DEBTOR.—Section 109(f) of title
11 11, United States Code, is amended by inserting “or fam-
12 ily fisherman” after “family farmer”.

13 (c) CHAPTER 12.—Chapter 12 of title 11, United
14 States Code, is amended—

15 (1) in the chapter heading, by inserting “**OR**
16 **FISHERMAN**” after “**FAMILY FARMER**”;

17 (2) in section 1201, by adding at the end the
18 following:

19 “(e)(1) Notwithstanding any other provision of law,
20 for purposes of this subsection, a guarantor of a claim of
21 a creditor under this section shall be treated in the same
22 manner as a creditor with respect to the operation of a
23 stay under this section.

24 “(2) For purposes of a claim that arises from the
25 ownership or operation of a commercial fishing operation,

1 a co-maker of a loan made by a creditor under this section
2 shall be treated in the same manner as a creditor with
3 respect to the operation of a stay under this section.”;

4 (3) in section 1203, by inserting “or commer-
5 cial fishing operation” after “farm”;

6 (4) in section 1206, by striking “if the property
7 is farmland or farm equipment” and inserting “if
8 the property is farmland, farm equipment, or prop-
9 erty of a commercial fishing operation (including a
10 commercial fishing vessel)”;

11 (5) by adding at the end the following:

12 **“§ 1232. Additional provisions relating to family fish-**
13 **ermen**

14 “(a)(1) Notwithstanding any other provision of law,
15 except as provided in subsection (c), with respect to any
16 commercial fishing vessel of a family fisherman, the debts
17 of that family fisherman shall be treated in the manner
18 prescribed in paragraph (2).

19 “(2)(A) For purposes of this chapter, a claim for a
20 lien described in subsection (b) for a commercial fishing
21 vessel of a family fisherman that could, but for this sub-
22 section, be subject to a lien under otherwise applicable
23 maritime law, shall be treated as an unsecured claim.

1 “(B) Subparagraph (A) applies to a claim for a lien
2 resulting from a debt of a family fisherman incurred on
3 or after the date of enactment of this chapter.

4 “(b) A lien described in this subsection is—

5 “(1) a maritime lien under subchapter III of
6 chapter 313 of title 46, United States Code, without
7 regard to whether that lien is recorded under section
8 31343 of title 46, United States Code; or

9 “(2) a lien under applicable State law (or the
10 law of a political subdivision thereof).

11 “(c) Subsection (a) shall not apply to—

12 “(1) a claim made by a member of a crew or
13 a seaman including a claim made for—

14 “(A) wages, maintenance, or cure; or

15 “(B) personal injury; or

16 “(2) a preferred ship mortgage that has been
17 perfected under subchapter II of chapter 313 of title
18 46, United States Code.

19 “(d) For purposes of this chapter, a mortgage de-
20 scribed in subsection (c)(2) shall be treated as a secured
21 claim.”.

22 (d) CLERICAL AMENDMENTS.—

23 (1) TABLE OF CHAPTERS.—In the table of
24 chapters for title 11, United States Code, the item

1 relating to chapter 12, is amended to read as fol-
 2 lows:

**“12. Adjustments of Debts of a Family Farmer or Family
 Fisherman with Regular Annual Income 1201”.**

3 (2) TABLE OF SECTIONS.—The table of sections
 4 for chapter 12 of title 11, United States Code, is
 5 amended by adding at the end the following new
 6 item:

“1232. Additional provisions relating to family fishermen.”.

7 **TITLE XI—HEALTH CARE AND**
 8 **EMPLOYEE BENEFITS**

9 **SEC. 1101. DEFINITIONS.**

10 (a) HEALTH CARE BUSINESS DEFINED.—Section
 11 101 of title 11, United States Code, as amended by section
 12 1003(a) of this Act, is amended—

13 (1) by redesignating paragraph (27A) as para-
 14 graph (27B); and

15 (2) inserting after paragraph (27) the following:

16 “(27A) ‘health care business’—

17 “(A) means any public or private entity
 18 (without regard to whether that entity is orga-
 19 nized for profit or not for profit) that is pri-
 20 marily engaged in offering to the general public
 21 facilities and services for—

22 “(i) the diagnosis or treatment of in-
 23 jury, deformity, or disease; and

- 1 “(ii) surgical, drug treatment, psy-
2 chiatric or obstetric care; and
3 “(B) includes—
4 “(i) any—
5 “(I) general or specialized hos-
6 pital;
7 “(II) ancillary ambulatory, emer-
8 gency, or surgical treatment facility;
9 “(III) hospice;
10 “(IV) home health agency; and
11 “(V) other health care institution
12 that is similar to an entity referred to
13 in subclause (I), (II), (III), or (IV);
14 and
15 “(ii) any long-term care facility, in-
16 cluding any—
17 “(I) skilled nursing facility;
18 “(II) intermediate care facility;
19 “(III) assisted living facility;
20 “(IV) home for the aged;
21 “(V) domiciliary care facility; and
22 “(VI) health care institution that
23 is related to a facility referred to in
24 subclause (I), (II), (III), (IV), or (V),
25 if that institution is primarily engaged

1 in offering room, board, laundry, or
2 personal assistance with activities of
3 daily living and incidentals to activi-
4 ties of daily living;”.

5 (b) PATIENT DEFINED.—Section 101 of title 11,
6 United States Code, as amended by subsection (a) of this
7 section, is amended by inserting after paragraph (40) the
8 following:

9 “(40A) ‘patient’ means any person who obtains
10 or receives services from a health care business;”.

11 (c) PATIENT RECORDS DEFINED.—Section 101 of
12 title 11, United States Code, as amended by subsection
13 (b) of this section, is amended by inserting after para-
14 graph (40A) the following:

15 “(40B) ‘patient records’ means any written doc-
16 ument relating to a patient or a record recorded in
17 a magnetic, optical, or other form of electronic me-
18 dium;”.

19 (d) RULE OF CONSTRUCTION.—The amendments
20 made by subsection (a) of this section shall not affect the
21 interpretation of section 109(b) of title 11, United States
22 Code.

1 **SEC. 1102. DISPOSAL OF PATIENT RECORDS.**

2 (a) IN GENERAL.—Subchapter III of chapter 3 of
3 title 11, United States Code, is amended by adding at the
4 end the following:

5 **“§ 351. Disposal of patient records**

6 “If a health care business commences a case under
7 chapter 7, 9, or 11, and the trustee does not have a suffi-
8 cient amount of funds to pay for the storage of patient
9 records in the manner required under applicable Federal
10 or State law, the following requirements shall apply:

11 “(1) The trustee shall—

12 “(A) publish notice, in 1 or more appro-
13 priate newspapers, that if patient records are
14 not claimed by the patient or an insurance pro-
15 vider (if applicable law permits the insurance
16 provider to make that claim) by the date that
17 is 90 days after the date of that notification,
18 the trustee will destroy the patient records; and

19 “(B) during the 90-day period described in
20 subparagraph (A), attempt to notify directly
21 each patient that is the subject of the patient
22 records and appropriate insurance carrier con-
23 cerning the patient records by mailing to the
24 last known address of that patient and appro-
25 priate insurance carrier an appropriate notice

1 regarding the claiming or disposing of patient
2 records.

3 “(2) If after providing the notification under
4 paragraph (1), patient records are not claimed dur-
5 ing the 90-day period described under that para-
6 graph, the trustee shall mail, by certified mail, at
7 the end of such 90-day period a written request to
8 each appropriate Federal agency to request permis-
9 sion from that agency to deposit the patient records
10 with that agency.

11 “(3) If, following the period in paragraph (2)
12 and after providing the notification under paragraph
13 (1), patient records are not claimed during the 90-
14 day period described in paragraph (1)(A) or in any
15 case in which a notice is mailed under paragraph
16 (1)(B), during the 90-day period beginning on the
17 date on which the notice is mailed, by a patient or
18 insurance provider in accordance with that para-
19 graph, the trustee shall destroy those records by—

20 “(A) if the records are written, shredding
21 or burning the records; or

22 “(B) if the records are magnetic, optical,
23 or other electronic records, by otherwise de-
24 stroying those records so that those records
25 cannot be retrieved.”.

1 (b) CLERICAL AMENDMENT.—The chapter analysis
2 for chapter 3 of title 11, United States Code, is amended
3 by inserting after the item relating to section 350 the fol-
4 lowing:

“351. Disposal of patient records.”.

5 **SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS**
6 **OF CLOSING A HEALTH CARE BUSINESS.**

7 Section 503(b) of title 11, United States Code, is
8 amended—

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

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

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

14 “(7) the actual, necessary costs and expenses of
15 closing a health care business incurred by a trustee
16 or by a Federal agency (as that term is defined in
17 section 551(1) of title 5) or a department or agency
18 of a State or political subdivision thereof, including
19 any cost or expense incurred—

20 “(A) in disposing of patient records in ac-
21 cordance with section 351; or

22 “(B) in connection with transferring pa-
23 tients from the health care business that is in
24 the process of being closed to another health
25 care business.”.

1 **SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PA-**
2 **TIENT ADVOCATE.**

3 (a) IN GENERAL.—

4 (1) APPOINTMENT OF OMBUDSMAN.—Sub-
5 chapter II of chapter 3 of title 11, United States
6 Code, is amended by inserting after section 331 the
7 following:

8 **“§ 332. Appointment of ombudsman**

9 “(a) Not later than 30 days after a case is com-
10 menced by a health care business under chapter 7, 9, or
11 11, the court shall appoint an ombudsman with appro-
12 priate expertise in monitoring the quality of patient care
13 to represent the interests of the patients of the health care
14 business. The court may appoint as an ombudsman a per-
15 son who is serving as a State Long-Term Care Ombuds-
16 man appointed under title III or VII of the Older Ameri-
17 cans Act of 1965 (42 U.S.C. 3021 et seq. and 3058 et
18 seq.).

19 “(b) An ombudsman appointed under subsection (a)
20 shall—

21 “(1) monitor the quality of patient care, to the
22 extent necessary under the circumstances, including
23 interviewing patients and physicians;

24 “(2) not later than 60 days after the date of
25 appointment, and not less frequently than every 60
26 days thereafter, report to the court, at a hearing or

1 in writing, regarding the quality of patient care at
2 the health care business involved; and

3 “(3) if the ombudsman determines that the
4 quality of patient care is declining significantly or is
5 otherwise being materially compromised, notify the
6 court by motion or written report, with notice to ap-
7 propriate parties in interest, immediately upon mak-
8 ing that determination.

9 “(c) An ombudsman shall maintain any information
10 obtained by the ombudsman under this section that relates
11 to patients (including information relating to patient
12 records) as confidential information.”

13 (2) CLERICAL AMENDMENT.—The chapter anal-
14 ysis for chapter 3 of title 11, United States Code,
15 is amended by inserting after the item relating to
16 section 331 the following:

“332. Appointment of ombudsman.”

17 (b) COMPENSATION OF OMBUDSMAN.—Section
18 330(a)(1) of title 11, United States Code, is amended—

19 (1) in the matter proceeding subparagraph (A),
20 by inserting “an ombudsman appointed under sec-
21 tion 331, or” before “a professional person”; and

22 (2) in subparagraph (A), by inserting “ombuds-
23 man,” before “professional person”.

1 **SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO**
2 **TRANSFER PATIENTS.**

3 (a) IN GENERAL.—Section 704(a) of title 11, United
4 States Code, as amended by section 219 of this Act, is
5 amended—

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

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

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

11 “(11) use all reasonable and best efforts to
12 transfer patients from a health care business that is
13 in the process of being closed to an appropriate
14 health care business that—

15 “(A) is in the vicinity of the health care
16 business that is closing;

17 “(B) provides the patient with services
18 that are substantially similar to those provided
19 by the health care business that is in the pro-
20 cess of being closed; and

21 “(C) maintains a reasonable quality of
22 care.”.

23 (b) CONFORMING AMENDMENT.—Section 1106(a)(1)
24 of title 11, United States Code, is amended by striking
25 “704(2), 704(5), 704(7), 704(8), and 704(9)” and insert-
26 ing “704(a) (2), (5), (7), (8), (9), and (11)”.

1 **SEC. 1106. ESTABLISHMENT OF POLICY AND PROTOCOLS**
2 **RELATING TO BANKRUPTCIES OF HEALTH**
3 **CARE BUSINESSES.**

4 Not later than 30 days after the date of enactment
5 of this Act, the Attorney General of the United States,
6 in consultation with the Secretary of Health and Human
7 Services and the National Association of Attorneys Gen-
8 eral, shall establish a policy and protocols for coordinating
9 a response to bankruptcies of health care businesses (as
10 that term is defined in section 101 of title 11, United
11 States Code), including assessing the appropriate time
12 frame for disposal of patient records under section 1102
13 of this Act.

14 **SEC. 1107. EXCLUSION FROM PROGRAM PARTICIPATION**
15 **NOT SUBJECT TO AUTOMATIC STAY.**

16 Section 362(b) of title 11, United States Code, as
17 amended by section 901(d) of this Act, is amended—

18 (1) in paragraph (27), by striking “or” at the
19 end;

20 (2) in paragraph (28), by striking the period at
21 the end and inserting “; or”; and

22 (3) by inserting after paragraph (28) the fol-
23 lowing:

24 “(29) under subsection (a), of the exclusion by
25 the Secretary of Health and Human Services of the
26 debtor from participation in the medicare program

1 or any other Federal health care program (as de-
 2 fined in section 1128B(f) of the Social Security Act
 3 (42 U.S.C. 1320a–7b(f)) pursuant to title XI of
 4 such Act (42 U.S.C. 1301 et seq.) or title XVIII of
 5 such Act (42 U.S.C. 1395 et seq.).”

6 **TITLE XII—TECHNICAL** 7 **AMENDMENTS**

8 **SEC. 1201. DEFINITIONS.**

9 Section 101 of title 11, United States Code, as
 10 amended by section 1003 of this Act, is amended—

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

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

15 (3) in paragraph (35)(B), by striking “para-
 16 graphs (21B) and (33)(A)” and inserting “para-
 17 graphs (23) and (35)”;

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

20 (5) in paragraph (51B)—

21 (A) by inserting “who is not a family farm-
 22 er” after “debtor” the first place it appears;

23 and

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

4 (6) by striking paragraph (54) and inserting
5 the following:

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, abso-
13 lute or conditional, voluntary or involuntary, of
14 disposing 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 (55) (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 (55), including paragraph (54), as amended by para-

1 graph (6) of this section, in entirely numerical se-
2 quence.

3 **SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.**

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

7 **SEC. 1203. 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. 1204. TECHNICAL AMENDMENTS.**

12 Title 11, United States Code, is amended—

13 (1) in section 109(b)(2), by striking “subsection
14 (c) or (d) of”; and

15 (2) in section 552(b)(1), by striking “product”
16 each place it appears and inserting “products”.

17 **SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
18 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
19 **TITIONS.**

20 Section 110(j)(3) of title 11, United States Code, is
21 amended by striking “attorney’s” and inserting “attor-
22 neys’”.

1 **SEC. 1206. LIMITATION ON COMPENSATION OF PROFES-**
2 **SIONAL PERSONS.**

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

6 **SEC. 1207. EFFECT OF CONVERSION.**

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

10 **SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

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

14 **SEC. 1209. EXCEPTIONS TO DISCHARGE.**

15 Section 523 of title 11, United States Code, as
16 amended by section 714 of this Act, is amended—

17 (1) as amended by section 304(e) of Public Law
18 103–394 (108 Stat. 4133), in paragraph (15), by
19 transferring such paragraph so as to insert such
20 paragraph after paragraph (14) of subsection (a);

21 (2) in subsection (a)(9), by striking “motor ve-
22 hicle or vessel” and inserting “motor vehicle, vessel,
23 or aircraft”; and

24 (3) in subsection (e), by striking “a insured”
25 and inserting “an insured”.

1 **SEC. 1210. EFFECT OF DISCHARGE.**

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

6 **SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREAT-**
7 **MENT.**

8 Section 525(c) of title 11, United States Code, is
9 amended—

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

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

15 **SEC. 1212. PROPERTY OF THE ESTATE.**

16 Section 541(b)(4)(B)(ii) of title 11, United States
17 Code, is amended by inserting “365 or” before “542”.

18 **SEC. 1213. PREFERENCES.**

19 (a) IN GENERAL.—Section 547 of title 11, United
20 States Code, as amended by section 201(b) of this Act,
21 is amended—

22 (1) in subsection (b), by striking “subsection
23 (c)” and inserting “subsections (c) and (i)”; and

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

25 “(i) If the trustee avoids under subsection (b) a secu-
26 rity interest given between 90 days and 1 year before the

1 date of the filing of the petition, by the debtor to an entity
2 that is not an insider for the benefit of a creditor that
3 is an insider, such security interest shall be considered to
4 be avoided under this section only with respect to the cred-
5 itor that is an insider.”.

6 (b) **APPLICABILITY.**—The amendments made by this
7 section shall apply to any case that pending or commenced
8 on or after the date of enactment of this Act.

9 **SEC. 1214. POSTPETITION TRANSACTIONS.**

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

12 (1) by inserting “an interest in” after “transfer
13 of”;

14 (2) by striking “such property” and inserting
15 “such real property”; and

16 (3) by striking “the interest” and inserting
17 “such interest”.

18 **SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.**

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

21 **SEC. 1216. GENERAL PROVISIONS.**

22 Section 901(a) of title 11, United States Code, as
23 amended by section 502 of this Act, is amended by insert-
24 ing “1123(d),” after “1123(b),”.

1 **SEC. 1217. ABANDONMENT OF RAILROAD LINE.**

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

5 **SEC. 1218. CONTENTS OF PLAN.**

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

9 **SEC. 1219. DISCHARGE UNDER CHAPTER 12.**

10 Subsections (a) and (c) of section 1228 of title 11,
11 United States Code, are amended by striking
12 “1222(b)(10)” each place it appears and inserting
13 “1222(b)(9)”.

14 **SEC. 1220. BANKRUPTCY CASES AND PROCEEDINGS.**

15 Section 1334(d) of title 28, United States Code, is
16 amended—

17 (1) by striking “made under this subsection”
18 and inserting “made under subsection (c)”; and

19 (2) by striking “This subsection” and inserting
20 “Subsection (c) and this subsection”.

21 **SEC. 1221. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
22 **RULE.**

23 Section 156(a) of title 18, United States Code, is
24 amended—

25 (1) in the first undesignated paragraph—

1 (A) by inserting “(1) the term” before
2 “bankruptcy”; and

3 (B) by striking the period at the end and
4 inserting “; and”; and
5 (2) in the second undesignated paragraph—

6 (A) by inserting “(2) the term” before
7 “document”; and

8 (B) by striking “this title” and inserting
9 “title 11”.

10 **SEC. 1222. TRANSFERS MADE BY NONPROFIT CHARITABLE**
11 **CORPORATIONS.**

12 (a) SALE OF PROPERTY OF ESTATE.—Section 363(d)
13 of title 11, United States Code, is amended by striking
14 “only” and all that follows through the end of the sub-
15 section and inserting “only—

16 “(1) in accordance with applicable nonbank-
17 ruptcy law that governs the transfer of property by
18 a corporation or trust that is not a moneyed, busi-
19 ness, or commercial corporation or trust; and

20 “(2) to the extent not inconsistent with any re-
21 lief granted under subsection (c), (d), (e), or (f) of
22 section 362.”.

23 (b) CONFIRMATION OF PLAN FOR REORGANIZA-
24 TION.—Section 1129(a) of title 11, United States Code,

1 as amended by section 212 of this Act, is amended by add-
2 ing at the end the following:

3 “(15) All transfers of property of the plan shall
4 be made in accordance with any applicable provi-
5 sions of nonbankruptcy law that govern the transfer
6 of property by a corporation or trust that is not a
7 moneyed, business, or commercial corporation or
8 trust.”.

9 (c) TRANSFER OF PROPERTY.—Section 541 of title
10 11, United States Code, is amended by adding at the end
11 the following:

12 “(f) Notwithstanding any other provision of this title,
13 property that is held by a debtor that is a corporation de-
14 scribed in section 501(c)(3) of the Internal Revenue Code
15 of 1986 and exempt from tax under section 501(a) of such
16 Code may be transferred to an entity that is not such a
17 corporation, but only under the same conditions as would
18 apply if the debtor had not filed a case under this title.”.

19 (d) APPLICABILITY.—The amendments made by this
20 section shall apply to a case pending under title 11, United
21 States Code, on the date of enactment of this Act, except
22 that the court shall not confirm a plan under chapter 11
23 of this title without considering whether this section would
24 substantially affect the rights of a party in interest who
25 first acquired rights with respect to the debtor after the

1 date of the petition. The parties who may appear and be
2 heard in a proceeding under this section include the attor-
3 ney general of the State in which the debtor is incor-
4 porated, was formed, or does business.

5 (e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
6 tion shall be construed to require the court in which a
7 case under chapter 11 is pending to remand or refer any
8 proceeding, issue, or controversy to any other court or to
9 require the approval of any other court for the transfer
10 of property.

11 **SEC. 1223. PROTECTION OF VALID PURCHASE MONEY SE-**
12 **CURITY INTERESTS.**

13 Section 547(c)(3)(B) of title 11, United States Code,
14 is amended by striking “20” and inserting “30”.

15 **SEC. 1224. EXTENSIONS.**

16 Section 302(d)(3) of the Bankruptcy, Judges, United
17 States Trustees, and Family Farmer Bankruptcy Act of
18 1986 (28 U.S.C. 581 note) is amended—

19 (1) in subparagraph (A), in the matter fol-
20 lowing clause (ii), by striking “or October 1, 2002,
21 whichever occurs first”; and

22 (2) in subparagraph (F)—

23 (A) in clause (i)—

1 (i) in subclause (II), by striking “or
2 October 1, 2002, whichever occurs first”;
3 and

4 (ii) in the matter following subclause
5 (II), by striking “October 1, 2003, or”;
6 and

7 (B) in clause (ii), in the matter following
8 subclause (II)—

9 (i) by striking “before October 1,
10 2003, or”; and

11 (ii) by striking “, whichever occurs
12 first”.

13 **SEC. 1225. BANKRUPTCY JUDGESHIPS.**

14 (a) **SHORT TITLE.**—This section may be cited as the
15 “Bankruptcy Judgeship Act of 2000”.

16 (b) **TEMPORARY JUDGESHIPS.**—

17 (1) **APPOINTMENTS.**—The following judgeship
18 positions shall be filled in the manner prescribed in
19 section 152(a)(1) of title 28, United States Code, for
20 the appointment of bankruptcy judges provided for
21 in section 152(a)(2) of such title:

22 (A) One additional bankruptcy judgeship
23 for the eastern district of California.

24 (B) Four additional bankruptcy judgeships
25 for the central district of California.

1 (C) One additional bankruptcy judgeship
2 for the southern district of Florida.

3 (D) Two additional bankruptcy judgeships
4 for the district of Maryland.

5 (E) One additional bankruptcy judgeship
6 for the eastern district of Michigan.

7 (F) One additional bankruptcy judgeship
8 for the southern district of Mississippi.

9 (G) One additional bankruptcy judgeship
10 for the district of New Jersey.

11 (H) One additional bankruptcy judgeship
12 for the eastern district of New York.

13 (I) One additional bankruptcy judgeship
14 for the northern district of New York.

15 (J) One additional bankruptcy judgeship
16 for the southern district of New York.

17 (K) One additional bankruptcy judgeship
18 for the eastern district of Pennsylvania.

19 (L) One additional bankruptcy judgeship
20 for the middle district of Pennsylvania.

21 (M) One additional bankruptcy judgeship
22 for the western district of Tennessee.

23 (N) One additional bankruptcy judgeship
24 for the eastern district of Virginia.

1 (2) VACANCIES.—The first vacancy occurring in
2 the office of a bankruptcy judge in each of the judi-
3 cial districts set forth in paragraph (1) that—

4 (A) results from the death, retirement, res-
5 ignation, or removal of a bankruptcy judge; and

6 (B) occurs 5 years or more after the ap-
7 pointment date of a bankruptcy judge ap-
8 pointed under paragraph (1);

9 shall not be filled.

10 (c) EXTENSIONS.—

11 (1) IN GENERAL.—The temporary bankruptcy
12 judgeship positions authorized for the northern dis-
13 trict of Alabama, the district of Delaware, the dis-
14 trict of Puerto Rico, the district of South Carolina,
15 and the eastern district of Tennessee under section
16 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy
17 Judgeship Act of 1992 (28 U.S.C. 152 note) are ex-
18 tended until the first vacancy occurring in the office
19 of a bankruptcy judge in the applicable district re-
20 sulting from the death, retirement, resignation, or
21 removal of a bankruptcy judge and occurring—

22 (A) 8 years or more after November 8,
23 1993, with respect to the northern district of
24 Alabama;

1 (B) 10 years or more after October 28,
2 1993, with respect to the district of Delaware;

3 (C) 8 years or more after August 29,
4 1994, with respect to the district of Puerto
5 Rico;

6 (D) 8 years or more after June 27, 1994,
7 with respect to the district of South Carolina;
8 and

9 (E) 8 years or more after November 23,
10 1993, with respect to the eastern district of
11 Tennessee.

12 (2) APPLICABILITY OF OTHER PROVISIONS.—
13 All other provisions of section 3 of the Bankruptcy
14 Judgeship Act of 1992 remain applicable to such
15 temporary judgeship positions.

16 (d) TECHNICAL AMENDMENT.—The first sentence of
17 section 152(a)(1) of title 28, United States Code, is
18 amended to read as follows: “Each bankruptcy judge to
19 be appointed for a judicial district as provided in para-
20 graph (2) shall be appointed by the United States court
21 of appeals for the circuit in which such district is lo-
22 cated.”.

23 **SEC. 1226. FAMILY FISHERMEN.**

24 (a) DEFINITIONS.—Section 101 of title 11, United
25 States Code, is amended—

1 (1) by inserting after paragraph (7) the fol-
2 lowing:

3 “(7A) ‘commercial fishing operation’ includes—

4 “(A) the catching or harvesting of fish,
5 shrimp, lobsters, urchins, seaweed, shellfish, or
6 other aquatic species or products;

7 “(B) for purposes of section 109 and chap-
8 ter 12, aquaculture activities consisting of rais-
9 ing for market any species or product described
10 in subparagraph (A); and

11 “(C) the transporting by vessel of a pas-
12 senger for hire (as defined in section 2101 of
13 title 46) who is engaged in recreational fishing;

14 “(7B) ‘commercial fishing vessel’ means a ves-
15 sel used by a fisherman to carry out a commercial
16 fishing operation;”;

17 (2) by inserting after paragraph (19) the fol-
18 lowing:

19 “(19A) ‘family fisherman’ means—

20 “(A) an individual or individual and spouse
21 engaged in a commercial fishing operation (in-
22 cluding aquaculture for purposes of chapter
23 12)—

24 “(i) whose aggregate debts do not ex-
25 ceed \$1,500,000 and not less than 80 per-

1 cent of whose aggregate noncontingent, liq-
2 uidated debts (excluding a debt for the
3 principal residence of such individual or
4 such individual and spouse, unless such
5 debt arises out of a commercial fishing op-
6 eration), on the date the case is filed, arise
7 out of a commercial fishing operation
8 owned or operated by such individual or
9 such individual and spouse; and

10 “(ii) who receive from such commer-
11 cial fishing operation more than 50 percent
12 of such individual’s or such individual’s
13 and spouse’s gross income for the taxable
14 year preceding the taxable year in which
15 the case concerning such individual or such
16 individual and spouse was filed; or

17 “(B) a corporation or partnership—

18 “(i) in which more than 50 percent of
19 the outstanding stock or equity is held
20 by—

21 “(I) 1 family that conducts the
22 commercial fishing operation; or

23 “(II) 1 family and the relatives
24 of the members of such family, and

1 such family or such relatives conduct
2 the commercial fishing operation; and

3 “(ii)(I) more than 80 percent of the
4 value of its assets consists of assets related
5 to the commercial fishing operation;

6 “(II) its aggregate debts do not ex-
7 ceed \$1,500,000 and not less than 80 per-
8 cent of its aggregate noncontingent, liq-
9 uidated debts (excluding a debt for 1
10 dwelling which is owned by such corpora-
11 tion or partnership and which a share-
12 holder or partner maintains as a principal
13 residence, unless such debt arises out of a
14 commercial fishing operation), on the date
15 the case is filed, arise out of a commercial
16 fishing operation owned or operated by
17 such corporation or such partnership; and

18 “(III) if such corporation issues stock,
19 such stock is not publicly traded;”; and

20 (3) by inserting after paragraph (19A) the fol-
21 lowing:

22 “(19B) ‘family fisherman with regular annual
23 income’ means a family fisherman whose annual in-
24 come is sufficiently stable and regular to enable such

1 family fisherman to make payments under a plan
2 under chapter 12 of this title;”.

3 (b) WHO MAY BE A DEBTOR.—Section 109(f) of title
4 11, United States Code, is amended by inserting “or fam-
5 ily fisherman” after “family farmer”.

6 (c) CHAPTER 12.—Chapter 12 of title 11, United
7 States Code, is amended—

8 (1) in the chapter heading, by inserting “**OR**
9 **FISHERMAN**” after “**FAMILY FARMER**”;

10 (2) in section 1201, by adding at the end the
11 following:

12 “(e)(1) Notwithstanding any other provision of law,
13 for purposes of this subsection, a guarantor of a claim of
14 a creditor under this section shall be treated in the same
15 manner as a creditor with respect to the operation of a
16 stay under this section.

17 “(2) For purposes of a claim that arises from the
18 ownership or operation of a commercial fishing operation,
19 a co-maker of a loan made by a creditor under this section
20 shall be treated in the same manner as a creditor with
21 respect to the operation of a stay under this section.”;

22 (3) in section 1203, by inserting “or commer-
23 cial fishing operation” after “farm”;

24 (4) in section 1206, by striking “if the property
25 is farmland or farm equipment” and inserting “if

1 the property is farmland, farm equipment, or prop-
2 erty of a commercial fishing operation (including a
3 commercial fishing vessel)”; and

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

5 **“§ 1232. Additional provisions relating to family fish-**
6 **ermen**

7 “(a)(1) Notwithstanding any other provision of law,
8 except as provided in subsection (c), with respect to any
9 commercial fishing vessel of a family fisherman, the debts
10 of that family fisherman shall be treated in the manner
11 prescribed in paragraph (2).

12 “(2)(A) For purposes of this chapter, a claim for a
13 lien described in subsection (b) for a commercial fishing
14 vessel of a family fisherman that could, but for this sub-
15 section, be subject to a lien under otherwise applicable
16 maritime law, shall be treated as an unsecured claim.

17 “(B) Subparagraph (A) applies to a claim for a lien
18 resulting from a debt of a family fisherman incurred on
19 or after the date of enactment of this chapter.

20 “(b) A lien described in this subsection is—

21 “(1) a maritime lien under subchapter III of
22 chapter 313 of title 46 without regard to whether
23 that lien is recorded under section 31343 of title 46;
24 or

1 “(2) a lien under applicable State law (or the
2 law of a political subdivision thereof).

3 “(c) Subsection (a) shall not apply to—

4 “(1) a claim made by a member of a crew or
5 a seaman including a claim made for—

6 “(A) wages, maintenance, or cure; or

7 “(B) personal injury; or

8 “(2) a preferred ship mortgage that has been
9 perfected under subchapter II of chapter 313 of title
10 46.

11 “(d) For purposes of this chapter, a mortgage de-
12 scribed in subsection (c)(2) shall be treated as a secured
13 claim.”.

14 (d) CLERICAL AMENDMENTS.—

15 (1) TABLE OF CHAPTERS.—In the table of
16 chapters for title 11, United States Code, the item
17 relating to chapter 12, is amended to read as fol-
18 lows:

**“12. Adjustments of Debts of a Family Farmer or Family
 Fisherman with Regular Annual Income 1201”.**

19 (2) TABLE OF SECTIONS.—The table of sections
20 for chapter 12 of title 11, United States Code, is
21 amended by adding at the end the following new
22 item:

 “1232. Additional provisions relating to family fishermen.”.

1 (e) MAGNUSON-STEVENS FISHERY CONSERVATION
2 AND MANAGEMENT ACT.—Nothing in this title is intended
3 to change, affect, or amend the Magnuson-Stevens Fishery
4 Conservation and Management Act (16 U.S.C. 1801 et
5 seq.).

6 **SEC. 1227. COMPENSATING TRUSTEES.**

7 Title 11, United States Code, is amended—

8 (1) in section 104(b)(1) in the matter preceding
9 subparagraph (A) by—

10 (A) striking “and 523(a)(2)(C)”; and

11 (B) inserting “523(a)(2)(C), and
12 1326(b)(3)” before “immediately”;

13 (2) in section 326, by inserting at the end the
14 following:

15 “(e) Notwithstanding any other provision of this sec-
16 tion, if a trustee in a chapter 7 case commences a motion
17 to dismiss or convert under section 707(b) and such mo-
18 tion is granted, the court shall allow reasonable compensa-
19 tion under section 330(a) of this title for the services and
20 expenses of the trustee and the trustee’s counsel in pre-
21 paring and presenting such motion and any related ap-
22 peals.”; and

23 (3) in section 1326(b)—

24 (A) in paragraph (1), by striking “and”;

1 (B) in paragraph (2), by striking the pe-
2 riod at the end and inserting “; and”; and

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

4 “(3) if a chapter 7 trustee has been allowed
5 compensation under section 326(e) in a case con-
6 verted to this chapter or in a case dismissed under
7 section 707(b) in which the debtor in this case was
8 a debtor—

9 “(A) the amount of such unpaid compensa-
10 tion which shall be paid monthly by prorating
11 such amount over the remaining duration of the
12 plan, but a monthly payment shall not exceed
13 the greater of—

14 “(i) \$25; or

15 “(ii) the amount payable to unsecured
16 nonpriority creditors as provided by the
17 plan multiplied by 5 percent, and the re-
18 sult divided by the number of months in
19 the plan; and

20 “(B) notwithstanding any other provision
21 of this title—

22 “(i) such compensation is payable and
23 may be collected by the trustee under this
24 paragraph even if such amount has been

1 discharged in a prior proceeding under this
2 title; and

3 “(ii) such compensation is payable in
4 a case under this chapter only to the ex-
5 tent permitted by this paragraph.”.

6 **SEC. 1228. AMENDMENT TO SECTION 362 OF TITLE 11,**
7 **UNITED STATES CODE.**

8 Section 362(b)(18) of title 11, United States Code,
9 is amended to read as follows:

10 “(18) under subsection (a) of the creation or
11 perfection of a statutory lien for an ad valorem
12 property tax, or a special tax or special assessment
13 on real property whether or not ad valorem, imposed
14 by a governmental unit, if such tax or assessment
15 comes due after the filing of the petition.”.

16 **SEC. 1229. PROVISION OF ELECTRONIC FTC PAMPHLET**
17 **WITH ELECTRONIC CREDIT CARD APPLICA-**
18 **TIONS AND SOLICITATIONS.**

19 Section 127(c) of the Truth in Lending Act (15
20 U.S.C. 1637(c)) is amended—

21 (1) by redesignating paragraph (5) as para-
22 graph (6); and

23 (2) by inserting after paragraph (4) the fol-
24 lowing:

1 “(5) INCLUSION OF FEDERAL TRADE COMMIS-
2 SION PAMPHLET.—

3 “(A) IN GENERAL.—Any application to
4 open a credit card account for any person under
5 an open end consumer credit plan, or a solicita-
6 tion or an advertisement to open such an ac-
7 count without requiring an application, that is
8 electronically transmitted to or accessed by a
9 consumer shall be accompanied by an electronic
10 version (or an electronic link thereto) of the
11 pamphlet published by the Federal Trade Com-
12 mission relating to choosing and using credit
13 cards.

14 “(B) COSTS.—The card issuer with respect
15 to an account described in subparagraph (A)
16 shall be responsible for all costs associated with
17 compliance with that subparagraph.”.

18 **SEC. 1230. NO BANKRUPTCY FOR INSOLVENT POLITICAL**
19 **COMMITTEES.**

20 Section 105 of title 11, United States Code, is
21 amended by inserting at the end the following:

22 “(e) A political committee subject to the jurisdiction
23 of the Federal Election Commission under Federal elec-
24 tion laws may not file for bankruptcy under this title.”.

1 **SEC. 1231. FEDERAL ELECTION LAW FINES AND PENALTIES**
2 **AS NONDISCHARGEABLE DEBT.**

3 Section 523(a) of title 11, United States Code, is
4 amended by inserting after paragraph (14A) the following:

5 “(14B) fines or penalties imposed under Fed-
6 eral election law;”.

7 **SEC. 1232. PROHIBITION ON CERTAIN RETROACTIVE FI-**
8 **NANCE CHARGES.**

9 Section 127 of the Truth in Lending Act (15 U.S.C.
10 1637) is amended by adding at the end the following:

11 “(h) PROHIBITION ON RETROACTIVE FINANCE
12 CHARGES.—

13 “(1) IN GENERAL.—In the case of any credit
14 card account under an open end credit plan, if the
15 creditor provides a grace period applicable to any
16 new extension of credit under the account, no fi-
17 nance charge may be imposed subsequent to the
18 grace period with regard to any amount that was
19 paid on or before the end of that grace period.

20 “(2) DEFINITION.—For purposes of this sub-
21 section, the term ‘grace period’ means a period dur-
22 ing which the extension of credit may be repaid, in
23 whole or in part, without incurring a finance charge
24 for the extension of credit.”.

1 **SEC. 1233. SENSE OF SENATE CONCERNING CREDIT WOR-**
2 **THINESS.**

3 The Board of Governors of the Federal Reserve Sys-
4 tem shall report to the Senate Committee on Banking,
5 Housing, and Urban Affairs and the House of Representa-
6 tives Committee on Banking and Financial Services within
7 6 months of enactment of this Act as to whether and how
8 the location of the residence of an applicant for a credit
9 card is considered by financial institutions in deciding
10 whether an applicant should be granted such credit card.

11 **SEC. 1234. JUDICIAL EDUCATION.**

12 The Director of the Administrative Office of the
13 United States Courts, in consultation with the Director
14 of the Executive Office for United States Trustees, shall
15 develop materials and conduct such training as may be
16 useful to courts in implementing this Act, including the
17 requirements relating to the 707(b) means test and re-
18 affirmations.

19 **SEC. 1235. UNITED STATES TRUSTEE PROGRAM FILING FEE**
20 **INCREASE.**

21 (a) RIGHTS AND POWERS OF THE TRUSTEE.—Sec-
22 tion 546(c) of title 11, United States Code, is amended
23 to read as follows:

24 “(c)(1) Except as provided in subsection (d) of
25 this section, and except as provided in subsection (c)
26 of section 507, the rights and powers of the trustee

1 under sections 544(a), 545, 547, and 549 are sub-
2 ject to the right of a seller of goods that has sold
3 goods to the debtor, in the ordinary course of the
4 business of the seller, to reclaim such goods if the
5 debtor has received such goods within 45 days prior
6 to the commencement of a case under this title, but
7 such seller may not reclaim any such goods unless
8 the seller demands in writing the reclamation of
9 such goods—

10 “(A) before 45 days after the date of re-
11 ceipt of such goods by the debtor; or

12 “(B) if such 45-day period expires after
13 the commencement of the case, before 20 days
14 after the date of commencement of the case.

15 “(2) Notwithstanding the failure of the seller to
16 provide notice in a manner consistent with this sub-
17 section, the seller shall be entitled to assert the
18 rights established in section 503(b)(7) of this title.”.

19 (b) ADMINISTRATIVE EXPENSES.—Section 503(b) of
20 title 11, United States Code, is amended—

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

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

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

1 (1) certain lenders may sometimes offer credit
2 to consumers indiscriminately, without taking steps
3 to ensure that consumers are capable of repaying
4 the resulting debt, and in a manner which may en-
5 courage certain consumers to accumulate additional
6 debt; and

7 (2) resulting consumer debt may increasingly be
8 a major contributing factor to consumer insolvency.

9 (b) STUDY REQUIRED.—The Board of Governors of
10 the Federal Reserve System (hereafter in this section re-
11 ferred to as the “Board”) shall conduct a study of—

12 (1) consumer credit industry practices of solici-
13 tating and extending credit—

14 (A) indiscriminately;

15 (B) without taking steps to ensure that
16 consumers are capable of repaying the resulting
17 debt; and

18 (C) in a manner that encourages con-
19 sumers to accumulate additional debt; and

20 (2) the effects of such practices on consumer
21 debt and insolvency.

22 (c) REPORT AND REGULATIONS.—Not later than 12
23 months after the date of enactment of this Act, the
24 Board—

1 (1) shall make public a report on its findings
2 with respect to the indiscriminate solicitation and
3 extension of credit by the credit industry;

4 (2) may issue regulations that would require
5 additional disclosures to consumers; and

6 (3) may take any other actions, consistent with
7 its existing statutory authority, that the Board finds
8 necessary to ensure responsible industrywide prac-
9 tices and to prevent resulting consumer debt and in-
10 solvency.

11 **SEC. 1239. PROPERTY NO LONGER SUBJECT TO REDEMP-**
12 **TION.**

13 Section 541(b) of title 11 of the United States Code
14 is amended by adding at the end the following:

15 “(6) any interest of the debtor in property
16 where the debtor pledged or sold tangible personal
17 property (other than securities or written or printed
18 evidences of indebtedness or title) as collateral for a
19 loan or advance of money, where—

20 “(A) the tangible personal property is in
21 the possession of the pledgee or transferee;

22 “(B) the debtor has no obligation to repay
23 the money, redeem the collateral, or buy back
24 the property at a stipulated price; and

1 “(C) neither the debtor nor the trustee
2 have exercised any right to redeem provided
3 under the contract or State law, in a timely
4 manner as provided under State law and sec-
5 tion 108(b) of this title.”.

6 **SEC. 1240. AVAILABILITY OF TOLL-FREE ACCESS TO INFOR-**
7 **MATION.**

8 Section 127(b)(11) of the Truth in Lending Act (15
9 U.S.C. 1637(b)), as added by this Act, is amended by add-
10 ing at the end the following:

11 “(K) A creditor that maintains a toll-free tele-
12 phone number for the purpose of providing cus-
13 tomers with the actual number of months that it will
14 take to repay an outstanding balance shall include
15 the following statement on each billing statement:
16 ‘Making only the minimum payment will increase
17 the interest you pay and the time it takes to repay
18 your balance. For more information, call this toll-
19 free number: _____.’.”.

1 **TITLE XIII—GENERAL EFFEC-**
2 **TIVE DATE; APPLICATION OF**
3 **AMENDMENTS**

4 **SEC. 1301. EFFECTIVE DATE; APPLICATION OF AMEND-**
5 **MENTS.**

6 (a) EFFECTIVE DATE.—Except as provided otherwise
7 in this Act, this Act and the amendments made by this
8 Act shall take effect 180 days after the date of enactment
9 of this Act.

10 (b) APPLICATION OF AMENDMENTS.—The amend-
11 ments made by this Act shall not apply with respect to
12 cases commenced under title 11, United States Code, be-
13 fore the effective date of this Act.

14 **TITLE XIV—FINANCIAL INSTITU-**
15 **TIONS INSOLVENCY IM-**
16 **PROVEMENT**

17 **SEC. 1401. SHORT TITLE.**

18 This title may be cited as the “Financial Institutions
19 Insolvency Improvement Act of 2000”.

20 **SEC. 1402. TREATMENT OF CERTAIN AGREEMENTS BY CON-**
21 **SERVATORS OR RECEIVERS OF INSURED DE-**
22 **POSITORY INSTITUTIONS.**

23 (a) DEFINITION OF QUALIFIED FINANCIAL CON-
24 TRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit In-
25 surance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by

1 inserting “, resolution, or order” after “any similar agree-
2 ment that the Corporation determines by regulation”.

3 (b) DEFINITION OF SECURITIES CONTRACT.—Sec-
4 tion 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act
5 (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as fol-
6 lows:

7 “(ii) SECURITIES CONTRACT.—The
8 term ‘securities contract’—

9 “(I) means a contract for the
10 purchase, sale, or loan of a security, a
11 certificate of deposit, a mortgage loan,
12 or any interest in a mortgage loan, a
13 group or index of securities, certifi-
14 cates of deposit, or mortgage loans or
15 interests therein (including any inter-
16 est therein or based on the value
17 thereof) or any option on any of the
18 foregoing, including any option to
19 purchase or sell any such security,
20 certificate of deposit, loan, interest,
21 group or index, or option;

22 “(II) does not include any pur-
23 chase, sale, or repurchase obligation
24 under a participation in a commercial
25 mortgage loan unless the Corporation

1 determines by regulation, resolution,
2 or order to include any such agree-
3 ment within the meaning of such
4 term;

5 “(III) means any option entered
6 into on a national securities exchange
7 relating to foreign currencies;

8 “(IV) means the guarantee by or
9 to any securities clearing agency of
10 any settlement of cash, securities, cer-
11 tificates of deposit, mortgage loans or
12 interests therein, group or index of se-
13 curities, certificates of deposit, or
14 mortgage loans or interests therein
15 (including any interest therein or
16 based on the value thereof) or option
17 on any of the foregoing, including any
18 option to purchase or sell any such se-
19 curity, certificate of deposit, loan, in-
20 terest, group or index or option;

21 “(V) means any margin loan;

22 “(VI) means any other agree-
23 ment or transaction that is similar to
24 any agreement or transaction referred

1 to in this clause (other than subclause
2 (II));

3 “(VII) means any combination of
4 the agreements or transactions re-
5 ferred to in this clause (other than
6 subclause (II));

7 “(VIII) means any option to
8 enter into any agreement or trans-
9 action referred to in this clause (other
10 than subclause (II));

11 “(IX) means a master agreement
12 that provides for an agreement or
13 transaction referred to in subclause
14 (I), (III), (IV), (V), (VI), (VII), or
15 (VIII), together with all supplements
16 to any such master agreement, with-
17 out regard to whether the master
18 agreement provides for an agreement
19 or transaction that is not a securities
20 contract under this clause, except that
21 the master agreement shall be consid-
22 ered to be a securities contract under
23 this clause only with respect to each
24 agreement or transaction under the
25 master agreement that is referred to

1 in subclause (I), (III), (IV), (V), (VI),
2 (VII), or (VIII); and

3 “(X) means any security agree-
4 ment or arrangement or other credit
5 enhancement related to any agree-
6 ment or transaction referred to in this
7 clause (other than subclause (II)).”.

8 (e) DEFINITION OF COMMODITY CONTRACT.—Sec-
9 tion 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act
10 (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as fol-
11 lows:

12 “(iii) COMMODITY CONTRACT.—The
13 term ‘commodity contract’ means—

14 “(I) with respect to a futures
15 commission merchant, a contract for
16 the purchase or sale of a commodity
17 for future delivery on, or subject to
18 the rules of, a contract market or
19 board of trade;

20 “(II) with respect to a foreign fu-
21 tures commission merchant, a foreign
22 future;

23 “(III) with respect to a leverage
24 transaction merchant, a leverage
25 transaction;

1 “(IV) with respect to a clearing
2 organization, a contract for the pur-
3 chase or sale of a commodity for fu-
4 ture delivery on, or subject to the
5 rules of, a contract market or board
6 of trade that is cleared by such clear-
7 ing organization, or commodity option
8 traded on, or subject to the rules of,
9 a contract market or board of trade
10 that is cleared by such clearing orga-
11 nization;

12 “(V) with respect to a commodity
13 options dealer, a commodity option;

14 “(VI) any other agreement or
15 transaction that is similar to any
16 agreement or transaction referred to
17 in this clause;

18 “(VII) any combination of the
19 agreements or transactions referred to
20 in this clause;

21 “(VIII) any option to enter into
22 any agreement or transaction referred
23 to in this clause;

24 “(IX) a master agreement that
25 provides for an agreement or trans-

1 action referred to in subclause (I),
2 (II), (III), (IV), (V), (VI), (VII), or
3 (VIII), together with all supplements
4 to any such master agreement, with-
5 out regard to whether the master
6 agreement provides for an agreement
7 or transaction that is not a com-
8 modity contract under this clause, ex-
9 cept that the master agreement shall
10 be considered to be a commodity con-
11 tract under this clause only with re-
12 spect to each agreement or trans-
13 action under the master agreement
14 that is referred to in subclause (I),
15 (II), (III), (IV), (V), (VI), (VII), or
16 (VIII); or

17 “(X) a security agreement or ar-
18 rangement or other credit enhance-
19 ment related to any agreement or
20 transaction referred to in this
21 clause.”.

22 (d) DEFINITION OF FORWARD CONTRACT.—Section
23 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
24 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

1 “(iv) FORWARD CONTRACT.—The
2 term ‘forward contract’ means—

3 “(I) a contract (other than a
4 commodity contract) for the purchase,
5 sale, or transfer of a commodity or
6 any similar good, article, service,
7 right, or interest which is presently or
8 in the future becomes the subject of
9 dealing in the forward contract trade,
10 or product or byproduct thereof, with
11 a maturity date that is more than 2
12 days after the date on which the con-
13 tract is entered into, including a re-
14 purchase agreement, reverse repur-
15 chase agreement, consignment, lease,
16 swap, hedge transaction, deposit, loan,
17 option, allocated transaction,
18 unallocated transaction, or any other
19 similar agreement;

20 “(II) any combination of agree-
21 ments or transactions referred to in
22 subclauses (I) and (III);

23 “(III) any option to enter into
24 any agreement or transaction referred
25 to in subclause (I) or (II);

1 “(IV) a master agreement that
2 provides for an agreement or trans-
3 action referred to in subclauses (I),
4 (II), or (III), together with all supple-
5 ments to any such master agreement,
6 without regard to whether the master
7 agreement provides for an agreement
8 or transaction that is not a forward
9 contract under this clause, except that
10 the master agreement shall be consid-
11 ered to be a forward contract under
12 this clause only with respect to each
13 agreement or transaction under the
14 master agreement that is referred to
15 in subclause (I), (II), or (III); or

16 “(V) a security agreement or ar-
17 rangement or other credit enhance-
18 ment related to any agreement or
19 transaction referred to in subclause
20 (I), (II), (III), or (IV).”.

21 (e) DEFINITION OF REPURCHASE AGREEMENT AND
22 REVERSE REPURCHASE AGREEMENT.—Section
23 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12
24 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

1 “(v) REPURCHASE AGREEMENT; RE-
2 VERSE REPURCHASE AGREEMENT.—The
3 terms ‘repurchase agreement’ and ‘reverse
4 repurchase agreement’—

5 “(I) mean an agreement, includ-
6 ing related terms, which provides for
7 the transfer of 1 or more certificates
8 of deposit, mortgage-related securities
9 (as such term is defined in the Securi-
10 ties Exchange Act of 1934), mortgage
11 loans, interests in mortgage-related
12 securities or mortgage loans, eligible
13 bankers’ acceptances, qualified foreign
14 government securities or securities
15 that are direct obligations of, or that
16 are fully guaranteed by, the United
17 States or any agency of the United
18 States against the transfer of funds
19 by the transferee of such certificates
20 of deposit, eligible bankers’ accept-
21 ances, securities, loans, or interests
22 with a simultaneous agreement by
23 such transferee to transfer to the
24 transferor thereof certificates of de-
25 posit, eligible bankers’ acceptances,

1 securities, loans, or interests as de-
2 scribed in this subclause, at a date
3 certain that is not later than 1 year
4 after the date of such transfers or on
5 demand, against the transfer of funds,
6 or any other similar agreement;

7 “(II) does not include any repur-
8 chase obligation under a participation
9 in a commercial mortgage loan unless
10 the Corporation determines by regula-
11 tion, resolution, or order to include
12 any such participation within the
13 meaning of such term;

14 “(III) means any combination of
15 agreements or transactions referred to
16 in subclauses (I) and (IV);

17 “(IV) means any option to enter
18 into any agreement or transaction re-
19 ferred to in subclause (I) or (III);

20 “(V) means a master agreement
21 that provides for an agreement or
22 transaction referred to in subclause
23 (I), (III), or (IV), together with all
24 supplements to any such master
25 agreement, without regard to whether

1 the master agreement provides for an
2 agreement or transaction that is not a
3 repurchase agreement under this
4 clause, except that the master agree-
5 ment shall be considered to be a re-
6 purchase agreement under this sub-
7 clause only with respect to each agree-
8 ment or transaction under the master
9 agreement that is referred to in sub-
10 clause (I), (III), or (IV); and

11 “(VI) means a security agree-
12 ment or arrangement or other credit
13 enhancement related to any agree-
14 ment or transaction referred to in
15 subclause (I), (III), (IV), or (V).

16 For purposes of this clause, the term
17 ‘qualified foreign government security’
18 means a security that is a direct obligation
19 of, or that is fully guaranteed by, the cen-
20 tral government of a member of the Orga-
21 nization for Economic Cooperation and
22 Development (as determined by regulation
23 or order adopted by the appropriate Fed-
24 eral banking authority).”.

1 (f) DEFINITION OF SWAP AGREEMENT.—The Fed-
2 eral Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi))
3 is amended to read as follows:

4 “(vi) SWAP AGREEMENT.—The term
5 ‘swap agreement’—

6 “(I) means any agreement, in-
7 cluding the terms and conditions in-
8 corporated by reference in any such
9 agreement, that is—

10 “(aa) an interest rate swap,
11 option, future, or forward agree-
12 ment, including a rate floor, rate
13 cap, rate collar, cross-currency
14 rate swap, and basis swap;

15 “(bb) a spot, same day-to-
16 morrow, tomorrow-next, forward,
17 or other foreign exchange or pre-
18 cious metals agreement;

19 “(cc) a currency swap, op-
20 tion, future, or forward agree-
21 ment;

22 “(dd) an equity index or eq-
23 uity swap, option, future, or for-
24 ward agreement;

1 “(ee) a debt index or debt
2 swap, option, future, or forward
3 agreement;

4 “(ff) a credit spread or cred-
5 it swap, option, future, or for-
6 ward agreement; or

7 “(gg) a commodity index or
8 commodity swap, option, future,
9 or forward agreement;

10 “(II) means any agreement or
11 transaction that is similar to any
12 other agreement or transaction re-
13 ferred to in this clause, that is pres-
14 ently, or in the future becomes, regu-
15 larly entered into in the swap market
16 (including terms and conditions incor-
17 porated by reference in such agree-
18 ment), and that is a forward, swap,
19 future, or option on 1 or more rates,
20 currencies, commodities, equity securi-
21 ties or other equity instruments, debt
22 securities or other debt instruments,
23 or economic indices or measures of
24 economic risk or value;

1 “(III) means any combination of
2 agreements or transactions referred to
3 in this clause;

4 “(IV) means any option to enter
5 into any agreement or transaction re-
6 ferred to in this clause;

7 “(V) means a master agreement
8 that provides for an agreement or
9 transaction referred to in subclause
10 (I), (II), (III), or (IV), together with
11 all supplements to any such master
12 agreement, without regard to whether
13 the master agreement contains an
14 agreement or transaction that is not a
15 swap agreement under this clause, ex-
16 cept that the master agreement shall
17 be considered to be a swap agreement
18 under this clause only with respect to
19 each agreement or transaction under
20 the master agreement that is referred
21 to in subclause (I), (II), (III), or (IV);

22 “(VI) means any security agree-
23 ment or arrangement or other credit
24 enhancement related to any agree-
25 ments or transactions referred to in

1 subparagraph (I), (II), (III), or (IV);
2 and

3 “(VII) is applicable for purposes
4 of this Act only, and shall not be con-
5 strued or applied so as to challenge or
6 affect the characterization, definition,
7 or treatment of any swap agreement
8 under any other statute, regulation, or
9 rule, including the Securities Act of
10 1933, the Securities Exchange Act of
11 1934, the Public Utility Holding Com-
12 pany Act of 1935, the Trust Inden-
13 ture Act of 1939, the Investment
14 Company Act of 1940, the Investment
15 Advisers Act of 1940, the Securities
16 Investor Protection Act of 1970, the
17 Commodity Exchange Act, and the
18 regulations promulgated by the Secu-
19 rities and Exchange Commission or
20 the Commodity Futures Trading
21 Commission.”.

22 (g) DEFINITION OF TRANSFER.—Section
23 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12
24 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

1 “(viii) TRANSFER.—The term ‘trans-
2 fer’ means every mode, direct or indirect,
3 absolute or conditional, voluntary or invol-
4 untary, of disposing of or parting with
5 property or with an interest in property,
6 including retention of title as a security in-
7 terest and foreclosure of the depository
8 institutions’s equity of redemption.”.

9 (h) TREATMENT OF QUALIFIED FINANCIAL CON-
10 TRACTS.—Section 11(e)(8) of the Federal Deposit Insur-
11 ance Act (12 U.S.C. 1821(e)(8)) is amended—

12 (1) in subparagraph (A), by striking “para-
13 graph (10)” and inserting “paragraphs (9) and
14 (10)”;

15 (2) in subparagraph (A)(i), by striking “to
16 cause the termination or liquidation” and inserting
17 “such person has to cause the termination, liquida-
18 tion, or acceleration”;

19 (3) by striking clause (ii) of subparagraph (A)
20 and inserting the following:

21 “(ii) any right under any security
22 agreement or arrangement or other credit
23 enhancement related to 1 or more qualified
24 financial contracts described in clause (i);
25 or”; and

1 (4) by striking clause (ii) of subparagraph (E)
2 and inserting the following:

3 “(ii) any right under any security
4 agreement or arrangement or other credit
5 enhancement related to 1 or more qualified
6 financial contracts described in clause (i);
7 or”.

8 (i) AVOIDANCE OF TRANSFERS.—Section
9 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12
10 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section
11 5242 of the Revised Statutes (12 U.S.C. 91), or any other
12 Federal or State law relating to the avoidance of pref-
13 erential or fraudulent transfers,” before “the Corpora-
14 tion”.

15 **SEC. 1403. AUTHORITY OF THE CORPORATION WITH RE-**
16 **SPECT TO FAILED AND FAILING INSTITU-**
17 **TIONS.**

18 (a) IN GENERAL.—Section 11(e)(8) of the Federal
19 Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is
20 amended—

21 (1) in subparagraph (E), by striking “other
22 than paragraph (12) of this subsection, subsection
23 (d)(9)” and inserting “other than subsections (d)(9)
24 and (e)(10)”; and

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

1 “(F) CLARIFICATION.—No provision of law
2 shall be construed as limiting the right or
3 power of the Corporation, or authorizing any
4 court or agency to limit or delay, in any man-
5 ner, the right or power of the Corporation to
6 transfer any qualified financial contract in ac-
7 cordance with paragraphs (9) and (10) or to
8 disaffirm or repudiate any such contract in ac-
9 cordance with subsection (e)(1).

10 “(G) WALKAWAY CLAUSES NOT EFFEC-
11 TIVE.—

12 “(i) IN GENERAL.—Notwithstanding
13 the provisions of subparagraphs (A) and
14 (E), and sections 403 and 404 of the Fed-
15 eral Deposit Insurance Corporation Im-
16 provement Act of 1991, no walkaway
17 clause shall be enforceable in a qualified fi-
18 nancial contract of an insured depository
19 institution in default.

20 “(ii) WALKAWAY CLAUSE DEFINED.—
21 For purposes of this subparagraph, the
22 term ‘walkaway clause’ means a provision
23 in a qualified financial contract that, after
24 calculation of a value of a party’s position
25 or an amount due to or from 1 of the par-

1 nancial contract, the conservator or receiver for
2 such depository institution shall either—

3 “(i) transfer to 1 financial institution,
4 other than a financial institution for which
5 a conservator, receiver, trustee in bank-
6 ruptcy, or other legal custodian has been
7 appointed or which is otherwise the subject
8 of a bankruptcy or insolvency proceeding—

9 “(I) all qualified financial con-
10 tracts between any person or any af-
11 filiate of such person and the deposi-
12 tory institution in default;

13 “(II) all claims of such person or
14 any affiliate of such person against
15 such depository institution under any
16 such contract (other than any claim
17 which, under the terms of any such
18 contract, is subordinated to the claims
19 of general unsecured creditors of such
20 institution);

21 “(III) all claims of such deposi-
22 tory institution against such person or
23 any affiliate of such person under any
24 such contract; and

1 “(IV) all property securing or
2 any other credit enhancement for any
3 contract described in subclause (I) or
4 any claim described in subclause (II)
5 or (III) under any such contract; or

6 “(ii) transfer none of the qualified fi-
7 nancial contracts, claims, property, or
8 other credit enhancement referred to in
9 clause (i) (with respect to such person and
10 any affiliate of such person).

11 “(B) TRANSFER TO FOREIGN BANK, FOR-
12 EIGN FINANCIAL INSTITUTION, OR BRANCH OR
13 AGENCY OF A FOREIGN BANK OR FINANCIAL IN-
14 STITUTION.—In transferring any qualified fi-
15 nancial contract and related claims and prop-
16 erty pursuant to subparagraph (A)(i), the con-
17 servator or receiver for the depository institu-
18 tion shall not make such transfer to a foreign
19 bank, financial institution organized under the
20 laws of a foreign country, or a branch or agency
21 of a foreign bank or financial institution unless,
22 under the law applicable to such bank, financial
23 institution, branch, or agency, to the qualified
24 financial contract, and to any netting contract,
25 any security agreement or arrangement or other

1 credit enhancement related to 1 or more quali-
2 fied financial contracts the contractual rights of
3 the parties to such qualified financial contracts,
4 netting contracts, security agreements, or ar-
5 rangements, or other credit enhancements are
6 enforceable substantially to the same extent as
7 permitted under this section.

8 “(C) TRANSFER OF CONTRACT SUBJECT
9 TO THE RULES OF A CLEARING ORGANIZA-
10 TION.—If a conservator or receiver transfers
11 any qualified financial contract and related
12 claims, property, and credit enhancements pur-
13 suant to subparagraph (A)(i) and such contract
14 is subject to the rules of a clearing organiza-
15 tion, the clearing organization shall not be re-
16 quired to accept the transferee as a member by
17 virtue of the transfer.

18 “(D) DEFINITION.—For purposes of this
19 paragraph, the term ‘financial institution’
20 means a broker or dealer, a depository institu-
21 tion, a futures commission merchant, or any
22 other institution that the Corporation deter-
23 mines, by regulation, to be a financial institu-
24 tion.”.

1 (b) NOTICE TO QUALIFIED FINANCIAL CONTRACT
2 COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal
3 Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is
4 amended by striking the flush material immediately fol-
5 lowing clause (ii) and inserting the following:

6 “the conservator or receiver shall notify any
7 person who is a party to any such contract of
8 such transfer by 5:00 p.m. (eastern time) on
9 the business day following the date of the ap-
10 pointment of the receiver in the case of a re-
11 ceivership, or the business day following such
12 transfer in the case of a conservatorship.”.

13 (c) RIGHTS AGAINST RECEIVER AND TREATMENT OF
14 BRIDGE BANKS.—Section 11(e)(10) of the Federal De-
15 posit Insurance Act (12 U.S.C. 1821(e)(10)) is
16 amended—

17 (1) by redesignating subparagraph (B) as sub-
18 paragraph (D); and

19 (2) by inserting after subparagraph (A) the fol-
20 lowing:

21 “(B) CERTAIN RIGHTS NOT ENFORCE-
22 ABLE.—

23 “(i) RECEIVERSHIP.—A person who is
24 a party to a qualified financial contract
25 with an insured depository institution may

1 not exercise any right such person has to
2 terminate, liquidate, or net such contract
3 under paragraph (8)(A) or section 403 or
4 404 of the Federal Deposit Insurance Cor-
5 poration Improvement Act of 1991, solely
6 by reason of or incidental to the appoint-
7 ment of a receiver for the depository insti-
8 tution (or the insolvency or financial condi-
9 tion of the depository institution for which
10 the receiver has been appointed)—

11 “(I) until 5:00 p.m. (eastern
12 time) on the business day following
13 the date of the appointment of the re-
14 ceiver; or

15 “(II) after the person has re-
16 ceived notice that the contract has
17 been transferred pursuant to para-
18 graph (9)(A).

19 “(ii) CONSERVATORSHIP.—A person
20 who is a party to a qualified financial con-
21 tract with an insured depository institution
22 may not exercise any right such person has
23 to terminate, liquidate, or net such con-
24 tract under paragraph (8)(E) or section
25 403 or 404 of the Federal Deposit Insur-

1 ance Corporation Improvement Act of
2 1991, solely by reason of or incidental to
3 the appointment of a conservator for the
4 depository institution (or the insolvency or
5 financial condition of the depository insti-
6 tution for which the conservator has been
7 appointed).

8 “(iii) NOTICE.—For purposes of this
9 paragraph, the Corporation as receiver or
10 conservator of an insured depository insti-
11 tution shall be deemed to have notified a
12 person who is a party to a qualified finan-
13 cial contract with such depository institu-
14 tion if the Corporation has taken steps
15 reasonably calculated to provide notice to
16 such person by the time specified in sub-
17 paragraph (A).

18 “(C) TREATMENT OF BRIDGE BANKS.—A
19 financial institution for which a conservator, re-
20 ceiver, trustee in bankruptcy, or other legal cus-
21 todian has been appointed or that is otherwise
22 the subject of a bankruptcy or insolvency pro-
23 ceeding for purposes of subsection (e)(9) does
24 not include—

25 “(i) a bridge bank; or

1 “(ii) a depository institution organized
2 by the Corporation, for which a conser-
3 vator is appointed either—

4 “(I) immediately upon the orga-
5 nization of the institution; or

6 “(II) at the time of a purchase
7 and assumption transaction between
8 such institution and the Corporation
9 as receiver for a depository institution
10 in default.”.

11 **SEC. 1405. AMENDMENTS RELATING TO DISAFFIRMANCE**
12 **OR REPUDIATION OF QUALIFIED FINANCIAL**
13 **CONTRACTS.**

14 Section 11(e) of the Federal Deposit Insurance Act
15 (12 U.S.C. 1821(e)) is amended—

16 (1) by redesignating paragraphs (11) through
17 (15) as paragraphs (12) through (16), respectively;

18 (2) in paragraph (8)(C)(i), by striking “(11)”
19 and inserting “(12)”;

20 (3) in paragraph (8)(E), by striking “(12)” and
21 inserting “(13)”;

22 (4) by inserting after paragraph (10) the fol-
23 lowing:

24 “(11) DISAFFIRMANCE OR REPUDIATION OF
25 QUALIFIED FINANCIAL CONTRACTS.—In exercising

1 the right to disaffirm or repudiate with respect to
 2 any qualified financial contract to which an insured
 3 depository institution is a party, the conservator or
 4 receiver for such institution shall either—

5 “(A) disaffirm or repudiate all qualified fi-
 6 nancial contracts between—

7 “(i) any person or any affiliate of
 8 such person; and

9 “(ii) the depository institution in de-
 10 fault; or

11 “(B) disaffirm or repudiate none of the
 12 qualified financial contracts referred to in sub-
 13 paragraph (A) (with respect to such person or
 14 any affiliate of such person).”.

15 **SEC. 1406. CLARIFYING AMENDMENT RELATING TO MAS-**
 16 **TER AGREEMENTS.**

17 Section 11(e)(8)(D)(vii) of the Federal Deposit In-
 18 surance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to
 19 read as follows:

20 “(vii) TREATMENT OF MASTER
 21 AGREEMENT AS 1 AGREEMENT.—Any mas-
 22 ter agreement for any contract or agree-
 23 ment described in any preceding clause of
 24 this subparagraph (or any master agree-
 25 ment for such master agreement or agree-

1 ments), together with all supplements to
2 such master agreement, shall be treated as
3 a single agreement and a single qualified
4 financial contract. If a master agreement
5 contains provisions relating to agreements
6 or transactions that are not themselves
7 qualified financial contracts, the master
8 agreement shall be deemed to be a quali-
9 fied financial contract only with respect to
10 those transactions that are themselves
11 qualified financial contracts.”.

12 **SEC. 1407. FEDERAL DEPOSIT INSURANCE CORPORATION**
13 **IMPROVEMENT ACT OF 1991.**

14 (a) DEFINITIONS.—Section 402 of the Federal De-
15 posit Insurance Corporation Improvement Act of 1991 (12
16 U.S.C. 4402) is amended—

17 (1) in paragraph (6)—

18 (A) by redesignating subparagraphs (B)
19 through (D) as subparagraphs (C) through (E),
20 respectively;

21 (B) by inserting after subparagraph (A)
22 the following:

23 “(B) an uninsured national bank or an un-
24 insured State bank that is a member of the
25 Federal Reserve System, if the national bank or

1 State member bank is not eligible to make ap-
2 plication to become an insured bank under sec-
3 tion 5 of the Federal Deposit Insurance Act;”;
4 and

5 (C) by striking subparagraph (C) (as re-
6 designated) and inserting the following:

7 “(C) a branch or agency of a foreign bank,
8 a foreign bank and any branch or agency of the
9 foreign bank, or the foreign bank that estab-
10 lished the branch or agency, as those terms are
11 defined in section 1(b) of the International
12 Banking Act of 1978;”;

13 (2) in paragraph (11), by inserting before the
14 period “and any other clearing organization with
15 which such clearing organization has a netting con-
16 tract”;

17 (3) in paragraph (14)(A), by striking clause (i)
18 and inserting the following:

19 “(i) means a contract or agreement
20 between 2 or more financial institutions,
21 clearing organizations, or members that
22 provides for netting present or future pay-
23 ment obligations or payment entitlements
24 (including liquidation or closeout values re-
25 lating to such obligations or entitlements)

1 among the parties to the agreement; and”;

2 and

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

4 “(15) PAYMENT.—The term ‘payment’ means a
5 payment of United States dollars, another currency,
6 or a composite currency, and a noncash delivery, in-
7 cluding a payment or delivery to liquidate an
8 unmatured obligation.”.

9 (b) ENFORCEABILITY OF BILATERAL NETTING CON-
10 TRACTS.—Section 403 of the Federal Deposit Insurance
11 Corporation Improvement Act of 1991 (12 U.S.C. 4403)
12 is amended—

13 (1) by striking subsection (a) and inserting the
14 following:

15 “(a) GENERAL RULE.—Notwithstanding any other
16 provision of Federal or State law (other than paragraphs
17 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal
18 Deposit Insurance Act or any order authorized under sec-
19 tion 5(b)(2) of the Securities Investor Protection Act of
20 1970, the covered contractual payment obligations and the
21 covered contractual payment entitlements between any 2
22 financial institutions shall be netted in accordance with,
23 and subject to the conditions of, the terms of any applica-
24 ble netting contract (except as provided in section
25 561(b)(2) of title 11, United States Code).”; and

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

2 “(f) ENFORCEABILITY OF SECURITY AGREE-
3 MENTS.—The provisions of any security agreement or ar-
4 rangement or other credit enhancement related to 1 or
5 more netting contracts between any 2 financial institu-
6 tions shall be enforceable in accordance with their terms
7 (except as provided in section 561(b)(2) of title 11, United
8 States Code) and shall not be stayed, avoided, or otherwise
9 limited by any State or Federal law (other than para-
10 graphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the
11 Federal Deposit Insurance Act and section 5(b)(2) of the
12 Securities Investor Protection Act of 1970).”.

13 (c) ENFORCEABILITY OF CLEARING ORGANIZATION
14 NETTING CONTRACTS.—Section 404 of the Federal De-
15 posit Insurance Corporation Improvement Act of 1991 (12
16 U.S.C. 4404) is amended—

17 (1) by striking subsection (a) and inserting the
18 following:

19 “(a) GENERAL RULE.—Notwithstanding any other
20 provision of Federal or State law (other than paragraphs
21 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal
22 Deposit Insurance Act or any order authorized under sec-
23 tion 5(b)(2) of the Securities Investor Protection Act of
24 1970) the covered contractual payment obligations and the
25 covered contractual payment entitlements of a member of

1 a clearing organization to and from all other members of
2 the clearing organization shall be netted in accordance
3 with, and subject to the conditions of, the terms of any
4 applicable netting contract (except as provided in section
5 561(b)(2) of title 11, United States Code).”; and

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

7 “(h) ENFORCEABILITY OF SECURITY AGREE-
8 MENTS.—The provisions of any security agreement or ar-
9 rangement or other credit enhancement related to 1 or
10 more netting contracts between any 2 members of a clear-
11 ing organization shall be enforceable in accordance with
12 their terms (except as provided in section 561(b)(2) of
13 title 11, United States Code) and shall not be stayed,
14 avoided, or otherwise limited by any State or Federal law
15 (other than paragraphs (8)(E), (8)(F), and (10)(B) of sec-
16 tion 11(e) of the Federal Deposit Insurance Act and sec-
17 tion 5(b)(2) of the Securities Investor Protection Act of
18 1970).”.

19 (d) ENFORCEABILITY OF CONTRACTS WITH UNIN-
20 SURED NATIONAL BANKS AND UNINSURED FEDERAL
21 BRANCHES AND AGENCIES.—The Federal Deposit Insur-
22 ance Corporation Improvement Act of 1991 (12 U.S.C.
23 4401 et seq.) is amended by adding at the end the fol-
24 lowing:

1 **“SEC. 408. TREATMENT OF CONTRACTS WITH UNINSURED**
2 **NATIONAL BANKS AND UNINSURED FEDERAL**
3 **BRANCHES AND AGENCIES.**

4 “(a) IN GENERAL.—Notwithstanding any other pro-
5 vision of law, paragraphs (8), (9), (10), and (11) of section
6 11(e) of the Federal Deposit Insurance Act shall apply
7 to an uninsured national bank or uninsured Federal
8 branch or Federal agency, except that for such purpose—

9 “(1) any reference to the ‘Corporation as re-
10 ceiver’ or ‘the receiver or the Corporation’ shall refer
11 to the receiver of an uninsured national bank or un-
12 insured Federal branch or Federal agency appointed
13 by the Comptroller of the Currency;

14 “(2) any reference to the ‘Corporation’ (other
15 than in section 11(e)(8)(D) of that Act), the ‘Cor-
16 poration, whether acting as such or as conservator
17 or receiver’, a ‘receiver’, or a ‘conservator’ shall refer
18 to the receiver or conservator of an uninsured na-
19 tional bank or uninsured Federal branch or Federal
20 agency appointed by the Comptroller of the Cur-
21 rency; and

22 “(3) any reference to an ‘insured depository in-
23 stitution’ or ‘depository institution’ shall refer to an
24 uninsured national bank or an uninsured Federal
25 branch or Federal agency.

1 “(b) LIABILITY.—The liability of a receiver or conser-
2 vator of an uninsured national bank or uninsured Federal
3 branch or agency shall be determined in the same manner
4 and subject to the same limitations that apply to receivers
5 and conservators of insured depository institutions under
6 section 11(e) of the Federal Deposit Insurance Act.

7 “(c) REGULATORY AUTHORITY.—

8 “(1) IN GENERAL.—The Comptroller of the
9 Currency, in consultation with the Federal Deposit
10 Insurance Corporation, may promulgate regulations
11 to implement this section.

12 “(2) SPECIFIC REQUIREMENT.—In promul-
13 gating regulations to implement this section, the
14 Comptroller of the Currency shall ensure that the
15 regulations generally are consistent with the regula-
16 tions and policies of the Federal Deposit Insurance
17 Corporation adopted pursuant to the Federal De-
18 posit Insurance Act.

19 “(d) DEFINITIONS.—For purposes of this section, the
20 terms ‘Federal branch’, ‘Federal agency’, and ‘foreign
21 bank’ have the same meanings as in section 1(b) of the
22 International Banking Act of 1978.”.

1 **SEC. 1408. RECORDKEEPING REQUIREMENTS.**

2 Section 11(e)(8) of the Federal Deposit Insurance
3 Act (12 U.S.C. 1821(e)(8)) is amended by adding at the
4 end the following:

5 “(H) RECORDKEEPING REQUIREMENTS.—
6 The Corporation, in consultation with the ap-
7 propriate Federal banking agencies, may pre-
8 scribe regulations requiring more detailed rec-
9 ordkeeping with respect to qualified financial
10 contracts (including market valuations) by in-
11 sured depository institutions.”.

12 **SEC. 1409. EXEMPTIONS FROM CONTEMPORANEOUS EXE-**
13 **CUTION REQUIREMENT.**

14 Section 13(e)(2) of the Federal Deposit Insurance
15 Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

16 “(2) EXEMPTIONS FROM CONTEMPORANEOUS
17 EXECUTION REQUIREMENT.—

18 “(A) IN GENERAL.—An agreement de-
19 scribed in subparagraph (B) shall not be
20 deemed to be invalid pursuant to paragraph
21 (1)(B) solely on the basis—

22 “(i) that the agreement was not exe-
23 cuted contemporaneously with the acquisi-
24 tion of the collateral; or

1 “(ii) of any pledge, delivery, or substi-
2 tution of the collateral made in accordance
3 with the agreement.

4 “(B) AGREEMENT DESCRIBED.—An agree-
5 ment is described in this subparagraph if it is
6 an agreement to provide for the lawful
7 collateralization of—

8 “(i) deposits of, or other credit exten-
9 sion by, a Federal, State, or local govern-
10 mental entity, or of any depositor referred
11 to in section 11(a)(2), including an agree-
12 ment to provide collateral in lieu of a sur-
13 ety bond;

14 “(ii) securities deposited under section
15 345(b)(2) of title 11, United States Code;

16 “(iii) extensions of credit, including
17 an overdraft, from a Federal reserve bank
18 or Federal home loan bank; or

19 “(iv) 1 or more qualified financial
20 contracts (as defined in section
21 11(e)(8)(D)).”.

22 **SEC. 1410. SIPC STAY.**

23 Section 5(b)(2) of the Securities Investor Protection
24 Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding
25 at the end the following:

1 “(C) EXCEPTION FROM STAY.—

2 “(i) IN GENERAL.—Notwithstanding
3 section 362 of title 11, United States
4 Code, neither the filing of an application
5 under subsection (a)(3) of this section nor
6 any order or decree obtained by SIPC from
7 the court shall operate as a stay of any
8 contractual right of a creditor to liquidate,
9 terminate, or accelerate a securities con-
10 tract, commodity contract, forward con-
11 tract, repurchase agreement, swap agree-
12 ment, or master netting agreement, each
13 as defined in title 11, United States Code,
14 to offset or net termination values, pay-
15 ment amounts, or other transfer obliga-
16 tions arising under or in connection with 1
17 or more of such contracts or agreements,
18 or to foreclose on any cash collateral
19 pledged by the debtor, whether or not with
20 respect to 1 or more of such contracts or
21 agreements.

22 “(ii) STAYS ON FORECLOSURE.—Not-
23 withstanding clause (i), an application,
24 order, or decree described therein may op-
25 erate as a stay of the foreclosure on securi-

1 ties collateral pledged by the debtor,
2 whether or not with respect to 1 or more
3 of such contracts or agreements, securities
4 sold by the debtor under a repurchase
5 agreement or securities lent under a secu-
6 rities lending agreement.

7 “(iii) DEFINITION.—As used in this
8 section, the term ‘contractual right’
9 includes—

10 “(I) a right set forth in a rule or
11 bylaw of a national securities ex-
12 change, a national securities associa-
13 tion, or a securities clearing agency;

14 “(II) a right set forth in a bylaw
15 of a clearing organization or contract
16 market or in a resolution of the gov-
17 erning board thereof; and

18 “(III) a right, whether or not in
19 writing, arising under common law,
20 under law merchant, or by reason of
21 normal business practice.”.

22 **SEC. 1411. FEDERAL RESERVE COLLATERAL REQUIRE-**
23 **MENTS.**

24 Section 16 of the Federal Reserve Act (12 U.S.C.
25 412) is amended in the third sentence of the second undes-

1 ignated paragraph, by striking “acceptances acquired
2 under section 13 of this Act” and inserting “acceptances
3 acquired under section 10A, 10B, 13, or 13A”.

4 **SEC. 1412. EFFECTIVE DATE; APPLICATION OF AMEND-**
5 **MENTS.**

6 (a) SEVERABILITY.—If any provision of this title or
7 any amendment made by this title, or the application of
8 any such provision or amendment to any person or cir-
9 cumstance, is held to be unconstitutional, the remaining
10 provisions of and amendments made by this title and the
11 application of such other provisions and amendments to
12 any person or circumstance shall not be affected thereby.

13 (b) EFFECTIVE DATE.—This title and the amend-
14 ments made by this title shall take effect on the date of
15 enactment of this Act.

16 (c) APPLICATION OF AMENDMENTS.—The amend-
17 ments made by this title shall apply with respect to cases
18 commenced or appointments made under any Federal or
19 State law after the date of enactment of this Act, but shall
20 not apply with respect to cases commenced or appoint-
21 ments made under any Federal or State law before the
22 date of enactment of this Act.

1 **TITLE XV—METHAMPHETAMINE**
2 **AND OTHER CONTROLLED**
3 **SUBSTANCES**

4 **SEC. 1501. SHORT TITLE.**

5 This title may be cited as the “Methamphetamine
6 Anti-Proliferation Act of 2000”.

7 **Subtitle A—Methamphetamine**
8 **Production, Trafficking, and Abuse**

9 **CHAPTER 1—CRIMINAL PENALTIES**

10 **SEC. 1511. ENHANCED PUNISHMENT OF AMPHETAMINE**
11 **LABORATORY OPERATORS.**

12 (a) AMENDMENT TO FEDERAL SENTENCING GUIDE-
13 LINES.—Pursuant to its authority under section 994(p)
14 of title 28, United States Code, the United States Sen-
15 tencing Commission shall amend the Federal sentencing
16 guidelines in accordance with this section with respect to
17 any offense relating to the manufacture, importation, ex-
18 portation, or trafficking in amphetamine (including an at-
19 tempt or conspiracy to do any of the foregoing) in violation
20 of—

21 (1) the Controlled Substances Act (21 U.S.C.
22 801 et seq.);

23 (2) the Controlled Substances Import and Ex-
24 port Act (21 U.S.C. 951 et seq.); or

1 (3) the Maritime Drug Law Enforcement Act
2 (46 U.S.C. App. 1901 et seq.).

3 (b) GENERAL REQUIREMENT.—In carrying out this
4 section, the United States Sentencing Commission shall,
5 with respect to each offense described in subsection (a)
6 relating to amphetamine—

7 (1) review and amend its guidelines to provide
8 for increased penalties such that those penalties are
9 comparable to the base offense level for meth-
10 amphetamine; and

11 (2) take any other action the Commission con-
12 siders necessary to carry out this subsection.

13 (c) ADDITIONAL REQUIREMENTS.—In carrying out
14 this section, the United States Sentencing Commission
15 shall ensure that the sentencing guidelines for offenders
16 convicted of offenses described in subsection (a) reflect the
17 heinous nature of such offenses, the need for aggressive
18 law enforcement action to fight such offenses, and the ex-
19 tremes dangers associated with unlawful activity involving
20 amphetamines, including—

21 (1) the rapidly growing incidence of amphet-
22 amine abuse and the threat to public safety that
23 such abuse poses;

24 (2) the high risk of amphetamine addiction;

1 (3) the increased risk of violence associated
2 with amphetamine trafficking and abuse; and

3 (4) the recent increase in the illegal importation
4 of amphetamine and precursor chemicals.

5 (d) EMERGENCY AUTHORITY TO SENTENCING COM-
6 MISSION.—The United States Sentencing Commission
7 shall promulgate amendments pursuant to this section as
8 soon as practicable after the date of the enactment of this
9 Act in accordance with the procedure set forth in section
10 21(a) of the Sentencing Act of 1987 (Public Law 100–
11 182), as though the authority under that Act had not ex-
12 pired.

13 **SEC. 1512. ENHANCED PUNISHMENT OF AMPHETAMINE OR**
14 **METHAMPHETAMINE LABORATORY OPERA-**
15 **TORS.**

16 (a) FEDERAL SENTENCING GUIDELINES.—

17 (1) IN GENERAL.—Pursuant to its authority
18 under section 994(p) of title 28, United States Code,
19 the United States Sentencing Commission shall
20 amend the Federal sentencing guidelines in accord-
21 ance with paragraph (2) with respect to any offense
22 relating to the manufacture, attempt to manufac-
23 ture, or conspiracy to manufacture amphetamine or
24 methamphetamine in violation of—

1 (A) the Controlled Substances Act (21
2 U.S.C. 801 et seq.);

3 (B) the Controlled Substances Import and
4 Export Act (21 U.S.C. 951 et seq.); or

5 (C) the Maritime Drug Law Enforcement
6 Act (46 U.S.C. App. 1901 et seq.).

7 (2) REQUIREMENTS.—In carrying out this
8 paragraph, the United States Sentencing Commis-
9 sion shall—

10 (A) if the offense created a substantial risk
11 of harm to human life (other than a life de-
12 scribed in subparagraph (B)) or the environ-
13 ment, increase the base offense level for the
14 offense—

15 (i) by not less than 3 offense levels
16 above the applicable level in effect on the
17 date of the enactment of this Act; or

18 (ii) if the resulting base offense level
19 after an increase under clause (i) would be
20 less than level 27, to not less than level 27;
21 or

22 (B) if the offense created a substantial risk
23 of harm to the life of a minor or incompetent,
24 increase the base offense level for the offense—

1 (i) by not less than 6 offense levels
2 above the applicable level in effect on the
3 date of the enactment of this Act; or

4 (ii) if the resulting base offense level
5 after an increase under clause (i) would be
6 less than level 30, to not less than level 30.

7 (3) EMERGENCY AUTHORITY TO SENTENCING
8 COMMISSION.—The United States Sentencing Com-
9 mission shall promulgate amendments pursuant to
10 this subsection as soon as practicable after the date
11 of enactment of this Act in accordance with the pro-
12 cedure set forth in section 21(a) of the Sentencing
13 Act of 1987 (Public Law 100–182), as though the
14 authority under that Act had not expired.

15 (b) EFFECTIVE DATE.—The amendments made pur-
16 suant to this section shall apply with respect to any of-
17 fense occurring on or after the date that is 60 days after
18 the date of enactment of this Act.

1 **SEC. 1513. MANDATORY RESTITUTION FOR VIOLATIONS OF**
2 **CONTROLLED SUBSTANCES ACT AND CON-**
3 **TROLLED SUBSTANCES IMPORT AND EXPORT**
4 **ACT RELATING TO AMPHETAMINE AND**
5 **METHAMPHETAMINE.**

6 (a) MANDATORY RESTITUTION.—Section 413(q) of
7 the Controlled Substances Act (21 U.S.C. 853(q)) is
8 amended—

9 (1) in the matter preceding paragraph (1), by
10 striking “may” and inserting “shall”;

11 (2) by inserting “amphetamine or” before
12 “methamphetamine” each place it appears;

13 (3) in paragraph (2)—

14 (A) by inserting “, the State or local gov-
15 ernment concerned, or both the United States
16 and the State or local government concerned”
17 after “United States” the first place it appears;
18 and

19 (B) by inserting “or the State or local gov-
20 ernment concerned, as the case may be,” after
21 “United States” the second place it appears;
22 and

23 (4) in paragraph (3), by striking “section 3663
24 of title 18, United States Code” and inserting “sec-
25 tion 3663A of title 18, United States Code”.

1 (b) DEPOSIT OF AMOUNTS IN DEPARTMENT OF JUS-
2 TICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of
3 title 28, United States Code, is amended—

4 (1) by striking “and” at the end of subpara-
5 graph (B);

6 (2) by striking the period at the end of sub-
7 paragraph (C) and inserting “; and”; and

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

9 “(D) all amounts collected—

10 “(i) by the United States pursuant to a re-
11 imbursement order under paragraph (2) of sec-
12 tion 413(q) of the Controlled Substances Act
13 (21 U.S.C. 853(q)); and

14 “(ii) pursuant to a restitution order under
15 paragraph (1) or (3) of section 413(q) of the
16 Controlled Substances Act for injuries to the
17 United States.”.

18 (c) CLARIFICATION OF CERTAIN ORDERS OF RES-
19 TITUTION.—Section 3663(c)(2)(B) of title 18, United
20 States Code, is amended by inserting “which may be”
21 after “the fine”.

22 (d) EXPANSION OF APPLICABILITY OF MANDATORY
23 RESTITUTION.—Section 3663A(c)(1)(A)(ii) of title 18,
24 United States Code, is amended by inserting “or under

1 section 416(a) of the Controlled Substances Act (21
2 U.S.C. 856(a)),” after “under this title,”.

3 (e) TREATMENT OF ILLICIT SUBSTANCE MANUFAC-
4 TURING OPERATIONS AS CRIMES AGAINST PROPERTY.—
5 Section 416 of the Controlled Substances Act (21 U.S.C.
6 856) is amended by adding at the end the following new
7 subsection:

8 “(c) A violation of subsection (a) shall be considered
9 an offense against property for purposes of section
10 3663A(c)(1)(A)(ii) of title 18, United States Code.”.

11 **SEC. 1514. METHAMPHETAMINE PARAPHERNALIA.**

12 Section 422(d) of the Controlled Substances Act (21
13 U.S.C. 863(d)) is amended in the matter preceding para-
14 graph (1) by inserting “methamphetamine,” after
15 “PCP,”.

16 **CHAPTER 2—ENHANCED LAW**

17 **ENFORCEMENT**

18 **SEC. 1521. ENVIRONMENTAL HAZARDS ASSOCIATED WITH**
19 **ILLEGAL MANUFACTURE OF AMPHETAMINE**
20 **AND METHAMPHETAMINE.**

21 (a) USE OF AMOUNTS OR DEPARTMENT OF JUSTICE
22 ASSETS FORFEITURE FUND.—Section 524(c)(1)(E) of
23 title 28, United States Code, is amended—

24 (1) by inserting “(i) for” before “disburse-
25 ments”;

1 (2) by inserting “and” after the semicolon; and

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

3 “(ii) for payment for—

4 “(I) costs incurred by or on behalf of the
5 Department of Justice in connection with the
6 removal, for purposes of Federal forfeiture and
7 disposition, of any hazardous substance or pol-
8 lutant or contaminant associated with the ille-
9 gal manufacture of amphetamine or meth-
10 amphetamine; and

11 “(II) costs incurred by or on behalf of a
12 State or local government in connection with
13 such removal in any case in which such State
14 or local government has assisted in a Federal
15 prosecution relating to amphetamine or meth-
16 amphetamine, to the extent such costs exceed
17 equitable sharing payments made to such State
18 or local government in such case;”.

19 (b) GRANTS UNDER DRUG CONTROL AND SYSTEM
20 IMPROVEMENT GRANT PROGRAM.—Section 501(b)(3) of
21 the Omnibus Crime Control and Safe Streets Act of 1968
22 is amended by inserting before the semicolon the following:
23 “and to remove any hazardous substance or pollutant or
24 contaminant associated with the illegal manufacture of
25 amphetamine or methamphetamine”.

1 (c) AMOUNTS SUPPLEMENT AND NOT SUPPLANT.—

2 (1) ASSETS FORFEITURE FUND.—Any amounts
3 made available from the Department of Justice As-
4 sets Forfeiture Fund in a fiscal year by reason of
5 the amendment made by subsection (a) shall supple-
6 ment, and not supplant, any other amounts made
7 available to the Department of Justice in such fiscal
8 year from other sources for payment of costs de-
9 scribed in section 524(c)(1)(E)(ii) of title 28, United
10 States Code, as so amended.

11 (2) GRANT PROGRAM.—Any amounts made
12 available in a fiscal year under the grant program
13 under section 501(b)(3) of the Omnibus Crime Con-
14 trol and Safe Streets Act of 1968 for the removal
15 of hazardous substances or pollutants or contami-
16 nants associated with the illegal manufacture of am-
17 phetamine or methamphetamine by reason of the
18 amendment made by subsection (b) shall supple-
19 ment, and not supplant, any other amounts made
20 available in such fiscal year from other sources for
21 such removal.

1 **SEC. 1522. REDUCTION IN RETAIL SALES TRANSACTION**
2 **THRESHOLD FOR NON-SAFE HARBOR PROD-**
3 **UCTS CONTAINING PSEUDOEPHEDRINE OR**
4 **PHENLYPROPANOLAMINE.**

5 (a) REDUCTION IN TRANSACTION THRESHOLD.—
6 Section 102(39)(A)(iv)(II) of the Controlled Substances
7 Act (21 U.S.C. 802(39)(A)(iv)(II) is amended—

8 (1) by striking “24 grams” both places it ap-
9 pears and inserting “9 grams”; and

10 (2) by inserting before the semicolon at the end
11 the following: “and sold in package sizes of not more
12 than 3 grams of pseudoephedrine base or 3 grams
13 of phenylpropanolamine base”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall take effect one year after the date of
16 the enactment of this Act.

17 **SEC. 1523. TRAINING FOR DRUG ENFORCEMENT ADMINIS-**
18 **TRATION AND STATE AND LOCAL LAW EN-**
19 **FORCEMENT PERSONNEL RELATING TO**
20 **CLANDESTINE LABORATORIES.**

21 (a) IN GENERAL.—

22 (1) REQUIREMENT.—The Administrator of the
23 Drug Enforcement Administration shall carry out
24 the programs described in subsection (b) with re-
25 spect to the law enforcement personnel of States and
26 localities determined by the Administrator to have

1 significant levels of methamphetamine-related or am-
2 phetamine-related crime or projected by the Admin-
3 istrator to have the potential for such levels of crime
4 in the future.

5 (2) DURATION.—The duration of any program
6 under that subsection may not exceed 3 years.

7 (b) COVERED PROGRAMS.—The programs described
8 in this subsection are as follows:

9 (1) ADVANCED MOBILE CLANDESTINE LABORA-
10 TORY TRAINING TEAMS.—A program of advanced
11 mobile clandestine laboratory training teams, which
12 shall provide information and training to State and
13 local law enforcement personnel in techniques uti-
14 lized in conducting undercover investigations and
15 conspiracy cases, and other information designed to
16 assist in the investigation of the illegal manufac-
17 turing and trafficking of amphetamine and meth-
18 amphetamine.

19 (2) BASIC CLANDESTINE LABORATORY CERTIFI-
20 CATION TRAINING.—A program of basic clandestine
21 laboratory certification training, which shall provide
22 information and training—

23 (A) to Drug Enforcement Administration
24 personnel and State and local law enforcement
25 personnel for purposes of enabling such per-

1 sonnel to meet any certification requirements
2 under law with respect to the handling of
3 wastes created by illegal amphetamine and
4 methamphetamine laboratories; and

5 (B) to State and local law enforcement
6 personnel for purposes of enabling such per-
7 sonnel to provide the information and training
8 covered by subparagraph (A) to other State and
9 local law enforcement personnel.

10 (3) CLANDESTINE LABORATORY RECERTIFI-
11 CATION AND AWARENESS TRAINING.—A program of
12 clandestine laboratory recertification and awareness
13 training, which shall provide information and train-
14 ing to State and local law enforcement personnel for
15 purposes of enabling such personnel to provide recer-
16 tification and awareness training relating to clandes-
17 tine laboratories to additional State and local law
18 enforcement personnel.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated for each of fiscal years
21 2000, 2001, and 2002 amounts as follows:

22 (1) \$1,500,000 to carry out the program de-
23 scribed in subsection (b)(1).

24 (2) \$3,000,000 to carry out the program de-
25 scribed in subsection (b)(2).

1 (3) \$1,000,000 to carry out the program de-
2 scribed in subsection (b)(3).

3 **SEC. 1524. COMBATING METHAMPHETAMINE AND AMPHET-**
4 **AMINE IN HIGH INTENSITY DRUG TRAF-**
5 **FICKING AREAS.**

6 (a) IN GENERAL.—

7 (1) IN GENERAL.—The Director of National
8 Drug Control Policy shall use amounts available
9 under this section to combat the trafficking of meth-
10 amphetamine and amphetamine in areas designated
11 by the Director as high intensity drug trafficking
12 areas.

13 (2) ACTIVITIES.—In meeting the requirement
14 in paragraph (1), the Director shall provide funds
15 for—

16 (A) employing additional Federal law en-
17 forcement personnel, or facilitating the employ-
18 ment of additional State and local law enforce-
19 ment personnel, including agents, investigators,
20 prosecutors, laboratory technicians, chemists,
21 investigative assistants, and drug-prevention
22 specialists; and

23 (B) such other activities as the Director
24 considers appropriate.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section—

3 (1) \$15,000,000 for fiscal year 2000; and

4 (2) such sums as may be necessary for each of
5 fiscal years 2001 through 2004.

6 (c) APPORTIONMENT OF FUNDS.—

7 (1) FACTORS IN APPORTIONMENT.—The Direc-
8 tor shall apportion amounts appropriated for a fiscal
9 year pursuant to the authorization of appropriations
10 in subsection (b) for activities under subsection (a)
11 among and within areas designated by the Director
12 as high intensity drug trafficking areas based on the
13 following factors:

14 (A) The number of methamphetamine
15 manufacturing facilities and amphetamine man-
16 ufacturing facilities discovered by Federal,
17 State, or local law enforcement officials in the
18 previous fiscal year.

19 (B) The number of methamphetamine
20 prosecutions and amphetamine prosecutions in
21 Federal, State, or local courts in the previous
22 fiscal year.

23 (C) The number of methamphetamine ar-
24 rests and amphetamine arrests by Federal,

1 State, or local law enforcement officials in the
2 previous fiscal year.

3 (D) The amounts of methamphetamine,
4 amphetamine, or listed chemicals (as that term
5 is defined in section 102(33) of the Controlled
6 Substances Act (21 U.S.C. 802(33)) seized by
7 Federal, State, or local law enforcement offi-
8 cials in the previous fiscal year.

9 (E) Intelligence and predictive data from
10 the Drug Enforcement Administration and the
11 Department of Health and Human Services
12 showing patterns and trends in abuse, traf-
13 ficking, and transportation in methamphet-
14 amine, amphetamine, and listed chemicals (as
15 that term is so defined).

16 (2) CERTIFICATION.—Before the Director ap-
17 portions any funds under this subsection to a high
18 intensity drug trafficking area, the Director shall
19 certify that the law enforcement entities responsible
20 for clandestine methamphetamine and amphetamine
21 laboratory seizures in that area are providing labora-
22 tory seizure data to the national clandestine labora-
23 tory database at the El Paso Intelligence Center.

24 (d) LIMITATION ON ADMINISTRATIVE COSTS.—Not
25 more than 5 percent of the amount appropriated in a fiscal

1 year pursuant to the authorization of appropriations for
2 that fiscal year in subsection (b) may be available in that
3 fiscal year for administrative costs associated with activi-
4 ties under subsection (a).

5 **SEC. 1525. COMBATING AMPHETAMINE AND METHAMPHET-**
6 **AMINE MANUFACTURING AND TRAFFICKING.**

7 (a) **ACTIVITIES.**—In order to combat the illegal man-
8 ufacturing and trafficking in amphetamine and meth-
9 amphetamine, the Administrator of the Drug Enforcement
10 Administration may—

11 (1) assist State and local law enforcement in
12 small and mid-sized communities in all phases of in-
13 vestigations related to such manufacturing and traf-
14 ficking, including assistance with foreign-language
15 interpretation;

16 (2) staff additional regional enforcement and
17 mobile enforcement teams related to such manufac-
18 turing and trafficking;

19 (3) establish additional resident offices and
20 posts of duty to assist State and local law enforce-
21 ment in rural areas in combating such manufac-
22 turing and trafficking;

23 (4) provide the Special Operations Division of
24 the Administration with additional agents and staff
25 to collect, evaluate, interpret, and disseminate crit-

1 ical intelligence targeting the command and control
2 operations of major amphetamine and methamphet-
3 amine manufacturing and trafficking organizations;

4 (5) enhance the investigative and related func-
5 tions of the Chemical Control Program of the Ad-
6 ministration to implement more fully the provisions
7 of the Comprehensive Methamphetamine Control Act
8 of 1996 (Public Law 104–237);

9 (6) design an effective means of requiring an
10 accurate accounting of the import and export of list
11 I chemicals, and coordinate investigations relating to
12 the diversion of such chemicals;

13 (7) develop a computer infrastructure sufficient
14 to receive, process, analyze, and redistribute time-
15 sensitive enforcement information from suspicious
16 order reporting to field offices of the Administration
17 and other law enforcement and regulatory agencies,
18 including the continuing development of the Sus-
19 picious Order Reporting and Tracking System
20 (SORTS) and the Chemical Transaction Database
21 (CTRANS) of the Administration;

22 (8) establish an education, training, and com-
23 munication process in order to alert the industry to
24 current trends and emerging patterns in the illegal

1 manufacturing of amphetamine and methamphet-
2 amine; and

3 (9) carry out such other activities as the Ad-
4 ministrator considers appropriate.

5 (b) ADDITIONAL POSITIONS AND PERSONNEL.—

6 (1) IN GENERAL.—In carrying out activities
7 under subsection (a), the Administrator may estab-
8 lish in the Administration not more than 50 full-
9 time positions, including not more than 31 special-
10 agent positions, and may appoint personnel to such
11 positions.

12 (2) PARTICULAR POSITIONS.—In carrying out
13 activities under paragraphs (5) through (8) of sub-
14 section (a), the Administrator may establish in the
15 Administration not more than 15 full-time positions,
16 including not more than 10 diversion investigator
17 positions, and may appoint personnel to such posi-
18 tions. Any positions established under this para-
19 graph are in addition to any positions established
20 under paragraph (1).

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated for the Drug Enforce-
23 ment Administration for each fiscal year after fiscal year
24 1999, \$9,500,000 for purposes of carrying out the activi-
25 ties authorized by subsection (a) and employing personnel

1 in positions established under subsection (b), of which
2 \$3,000,000 shall be available for activities under para-
3 graphs (5) through (8) of subsection (a) and employing
4 personnel in positions established under subsection (b)(2).

5 **CHAPTER 3—ABUSE PREVENTION AND**
6 **TREATMENT**

7 **SEC. 1531. EXPANSION OF METHAMPHETAMINE RESEARCH.**

8 Section 464N of the Public Health Service Act (42
9 U.S.C. 2850–2) is amended by adding at the end the fol-
10 lowing:

11 “(c) METHAMPHETAMINE RESEARCH.—

12 “(1) GRANTS OR COOPERATIVE AGREE-
13 MENTS.—The Director of the Institute may make
14 grants or enter into cooperative agreements to ex-
15 pand the current and on-going interdisciplinary re-
16 search and clinical trials with treatment centers of
17 the National Drug Abuse Treatment Clinical Trials
18 Network relating to methamphetamine abuse and
19 addiction and other biomedical, behavioral, and so-
20 cial issues related to methamphetamine abuse and
21 addiction.

22 “(2) USE OF FUNDS.—Amounts made available
23 under a grant or cooperative agreement under para-
24 graph (1) for methamphetamine abuse and addiction

1 may be used for research and clinical trials relating
2 to—

3 “(A) the effects of methamphetamine
4 abuse on the human body, including the brain;

5 “(B) the addictive nature of methamphet-
6 amine and how such effects differ with respect
7 to different individuals;

8 “(C) the connection between methamphet-
9 amine abuse and mental health;

10 “(D) the identification and evaluation of
11 the most effective methods of prevention of
12 methamphetamine abuse and addiction;

13 “(E) the identification and development of
14 the most effective methods of treatment of
15 methamphetamine addiction, including pharma-
16 cological treatments;

17 “(F) risk factors for methamphetamine
18 abuse;

19 “(G) effects of methamphetamine abuse
20 and addiction on pregnant women and their
21 fetuses; and

22 “(H) cultural, social, behavioral, neuro-
23 logical and psychological reasons that individ-
24 uals abuse methamphetamine, or refrain from
25 abusing methamphetamine.

1 “(1) AUTHORITY TO MAKE GRANTS.—The Di-
2 rector of the Center for Substance Abuse Treatment
3 may make grants to States and Indian tribes recog-
4 nized by the United States that have a high rate, or
5 have had a rapid increase, in methamphetamine or
6 amphetamine abuse or addiction in order to permit
7 such States and Indian tribes to expand activities in
8 connection with the treatment of methamphetamine
9 or amphetamine abuser or addiction in the specific
10 geographical areas of such States or Indian tribes,
11 as the case may be, where there is such a rate or
12 has been such an increase.

13 “(2) RECIPIENTS.—Any grants under para-
14 graph (1) shall be directed to the substance abuse
15 directors of the States, and of the appropriate tribal
16 government authorities of the Indian tribes, selected
17 by the Director to receive such grants.

18 “(3) NATURE OF ACTIVITIES.—Any activities
19 under a grant under paragraph (1) shall be based on
20 reliable scientific evidence of their efficacy in the
21 treatment of methamphetamine or amphetamine
22 abuse or addiction.

23 “(b) GEOGRAPHIC DISTRIBUTION.—The Director
24 shall ensure that grants under subsection (a) are distrib-
25 uted equitably among the various regions of the country

1 and among rural, urban, and suburban areas that are af-
2 fected by methamphetamine or amphetamine abuse or ad-
3 diction.

4 “(c) ADDITIONAL ACTIVITIES.—The Director shall—

5 “(1) evaluate the activities supported by grants
6 under subsection (a);

7 “(2) disseminate widely such significant infor-
8 mation derived from the evaluation as the Director
9 considers appropriate to assist States, Indian tribes,
10 and private providers of treatment services for meth-
11 amphetamine or amphetamine abuser or addiction in
12 the treatment of methamphetamine or amphetamine
13 abuse or addiction; and

14 “(3) provide States, Indian tribes, and such
15 providers with technical assistance in connection
16 with the provision of such treatment.

17 “(d) AUTHORIZATION OF APPROPRIATIONS.—

18 “(1) IN GENERAL.—There are authorized to be
19 appropriated to carry out this section \$10,000,000
20 for fiscal year 2000 and such sums as may be nec-
21 essary for each of fiscal years 2001 and 2002.

22 “(2) USE OF CERTAIN FUNDS.—Of the funds
23 appropriated to carry out this section in any fiscal
24 year, the lesser of 5 percent of such funds or

1 \$1,000,000 shall be available to the Director for
2 purposes of carrying out subsection (c).”.

3 **SEC. 1533. EXPANSION OF METHAMPHETAMINE ABUSE**
4 **PREVENTION EFFORTS.**

5 (a) **EXPANSION OF EFFORTS.**—Section 515 of the
6 Public Health Service Act (42 U.S.C. 290bb–21) is
7 amended by adding at the end the following:

8 “(e)(1) The Administrator may make grants to and
9 enter into contracts and cooperative agreements with pub-
10 lic and nonprofit private entities to enable such entities—

11 “(A) to carry out school-based programs con-
12 cerning the dangers of abuse of and addiction to
13 methamphetamine and other illicit drugs, using
14 methods that are effective and science-based, includ-
15 ing initiatives that give students the responsibility to
16 create their own anti-drug abuse education programs
17 for their schools; and

18 “(B) to carry out community-based abuse and
19 addiction prevention programs relating to meth-
20 amphetamine and other illicit drugs that are effec-
21 tive and science-based.

22 “(2) Amounts made available under a grant, contract
23 or cooperative agreement under paragraph (1) shall be
24 used for planning, establishing, or administering preven-

1 tion programs relating to methamphetamine and other il-
2 licit drugs in accordance with paragraph (3).

3 “(3)(A) Amounts provided under this subsection may
4 be used—

5 “(i) to carry out school-based programs that
6 are focused on those districts with high or increasing
7 rates of methamphetamine abuse and addiction and
8 targeted at populations which are most at risk to
9 start abuse of methamphetamine and other illicit
10 drugs;

11 “(ii) to carry out community-based prevention
12 programs that are focused on those populations
13 within the community that are most at-risk for
14 abuse of and addiction to methamphetamine and
15 other illicit drugs;

16 “(iii) to assist local government entities to con-
17 duct appropriate prevention activities relating to
18 methamphetamine and other illicit drugs;

19 “(iv) to train and educate State and local law
20 enforcement officials, prevention and education offi-
21 cials, members of community anti-drug coalitions
22 and parents on the signs of abuse of and addiction
23 to methamphetamine and other illicit drugs, and the
24 options for treatment and prevention;

1 “(v) for planning, administration, and edu-
2 cational activities related to the prevention of abuse
3 of and addiction to methamphetamine and other il-
4 licit drugs;

5 “(vi) for the monitoring and evaluation of pre-
6 vention activities relating to methamphetamine and
7 other illicit drugs, and reporting and disseminating
8 resulting information to the public; and

9 “(vii) for targeted pilot programs with evalua-
10 tion components to encourage innovation and experi-
11 mentation with new methodologies.

12 “(B) The Administrator shall give priority in making
13 grants under this subsection to rural and urban areas that
14 are experiencing a high rate or rapid increases in meth-
15 amphetamine abuse and addiction.

16 “(4)(A) Not less than \$500,000 of the amount avail-
17 able in each fiscal year to carry out this subsection shall
18 be made available to the Administrator, acting in consulta-
19 tion with other Federal agencies, to support and conduct
20 periodic analyses and evaluations of effective prevention
21 programs for abuse of and addiction to methamphetamine
22 and other illicit drugs and the development of appropriate
23 strategies for disseminating information about and imple-
24 menting these programs.

1 “(B) The Administrator shall submit to the commit-
2 tees of Congress referred to in subparagraph (C) an an-
3 nual report with the results of the analyses and evaluation
4 under subparagraph (A).

5 “(C) The committees of Congress referred to in this
6 subparagraph are the following:

7 “(i) The Committees on Health, Education,
8 Labor, and Pensions, the Judiciary, and Appropria-
9 tions of the Senate.

10 “(ii) The Committees on Commerce, the Judici-
11 ary, and Appropriations of the House of Representa-
12 tives.”.

13 (b) **AUTHORIZATION OF APPROPRIATIONS FOR EX-**
14 **PANSION OF ABUSE PREVENTION EFFORTS AND PRACTI-**
15 **TIONER REGISTRATION REQUIREMENTS.**—There is au-
16 thorized to be appropriated to carry out section 515(e) of
17 the Public Health Service Act (as added by subsection (a))
18 and section 303(g)(2) of the Controlled Substances Act
19 (as added by section 18(a) of this Act), \$15,000,000 for
20 fiscal year 2000, and such sums as may be necessary for
21 each succeeding fiscal year.

22 **SEC. 1534. STUDY OF METHAMPHETAMINE TREATMENT.**

23 (a) **STUDY.**—

24 (1) **REQUIREMENT.**—The Secretary of Health
25 and Human Services shall, in consultation with the

1 Institute of Medicine of the National Academy of
2 Sciences, conduct a study on the development of
3 medications for the treatment of addiction to am-
4 phetamine and methamphetamine.

5 (2) REPORT.—Not later than nine months after
6 the date of the enactment of this Act, the Secretary
7 shall submit to the Committees on the Judiciary of
8 the Senate and House of Representatives a report on
9 the results of the study conducted under paragraph
10 (1).

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There
12 are hereby authorized to be appropriated for the Depart-
13 ment of Health and Human Services for fiscal year 2000
14 such sums as may be necessary to meet the requirements
15 of subsection (a).

16 **CHAPTER 4—REPORTS**

17 **SEC. 1541. REPORTS ON CONSUMPTION OF METHAMPHET-** 18 **AMINE AND OTHER ILLICIT DRUGS IN RURAL** 19 **AREAS, METROPOLITAN AREAS, AND CON-** 20 **SOLIDATED METROPOLITAN AREAS.**

21 The Secretary of Health and Human Services shall
22 include in each National Household Survey on Drug
23 Abuse appropriate prevalence data and information on the
24 consumption of methamphetamine and other illicit drugs

1 in rural areas, metropolitan areas, and consolidated met-
2 ropolitan areas.

3 **SEC. 1542. REPORT ON DIVERSION OF ORDINARY OVER-**
4 **THE-COUNTER PSEUDOEPHEDRINE AND**
5 **PHENYLPROPANOLAMINE PRODUCTS.**

6 (a) STUDY.—The Attorney General shall conduct a
7 study of the use of ordinary over-the-counter
8 pseudoephedrine and phenylpropanolamine products in the
9 clandestine production of illicit drugs. Sources of data for
10 the study shall include the following:

11 (1) Information from Federal, State, and local
12 clandestine laboratory seizures and related investiga-
13 tions identifying the source, type, or brand of drug
14 products being utilized and how they were obtained
15 for the illicit production of methamphetamine and
16 amphetamine.

17 (2) Information submitted voluntarily from the
18 pharmaceutical and retail industries involved in the
19 manufacture, distribution, and sale of drug products
20 containing ephedrine, pseudoephedrine, and phenyl-
21 propanolamine, including information on changes in
22 the pattern, volume, or both, of sales of ordinary
23 over-the-counter pseudoephedrine and phenyl-
24 propanolamine products.

25 (b) REPORT.—

1 (1) REQUIREMENT.—Not later than April 1,
2 2001, the Attorney General shall submit to Congress
3 a report on the study conducted under subsection
4 (a).

5 (2) ELEMENTS.—The report shall include—

6 (A) the findings of the Attorney General as
7 a result of the study; and

8 (B) such recommendations on the need to
9 establish additional measures to prevent diver-
10 sion of ordinary over-the-counter
11 pseudoephedrine and phenylpropanolamine
12 (such as a threshold on ordinary over-the-
13 counter pseudoephedrine and phenylpropanola-
14 mine products) as the Attorney General con-
15 siders appropriate.

16 (3) MATTERS CONSIDERED.—In preparing the
17 report, the Attorney General shall consider the com-
18 ments and recommendations of State and local law
19 enforcement and regulatory officials and of rep-
20 resentatives of the industry described in subsection
21 (a)(2).

1 **Subtitle B—Controlled Substances**
2 **Generally**

3 **CHAPTER 1—CRIMINAL MATTERS**

4 **SEC. 1551. ENHANCED PUNISHMENT FOR TRAFFICKING IN**
5 **LIST I CHEMICALS.**

6 (a) AMENDMENTS TO FEDERAL SENTENCING GUIDE-
7 LINES.—Pursuant to its authority under section 994(p)
8 of title 28, United States, the United States Sentencing
9 Commission shall amend the Federal sentencing guidelines
10 in accordance with this section with respect to any viola-
11 tion of paragraph (1) or (2) of section 401(d) of the Con-
12 trolled Substances Act (21 U.S.C. 841(d)) involving a list
13 I chemical and any violation of paragraph (1) or (3) of
14 section 1010(d) of the Controlled Substance Import and
15 Export Act (21 U.S.C. 960(d)) involving a list I chemical.

16 (b) EPHEDRINE, PHENYLPROPANOLAMINE, AND
17 PSEUDOEPHEDRINE.—

18 (1) IN GENERAL.—In carrying this section, the
19 United States Sentencing Commission shall, with re-
20 spect to each offense described in subsection (a) in-
21 volving ephedrine, phenylpropanolamine, or
22 pseudoephedrine (including their salts, optical iso-
23 mers, and salts of optical isomers), review and
24 amend its guidelines to provide for increased pen-
25 alties such that those penalties corresponded to the

1 quantity of controlled substance that could reason-
2 ably have been manufactured using the quantity of
3 ephedrine, phenylpropanolamine, or pseudoephedrine
4 possessed or distributed.

5 (2) CONVERSION RATIOS.—For the purposes of
6 the amendments made by this subsection, the quan-
7 tity of controlled substance that could reasonably
8 have been manufactured shall be determined by
9 using a table of manufacturing conversion ratios for
10 ephedrine, phenylpropanolamine, and
11 pseudoephedrine, which table shall be established by
12 the Sentencing Commission based on scientific, law
13 enforcement, and other data the Sentencing Com-
14 mission considers appropriate.

15 (c) OTHER LIST I CHEMICALS.—In carrying this sec-
16 tion, the United States Sentencing Commission shall, with
17 respect to each offense described in subsection (a) involv-
18 ing any list I chemical other than ephedrine, phenyl-
19 propanolamine, or pseudoephedrine, review and amend its
20 guidelines to provide for increased penalties such that
21 those penalties reflect the dangerous nature of such of-
22 fenses, the need for aggressive law enforcement action to
23 fight such offenses, and the extreme dangers associated
24 with unlawful activity involving methamphetamine and
25 amphetamine, including—

1 (1) the rapidly growing incidence of controlled
2 substance manufacturing;

3 (2) the extreme danger inherent in manufac-
4 turing controlled substances;

5 (3) the threat to public safety posed by manu-
6 facturing controlled substances; and

7 (4) the recent increase in the importation, pos-
8 session, and distribution of list I chemicals for the
9 purpose of manufacturing controlled substances.

10 (d) EMERGENCY AUTHORITY TO SENTENCING COM-
11 MISSION.—The United States Sentencing Commission
12 shall promulgate amendments pursuant to this section as
13 soon as practicable after the date of the enactment of this
14 Act in accordance with the procedure set forth in section
15 21(a) of the Sentencing Act of 1987 (Public Law 100–
16 182), as though the authority under that Act had not ex-
17 pired.

18 **SEC. 1552. MAIL ORDER REQUIREMENTS.**

19 Section 310(b)(3) of the Controlled Substances Act
20 (21 U.S.C. 830(b)(3)) is amended—

21 (1) by redesignating subparagraphs (A) and
22 (B) as subparagraphs (B) and (C), respectively;

23 (2) by inserting before subparagraph (B), as so
24 redesignated, the following new subparagraph (A):

25 “(A) As used in this paragraph:

1 “(i) The term ‘drug product’ means
2 an active ingredient in dosage form that
3 has been approved or otherwise may be
4 lawfully marketed under the Food, Drug,
5 and Cosmetic Act for distribution in the
6 United States.

7 “(ii) The term ‘valid prescription’
8 means a prescription which is issued for a
9 legitimate medical purpose by an individual
10 practitioner licensed by law to administer
11 and prescribe the drugs concerned and act-
12 ing in the usual course of the practitioner’s
13 professional practice.”;

14 (3) in subparagraph (B), as so redesignated, by
15 inserting “or who engages in an export transaction”
16 after “nonregulated person”; and

17 (4) adding at the end the following:

18 “(D) Except as provided in subparagraph
19 (E), the following distributions to a nonregu-
20 lated person, and the following export trans-
21 actions, shall not be subject to the reporting re-
22 quirement in subparagraph (B):

23 “(i) Distributions of sample packages
24 of drug products when such packages con-
25 tain not more than 2 solid dosage units or

1 the equivalent of 2 dosage units in liquid
2 form, not to exceed 10 milliliters of liquid
3 per package, and not more than one pack-
4 age is distributed to an individual or resi-
5 dential address in any 30-day period.

6 “(ii) Distributions of drug products by
7 retail distributors that may not include
8 face-to-face transactions to the extent that
9 such distributions are consistent with the
10 activities authorized for a retail distributor
11 as specified in section 102(46).

12 “(iii) Distributions of drug products
13 to a resident of a long term care facility
14 (as that term is defined in regulations pre-
15 scribed by the Attorney General) or dis-
16 tributions of drug products to a long term
17 care facility for dispensing to or for use by
18 a resident of that facility.

19 “(iv) Distributions of drug products
20 pursuant to a valid prescription.

21 “(v) Exports which have been re-
22 ported to the Attorney General pursuant to
23 section 1004 or 1018 or which are subject
24 to a waiver granted under section
25 1018(e)(2).

1 “(vi) Any quantity, method, or type of
2 distribution or any quantity, method, or
3 type of distribution of a specific listed
4 chemical (including specific formulations or
5 drug products) or of a group of listed
6 chemicals (including specific formulations
7 or drug products) which the Attorney Gen-
8 eral has excluded by regulation from such
9 reporting requirement on the basis that
10 such reporting is not necessary for the en-
11 forcement of this title or title III.

12 “(E) The Attorney General may revoke
13 any or all of the exemptions listed in subpara-
14 graph (D) for an individual regulated person if
15 he finds that drug products distributed by the
16 regulated person are being used in violation of
17 this title or title III. The regulated person shall
18 be notified of the revocation, which will be ef-
19 fective upon receipt by the person of such no-
20 tice, as provided in section 1018(c)(1), and
21 shall have the right to an expedited hearing as
22 provided in section 1018(c)(2).”.

1 **SEC. 1553. INCREASED PENALTIES FOR DISTRIBUTING**
2 **DRUGS TO MINORS.**

3 Section 418 of the Controlled Substances Act (21
4 U.S.C. 859) is amended—

5 (1) in subsection (a), by striking “one year”
6 and inserting “3 years”; and

7 (2) in subsection (b), by striking “one year”
8 and inserting “5 years”.

9 **SEC. 1554. INCREASED PENALTY FOR DRUG TRAFFICKING**
10 **IN OR NEAR A SCHOOL OR OTHER PRO-**
11 **TECTED LOCATION.**

12 Section 419 of the Controlled Substances Act (21
13 U.S.C. 860) is amended—

14 (1) in subsection (a), by striking “one year”
15 and inserting “3 years”; and

16 (2) in subsection (b), by striking “three years”
17 each place that term appears and inserting “5
18 years”.

19 **SEC. 1555. ADVERTISEMENTS FOR DRUG PARAPHERNALIA**
20 **AND SCHEDULE I CONTROLLED SUBSTANCES.**

21 (a) **DRUG PARAPHERNALIA.**—Subsection (a)(1) of
22 section 422 of the Controlled Substances Act (21 U.S.C.
23 863) is amended by inserting “, directly or indirectly ad-
24 vertise for sale,” after “sell”.

1 (b) DIRECTLY OR INDIRECTLY ADVERTISE FOR SALE
2 DEFINED.—Such section 422 is further amended by add-
3 ing at the end the following new subsection:

4 “(g) In this section, the term ‘directly or indirectly
5 advertise for sale’ means the use of any communication
6 facility (as that term is defined in section 403(b)) to post,
7 publicize, transmit, publish, link to, broadcast, or other-
8 wise advertise any matter (including a telephone number
9 or electronic or mail address) with the intent to facilitate
10 or promote a transaction in.”.

11 (c) SCHEDULE I CONTROLLED SUBSTANCES.—Sec-
12 tion 403(c) of such Act (21 U.S.C. 843(c)) is amended—

13 (1) by inserting “(1)” after “(c)”; and

14 (2) in paragraph (1), as so designated—

15 (A) in the first sentence, by inserting be-
16 fore the period the following: “, or to directly
17 or indirectly advertise for sale (as that term is
18 defined in section 422(g)) any Schedule I con-
19 trolled substance”; and

20 (B) in the second sentence, by striking
21 “term ‘advertisement’” and inserting “term
22 ‘written advertisement’”.

1 **SEC. 1556. THEFT AND TRANSPORTATION OF ANHYDROUS**
2 **AMMONIA FOR PURPOSES OF ILLICIT PRO-**
3 **DUCTION OF CONTROLLED SUBSTANCES.**

4 (a) IN GENERAL.—Part D of the Controlled Sub-
5 stances Act (21 U.S.C. 841 et seq.) is amended by adding
6 at the end the following:

7 “ANHYDROUS AMMONIA

8 “SEC. 423. (a) It is unlawful for any person—

9 “(1) to steal anhydrous ammonia, or

10 “(2) to transport stolen anhydrous ammonia
11 across State lines,

12 knowing, intending, or having reasonable cause to believe
13 that such anhydrous ammonia will be used to manufacture
14 a controlled substance in violation of this part.

15 “(b) Any person who violates subsection (a) shall be
16 imprisoned or fined, or both, in accordance with section
17 403(d) as if such violation were a violation of a provision
18 of section 403.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 for that Act is amended by inserting after the item relat-
21 ing to section 421 the following new items:

“Sec. 422. Drug paraphernalia.

“Sec. 423. Anhydrous ammonia.”.

22 (c) ASSISTANCE FOR CERTAIN RESEARCH.—

23 (1) AGREEMENT.—The Administrator of the
24 Drug Enforcement Administration shall seek to
25 enter into an agreement with Iowa State University

1 in order to permit the University to continue and ex-
2 pand its current research into the development of
3 inert agents that, when added to anhydrous ammo-
4 nia, eliminate the usefulness of anhydrous ammonia
5 as an ingredient in the production of methamphet-
6 amine.

7 (2) REIMBURSABLE PROVISION OF FUNDS.—
8 The agreement under paragraph (1) may provide for
9 the provision to Iowa State University, on a reim-
10 burstable basis, of \$500,000 for purposes the activi-
11 ties specified in that paragraph.

12 (3) AUTHORIZATION OF APPROPRIATIONS.—
13 There is hereby authorized to be appropriated for
14 the Drug Enforcement Administration for fiscal year
15 2000, \$500,000 for purposes of carrying out the
16 agreement under this subsection.

17 **SEC. 1557. CRIMINAL PROHIBITION ON DISTRIBUTION OF**
18 **CERTAIN INFORMATION RELATING TO THE**
19 **MANUFACTURE OF CONTROLLED SUB-**
20 **STANCES.**

21 (a) IN GENERAL.—Part I of title 18, United States
22 Code, is amended by inserting after chapter 21 the fol-
23 lowing new chapter:

1 **“CHAPTER 22—CONTROLLED**
2 **SUBSTANCES**

“Sec.

“421. Distribution of information relating to manufacture of controlled substances.

3 **“§ 421. Distribution of information relating to manu-**
4 **facture of controlled substances**

5 “(a) PROHIBITION ON DISTRIBUTION OF INFORMA-
6 TION RELATING TO MANUFACTURE OF CONTROLLED
7 SUBSTANCES.—

8 “(1) CONTROLLED SUBSTANCE DEFINED.—In
9 this subsection, the term ‘controlled substance’ has
10 the meaning given that term in section 102(6) of the
11 Controlled Substances Act (21 U.S.C. 802(6)).

12 “(2) PROHIBITION.—It shall be unlawful for
13 any person—

14 “(A) to teach or demonstrate the manufac-
15 ture of a controlled substance, or to distribute
16 by any means information pertaining to, in
17 whole or in part, the manufacture of a con-
18 trolled substance, with the intent that the
19 teaching, demonstration, or information be used
20 for, or in furtherance of, an activity that con-
21 stitutes a Federal crime; or

22 “(B) to teach or demonstrate to any per-
23 son the manufacture of a controlled substance,
24 or to distribute to any person, by any means,

1 information pertaining to, in whole or in part,
 2 the manufacture of a controlled substance,
 3 knowing that such person intends to use the
 4 teaching, demonstration, or information for, or
 5 in furtherance of, an activity that constitutes a
 6 Federal crime.

7 “(b) PENALTY.—Any person who violates subsection
 8 (a) shall be fined under this title, imprisoned not more
 9 than 10 years, or both.”.

10 (b) CLERICAL AMENDMENT.—The table of chapters
 11 at the beginning of part I of title 18, United States Code,
 12 is amended by inserting after the item relating to chapter
 13 21 the following new item:

“22. **Controlled Substances** **421**”.

14 **CHAPTER 2—OTHER MATTERS**

15 **SEC. 1561. WAIVER AUTHORITY FOR PHYSICIANS WHO DIS-**
 16 **PENSE OR PRESCRIBE CERTAIN NARCOTIC**
 17 **DRUGS FOR MAINTENANCE TREATMENT OR**
 18 **DETOXIFICATION TREATMENT.**

19 (a) REQUIREMENTS.—Section 303(g) of the Con-
 20 trolled Substances Act (21 U.S.C. 823(g)) is amended—

21 (1) in paragraph (2), by striking “(A) security”
 22 and inserting “(i) security”, and by striking “(B)
 23 the maintenance” and inserting “(ii) the mainte-
 24 nance”;

1 (2) by redesignating paragraphs (1) through

2 (3) as subparagraphs (A) through (C), respectively;

3 (3) by inserting “(1)” after “(g)”;

4 (4) by striking “Practitioners who dispense”

5 and inserting “Except as provided in paragraph (2),

6 practitioners who dispense and prescribe”; and

7 (5) by adding at the end the following:

8 “(2)(A) Subject to subparagraphs (D), the require-
9 ments of paragraph (1) are waived in the case of the dis-

10 pensing or prescribing, by a physician, of narcotic drugs

11 in schedule III, IV, or V, or combinations of such drugs,

12 if the physician meets the conditions specified in subpara-

13 graph (B) and the narcotic drugs or combinations of such

14 drugs meet the conditions specified in subparagraph (C).

15 “(B)(i) For purposes of subparagraph (A), the condi-
16 tions specified in this subparagraph with respect to a phy-

17 sician are that, before dispensing or prescribing narcotic

18 drugs in schedule III, IV, or V, or combinations of such

19 drugs, to patients for maintenance or detoxification treat-

20 ment, the physician submit to the Secretary and the Attor-

21 ney General a notification of the intent of the physician

22 to begin dispensing or prescribing the drugs or combina-

23 tions for such purpose, and that the notification to the

24 Secretary also contain the following certifications by the

25 physician:

1 “(I) The physician—

2 “(aa) is a physician licensed under State
3 law; and

4 “(bb) has training or experience and the
5 ability to treat and manage opiate-dependent
6 patients.

7 “(II) With respect to patients to whom the phy-
8 sician will provide such drugs or combinations of
9 drugs, the physician has the capacity to refer the pa-
10 tients for appropriate counseling and other appro-
11 priate ancillary services.

12 “(III) In any case in which the physician is not
13 in a group practice, the total number of such pa-
14 tients of the physician at any one time will not ex-
15 ceed the applicable number. For purposes of this
16 subclause, the applicable number is 20, except that
17 the Secretary may by regulation change such total
18 number.

19 “(IV) In any case in which the physician is in
20 a group practice, the total number of such patients
21 of the group practice at any one time will not exceed
22 the applicable number. For purposes of this sub-
23 clause, the applicable number is 20, except that the
24 Secretary may by regulation change such total num-
25 ber, and the Secretary for such purposes may by

1 regulation establish different categories on the basis
2 of the number of physicians in a group practice and
3 establish for the various categories different numer-
4 ical limitations on the number of such patients that
5 the group practice may have.

6 “(ii)(I) The Secretary may, in consultation with the
7 Administrator of the Drug Enforcement Administration,
8 the Administrator of the Substance Abuse and Mental
9 Health Services Administration, the Director of the Center
10 for Substance Abuse Treatment, the Director of the Na-
11 tional Institute on Drug Abuse, and the Commissioner of
12 Food and Drugs, issue regulations through notice and
13 comment rulemaking or practice guidelines to implement
14 this paragraph. The regulations or practice guidelines
15 shall address the following:

16 “(aa) Approval of additional credentialing bod-
17 ies and the responsibilities of credentialing bodies.

18 “(bb) Additional exemptions from the require-
19 ments of this paragraph and any regulations under
20 this paragraph.

21 “(II) Nothing in the regulations or practice guide-
22 lines under this clause may authorize any Federal official
23 or employee to exercise supervision or control over the
24 practice of medicine or the manner in which medical serv-
25 ices are provided.

1 “(III)(aa) The Secretary shall issue a Treatment Im-
2 provement Protocol containing best practice guidelines for
3 the treatment and maintenance of opiate-dependent pa-
4 tients. The Secretary shall develop the protocol in con-
5 sultation with the Director of the National Institute on
6 Drug Abuse, the Director of the Center for Substance
7 Abuse Treatment, the Administrator of the Drug Enforce-
8 ment Administration, the Commissioner of Food and
9 Drugs, the Administrator of the Substance Abuse and
10 Mental Health Services Administration, and other sub-
11 stance abuse disorder professionals. The protocol shall be
12 guided by science.

13 “(bb) The protocol shall be issued not later than 120
14 days after the date of the enactment of the Methamphet-
15 amine Anti-Proliferation Act of 2000.

16 “(IV) For purposes of the regulations or practice
17 guidelines under subclause (I), a physician shall have
18 training or experience under clause (i)(I)(bb) if the physi-
19 cian meets one or more of the following conditions:

20 “(aa) The physician is certified in addiction
21 treatment by the American Society of Addiction
22 Medicine, the American Board of Medical Special-
23 ties, the American Osteopathic Academy of Addic-
24 tion Medicine, or any other certified body accredited
25 by the Secretary.

1 “(bb) The physician has been a clinical investi-
2 gator in a clinical trial conducted for purposes of se-
3 curing approval under section 505 of the Federal
4 Food, Drug, and Cosmetic Act (21 U.S.C. 355) or
5 section 351 of the Public Health Service Act (42
6 U.S.C. 262) of a narcotic drug in schedule III, IV,
7 or V for the treatment of addiction, if such approval
8 was granted.

9 “(cc) The physician has completed training
10 (through classroom situations, seminars, professional
11 society meetings, electronic communications, or oth-
12 erwise) provided by the American Society of Addic-
13 tion Medicine, the American Academy of Addiction
14 Psychiatry, the American Osteopathic Academy of
15 Addiction Medicine, the American Medical Associa-
16 tion, the American Osteopathic Association, the
17 American Psychiatric Association, or any other orga-
18 nization that the Secretary determines appropriate
19 for purposes of this item. The curricula may include
20 training in patient need for counseling regarding
21 HIV, Hepatitis C, and other infectious diseases, sub-
22 stance abuse counseling, random drug testing, med-
23 ical evaluation, annual assessment, prenatal care, di-
24 agnosis of addiction, rehabilitation services, con-
25 fidentiality, and other appropriate topics.

1 “(dd) The physician has training or experience
2 in the treatment and management of opiate-depend-
3 ent, which training or experience shall meet such cri-
4 teria as the Secretary may prescribe. Any such cri-
5 teria shall be effective for a period of three years
6 after the effective date of such criteria, but the Sec-
7 retary may extend the effective period of such cri-
8 teria by additional periods of three years for each
9 extension if the Secretary determines that such ex-
10 tension is appropriate for purposes of this item. Any
11 such extension shall go into effect only if the Sec-
12 retary publishes a notice of such extension in the
13 Federal Register during the 30-day period ending on
14 the date of the end of the three-year effective period
15 of such criteria to which such extension will apply.

16 “(ee) The physician is certified in addiction
17 treatment by a State medical licensing board, or an
18 entity accredited by such board, unless the Secretary
19 determines (after an opportunity for a hearing) that
20 the training provided by such board or entity was in-
21 adequate for the treatment and management of opi-
22 ate-dependent patients.

23 “(C) For purposes of subparagraph (A), the condi-
24 tions specified in this subparagraph with respect to nar-

1 cotic drugs in schedule III, IV, or V, or combinations of
2 such drugs, are as follows:

3 “(i) The drugs or combinations of drugs have,
4 under the Federal Food, Drug and Cosmetic Act or
5 section 351 of the Public Health Service Act, been
6 approved for use in maintenance or detoxification
7 treatment.

8 “(ii) The drugs or combinations of drugs have
9 not been the subject of an adverse determination.
10 For purposes of this clause, an adverse determina-
11 tion is a determination published in the Federal
12 Register and made by the Secretary, after consulta-
13 tion with the Attorney General, that experience since
14 the approval of the drug or combinations of drugs
15 has shown that the use of the drugs or combinations
16 of drugs for maintenance or detoxification treatment
17 requires additional standards respecting the quali-
18 fications of physicians to provide such treatment, or
19 requires standards respecting the quantities of the
20 drugs that may be provided for unsupervised use.

21 “(D)(i) A waiver under subparagraph (A) with re-
22 spect to a physician is not in effect unless (in addition
23 to conditions under subparagraphs (B) and (C)) the fol-
24 lowing conditions are met:

1 “(I) The notification under subparagraph (B) is
2 in writing and states the name of the physician.

3 “(II) The notification identifies the registration
4 issued for the physician pursuant to subsection (f).

5 “(III) If the physician is a member of a group
6 practice, the notification states the names of the
7 other physicians in the practice and identifies the
8 registrations issued for the other physicians pursu-
9 ant to subsection (f).

10 “(IV) A period of 45 days has elapsed after the
11 date on which the notification was submitted, and
12 during such period the physician does not receive
13 from the Secretary a written notice that one or more
14 of the conditions specified in subparagraph (B), sub-
15 paragraph (C), or this subparagraph, have not been
16 met.

17 “(ii) The Secretary shall provide to the Attorney Gen-
18 eral such information contained in notifications under sub-
19 paragraph (B) as the Attorney General may request.

20 “(E) If in violation of subparagraph (A) a physician
21 dispenses or prescribes narcotic drugs in schedule III, IV,
22 or V, or combinations of such drugs, for maintenance
23 treatment or detoxification treatment, the Attorney Gen-
24 eral may, for purposes of section 304(a)(4), consider the
25 physician to have committed an act that renders the reg-

1 istration of the physician pursuant to subsection (f) to be
2 inconsistent with the public interest.

3 “(F)(i) Upon determining that a physician meets the
4 conditions specified in subparagraph (B), the Secretary
5 shall notify the physician and the Attorney General.

6 “(ii) Upon receiving notice with respect to a physician
7 under clause (i), the Attorney General shall assign the
8 physician an identification number under this paragraph
9 for inclusion with the physician’s current registration to
10 prescribe narcotics. An identification number assigned a
11 physician under this clause shall be appropriate to pre-
12 serve the confidentiality of a patient prescribed narcotic
13 drugs covered by this paragraph by the physician.

14 “(iii) If the Secretary fails to make a determination
15 described in clause (i) by the end of the 45-day period
16 beginning on the date of the receipt by the Secretary of
17 a notification from a physician under subparagraph (B),
18 the Attorney General shall assign the physician an identi-
19 fication number described in clause (ii) at the end of such
20 period.

21 “(G) In this paragraph:

22 “(i) The term ‘group practice’ has the meaning
23 given such term in section 1877(h)(4) of the Social
24 Security Act.

1 “(ii) The term ‘physician’ has the meaning
2 given such term in section 1861(r) of the Social Se-
3 curity Act.

4 “(H)(i) This paragraph takes effect on the date of
5 the enactment of the Methamphetamine Anti-Proliferation
6 Act of 2000, and remains in effect thereafter except as
7 provided in clause (iii) (relating to a decision by the Sec-
8 retary or the Attorney General that this paragraph should
9 not remain in effect).

10 “(ii) For the purposes relating to clause (iii), the Sec-
11 retary and the Attorney General shall, during the 3-year
12 period beginning on the date of the enactment of the
13 Methamphetamine Anti-Proliferation Act of 2000, make
14 determinations in accordance with the following:

15 “(I)(aa) The Secretary shall—

16 “(aaa) make a determination of whether
17 treatments provided under waivers under sub-
18 paragraph (A) have been effective forms of
19 maintenance treatment and detoxification treat-
20 ment in clinical settings;

21 “(bbb) make a determination regarding
22 whether such waivers have significantly in-
23 creased (relative to the beginning of such pe-
24 riod) the availability of maintenance treatment
25 and detoxification treatment; and

1 “(ccc) make a determination regarding
2 whether such waivers have adverse con-
3 sequences for the public health.

4 “(bb) In making determinations under this sub-
5 clause, the Secretary—

6 “(aaa) may collect data from the practi-
7 tioners for whom waivers under subparagraph
8 (A) are in effect;

9 “(bbb) shall issue appropriate guidelines or
10 regulations (in accordance with procedures for
11 substantive rules under section 553 of title 5,
12 United States Code) specifying the scope of the
13 data that will be required to be provided under
14 this subclause and the means through which the
15 data will be collected; and

16 “(ccc) shall, with respect to collecting such
17 data, comply with applicable provisions of chap-
18 ter 6 of title 5, United States Code (relating to
19 a regulatory flexibility analysis), and of chapter
20 8 of such title (relating to congressional review
21 of agency rulemaking).

22 “(II) The Attorney General shall—

23 “(aa) make a determination of the extent
24 to which there have been violations of the nu-
25 merical limitations established under subpara-

1 graph (B) for the number of individuals to
2 whom a practitioner may provide treatment;
3 and

4 “(bb) make a determination regarding
5 whether waivers under subparagraph (A) have
6 increased (relative to the beginning of such pe-
7 riod) the extent to which narcotic drugs in
8 schedule III, IV, or V, or combinations of such
9 drugs, are being dispensed or prescribed, or
10 possessed, in violation of this Act.

11 “(iii) If, before the expiration of the period specified
12 in clause (ii), the Secretary or the Attorney General pub-
13 lishes in the Federal Register a decision, made on the
14 basis of determinations under such clause, that this para-
15 graph should not remain in effect, this paragraph ceases
16 to be in effect 60 days after the date on which the decision
17 is so published. The Secretary shall, in making any such
18 decision, consult with the Attorney General, and shall, in
19 publishing the decision in the Federal Register, include
20 any comments received from the Attorney General for in-
21 clusion in the publication. The Attorney General shall, in
22 making any such decision, consult with the Secretary, and
23 shall, in publishing the decision in the Federal Register,
24 include any comments received from the Secretary for in-
25 clusion in the publication.

1 “(I) During the 3-year period beginning on the date
2 of the enactment of the Methamphetamine Anti-Prolifera-
3 tion Act of 2000, a State may not preclude a practitioner
4 from dispensing or prescribing narcotic drugs in schedule
5 III, IV, or V, or combinations of such drugs, to patients
6 for maintenance or detoxification treatment in accordance
7 with this paragraph, or the other amendments made by
8 section 22 of that Act, unless, before the expiration of that
9 3-year period, the State enacts a law prohibiting a practi-
10 tioner from dispensing or prescribing such drugs or com-
11 bination of drugs.”.

12 (b) CONFORMING AMENDMENTS.—Section 304 of the
13 Controlled Substances Act (21 U.S.C. 824) is amended—

14 (1) in subsection (a), in the matter following
15 paragraph (5), by striking “section 303(g)” each
16 place the term appears and inserting “section
17 303(g)(1)”; and

18 (2) in subsection (d), by striking “section
19 303(g)” and inserting “section 303(g)(1)”.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
21 hereby authorized to be appropriated for purposes of ac-
22 tivities under section 303(g)(2) of the Controlled Sub-
23 stances Act, as added by subsection (a), amounts as fol-
24 lows:

25 (1) For fiscal year 2000, \$3,000,000.

1 (2) For each fiscal year after fiscal year 2000,
2 such sums as may be necessary for such fiscal year.

3 **Subtitle C—Cocaine Powder**

4 **SEC. 1571. SHORT TITLE.**

5 This subtitle may be cited as the “Powder Cocaine
6 Sentencing Act of 2000”.

7 **SEC. 1572. SENTENCING FOR VIOLATIONS INVOLVING CO-** 8 **CAINE POWDER.**

9 (a) AMENDMENT OF CONTROLLED SUBSTANCES
10 ACT.—

11 (1) LARGE QUANTITIES.—Section
12 401(b)(1)(A)(ii) of the Controlled Substances Act
13 (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking
14 “5 kilograms” and inserting “500 grams”.

15 (2) SMALL QUANTITIES.—Section
16 401(b)(1)(B)(ii) of the Controlled Substances Act
17 (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking
18 “500 grams” and inserting “50 grams”.

19 (b) AMENDMENT OF CONTROLLED SUBSTANCES IM-
20 PORT AND EXPORT ACT.—

21 (1) LARGE QUANTITIES.—Section
22 1010(b)(1)(B) of the Controlled Substances Import
23 and Export Act (21 U.S.C. 960(b)(1)(B)) is amend-
24 ed by striking “5 kilograms” and inserting “500
25 grams”.

1 (2) SMALL QUANTITIES.—Section
2 1010(b)(2)(B) of the Controlled Substances Import
3 and Export Act (21 U.S.C. 960(b)(2)(B)) is amend-
4 ed by striking “500 grams” and inserting “50
5 grams”.

6 (c) AMENDMENT OF SENTENCING GUIDELINES.—
7 Pursuant to section 994 of title 28, United States Code,
8 the United States Sentencing Commission shall amend the
9 Federal sentencing guidelines to reflect the amendments
10 made by this section.

11 **Subtitle D—Education Matters**

12 **SEC. 1581. SAFE SCHOOLS.**

13 (a) AMENDMENTS.—Part F of title XIV of the Ele-
14 mentary and Secondary Education Act of 1965 (20 U.S.C.
15 8921 et seq.) is amended as follows:

16 (1) SHORT TITLE.—Section 14601(a) is amend-
17 ed by replacing “Gun-Free” with “Safe”, and
18 “1994” with “1999”.

19 (2) REQUIREMENTS.—Section 14601(b)(1) is
20 amended by inserting after “determined” the fol-
21 lowing: “to be in possession of felonious quantities
22 of an illegal drug, on school property under the ju-
23 risdiction of, or in a vehicle operated by an employee
24 or agent of, a local educational agency in that State,
25 or”.

1 (3) DEFINITIONS.—Section 14601(b)(4) is
2 amended by replacing “Definition” with “Defini-
3 tions” in the catchline, by replacing “section” in the
4 matter under the catchline with “part”, by redesignig-
5 nating the matter under the catchline after the
6 comma as subparagraph (A), by replacing the period
7 with a semicolon, and by adding new subparagraphs
8 (B), (C), and (D) as follows:

9 “(B) the term ‘illegal drug’ means a con-
10 trolled substance, as defined in section 102(6)
11 of the Controlled Substances Act (21 U.S.C.
12 802(6)), the possession of which is unlawful
13 under the Act (21 U.S.C. 801 et seq.) or under
14 the Controlled Substances Import and Export
15 Act (21 U.S.C. 951 et seq.), but does not mean
16 a controlled substance used pursuant to a valid
17 prescription or as authorized by law; and

18 “(C) the term ‘illegal drug paraphernalia’
19 means drug paraphernalia, as defined in section
20 422(d) of the Controlled Substances Act (21
21 U.S.C. 863(d)), except that the first sentence of
22 that section shall be applied by inserting ‘or
23 under the Controlled Substances Import and
24 Export Act (21 U.S.C. 951 et seq.)’, before the
25 period.

1 “(D) the term ‘felonious quantities of an
2 illegal drug’ means any quantity of an illegal
3 drug—

4 “(i) possession of which quantity
5 would, under Federal, State, or local law,
6 either constitute a felony or indicate an in-
7 tent to distribute; or

8 “(ii) that is possessed with an intent
9 to distribute.”.

10 (4) REPORT TO STATE.—Section
11 14601(d)(2)(C) is amended by inserting “illegal
12 drugs or” before “weapons”.

13 (5) REPEALER.—Section 14601 is amend-
14 ed by striking subsection (f).

15 (6) POLICY REGARDING CRIMINAL JUSTICE
16 SYSTEM REFERRAL.—Section 14602(a) is
17 amended by replacing “served by” with “under
18 the jurisdiction of”, and by inserting after
19 “who” the following: “is in possession of an ille-
20 gal drug, or illegal drug paraphernalia, on
21 school property under the jurisdiction of, or in
22 a vehicle operated by an employee or agent of,
23 such agency, or who”.

24 (7) DATA AND POLICY DISSEMINATION
25 UNDER IDEA.—Section 14603 is amended by

1 inserting “current” before “policy”, by striking
2 “in effect on October 20, 1994”, by striking all
3 the matter after “schools” and inserting a pe-
4 riod thereafter, and by inserting before “engag-
5 ing” the following: “possessing illegal drugs, or
6 illegal drug paraphernalia, on school property,
7 or in vehicles operated by employees or agents
8 of, schools or local educational agencies, or”.

9 (b) COMPLIANCE DATE; REPORTING.—(1) States
10 shall have 2 years from the date of the enactment of this
11 Act to comply with the requirements established in the
12 amendments made by subsection (a).

13 (2) Not later than 3 years after the date of the enact-
14 ment of this Act, the Secretary of Education shall submit
15 to Congress a report on any State that is not in compli-
16 ance with the requirements of this section.

17 (3) Not later than 2 years after the date of the enact-
18 ment of this Act, the Secretary of Education shall submit
19 to Congress a report analyzing the strengths and weak-
20 nesses of approaches regarding the disciplining of children
21 with disabilities.

22 **SEC. 1582. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

23 Subpart 1 of part A of title I of the Elementary and
24 Secondary Education Act of 1965 (20 U.S.C. 6311 et

1 seq.) is amended by inserting after section 1115A of such
2 Act (20 U.S.C. 6316) the following:

3 **“SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL**
4 **CHOICE.**

5 “(a) IN GENERAL.—Notwithstanding any other pro-
6 vision of law, if a student is eligible to be served under
7 section 1115(b), or attends a school eligible for a
8 schoolwide program under section 1114, and becomes a
9 victim of a violent criminal offense, including drug-related
10 violence, while in or on the grounds of a public elementary
11 school or secondary school that the student attends and
12 that receives assistance under this part, then the local edu-
13 cational agency may use funds provided under this part
14 or under any other Federal education program to pay the
15 supplementary costs for such student to attend another
16 school. The agency may use the funds to pay for the sup-
17 plementary costs of such student to attend any other pub-
18 lic or private elementary school or secondary school, in-
19 cluding a religious school, in the same State as the school
20 where the criminal offense occurred, that is selected by
21 the student’s parent. The State educational agency shall
22 determine what actions constitute a violent criminal of-
23 fense for purposes of this section.

24 “(b) SUPPLEMENTARY COSTS.—The supplementary
25 costs referred to in subsection (a) shall not exceed—

1 “(1) in the case of a student for whom funds
2 under this section are used to enable the student to
3 attend a public elementary school or secondary
4 school served by a local educational agency that also
5 serves the school where the violent criminal offense
6 occurred, the costs of supplementary educational
7 services and activities described in section 1114(b)
8 or 1115(c) that are provided to the student;

9 “(2) in the case of a student for whom funds
10 under this section are used to enable the student to
11 attend a public elementary school or secondary
12 school served by a local educational agency that does
13 not serve the school where the violent criminal of-
14 fense occurred but is located in the same State—

15 “(A) the costs of supplementary edu-
16 cational services and activities described in sec-
17 tion 1114(b) or 1115(c) that are provided to
18 the student; and

19 “(B) the reasonable costs of transportation
20 for the student to attend the school selected by
21 the student’s parent; and

22 “(3) in the case of a student for whom funds
23 under this section are used to enable the student to
24 attend a private elementary school or secondary
25 school, including a religious school, the costs of tui-

1 tion, required fees, and the reasonable costs of such
2 transportation.

3 “(c) CONSTRUCTION.—Nothing in this Act or any
4 other Federal law shall be construed to prevent a parent
5 assisted under this section from selecting the public or pri-
6 vate, including religious, elementary school or secondary
7 school that a child of the parent will attend within the
8 State.

9 “(d) CONSIDERATION OF ASSISTANCE.—Subject to
10 subsection (h), assistance made available under this sec-
11 tion that is used to pay the costs for a student to attend
12 a private or religious school shall not be considered to be
13 Federal aid to the school, and the Federal Government
14 shall have no authority to influence or regulate the oper-
15 ations of a private or religious school as a result of assist-
16 ance received under this section.

17 “(e) CONTINUING ELIGIBILITY.—A student assisted
18 under this section shall remain eligible to continue receiv-
19 ing assistance under this section for at least 3 academic
20 years without regard to whether the student is eligible for
21 assistance under section 1114 or 1115(b).

22 “(f) TUITION CHARGES.—Assistance under this sec-
23 tion may not be used to pay tuition or required fees at
24 a private elementary school or secondary school in an
25 amount that is greater than the tuition and required fees

1 paid by students not assisted under this section at such
2 school.

3 “(g) SPECIAL RULE.—Any school receiving assist-
4 ance provided under this section shall comply with title
5 VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et
6 seq.) and not discriminate on the basis race, color, or na-
7 tional origin.

8 “(h) ASSISTANCE; TAXES AND OTHER FEDERAL
9 PROGRAMS.—

10 “(1) ASSISTANCE TO FAMILIES, NOT
11 SCHOOLS.—Assistance provided under this section
12 shall be considered to be aid to families, not schools.
13 Use of such assistance at a school shall not be con-
14 strued to be Federal financial aid or assistance to
15 that school.

16 “(2) TAXES AND DETERMINATIONS OF ELIGI-
17 BILITY FOR OTHER FEDERAL PROGRAMS.—Assist-
18 ance provided under this section to a student shall
19 not be considered to be income of the student or the
20 parent of such student for Federal, State, or local
21 tax purposes or for determining eligibility for any
22 other Federal program.

23 “(i) PART B OF THE INDIVIDUALS WITH DISABIL-
24 ITIES EDUCATION ACT.—Nothing in this section shall be
25 construed to affect the requirements of part B of the Indi-

1 viduals with Disabilities Education Act (20 U.S.C. 1411
2 et seq.).

3 “(j) MAXIMUM AMOUNT.—Notwithstanding any
4 other provision of this section, the amount of assistance
5 provided under this part for a student shall not exceed
6 the per pupil expenditure for elementary or secondary edu-
7 cation, as appropriate, by the local educational agency
8 that serves the school where the criminal offense occurred
9 for the fiscal year preceding the fiscal year for which the
10 determination is made.”.

11 **SEC. 1583. TRANSFER OF REVENUES.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of Federal law, a State, a State educational agency,
14 or a local educational agency may transfer any non-Fed-
15 eral public funds associated with the education of a stu-
16 dent who is a victim of a violent criminal offense while
17 in or on the grounds of a public elementary school or sec-
18 ondary school served by a local educational agency to an-
19 other local educational agency or to a private elementary
20 school or secondary school, including a religious school.

21 (b) DEFINITIONS.—For the purpose of subsection
22 (a), the terms “elementary school”, “secondary school”,
23 “local educational agency”, and “State educational agen-
24 cy” have the meanings given such terms in section 14101

1 of the Elementary and Secondary Education Act of 1965
2 (20 U.S.C. 8801).

3 **Subtitle E—Miscellaneous**

4 **SEC. 1591. NOTICE; CLARIFICATION.**

5 (a) NOTICE OF ISSUANCE.—Section 3103a of title
6 18, United States Code, is amended by adding at the end
7 the following new sentence: “With respect to any issuance
8 under this section or any other provision of law (including
9 section 3117 and any rule), any notice required, or that
10 may be required, to be given may be delayed pursuant to
11 the standards, terms, and conditions set forth in section
12 2705, unless otherwise expressly provided by statute.”.

13 (b) CLARIFICATION.—(1) Section 2(e) of Public Law
14 95–78 (91 Stat. 320) is amended by adding at the end
15 the following:

16 “Subdivision (d) of such rule, as in effect on this date,
17 is amended by inserting ‘tangible’ before ‘property’ each
18 place it occurs.”.

19 (2) The amendment made by paragraph (1) shall
20 take effect on the date of the enactment of this Act.

21 **SEC. 1592. DOMESTIC TERRORISM ASSESSMENT AND RE-**
22 **COVERY.**

23 (a) IN GENERAL.—The Federal Bureau of Investiga-
24 tion shall prepare a study assessing—

1 (1) the threat posed by the Fuerzas Armadas
2 de Liberacion Nacional Puertorriquena (FALN) and
3 Los Macheteros terrorist organizations to the United
4 States and its territories as of July 31, 1999; and

5 (2) what effect the President's offer of clemency
6 to 16 FALN and Los Macheteros members on Au-
7 gust 11, 1999, and the subsequent release of 11 of
8 those members, will have on the threat posed by
9 those terrorist organizations to the United States
10 and its territories.

11 (b) ISSUES EXAMINED.—In conducting and pre-
12 paring the study under subsection (a), the Federal Bureau
13 of Investigation shall address—

14 (1) the threat posed by the FALN and Los
15 Macheteros organizations to law enforcement offi-
16 cers, prosecutors, defense attorneys, witnesses, and
17 judges involved in the prosecution of members of the
18 FALN and Los Macheteros, both in the United
19 States and its territories;

20 (2) the roles played by each the 16 members of-
21 fered clemency by the President on August 11,
22 1999, in the FALN and Los Macheteros organiza-
23 tions;

24 (3) the extent to which the FALN and Los
25 Macheteros organizations are associated with other

1 known terrorist organizations or countries suspected
2 of sponsoring terrorism;

3 (4) the threat posed to the national security in-
4 terests of the United States by the FALN and Los
5 Macheteros organizations;

6 (5) whether the offer of clemency to, or release
7 of, any of the 16 FALN or Los Macheteros members
8 would violate, or be inconsistent with, the United
9 States' obligations under international treaties and
10 agreements governing terrorist activity; and

11 (6) the effect on law enforcement's ability to
12 solve open cases and apprehend fugitives resulting
13 from the offer of clemency to the 16 FALN and Los
14 Macheteros members, without first requiring each of
15 them to provide the government all truthful informa-
16 tion and evidence he or she has concerning open in-
17 vestigations and fugitives associated with the FALN
18 and Los Macheteros organizations.

19 (c) REPORT.—Not later than 30 days after the date
20 of the enactment of this Act, the Federal Bureau of Inves-
21 tigation shall submit to Congress a report on the study
22 conducted under subsection (a).

1 **SEC. 1593. ANTIDRUG MESSAGES ON FEDERAL GOVERN-**
2 **MENT INTERNET WEBSITES.**

3 Not later than 90 days after the date of the enact-
4 ment of this Act, the head of each department, agency,
5 and establishment of the Federal Government shall, in
6 consultation with the Director of the Office of National
7 Drug Control Policy, place antidrug messages on appro-
8 priate Internet websites controlled by such department,
9 agency, or establishment which messages shall, where ap-
10 propriate, contain an electronic hyperlink to the Internet
11 website, if any, of the Office.

12 **SEC. 1594. STATE SCHOOLS.**

13 (a) AMENDMENTS.—Part F of title XIV of the Ele-
14 mentary and Secondary Education Act of 1965 (20 U.S.C.
15 8921 et seq.) is amended as follows:

16 (1) SHORT TITLE.—Section 14601(a) is amend-
17 ed by replacing “Gun-Free” with “Safe”, and
18 “1994” with “1999”.

19 (2) REQUIREMENTS.—Section 14601(b)(1) is
20 amended by inserting after “determined” the fol-
21 lowing: “to be in possession of felonious quantities
22 of an illegal drug, on school property under the ju-
23 risdiction of, or in a vehicle operated by an employee
24 or agent of, a local educational agency in that State,
25 or”.

1 (3) DEFINITIONS.—Section 14601(b)(4) is
2 amended by replacing “Definition” with “Defini-
3 tions” in the catchline, by replacing “section” in the
4 matter under the catchline with “part”, by redesignig-
5 nating the matter under the catchline after the
6 comma as subparagraph (A), by replacing the period
7 with a semicolon, and by adding new subparagraphs
8 (B), (C), and (D) as follows:

9 “(B) The term ‘illegal drug’ means a con-
10 trolled substance, as defined in section 102(6)
11 of the Controlled Substances Act (21 U.S.C.
12 802(6)), the possession of which is unlawful
13 under the Act (21 U.S.C. 801 et seq.) or under
14 the Controlled Substances Import and Export
15 Act (21 U.S.C. 951 et seq.), but does not mean
16 a controlled substance used pursuant to a valid
17 prescription or as authorized by law.

18 “(C) The term ‘illegal drug paraphernalia’
19 means drug paraphernalia, as defined in section
20 422(d) of the Controlled Substances Act (21
21 U.S.C. 863(d)), except that the first sentence of
22 that section shall be applied by inserting ‘or
23 under the Controlled Substances Import and
24 Export Act (21 U.S.C. 951 et seq.)’, before the
25 period.

1 “(D) The term ‘felonious quantities of an
2 illegal drug’ means any quantity of an illegal
3 drug—

4 “(i) possession of which quantity
5 would, under Federal, State, or local law,
6 either constitute a felony or indicate an in-
7 tent to distribute; or

8 “(ii) that is possessed with an intent
9 to distribute.”.

10 (4) REPORT TO STATE.—Section
11 14601(d)(2)(C) is amended by inserting “illegal
12 drugs or” before “weapons”.

13 (5) REPEALER.—Section 14601 is amended by
14 striking subsection (f).

15 (6) POLICY REGARDING CRIMINAL JUSTICE SYS-
16 TEM REFERRAL.—Section 14602(a) is amended by
17 replacing “served by” with “under the jurisdiction
18 of”, and by inserting after “who” the following: “is
19 in possession of an illegal drug, or illegal drug para-
20 phernalia, on school property under the jurisdiction
21 of, or in a vehicle operated by an employee or agent
22 of, such agency, or who”.

23 (7) DATA AND POLICY DISSEMINATION UNDER
24 IDEA.—Section 14603 is amended by inserting “cur-
25 rent” before “policy”, by striking “in effect on Octo-

1 ber 20, 1994”, by striking all the matter after
2 “schools” and inserting a period thereafter, and by
3 inserting before “engaging” the following: “pos-
4 sessing illegal drugs, or illegal drug paraphernalia,
5 on school property, or in vehicles operated by em-
6 ployees or agents of, schools or local educational
7 agencies, or”.

8 (b) COMPLIANCE DATE; REPORTING.—(1) States
9 shall have 2 years from the date of enactment of this Act
10 to comply with the requirements established in the amend-
11 ments made by subsection (a).

12 (2) Not later than 3 years after the date of enactment
13 of this Act, the Secretary of Education shall submit to
14 Congress a report on any State that is not in compliance
15 with the requirements of this part.

16 (3) Not later than 2 years after the date of enactment
17 of this Act, the Secretary of Education shall submit to
18 Congress a report analyzing the strengths and weaknesses
19 of approaches regarding the disciplining of children with
20 disabilities.

21 **SEC. 1595. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

22 Subpart 1 of part A of title I of the Elementary and
23 Secondary Education Act of 1965 (20 U.S.C. 6311 et
24 seq.) is amended by inserting after section 1115A of such
25 Act (20 U.S.C. 6316) the following:

1 **“SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL**
2 **CHOICE.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-
4 vision of law, if a student is eligible to be served under
5 section 1115(b), or attends a school eligible for a
6 schoolwide program under section 1114, and becomes a
7 victim of a violent criminal offense, including drug-related
8 violence, while in or on the grounds of a public elementary
9 school or secondary school that the student attends and
10 that receives assistance under this part, then the local edu-
11 cational agency may use funds provided under this part
12 or under any other Federal education program to pay the
13 supplementary costs for such student to attend another
14 school. The agency may use the funds to pay for the sup-
15 plementary costs of such student to attend any other pub-
16 lic or private elementary school or secondary school, in-
17 cluding a religious school, in the same State as the school
18 where the criminal offense occurred, that is selected by
19 the student’s parent. The State educational agency shall
20 determine what actions constitute a violent criminal of-
21 fense for purposes of this section.

22 “(b) SUPPLEMENTARY COSTS.—The supplementary
23 costs referred to in subsection (a) shall not exceed—

24 “(1) in the case of a student for whom funds
25 under this section are used to enable the student to
26 attend a public elementary school or secondary

1 school served by a local educational agency that also
2 serves the school where the violent criminal offense
3 occurred, the costs of supplementary educational
4 services and activities described in section 1114(b)
5 or 1115(c) that are provided to the student;

6 “(2) in the case of a student for whom funds
7 under this section are used to enable the student to
8 attend a public elementary school or secondary
9 school served by a local educational agency that does
10 not serve the school where the violent criminal of-
11 fense occurred but is located in the same State—

12 “(A) the costs of supplementary edu-
13 cational services and activities described in sec-
14 tion 1114(b) or 1115(c) that are provided to
15 the student; and

16 “(B) the reasonable costs of transportation
17 for the student to attend the school selected by
18 the student’s parent; and

19 “(3) in the case of a student for whom funds
20 under this section are used to enable the student to
21 attend a private elementary school or secondary
22 school, including a religious school, the costs of tui-
23 tion, required fees, and the reasonable costs of such
24 transportation.

1 “(c) CONSTRUCTION.—Nothing in this Act or any
2 other Federal law shall be construed to prevent a parent
3 assisted under this section from selecting the public or pri-
4 vate, including religious, elementary school or secondary
5 school that a child of the parent will attend within the
6 State.

7 “(d) CONSIDERATION OF ASSISTANCE.—Subject to
8 subsection (h), assistance made available under this sec-
9 tion that is used to pay the costs for a student to attend
10 a private or religious school shall not be considered to be
11 Federal aid to the school, and the Federal Government
12 shall have no authority to influence or regulate the oper-
13 ations of a private or religious school as a result of assist-
14 ance received under this section.

15 “(e) CONTINUING ELIGIBILITY.—A student assisted
16 under this section shall remain eligible to continue receiv-
17 ing assistance under this section for at least 3 academic
18 years without regard to whether the student is eligible for
19 assistance under section 1114 or 1115(b).

20 “(f) TUITION CHARGES.—Assistance under this sec-
21 tion may not be used to pay tuition or required fees at
22 a private elementary school or secondary school in an
23 amount that is greater than the tuition and required fees
24 paid by students not assisted under this section at such
25 school.

1 “(g) SPECIAL RULE.—Any school receiving assist-
2 ance provided under this section shall comply with title
3 VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et
4 seq.) and not discriminate on the basis of race, color, or
5 national origin.

6 “(h) ASSISTANCE; TAXES AND OTHER FEDERAL
7 PROGRAMS.—

8 “(1) ASSISTANCE TO FAMILIES, NOT
9 SCHOOLS.—Assistance provided under this section
10 shall be considered to be aid to families, not schools.
11 Use of such assistance at a school shall not be con-
12 strued to be Federal financial aid or assistance to
13 that school.

14 “(2) TAXES AND DETERMINATIONS OF ELIGI-
15 BILITY FOR OTHER FEDERAL PROGRAMS.—Assist-
16 ance provided under this section to a student shall
17 not be considered to be income of the student or the
18 parent of such student for Federal, State, or local
19 tax purposes or for determining eligibility for any
20 other Federal program.

21 “(i) PART B OF THE INDIVIDUALS WITH DISABIL-
22 ITIES EDUCATION ACT.—Nothing in this section shall be
23 construed to affect the requirements of part B of the Indi-
24 viduals with Disabilities Education Act (20 U.S.C. 1411
25 et seq.).

1 “(j) **MAXIMUM AMOUNT.**—Notwithstanding any
2 other provision of this section, the amount of assistance
3 provided under this part for a student shall not exceed
4 the per pupil expenditure for elementary or secondary edu-
5 cation, as appropriate, by the local educational agency
6 that serves the school where the criminal offense occurred
7 for the fiscal year preceding the fiscal year for which the
8 determination is made.”.

9 **SEC. 1596. TRANSFER OF REVENUES.**

10 (a) **IN GENERAL.**—Notwithstanding any other provi-
11 sion of Federal law, a State, a State educational agency,
12 or a local educational agency may transfer any non-Fed-
13 eral public funds associated with the education of a stu-
14 dent who is a victim of a violent criminal offense while
15 in or on the grounds of a public elementary school or sec-
16 ondary school served by a local educational agency to an-
17 other local educational agency or to a private elementary
18 school or secondary school, including a religious school.

19 (b) **DEFINITIONS.**—For the purpose of subsection
20 (a), the terms “elementary school”, “secondary school”,
21 “local educational agency”, and “State educational agen-
22 cy” have the meanings given such terms in section 14101
23 of the Elementary and Secondary Education Act of 1965
24 (20 U.S.C. 8801).

1 **SEC. 1597. INCREASED PENALTIES FOR DISTRIBUTING**
2 **DRUGS TO MINORS.**

3 Section 418 of the Controlled Substances Act (21
4 U.S.C. 859) is amended—

5 (1) in subsection (a), by striking “one year” and
6 inserting “3 years”; and

7 (2) in subsection (b), by striking “one year”
8 and inserting “5 years”.

9 **SEC. 1598. INCREASED PENALTY FOR DRUG TRAFFICKING**
10 **IN OR NEAR A SCHOOL OR OTHER PRO-**
11 **TECTED LOCATION.**

12 Section 419 of the Controlled Substances Act (21
13 U.S.C. 860) is amended—

14 (1) in subsection (a), by striking “one year”
15 and inserting “3 years”; and

16 (2) in subsection (b), by striking “three years”
17 each place that term appears and inserting “5
18 years”.

19 **SEC. 1599. SEVERABILITY.**

20 Any provision of this title held to be invalid or unen-
21 forceable by its terms, or as applied to any person or cir-
22 cumstance, shall be construed as to give the maximum ef-
23 fect permitted by law, unless such provision is held to be
24 utterly invalid or unenforceable, in which event such provi-
25 sion shall be severed from this title and shall not affect
26 the applicability of the remainder of this title, or of such

1 provision, to other persons not similarly situated or to
2 other, dissimilar circumstances.

3 **TITLE XVI—PROTECTION FROM**
4 **THE IMPACT OF BANK-**
5 **RUPTCY OF CERTAIN ELEC-**
6 **TRIC UTILITIES**

7 **SEC. 1601. SHORT TITLE.**

8 This title may be cited as the “Emergency Imported
9 Electric Power Price Reduction Act of 2000”.

10 **SEC. 1602. FINDINGS AND PURPOSES.**

11 (a) FINDINGS.—Congress finds that—

12 (1) the protection of the public health and wel-
13 fare, the preservation of national security, and the
14 regulation of interstate and foreign commerce re-
15 quire that electric power imported into the United
16 States be priced fairly and competitively;

17 (2) the importation of electric power into the
18 United States is a matter vested with the public in-
19 terest that—

20 (A) involves an essential and extensively
21 regulated infrastructure industry; and

22 (B) affects consumers, the cost of goods
23 manufactured and services rendered, and the
24 economic well-being and livelihood of individuals
25 and society;

1 (3) it is essential that imported electric power
2 be priced—

3 (A) in a manner that is competitive with
4 domestic electric power and thereby contribute
5 to robust and sound national and regional
6 economies; and

7 (B) not at a rate that is so high as to re-
8 sult in the imminent bankruptcy of electric util-
9 ities in a State; and

10 (4) the purchase of imported electric power by
11 the Vermont Joint Owners under the Firm Power
12 and Energy Contract with Hydro-Quebec dated De-
13 cember 4, 1987—

14 (A) is not consistent with the findings stat-
15 ed in paragraphs (1), (2), and (3); and

16 (B) threatens the economic well-being of
17 the States and regions in which the imported
18 electric power is provided contrary to the public
19 policy of the United States as set forth in the
20 findings stated in paragraphs (1), (2), and (3).

21 (b) PURPOSES.—The purposes of this title are—

22 (1) to facilitate the public policy of the United
23 States as set forth in the findings stated in para-
24 graphs (1), (2), and (3) of subsection (a);

1 (2) to remove a serious threat to the economic
2 well-being of the States and regions in which im-
3 ported electric power is provided under the contract
4 referred to in section 1802(a)(4); and

5 (3) to facilitate revisions to the price elements
6 of the contract referred to in section 1802(a)(4) by
7 declaring and making unlawful, effective 180 days
8 after the date of enactment of this Act, the contract
9 as it exists on the date of enactment of this Act.

10 **SEC. 1603. UNLAWFUL CONTRACT AND AMENDED CON-**
11 **TRACT.**

12 (a) IN GENERAL.—Effective on the date that is 180
13 days after the date of enactment of this Act, the contract
14 referred to in section 1802(a)(4), as the contract exists
15 on the date of enactment of this Act, shall be void.

16 (b) AMENDMENT OF CONTRACT.—This title does not
17 preclude the parties to the contract referred to in section
18 1802(a)(4) from amending the contract or entering into
19 a new contract after the date of enactment of this Act
20 in a manner that is consistent with the findings and pur-
21 poses of this title.

22 **SEC. 1604. EXCLUSIVE ENFORCEMENT.**

23 (a) IN GENERAL.—Only the Attorney General of a
24 State in which electric power is provided under the con-
25 tract referred to in section 1802(a)(4), as the contract

1 may be amended after the date of enactment of this Act,
 2 may bring a civil action in United States district court
 3 for an order that—

4 (1) declares the amended contract not con-
 5 sistent with the findings and purposes of this title
 6 and is therefore void;

7 (2) enjoins performance of the amended con-
 8 tract; and

9 (3) relieves the electric utilities that are party
 10 to the amended contract of any liability under the
 11 contract.

12 (b) TIMING.—A civil action under subsection (a) shall
 13 be brought not later than 1 year after the date of the
 14 amended contract or new contract.

15 **TITLE XVII—CONSUMER CREDIT** 16 **DISCLOSURE**

17 **SEC. 1701. ENHANCED DISCLOSURES UNDER AN OPEN END** 18 **CREDIT PLAN.**

19 (a) MINIMUM PAYMENT DISCLOSURES.—Section
 20 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b))
 21 is amended by adding at the end the following:

22 “(11)(A) In the case of an open end credit plan
 23 that requires a minimum monthly payment of not
 24 more than 4 percent of the balance on which finance
 25 charges are accruing, the following statement, lo-

1 cated on the front of the billing statement, disclosed
2 clearly and conspicuously, in typeface no smaller
3 than the largest typeface used to make other clear
4 and conspicuous disclosures required under this sub-
5 section: ‘Minimum Payment Warning: Making only
6 the minimum payment will increase the interest you
7 pay and the time it takes to repay your balance. For
8 example, making only the typical 2% minimum
9 monthly payment on a balance of \$1,000 at an in-
10 terest rate of 17% would take 88 months to repay
11 the balance in full. For an estimate of the time it
12 would take to repay your balance, making only min-
13 imum payments, call this toll-free number:
14 _____.’.

15 “(B) In the case of an open end credit plan
16 that requires a minimum monthly payment of more
17 than 4 percent of the balance on which finance
18 charges are accruing, the following statement, in a
19 prominent location on the front of the billing state-
20 ment, disclosed clearly and conspicuously, in type-
21 face no smaller than the largest typeface used to
22 make other clear and conspicuous disclosures re-
23 quired under this subsection: ‘Minimum Payment
24 Warning: Making only the required minimum pay-
25 ment will increase the interest you pay and the time

1 it takes to repay your balance. Making a typical 5%
2 minimum monthly payment on a balance of \$300 at
3 an interest rate of 17% would take 24 months to
4 repay the balance in full. For an estimate of the
5 time it would take to repay your balance, making
6 only minimum monthly payments, call this toll-free
7 number: _____.’.

8 “(C) Notwithstanding subparagraphs (A) and
9 (B), in the case of a creditor with respect to which
10 compliance with this title is enforced by the Federal
11 Trade Commission, the following statement, in a
12 prominent location on the front of the billing state-
13 ment, disclosed clearly and conspicuously, in type-
14 face no smaller than the largest typeface used to
15 make other clear and conspicuous disclosures under
16 this subsection: ‘Minimum Payment Warning: Mak-
17 ing only the required minimum payment will in-
18 crease the interest you pay and the time it takes to
19 repay your balance. For example, making only the
20 typical 5% minimum monthly payment on a balance
21 of \$300 at an interest rate of 17% would take 24
22 months to repay the balance in full. For an estimate
23 of the time it would take to repay your balance,
24 making only minimum monthly payments, call the
25 Federal Trade Commission at this toll-free number:

1 _____.’ A creditor who is subject to this
2 subparagraph shall not be subject to subparagraph
3 (A) or (B).

4 “(D) Notwithstanding subparagraph (A), (B),
5 or (C), in complying with any such subparagraph, a
6 creditor may substitute an example based on an in-
7 terest rate that is greater than 17 percent. Any
8 creditor who is subject to subparagraph (B) may
9 elect to provide the disclosure required under sub-
10 subparagraph (A) in lieu of the disclosure required
11 under subparagraph (B).

12 “(E) The Board shall, by rule, periodically re-
13 calculate, as necessary, the interest rate and repay-
14 ment period under subparagraphs (A), (B), and (C).

15 “(F) The toll-free telephone number disclosed
16 by a creditor or the Federal Trade Commission
17 under subparagraph (A), (B), or (G), as appro-
18 priate, may be a toll-free telephone number estab-
19 lished and maintained by the creditor or the Federal
20 Trade Commission, as appropriate, or may be a toll-
21 free telephone number established and maintained
22 by a third party for use by the creditor or multiple
23 creditors or the Federal Trade Commission, as ap-
24 propriate. The toll-free telephone number may con-
25 nect consumers to an automated device through

1 which consumers may obtain information described
2 in subparagraph (A), (B), or (C), by inputting infor-
3 mation using a touch-tone telephone or similar de-
4 vice, if consumers whose telephones are not equipped
5 to use such automated device are provided the op-
6 portunity to be connected to an individual from
7 whom the information described in subparagraph
8 (A), (B), or (C), as applicable, may be obtained. A
9 person that receives a request for information de-
10 scribed in subparagraph (A), (B), or (C) from an ob-
11 ligor through the toll-free telephone number dis-
12 closed under subparagraph (A), (B), or (C), as ap-
13 plicable, shall disclose in response to such request
14 only the information set forth in the table promul-
15 gated by the Board under subparagraph (H)(i).

16 “(G) The Federal Trade Commission shall es-
17 tablish and maintain a toll-free number for the pur-
18 pose of providing to consumers the information re-
19 quired to be disclosed under subparagraph (C).

20 “(H) The Board shall—

21 “(i) establish a detailed table illustrating
22 the approximate number of months that it
23 would take to repay an outstanding balance if
24 the consumer pays only the required minimum
25 monthly payments and if no other advances are

1 made, which table shall clearly present stand-
2 ardized information to be used to disclose the
3 information required to be disclosed under sub-
4 paragraph (A), (B), or (C), as applicable;

5 “(ii) establish the table required under
6 clause (i) by assuming—

7 “(I) a significant number of different
8 annual percentage rates;

9 “(II) a significant number of different
10 account balances;

11 “(III) a significant number of dif-
12 ferent minimum payment amounts; and

13 “(IV) that only minimum monthly
14 payments are made and no additional ex-
15 tensions of credit are obtained; and

16 “(iii) promulgate regulations that provide
17 instructional guidance regarding the manner in
18 which the information contained in the table es-
19 tablished under clause (i) should be used in re-
20 sponding to the request of an obligor for any
21 information required to be disclosed under sub-
22 paragraph (A), (B), or (C).

23 “(I) The disclosure requirements of this para-
24 graph do not apply to any charge card account, the

1 primary purpose of which is to require payment of
2 charges in full each month.

3 “(J) A creditor that maintains a toll-free tele-
4 phone number for the purpose of providing cus-
5 tomers with the actual number of months that it will
6 take to repay the consumer’s outstanding balance is
7 not subject to the requirements of subparagraphs
8 (A) and (B).”.

9 (b) REGULATORY IMPLEMENTATION.—The Board of
10 Governors of the Federal Reserve System (hereafter in
11 this Act referred to as the “Board”) shall promulgate reg-
12 ulations implementing the requirements of section
13 127(b)(11) of the Truth in Lending Act, as added by sub-
14 section (a) of this section. Section 127(b)(11) of the Truth
15 in Lending Act, as added by subsection (a) of this section,
16 and the regulations issued under this subsection shall not
17 take effect until the later of 18 months after the date of
18 enactment of this Act or 12 months after the publication
19 of such regulations by the Board.

20 (c) STUDY OF FINANCIAL DISCLOSURES.—

21 (1) IN GENERAL.—The Board may conduct a
22 study to determine whether consumers have ade-
23 quate information about borrowing activities that
24 may result in financial problems.

1 (2) FACTORS FOR CONSIDERATION.—In con-
2 ducting a study under paragraph (1), the Board
3 should, in consultation with the other Federal bank-
4 ing agencies (as defined in section 3 of the Federal
5 Deposit Insurance Act), the National Credit Union
6 Administration, and the Federal Trade Commission,
7 consider the extent to which—

8 (A) consumers, in establishing new credit
9 arrangements, are aware of their existing pay-
10 ment obligations, the need to consider those ob-
11 ligations in deciding to take on new credit, and
12 how taking on excessive credit can result in fi-
13 nancial difficulty;

14 (B) minimum periodic payment features
15 offered in connection with open end credit plans
16 impact consumer default rates;

17 (C) consumers make only the minimum
18 payment under open end credit plans;

19 (D) consumers are aware that making only
20 minimum payments will increase the cost and
21 repayment period of an open end credit obliga-
22 tion; and

23 (E) the availability of low minimum pay-
24 ment options is a cause of consumers experi-
25 encing financial difficulty.

1 (3) REPORT TO CONGRESS.—Findings of the
 2 Board in connection with any study conducted under
 3 this subsection shall be submitted to Congress. Such
 4 report shall also include recommendations for legis-
 5 lative initiatives, if any, of the Board, based on its
 6 findings.

7 **SEC. 1702. ENHANCED DISCLOSURE FOR CREDIT EXTEN-**
 8 **SIONS SECURED BY A DWELLING.**

9 (a) OPEN END CREDIT EXTENSIONS.—

10 (1) CREDIT APPLICATIONS.—Section
 11 127A(a)(13) of the Truth in Lending Act (15
 12 U.S.C. 1637a(a)(13)) is amended—

13 (A) by striking “CONSULTATION OF TAX
 14 ADVISOR.—A statement that the” and inserting
 15 the following: “TAX DEDUCTIBILITY.—A state-
 16 ment that—

17 “(A) the”; and

18 (B) by striking the period at the end and
 19 inserting the following: “; and

20 “(B) in any case in which the extension of
 21 credit exceeds the fair market value (as defined
 22 under the Federal Internal Revenue Code) of
 23 the dwelling, the interest on the portion of the
 24 credit extension that is greater than the fair

1 market value of the dwelling is not tax deduct-
2 ible for Federal income tax purposes.”.

3 (2) CREDIT ADVERTISEMENTS.—Section 147(b)
4 of the Truth in Lending Act (15 U.S.C. 1665b(b))
5 is amended—

6 (A) by striking “If any” and inserting the
7 following:

8 “(1) IN GENERAL.—If any”; and

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

10 “(2) CREDIT IN EXCESS OF FAIR MARKET
11 VALUE.—Each advertisement described in subsection
12 (a) that relates to an extension of credit that may
13 exceed the fair market value of the dwelling, and
14 which advertisement is disseminated in paper form
15 to the public or through the Internet, as opposed to
16 by radio or television, shall include a clear and con-
17 spicuous statement that—

18 “(A) the interest on the portion of the
19 credit extension that is greater than the fair
20 market value of the dwelling is not tax deduct-
21 ible for Federal income tax purposes; and

22 “(B) the consumer should consult a tax
23 advisor for further information regarding the
24 deductibility of interest and charges.”.

25 (b) NON-OPEN END CREDIT EXTENSIONS.—

1 (1) CREDIT APPLICATIONS.—Section 128 of the
2 Truth in Lending Act (15 U.S.C. 1638) is
3 amended—

4 (A) in subsection (a), by adding at the end
5 the following:

6 “(15) In the case of a consumer credit trans-
7 action that is secured by the principal dwelling of
8 the consumer, in which the extension of credit may
9 exceed the fair market value of the dwelling, a clear
10 and conspicuous statement that—

11 “(A) the interest on the portion of the
12 credit extension that is greater than the fair
13 market value of the dwelling is not tax deduct-
14 ible for Federal income tax purposes; and

15 “(B) the consumer should consult a tax
16 advisor for further information regarding the
17 deductibility of interest and charges.”; and

18 (B) in subsection (b), by adding at the end
19 the following:

20 “(3) In the case of a credit transaction described in
21 paragraph (15) of subsection (a), disclosures required by
22 that paragraph shall be made to the consumer at the time
23 of application for such extension of credit.”.

1 (2) CREDIT ADVERTISEMENTS.—Section 144 of
2 the Truth in Lending Act (15 U.S.C. 1664) is
3 amended by adding at the end the following:

4 “(e) Each advertisement to which this section applies
5 that relates to a consumer credit transaction that is se-
6 cured by the principal dwelling of a consumer in which
7 the extension of credit may exceed the fair market value
8 of the dwelling, and which advertisement is disseminated
9 in paper form to the public or through the Internet, as
10 opposed to by radio or television, shall clearly and con-
11 spicuously state that—

12 “(1) the interest on the portion of the credit ex-
13 tension that is greater than the fair market value of
14 the dwelling is not tax deductible for Federal income
15 tax purposes; and

16 “(2) the consumer should consult a tax advisor
17 for further information regarding the deductibility of
18 interest and charges.”.

19 (c) REGULATORY IMPLEMENTATION.—The Board of
20 Governors of the Federal Reserve System (hereafter in
21 this title referred to as the “Board”) shall promulgate reg-
22 ulations implementing the requirements of subsections (a)
23 and (b) of this section. Such regulations shall not take
24 effect until the later of 12 months after the date of enact-

1 ment of this Act or 12 months after the publication of
2 such regulations by the Board.

3 **SEC. 1703. DISCLOSURES RELATED TO “INTRODUCTORY**
4 **RATES”.**

5 (a) **INTRODUCTORY RATE DISCLOSURES.**—Section
6 127(e) of the Truth in Lending Act (15 U.S.C. 1637(e))
7 is amended by adding at the end the following:

8 “(6) **ADDITIONAL NOTICE CONCERNING ‘INTRO-**
9 **DUCTORY RATES’.**—

10 “(A) **IN GENERAL.**—Except as provided in
11 subparagraph (B), an application or solicitation
12 to open a credit card account and all pro-
13 motional materials accompanying such applica-
14 tion or solicitation, for which a disclosure is re-
15 quired under paragraph (1), and that offers a
16 temporary annual percentage rate of interest,
17 shall—

18 “(i) use the term ‘introductory’ in im-
19 mediate proximity to each listing of the
20 temporary annual percentage rate applica-
21 ble to such account, which term shall ap-
22 pear clearly and conspicuously;

23 “(ii) if the annual percentage rate of
24 interest that will apply after the end of the
25 temporary rate period will be a fixed rate,

1 state the following in a clear and con-
2 spicuous manner in a prominent location
3 closely proximate to the first listing of the
4 temporary annual percentage rate (other
5 than a listing of the temporary annual per-
6 centage rate in the tabular format de-
7 scribed in section 122(e)) or, if the first
8 listing is not the most prominent listing,
9 then closely proximate to the most promi-
10 nent listing of the temporary annual per-
11 centage rate, in each document and in no
12 smaller type size than the smaller of the
13 type size in which the proximate temporary
14 annual percentage rate appears or a 12-
15 point type size, the time period in which
16 the introductory period will end and the
17 annual percentage rate that will apply
18 after the end of the introductory period;
19 and

20 “(iii) if the annual percentage rate
21 that will apply after the end of the tem-
22 porary rate period will vary in accordance
23 with an index, state the following in a clear
24 and conspicuous manner in a prominent lo-
25 cation closely proximate to the first listing

1 of the temporary annual percentage rate
2 (other than a listing in the tabular format
3 prescribed by section 122(c)) or, if the
4 first listing is not the most prominent list-
5 ing, then closely proximate to the most
6 prominent listing of the temporary annual
7 percentage rate, in each document and in
8 no smaller type size than the smaller of the
9 type size in which the proximate temporary
10 annual percentage rate appears or a 12-
11 point type size, the time period in which
12 the introductory period will end and the
13 rate that will apply after that, based on an
14 annual percentage rate that was in effect
15 within 60 days before the date of mailing
16 the application or solicitation.

17 “(B) EXCEPTION.—Clauses (ii) and (iii) of
18 subparagraph (A) do not apply with respect to
19 any listing of a temporary annual percentage
20 rate on an envelope or other enclosure in which
21 an application or solicitation to open a credit
22 card account is mailed.

23 “(C) CONDITIONS FOR INTRODUCTORY
24 RATES.—An application or solicitation to open
25 a credit card account for which a disclosure is

1 required under paragraph (1), and that offers a
2 temporary annual percentage rate of interest
3 shall, if that rate of interest is revocable under
4 any circumstance or upon any event, clearly
5 and conspicuously disclose, in a prominent man-
6 ner on or with such application or solicitation—

7 “(i) a general description of the cir-
8 cumstances that may result in the revoca-
9 tion of the temporary annual percentage
10 rate; and

11 “(ii) if the annual percentage rate
12 that will apply upon the revocation of the
13 temporary annual percentage rate—

14 “(I) will be a fixed rate, the an-
15 nual percentage rate that will apply
16 upon the revocation of the temporary
17 annual percentage rate; or

18 “(II) will vary in accordance with
19 an index, the rate that will apply after
20 the temporary rate, based on an an-
21 nual percentage rate that was in ef-
22 fect within 60 days before the date of
23 mailing the application or solicitation.

24 “(D) DEFINITIONS.—In this paragraph—

1 “(i) the terms ‘temporary annual per-
2 centage rate of interest’ and ‘temporary
3 annual percentage rate’ mean any rate of
4 interest applicable to a credit card account
5 for an introductory period of less than 1
6 year, if that rate is less than an annual
7 percentage rate that was in effect within
8 60 days before the date of mailing the ap-
9 plication or solicitation; and

10 “(ii) the term ‘introductory period’
11 means the maximum time period for which
12 the temporary annual percentage rate may
13 be applicable.

14 “(E) RELATION TO OTHER DISCLOSURE
15 REQUIREMENTS.—Nothing in this paragraph
16 may be construed to supersede subsection (a) of
17 section 122, or any disclosure required by para-
18 graph (1) or any other provision of this sub-
19 section.”.

20 (b) REGULATORY IMPLEMENTATION.—The Board of
21 Governors of the Federal Reserve System (hereafter in
22 this title referred to as the (“Board”)) shall promulgate
23 regulations implementing the requirements of section 127
24 of the Truth in Lending Act, as amended by subsection
25 (a) of this section. Any provision set forth in subsection

1 (a) and such regulations shall not take effect until the
2 later of 12 months after the date of enactment of this Act
3 or 12 months after the publication of such regulations by
4 the Board.

5 **SEC. 1704. INTERNET-BASED CREDIT CARD SOLICITATIONS.**

6 (a) INTERNET-BASED APPLICATIONS AND SOLICITA-
7 TIONS.—Section 127(c) of the Truth in Lending Act (15
8 U.S.C. 1637(c)) is amended by adding at the end the fol-
9 lowing:

10 “(7) INTERNET-BASED APPLICATIONS AND SO-
11 LICITATIONS.—

12 “(A) IN GENERAL.—In any solicitation to
13 open a credit card account for any person under
14 an open end consumer credit plan using the
15 Internet or other interactive computer service,
16 the person making the solicitation shall clearly
17 and conspicuously disclose—

18 “(i) the information described in sub-
19 paragraphs (A) and (B) of paragraph (1);
20 and

21 “(ii) the disclosures described in para-
22 graph (6).

23 “(B) FORM OF DISCLOSURE.—The disclo-
24 sures required by subparagraph (A) shall be—

1 “(i) readily accessible to consumers in
2 close proximity to the solicitation to open
3 a credit card account; and

4 “(ii) updated regularly to reflect the
5 current policies, terms, and fee amounts
6 applicable to the credit card account.

7 “(C) DEFINITIONS.—For purposes of this
8 paragraph—

9 “(i) the term ‘Internet’ means the
10 international computer network of both
11 Federal and non-Federal interoperable
12 packet switched data networks; and

13 “(ii) the term ‘interactive computer
14 service’ means any information service,
15 system, or access software provider that
16 provides or enables computer access by
17 multiple users to a computer server, in-
18 cluding specifically a service or system that
19 provides access to the Internet and such
20 systems operated or services offered by li-
21 braries or educational institutions.”.

22 (b) REGULATORY IMPLEMENTATION.—The Board of
23 Governors of the Federal Reserve System (hereafter in
24 this title referred to as the (“Board”)) shall promulgate
25 regulations implementing the requirements of section 127

1 of the Truth in Lending Act, as amended by subsection
2 (a) of this section. Any provision set forth in subsection
3 (a) and such regulations shall not take effect until the
4 later of 12 months after the date of enactment of this Act
5 or 12 months after the publication of such regulations by
6 the Board.

7 **SEC. 1705. DISCLOSURES RELATED TO LATE PAYMENT**
8 **DEADLINES AND PENALTIES.**

9 (a) DISCLOSURES RELATED TO LATE PAYMENT
10 DEADLINES AND PENALTIES.—Section 127(b) of the
11 Truth in Lending Act (15 U.S.C. 1637(b)) is amended
12 by adding at the end the following:

13 “(12) If a late payment fee is to be imposed
14 due to the failure of the obligor to make payment on
15 or before a required payment due date the following
16 shall be stated clearly and conspicuously on the bill-
17 ing statement:

18 “(A) The date on which that payment is
19 due or, if different, the earliest date on which
20 a late payment fee may be charged.

21 “(B) The amount of the late payment fee
22 to be imposed if payment is made after such
23 date.”.

24 (b) REGULATORY IMPLEMENTATION.—The Board of
25 Governors of the Federal Reserve System (hereafter in

1 this title referred to as the (“Board”) shall promulgate
2 regulations implementing the requirements of section 127
3 of the Truth in Lending Act, as amended by subsection
4 (a) of this section. Any provision set forth in subsection
5 (a) and such regulations shall not take effect until the
6 later of 12 months after the date of enactment of this Act
7 or 12 months after the publication of such regulations by
8 the Board.

9 **SEC. 1706. PROHIBITION ON CERTAIN ACTIONS FOR FAIL-**
10 **URE TO INCUR FINANCE CHARGES.**

11 (a) PROHIBITION ON CERTAIN ACTIONS FOR FAIL-
12 URE TO INCUR FINANCE CHARGES.—Section 127 of the
13 Truth in Lending Act (15 U.S.C. 1637) is amended by
14 adding at the end the following:

15 “(h) PROHIBITION ON CERTAIN ACTIONS FOR FAIL-
16 URE TO INCUR FINANCE CHARGES.—A creditor of an ac-
17 count under an open end consumer credit plan may not
18 terminate an account prior to its expiration date solely be-
19 cause the consumer has not incurred finance charges on
20 the account. Nothing in this subsection shall prohibit a
21 creditor from terminating an account for inactivity in 3
22 or more consecutive months.”.

23 (b) REGULATORY IMPLEMENTATION.—The Board of
24 Governors of the Federal Reserve System (hereafter in
25 this title referred to as the (“Board”) shall promulgate

1 regulations implementing the requirements of section 127
2 of the Truth in Lending Act, as amended by subsection
3 (a) of this section. Any provision set forth in subsection
4 (a) and such regulations shall not take effect until the
5 later of 12 months after the date of enactment of this Act
6 or 12 months after the publication of such regulations by
7 the Board.

8 **SEC. 1707. DUAL USE DEBIT CARD.**

9 (a) REPORT.—The Board may conduct a study of,
10 and present to Congress a report containing its analysis
11 of, consumer protections under existing law to limit the
12 liability of consumers for unauthorized use of a debit card
13 or similar access device. Such report, if submitted, shall
14 include recommendations for legislative initiatives, if any,
15 of the Board, based on its findings.

16 (b) CONSIDERATIONS.—In preparing a report under
17 subsection (a), the Board may include—

18 (1) the extent to which section 909 of the Elec-
19 tronic Fund Transfer Act (15 U.S.C. 1693g), as in
20 effect at the time of the report, and the imple-
21 menting regulations promulgated by the Board to
22 carry out that section provide adequate unauthorized
23 use liability protection for consumers;

24 (2) the extent to which any voluntary industry
25 rules have enhanced or may enhance the level of pro-

1 tection afforded consumers in connection with such
2 unauthorized use liability; and

3 (3) whether amendments to the Electronic
4 Fund Transfer Act (15 U.S.C. 1693 et seq.), or re-
5 visions to regulations promulgated by the Board to
6 carry out that Act, are necessary to further address
7 adequate protection for consumers concerning unau-
8 thorized use liability.

9 **SEC. 1708. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**
10 **TENDED TO DEPENDENT STUDENTS.**

11 (a) STUDY.—

12 (1) IN GENERAL.—The Comptroller General of
13 the United States shall conduct a study regarding
14 the impact that the extension of credit described in
15 paragraph (2) has on the rate of bankruptcy cases
16 filed under title 11, United States Code.

17 (2) EXTENSION OF CREDIT.—The extension of
18 credit referred to in paragraph (1) is the extension
19 of credit to individuals who are—

20 (A) claimed as dependents for purposes of
21 the Internal Revenue Code of 1986; and

22 (B) enrolled in postsecondary educational
23 institutions.

24 (b) REPORT.—Not later than 1 year after the date
25 of enactment of this Act, the Comptroller General of the

1 United States shall submit to the Senate and the House
2 of Representatives a report summarizing the results of the
3 study conducted under subsection (a).

Calendar No. 807

106TH CONGRESS
2D SESSION

S. 3046

A BILL

To amend title 11 of the United States Code, and
for other purposes.

SEPTEMBER 15, 2000

Read the second time and placed on the calendar