

107TH CONGRESS  
1ST SESSION

# S. 420

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## AN ACT

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Bankruptcy Reform Act of 2001”.

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

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

- Sec. 101. Conversion.
- Sec. 102. Dismissal or conversion.
- Sec. 103. Sense of Congress and study.
- Sec. 104. Notice of alternatives.
- Sec. 105. Debtor financial management training test program.
- Sec. 106. Credit counseling.
- Sec. 107. Schedules of reasonable and necessary expenses.

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.
- Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
- Sec. 205. GAO study on reaffirmation process.

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 in bankruptcy.
- Sec. 226. Definitions.
- Sec. 227. Restrictions on debt relief agencies.
- Sec. 228. Disclosures.
- Sec. 229. Requirements for debt relief agencies.
- Sec. 230. GAO study.
- Sec. 231. Protection of nonpublic personal information.
- Sec. 232. Consumer privacy ombudsman.

Sec. 233. Prohibition on disclosure of identity of minor children.

#### 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. Domiciliary requirements for exemptions.  
 Sec. 308. Limitation.  
 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 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. Exclusive jurisdiction in matters involving bankruptcy professionals.  
 Sec. 324. United States trustee program filing fee increase.  
 Sec. 325. Sharing of compensation.  
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 Sec. 328. Nondischargeability of debts incurred through violations of laws relating to the provision of lawful goods and services.  
 Sec. 329. Clarification of postpetition wages and benefits.

#### TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

##### Subtitle A—General Business Bankruptcy Provisions

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 Sec. 402. Meetings of creditors and equity security holders.  
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- Sec. 413. Creditor representation at first meeting of creditors.
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- Sec. 416. Appointment of elected trustee.
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- Sec. 419. More complete information regarding assets of the estate.
- Sec. 420. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.

#### Subtitle B—Small Business Bankruptcy Provisions

- Sec. 431. Flexible rules for disclosure statement and plan.
- Sec. 432. Definitions.
- Sec. 433. Standard form disclosure statement and plan.
- Sec. 434. Uniform national reporting requirements.
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- Sec. 438. Plan confirmation deadline.
- Sec. 439. Duties of the United States trustee.
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- 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. Priority for administrative expenses.

#### TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

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

#### TITLE VI—BANKRUPTCY DATA

- Sec. 601. Improved bankruptcy statistics.
- Sec. 602. Uniform rules for the collection of bankruptcy data.
- Sec. 603. Audit procedures.
- 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. Other amendments to titles 11 and 28, United States Code.

#### TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
- Sec. 902. Authority of the Corporation with respect to failed and failing institutions.
- Sec. 903. Amendments relating to transfers of qualified financial contracts.
- Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
- Sec. 905. Clarifying amendment relating to master agreements.
- Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
- Sec. 907. Bankruptcy Code amendments.
- Sec. 907A. Securities broker/commodity broker liquidation.
- Sec. 908. Recordkeeping requirements.
- Sec. 909. Exemptions from contemporaneous execution requirement.
- Sec. 910. Damage measure.
- Sec. 911. SIPC stay.
- Sec. 912. Asset-backed securitizations.
- Sec. 913. Effective date; application of amendments.
- Sec. 914. Savings clause.

#### TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

- Sec. 1001. Permanent reenactment of chapter 12.
- Sec. 1002. Debt limit increase.
- Sec. 1003. Certain claims owed to governmental units.
- Sec. 1004. Definition of family farmer.
- Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
- Sec. 1006. Prohibition of retroactive assessment of disposable income.
- Sec. 1007. 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 and other administrative expenses.
- Sec. 1104. Appointment of ombudsman to act as patient advocate.
- Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
- Sec. 1106. 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. Bankruptcy cases and proceedings.
- Sec. 1220. Knowing disregard of bankruptcy law or rule.
- Sec. 1221. Transfers made by nonprofit charitable corporations.
- Sec. 1222. Protection of valid purchase money security interests.
- Sec. 1223. Bankruptcy judgeships.
- Sec. 1224. Compensating trustees.
- Sec. 1225. Amendment to section 362 of title 11, United States Code.
- Sec. 1226. Judicial education.
- Sec. 1227. Reclamation.
- Sec. 1228. Providing requested tax documents to the court.
- Sec. 1229. Encouraging creditworthiness.
- Sec. 1230. Property no longer subject to redemption.
- Sec. 1231. Trustees.
- Sec. 1232. Bankruptcy forms.
- Sec. 1233. Expedited appeals of bankruptcy cases to courts of appeals.
- Sec. 1234. Exemptions.
- Sec. 1235. Involuntary cases.
- Sec. 1236. Federal election law fines and penalties as nondischargeable debt.
- Sec. 1237. No bankruptcy for insolvent political committees.

## TITLE XIII—CONSUMER CREDIT DISCLOSURE

- Sec. 1301. Enhanced disclosures under an open end credit plan.
- Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
- Sec. 1303. Disclosures related to “introductory rates”.
- Sec. 1304. Internet-based credit card solicitations.
- Sec. 1305. Disclosures related to late payment deadlines and penalties.
- Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
- Sec. 1307. Dual use debit card.
- Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.
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TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND  
CONSERVATION MEASURES

- Sec. 1401. Short title.  
 Sec. 1402. Findings and purposes.  
 Sec. 1403. Increased funding for LIHEAP, weatherization and State energy grants.  
 Sec. 1404. Federal energy management reviews.  
 Sec. 1405. Cost savings from replacement facilities.  
 Sec. 1406. Repeal of Energy Savings Performance Contract sunset.  
 Sec. 1407. Energy Savings Performance Contract definitions.  
 Sec. 1408. Effective date.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 1501. Effective date; application of amendments.

TITLE XVI—MISCELLANEOUS PROVISIONS

- Sec. 1601. Reimbursement of research, development, and maintenance costs.

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—

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

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

13           and

14                   (2) in subsection (b)—

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

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

1 (i) in the first sentence—

2 (I) by striking “but not at the re-  
3 quest or suggestion of” and inserting  
4 “trustee, bankruptcy administrator,  
5 or”;

6 (II) by inserting “, or, with the  
7 debtor’s consent, convert such a case  
8 to a case under chapter 11 or 13 of  
9 this title,” after “consumer debts”;  
10 and

11 (III) by striking “a substantial  
12 abuse” and inserting “an abuse”; and

13 (ii) by striking the next to last sen-  
14 tence; and

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

16 “(2)(A)(i) In considering under paragraph (1) wheth-  
17 er the granting of relief would be an abuse of the provi-  
18 sions of this chapter, the court shall presume abuse exists  
19 if the debtor’s current monthly income reduced by the  
20 amounts determined under clauses (ii), (iii), and (iv), and  
21 multiplied by 60 is not less than the lesser of—

22 “(I) 25 percent of the debtor’s nonpriority un-  
23 secured claims in the case, or \$6,000, whichever is  
24 greater; or

25 “(II) \$10,000.

1       “(ii)(I) The debtor’s monthly expenses shall be the  
2 debtor’s applicable monthly expense amounts specified  
3 under the National Standards and Local Standards, and  
4 the debtor’s actual monthly expenses for the categories  
5 specified as Other Necessary Expenses issued by the In-  
6 ternal Revenue Service for the area in which the debtor  
7 resides, as in effect on the date of the entry of the order  
8 for relief, for the debtor, the dependents of the debtor,  
9 and the spouse of the debtor in a joint case, if the spouse  
10 is not otherwise a dependent. Notwithstanding any other  
11 provision of this clause, the monthly expenses of the debt-  
12 or shall not include any payments for debts. In addition,  
13 the debtor’s monthly expenses shall include the debtor’s  
14 reasonably necessary expenses incurred to maintain the  
15 safety of the debtor and the family of the debtor from fam-  
16 ily violence as identified under section 309 of the Family  
17 Violence Prevention and Services Act (42 U.S.C. 10408),  
18 or other applicable Federal law. The expenses included in  
19 the debtor’s monthly expenses described in the preceding  
20 sentence shall be kept confidential by the court. In addi-  
21 tion, if it is demonstrated that it is reasonable and nec-  
22 essary, the debtor’s monthly expenses may also include an  
23 additional allowance for food and clothing of up to 5 per-  
24 cent of the food and clothing categories as specified by

1 the National Standards issued by the Internal Revenue  
2 Service.

3       “(II) In addition, the debtor’s monthly expenses may  
4 include, if applicable, the continuation of actual expenses  
5 paid by the debtor that are reasonable and necessary for  
6 care and support of an elderly, chronically ill, or disabled  
7 household member or member of the debtor’s immediate  
8 family (including parents, grandparents, siblings, children,  
9 and grandchildren of the debtor, the dependents of the  
10 debtor, and the spouse of the debtor in a joint case) who  
11 is not a dependent and who is unable to pay for such rea-  
12 sonable and necessary expenses.

13       “(III) In addition, for a debtor eligible for chapter  
14 13, the debtor’s monthly expenses may include the actual  
15 administrative expenses of administering a chapter 13  
16 plan for the district in which the debtor resides, up to an  
17 amount of 10 percent of the projected plan payments, as  
18 determined under schedules issued by the Executive Office  
19 for United States Trustees.

20       “(IV) In addition, the debtor’s monthly expenses may  
21 include the actual expenses for each dependent child under  
22 the age of 18 years up to \$1,500 per year per child to  
23 attend a private or public elementary or secondary school,  
24 if the debtor provides documentation of such expenses and  
25 a detailed explanation of why such expenses are reasonable

1 and necessary, and that such expenses are not already ac-  
2 counted for in the Internal Revenue Service standards re-  
3 ferred to in section 707(b)(2) of this title.

4 “(V) In addition, if it is demonstrated that it is rea-  
5 sonable and necessary, the debtor’s monthly expenses may  
6 also include an additional allowance for housing and utili-  
7 ties, in excess of the allowance specified by the Local  
8 Standards for housing and utilities issued by the Inter-  
9 national Revenue Service, based on the actual expenses for  
10 home energy costs, if the debtor provides documentation  
11 of such expenses.

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

14 “(I) the sum of—

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

19 “(bb) any additional payments to secured  
20 creditors necessary for the debtor, in filing a  
21 plan under chapter 13 of this title, to maintain  
22 possession of the debtor’s primary residence,  
23 motor vehicle, or other property necessary for  
24 the support of the debtor and the debtor’s de-

1 pendants, that serves as collateral for secured  
2 debts; divided by

3 “(II) 60.

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

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

9 “(II) 60.

10 “(B)(i) In any proceeding brought under this sub-  
11 section, the presumption of abuse may only be rebutted  
12 by demonstrating special circumstances that justify addi-  
13 tional expenses or adjustments of current monthly income  
14 for which there is no reasonable alternative.

15 “(ii) In order to establish special circumstances, the  
16 debtor shall be required to—

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

19 “(II) provide—

20 “(aa) documentation for such expense or  
21 adjustment to income; and

22 “(bb) a detailed explanation of the special  
23 circumstances that make such expenses or ad-  
24 justment to income necessary and reasonable.

1       “(iii) The debtor shall attest under oath to the accu-  
2 racy of any information provided to demonstrate that ad-  
3 ditional expenses or adjustments to income are required.

4       “(iv) The presumption of abuse may only be rebutted  
5 if the additional expenses or adjustments to income re-  
6 ferred to in clause (i) cause the product of the debtor’s  
7 current monthly income reduced by the amounts deter-  
8 mined under clauses (ii), (iii), and (iv) of subparagraph  
9 (A) when multiplied by 60 to be less than the lesser of—

10           “(I) 25 percent of the debtor’s nonpriority un-  
11 secured claims, or \$6,000, whichever is greater; or

12           “(II) \$10,000.

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

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

24           “(A) whether the debtor filed the petition in  
25 bad faith; or

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

6           “(4)(A) The court shall order the counsel for the  
7           debtor to reimburse the trustee for all reasonable costs  
8           in prosecuting a motion brought under section 707(b), in-  
9           cluding reasonable attorneys’ fees, if—

10           “(i) a trustee appointed under section 586(a)(1)  
11           of title 28 or from a panel of private trustees main-  
12           tained by the bankruptcy administrator brings a mo-  
13           tion for dismissal or conversion under this sub-  
14           section; and

15           “(ii) the court—

16                   “(I) grants that motion; and

17                   “(II) finds that the action of the counsel  
18                   for the debtor in filing under this chapter vio-  
19                   lated rule 9011 of the Federal Rules of Bank-  
20                   ruptcy Procedure.

21           “(B) If the court finds that the attorney for the debt-  
22           or violated rule 9011 of the Federal Rules of Bankruptcy  
23           Procedure, at a minimum, the court shall order—

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

1           “(ii) the payment of the civil penalty to the  
2 trustee, the United States trustee, or the bankruptcy  
3 administrator.

4           “(C) In the case of a petition, pleading, or written  
5 motion, the signature of an attorney shall constitute a cer-  
6 tification that the attorney has—

7           “(i) performed a reasonable investigation into  
8 the circumstances that gave rise to the petition,  
9 pleading, or written motion; and

10           “(ii) determined that the petition, pleading, or  
11 written motion—

12           “(I) is well grounded in fact; and

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

17           “(D) The signature of an attorney on the petition  
18 shall constitute a certification that the attorney has no  
19 knowledge after an inquiry that the information in the  
20 schedules filed with such petition is incorrect.

21           “(5)(A) Except as provided in subparagraph (B) and  
22 subject to paragraph (6), the court may award a debtor  
23 all reasonable costs (including reasonable attorneys’ fees)  
24 in contesting a motion brought by a party in interest

1 (other than a trustee, United States trustee, or bank-  
2 ruptcy administrator) under this subsection if—

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

4 “(ii) the court finds that—

5 “(I) the position of the party that brought  
6 the motion violated rule 9011 of the Federal  
7 Rules of Bankruptcy Procedure; or

8 “(II) the party brought the motion solely  
9 for the purpose of coercing a debtor into  
10 waiving a right guaranteed to the debtor under  
11 this title.

12 “(B) A small business that has a claim of an aggre-  
13 gate amount less than \$1,000 shall not be subject to sub-  
14 paragraph (A)(ii)(I).

15 “(C) For purposes of this paragraph—

16 “(i) the term ‘small business’ means an unin-  
17 corporated business, partnership, corporation, asso-  
18 ciation, or organization that—

19 “(I) has less than 25 full-time employees  
20 as determined on the date the motion is filed;  
21 and

22 “(II) is engaged in commercial or business  
23 activity; and

1           “(ii) the number of employees of a wholly  
2 owned subsidiary of a corporation includes the em-  
3 ployees of—

4                   “(I) a parent corporation; and

5                   “(II) any other subsidiary corporation of  
6 the parent corporation.

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

13                   “(A) in the case of a debtor in a household of  
14 1 person, the median family income of the applicable  
15 State for 1 earner last reported by the Bureau of  
16 the Census;

17                   “(B) in the case of a debtor in a household of  
18 2, 3, or 4 individuals, the highest median family in-  
19 come of the applicable State for a family of the same  
20 number or fewer individuals last reported by the Bu-  
21 reau of the Census; or

22                   “(C) in the case of a debtor in a household ex-  
23 ceeding 4 individuals, the highest median family in-  
24 come of the applicable State for a family of 4 or  
25 fewer individuals last reported by the Bureau of the

1        Census, plus \$525 per month for each individual in  
2        excess of 4.

3        “(7) No judge, United States trustee, panel trustee,  
4        bankruptcy administrator or other party in interest may  
5        bring a motion under paragraph (2), if the current month-  
6        ly income of the debtor, or in a joint case, the debtor and  
7        the debtor’s spouse, as of the date of the order for relief  
8        when multiplied by 12, is equal to or less than—

9                “(A) in the case of a debtor in a household of  
10        1 person, the median family income of the applicable  
11        State for 1 earner last reported by the Bureau of  
12        the Census;

13                “(B) in the case of a debtor in a household of  
14        2, 3, or 4 individuals, the highest median family in-  
15        come of the applicable State for a family of the same  
16        number or fewer individuals last reported by the Bu-  
17        reau of the Census; or

18                “(C) in the case of a debtor in a household ex-  
19        ceeding 4 individuals, the highest median family in-  
20        come of the applicable State for a family of 4 or  
21        fewer individuals last reported by the Bureau of the  
22        Census, plus \$525 per month for each individual in  
23        excess of 4.”.

1           (b) DEFINITION.—Section 101 of title 11, United  
2 States Code, is amended by inserting after paragraph (10)  
3 the following:

4           “(10A) ‘current monthly income’—

5                   “(A) means the average monthly income  
6 from all sources which the debtor, or in a joint  
7 case, the debtor and the debtor’s spouse, receive  
8 without regard to whether the income is taxable  
9 income, derived during the 6-month period pre-  
10 ceeding the date of determination, which shall be  
11 the date which is the last day of the calendar  
12 month immediately preceding the date of the  
13 bankruptcy filing. If the debtor is providing the  
14 debtor’s current monthly income at the time of  
15 the filing and otherwise the date of determina-  
16 tion shall be such date on which the debtor’s  
17 current monthly income is determined by the  
18 court for the purposes of this Act; 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  
25 a dependent), but excludes benefits received

1           under the Social Security Act and payments to  
2           victims of war crimes or crimes against human-  
3           ity on account of their status as victims of such  
4           crimes;”.

5           (c) UNITED STATES TRUSTEE AND BANKRUPTCY  
6 ADMINISTRATOR DUTIES.—Section 704 of title 11, United  
7 States Code, is amended—

8           (1) by inserting “(a)” before “The trustee  
9           shall—”; and

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

11          “(b)(1) With respect to an individual debtor under  
12 this chapter—

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

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

22          “(2) The United States trustee or bankruptcy admin-  
23 istrator shall, not later than 30 days after the date of fil-  
24 ing a statement under paragraph (1), either file a motion  
25 to dismiss or convert under section 707(b) or file a state-

1 ment setting forth the reasons the United States trustee  
2 or bankruptcy administrator does not believe that such a  
3 motion would be appropriate, if the United States trustee  
4 or bankruptcy administrator determines that the debtor's  
5 case should be presumed to be an abuse under section  
6 707(b) and the product of the debtor's current monthly  
7 income, multiplied by 12 is not less than—

8           “(A) in the case of a debtor in a household of  
9           1 person, the median family income of the applicable  
10          State for 1 earner last reported by the Bureau of  
11          the Census; or

12           “(B) in the case of a debtor in a household of  
13          2 or more individuals, the highest median family in-  
14          come of the applicable State for a family of the same  
15          number or fewer individuals last reported by the Bu-  
16          reau of the Census.

17          “(3) In any case in which a motion to dismiss or con-  
18          vert, or a statement is required to be filed by this sub-  
19          section, the United States trustee or bankruptcy adminis-  
20          trator may decline to file a motion to dismiss or convert  
21          pursuant to section 704(b)(2) if the product of the debt-  
22          or's current monthly income multiplied by 12 exceeds 100  
23          percent, but does not exceed 150 percent of—

24           “(A)(i) in the case of a debtor in a household  
25          of 1 person, the median family income of the appli-

1 cable State for 1 earner last reported by the Bureau  
2 of the Census; or

3 “(ii) in the case of a debtor in a household of  
4 2 or more individuals, the highest median family in-  
5 come of the applicable State for a family of the same  
6 number or fewer individuals last reported by the Bu-  
7 reau of the Census; and

8 “(B) the product of the debtor’s current month-  
9 ly income, reduced by the amounts determined under  
10 section 707(b)(2)(A)(ii) (except for the amount cal-  
11 culated under the other necessary expenses standard  
12 issued by the Internal Revenue Service) and clauses  
13 (iii) and (iv) of section 707(b)(2)(A), multiplied by  
14 60 is less than the lesser of—

15 “(i) 25 percent of the debtor’s nonpriority  
16 unsecured claims in the case or \$6,000, which-  
17 ever is greater; or

18 “(ii) \$10,000.”.

19 (d) NOTICE.—Section 342 of title 11, United States  
20 Code, is amended by adding at the end the following:

21 “(d) In an individual case under chapter 7 in which  
22 the presumption of abuse is triggered under section  
23 707(b), the clerk shall give written notice to all creditors  
24 not later than 10 days after the date of the filing of the

1 petition that the presumption of abuse has been trig-  
2 gered.”.

3 (e) NONLIMITATION OF INFORMATION.—Nothing in  
4 this title shall limit the ability of a creditor to provide in-  
5 formation to a judge (except for information commu-  
6 nicated ex parte, unless otherwise permitted by applicable  
7 law), United States trustee, bankruptcy administrator or  
8 trustee.

9 (f) DISMISSAL FOR CERTAIN CRIMES.—Section 707  
10 of title 11, United States Code, as amended by this sec-  
11 tion, is amended by adding at the end the following:

12 “(c)(1) In this subsection—

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

15 “(B) the term ‘drug trafficking crime’ has the  
16 meaning given that term in section 924(c)(2) of title  
17 18.

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

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

1 the evidence that the filing of a case under this chapter  
2 is necessary to satisfy a claim for a domestic support obli-  
3 gation.”.

4 (g) CONFIRMATION OF PLAN.—Section 1325(a) of  
5 title 11, United States Code, is amended—

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

8 (2) in paragraph (6), by striking the period and  
9 inserting a semicolon; and

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

11 “(7) the action of the debtor in filing the peti-  
12 tion was in good faith;”.

13 (h) APPLICABILITY OF MEANS TEST TO CHAPTER  
14 13.—Section 1325(b) of title 11, United States Code, is  
15 amended—

16 (1) in paragraph (1)(B), by inserting “to unse-  
17 cured creditors” after “to make payments”; and

18 (2) by striking paragraph (2) and inserting the  
19 following:

20 “(2) For purposes of this subsection, the term  
21 ‘disposable income’ means current monthly income  
22 received by the debtor (other than child support pay-  
23 ments, foster care payments, or disability payments  
24 for a dependent child made in accordance with appli-  
25 cable nonbankruptcy law to the extent reasonably

1 necessary to be expended for such child) less  
2 amounts reasonably necessary to be expended—

3 “(A) for the maintenance or support of the  
4 debtor or a dependent of the debtor or for a do-  
5 mestic support obligation that first becomes  
6 payable after the date the petition is filed and  
7 for charitable contributions (that meet the defi-  
8 nition of ‘charitable contribution’ under section  
9 548(d)(3) to a qualified religious or charitable  
10 entity or organization (as that term is defined  
11 in section 548(d)(4)) in an amount not to ex-  
12 ceed 15 percent of gross income of the debtor  
13 for the year in which the contributions are  
14 made; and

15 “(B) if the debtor is engaged in business,  
16 for the payment of expenditures necessary for  
17 the continuation, preservation, and operation of  
18 such business.

19 “(3) Amounts reasonably necessary to be ex-  
20 pended under paragraph (2) shall be determined in  
21 accordance with subparagraphs (A) and (B) of sec-  
22 tion 707(b)(2), if the debtor has current monthly in-  
23 come, when multiplied by 12, greater than—

24 “(A) in the case of a debtor in a household  
25 of 1 person, the median family income of the

1 applicable State for 1 earner last reported by  
2 the Bureau of the Census;

3 “(B) in the case of a debtor in a household  
4 of 2, 3, or 4 individuals, the highest median  
5 family income of the applicable State for a fam-  
6 ily of the same number or fewer individuals last  
7 reported by the Bureau of the Census; or

8 “(C) in the case of a debtor in a household  
9 exceeding 4 individuals, the highest median  
10 family income of the applicable State for a fam-  
11 ily of 4 or fewer individuals last reported by the  
12 Bureau of the Census, plus \$525 per month for  
13 each individual in excess of 4.”.

14 (i) SPECIAL ALLOWANCE FOR HEALTH INSUR-  
15 ANCE.—Section 1329(a) of title 11, United States Code,  
16 is amended by inserting the following new paragraph—

17 “(4) reduce amounts to be paid under the plan  
18 by the actual amount expended by the debtor to pur-  
19 chase health insurance for the debtor and any de-  
20 pendent of the debtor (if those dependents do not  
21 otherwise have health insurance coverage) if the  
22 debtor documents the cost of such insurance and  
23 demonstrates that—

24 “(A) such expenses are reasonable and  
25 necessary;

1           “(B)(i) if the debtor previously paid for  
2 health insurance, the amount is not materially  
3 larger than the cost the debtor previously paid  
4 or the cost necessary to maintain the lapsed  
5 policy, or;

6           “(ii) if the debtor did not have health in-  
7 surance, the amount is not materially larger  
8 than the reasonable cost that would be incurred  
9 by a debtor who purchases health insurance and  
10 who has similar income, expenses, age, health  
11 status, and lives in the same geographic loca-  
12 tion with the same number of dependents that  
13 do not otherwise have health insurance cov-  
14 erage; and

15           “(C) the amount is not otherwise allowed  
16 for purposes of determining disposable income  
17 under section 1325(b) of this title.

18 Upon request of any party in interest the debtor shall file  
19 proof that a health insurance policy was purchased.”.

20           (j) CLERICAL AMENDMENT.—The table of sections  
21 for chapter 7 of title 11, United States Code, is amended  
22 by striking the item relating to section 707 and inserting  
23 the following:

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

1 **SEC. 103. SENSE OF CONGRESS AND STUDY.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-  
3 gress that the Secretary of the Treasury has the authority  
4 to alter the Internal Revenue Service standards estab-  
5 lished to set guidelines for repayment plans as needed to  
6 accommodate their use under section 707(b) of title 11,  
7 United States Code.

8 (b) STUDY.—

9 (1) IN GENERAL.—Not later than 2 years after  
10 the date of enactment of this Act, the Director of  
11 the Executive Office for United States Trustees shall  
12 submit a report to the Committee on the Judiciary  
13 of the Senate and the Committee on the Judiciary  
14 of the House of Representatives containing the find-  
15 ings of the Director regarding the utilization of In-  
16 ternal Revenue Service standards for determining—

17 (A) the current monthly expenses of a  
18 debtor under section 707(b) of title 11, United  
19 States Code; and

20 (B) the impact that the application of such  
21 standards has had on debtors and on the bank-  
22 ruptcy courts.

23 (2) RECOMMENDATION.—The report under  
24 paragraph (1) may include recommendations for  
25 amendments to title 11, United States Code, that

1 are consistent with the findings of the Director  
2 under paragraph (1).

3 **SEC. 104. NOTICE OF ALTERNATIVES.**

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

6 “(b) Before the commencement of a case under this  
7 title by an individual whose debts are primarily consumer  
8 debts, the clerk shall give to such individual written notice  
9 containing—

10 “(1) a brief description of—

11 “(A) chapters 7, 11, 12, and 13 and the  
12 general purpose, benefits, and costs of pro-  
13 ceeding under each of those chapters; and

14 “(B) the types of services available from  
15 credit counseling agencies; and

16 “(2) statements specifying that—

17 “(A) a person who knowingly and fraudu-  
18 lently conceals assets or makes a false oath or  
19 statement under penalty of perjury in connec-  
20 tion with a bankruptcy case shall be subject to  
21 fine, imprisonment, or both; and

22 “(B) all information supplied by a debtor  
23 in connection with a bankruptcy case is subject  
24 to examination by the Attorney General.”.

1 **SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING**  
2 **TEST PROGRAM.**

3 (a) DEVELOPMENT OF FINANCIAL MANAGEMENT  
4 AND TRAINING CURRICULUM AND MATERIALS.—The Di-  
5 rector of the Executive Office for United States Trustees  
6 (in this section referred to as the “Director”) shall consult  
7 with a wide range of individuals who are experts in the  
8 field of debtor education, including trustees who are ap-  
9 pointed under chapter 13 of title 11, United States Code,  
10 and who operate financial management education pro-  
11 grams for debtors, and shall develop a financial manage-  
12 ment training curriculum and materials that can be used  
13 to educate individual debtors on how to better manage  
14 their finances.

15 (b) TEST.—

16 (1) SELECTION OF DISTRICTS.—The Director  
17 shall select 6 judicial districts of the United States  
18 in which to test the effectiveness of the financial  
19 management training curriculum and materials de-  
20 veloped under subsection (a).

21 (2) USE.—For an 18-month period beginning  
22 not later than 270 days after the date of enactment  
23 of this Act, such curriculum and materials shall be,  
24 for the 6 judicial districts selected under paragraph  
25 (1), used as the instructional course concerning per-

1       sonal financial management for purposes of section  
2       111 of title 11, United States Code.

3       (c) EVALUATION.—

4             (1) IN GENERAL.—During the 18-month period  
5       referred to in subsection (b), the Director shall  
6       evaluate the effectiveness of—

7             (A) the financial management training cur-  
8       riculum and materials developed under sub-  
9       section (a); and

10            (B) a sample of existing consumer edu-  
11       cation programs such as those described in the  
12       Report of the National Bankruptcy Review  
13       Commission (October 20, 1997) that are rep-  
14       resentative of consumer education programs  
15       carried out by the credit industry, by trustees  
16       serving under chapter 13 of title 11, United  
17       States Code, and by consumer counseling  
18       groups.

19            (2) REPORT.—Not later than 3 months after  
20       concluding such evaluation, the Director shall sub-  
21       mit a report to the Speaker of the House of Rep-  
22       resentatives and the President pro tempore of the  
23       Senate, for referral to the appropriate committees of  
24       the Congress, containing the findings of the Director

1       regarding the effectiveness of such curriculum, such  
2       materials, and such programs and their costs.

3       **SEC. 106. CREDIT COUNSELING.**

4       (a) WHO MAY BE A DEBTOR.—Section 109 of title  
5       11, United States Code, is amended by adding at the end  
6       the following:

7       “(h)(1) Subject to paragraphs (2) and (3), and not-  
8       withstanding any other provision of this section, an indi-  
9       vidual may not be a debtor under this title unless that  
10      individual has, during the 180-day period preceding the  
11      date of filing of the petition of that individual, received  
12      from an approved nonprofit budget and credit counseling  
13      agency described in section 111(a) an individual or group  
14      briefing (including a briefing conducted by telephone or  
15      on the Internet) that outlined the opportunities for avail-  
16      able credit counseling and assisted that individual in per-  
17      forming a related budget analysis.

18      “(2)(A) Paragraph (1) shall not apply with respect  
19      to a debtor who resides in a district for which the United  
20      States trustee or bankruptcy administrator of the bank-  
21      ruptcy court of that district determines that the approved  
22      nonprofit budget and credit counseling agencies for that  
23      district are not reasonably able to provide adequate serv-  
24      ices to the additional individuals who would otherwise seek

1 credit counseling from that agency by reason of the re-  
2 quirements of paragraph (1).

3 “(B) Each United States trustee or bankruptcy ad-  
4 ministrator that makes a determination described in sub-  
5 paragraph (A) shall review that determination not later  
6 than 1 year after the date of that determination, and not  
7 less frequently than every year thereafter. Notwith-  
8 standing the preceding sentence, a nonprofit budget and  
9 credit counseling service may be disapproved by the  
10 United States trustee or bankruptcy administrator at any  
11 time.

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

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

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

23 “(iii) is satisfactory to the court.

24 “(B) With respect to a debtor, an exemption under  
25 subparagraph (A) shall cease to apply to that debtor on

1 the date on which the debtor meets the requirements of  
2 paragraph (1), but in no case may the exemption apply  
3 to that debtor after the date that is 30 days after the debt-  
4 or files a petition, except that the court, for cause, may  
5 order an additional 15 days.”.

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

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

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

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

13 “(11) after the filing of the petition, the debtor  
14 failed to complete an instructional course concerning  
15 personal financial management described in section  
16 111.

17 “(12)(A) Paragraph (11) shall not apply with  
18 respect to a debtor who resides in a district for  
19 which the United States trustee or bankruptcy ad-  
20 ministrator of that district determines that the ap-  
21 proved instructional courses are not adequate to  
22 service the additional individuals required to com-  
23 plete such instructional courses under this section.

24 “(B) Each United States trustee or bankruptcy  
25 administrator that makes a determination described

1 in subparagraph (A) shall review that determination  
2 not later than 1 year after the date of that deter-  
3 mination, and not less frequently than every year  
4 thereafter.”.

5 (c) CHAPTER 13 DISCHARGE.—Section 1328 of title  
6 11, United States Code, is amended by adding at the end  
7 the following:

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

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

20 “(i) Each United States trustee or bankruptcy ad-  
21 ministrator that makes a determination described in sub-  
22 section (h) shall review that determination not later than  
23 1 year after the date of that determination, and not less  
24 frequently than every year thereafter.”.

1 (d) DEBTOR'S DUTIES.—Section 521 of title 11,  
2 United States Code, is amended—

3 (1) by inserting “(a)” before “The debtor  
4 shall—”; and

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

6 “(b) In addition to the requirements under subsection  
7 (a), an individual debtor shall file with the court—

8 “(1) a certificate from the approved nonprofit  
9 budget and credit counseling agency that provided  
10 the debtor services under section 109(h) describing  
11 the services provided to the debtor; and

12 “(2) a copy of the debt repayment plan, if any,  
13 developed under section 109(h) through the ap-  
14 proved nonprofit budget and credit counseling agen-  
15 cy referred to in paragraph (1).”.

16 (e) GENERAL PROVISIONS.—

17 (1) IN GENERAL.—Chapter 1 of title 11, United  
18 States Code, is amended by adding at the end the  
19 following:

20 **“§ 111. Credit counseling services; financial manage-  
21 ment instructional courses**

22 “(a) The clerk of each district shall maintain a pub-  
23 licly available list of—

24 “(1) credit counseling agencies that provide 1  
25 or more programs described in section 109(h) cur-

1       rently approved by the United States trustee or the  
2       bankruptcy administrator for the district, as applica-  
3       ble; and

4               “(2) instructional courses concerning personal  
5       financial management currently approved by the  
6       United States trustee or the bankruptcy adminis-  
7       trator for the district, as applicable.

8       “(b) The United States trustee or bankruptcy admin-  
9       istrator shall only approve a credit counseling agency or  
10      instructional course concerning personal financial manage-  
11      ment as follows:

12              “(1) The United States trustee or bankruptcy  
13      administrator shall have thoroughly reviewed the  
14      qualifications of the credit counseling agency or of  
15      the provider of the instructional course under the  
16      standards set forth in this section, and the programs  
17      or instructional courses which will be offered by such  
18      agency or provider, and may require an agency or  
19      provider of an instructional course which has sought  
20      approval to provide information with respect to such  
21      review.

22              “(2) The United States trustee or bankruptcy  
23      administrator shall have determined that the credit  
24      counseling agency or course of instruction fully sat-

1 isfies the applicable standards set forth in this sec-  
2 tion.

3 “(3) When an agency or course of instruction  
4 is initially approved, such approval shall be for a  
5 probationary period not to exceed 6 months. An  
6 agency or course of instruction is initially approved  
7 if it did not appear on the approved list for the dis-  
8 trict under subsection (a) immediately prior to ap-  
9 proval.

10 “(4) At the conclusion of the probationary pe-  
11 riod under paragraph (3), the United States trustee  
12 or bankruptcy administrator may only approve for  
13 an additional 1-year period, and for successive 1-  
14 year periods thereafter, any agency or course of in-  
15 struction which has demonstrated during the proba-  
16 tionary or subsequent period that such agency or  
17 course of instruction—

18 “(A) has met the standards set forth under  
19 this section during such period; and

20 “(B) can satisfy such standards in the fu-  
21 ture.

22 “(5) Not later than 30 days after any final de-  
23 cision under paragraph (4), that occurs either after  
24 the expiration of the initial probationary period, or  
25 after any 2-year period thereafter, an interested per-

1 son may seek judicial review of such decision in the  
2 appropriate United States District Court.

3 “(c)(1) The United States trustee or bankruptcy ad-  
4 ministrator shall only approve a credit counseling agency  
5 that demonstrates that it will provide qualified counselors,  
6 maintain adequate provision for safekeeping and payment  
7 of client funds, provide adequate counseling with respect  
8 to client credit problems, and deal responsibly and effec-  
9 tively with other matters as relate to the quality, effective-  
10 ness, and financial security of such programs.

11 “(2) To be approved by the United States trustee or  
12 bankruptcy administrator, a credit counseling agency  
13 shall, at a minimum—

14 “(A) be a nonprofit budget and credit coun-  
15 seling agency, the majority of the board of directors  
16 of which—

17 “(i) are not employed by the agency; and

18 “(ii) will not directly or indirectly benefit  
19 financially from the outcome of a credit coun-  
20 seling session;

21 “(B) if a fee is charged for counseling services,  
22 charge a reasonable fee, and provide services without  
23 regard to ability to pay the fee;

1           “(C) provide for safekeeping and payment of  
2           client funds, including an annual audit of the trust  
3           accounts and appropriate employee bonding;

4           “(D) provide full disclosures to clients, includ-  
5           ing funding sources, counselor qualifications, pos-  
6           sible impact on credit reports, and any costs of such  
7           program that will be paid by the debtor and how  
8           such costs will be paid;

9           “(E) provide adequate counseling with respect  
10          to client credit problems that includes an analysis of  
11          their current situation, what brought them to that  
12          financial status, and how they can develop a plan to  
13          handle the problem without incurring negative amor-  
14          tization of their debts;

15          “(F) provide trained counselors who receive no  
16          commissions or bonuses based on the counseling ses-  
17          sion outcome, and who have adequate experience,  
18          and have been adequately trained to provide coun-  
19          seling services to individuals in financial difficulty,  
20          including the matters described in subparagraph  
21          (E);

22          “(G) demonstrate adequate experience and  
23          background in providing credit counseling; and

1           “(H) have adequate financial resources to pro-  
2           vide continuing support services for budgeting plans  
3           over the life of any repayment plan.

4           “(d) The United States trustee or bankruptcy admin-  
5           istrator shall only approve an instructional course con-  
6           cerning personal financial management—

7           “(1) for an initial probationary period under  
8           subsection (b)(3) if the course will provide at a  
9           minimum—

10           “(A) trained personnel with adequate expe-  
11           rience and training in providing effective in-  
12           struction and services;

13           “(B) learning materials and teaching  
14           methodologies designed to assist debtors in un-  
15           derstanding personal financial management and  
16           that are consistent with stated objectives di-  
17           rectly related to the goals of such course of in-  
18           struction;

19           “(C) adequate facilities situated in reason-  
20           ably convenient locations at which such course  
21           of instruction is offered, except that such facili-  
22           ties may include the provision of such course of  
23           instruction or program by telephone or through  
24           the Internet, if the course of instruction or pro-  
25           gram is effective; and

1           “(D) the preparation and retention of rea-  
2           sonable records (which shall include the debt-  
3           or’s bankruptcy case number) to permit evalua-  
4           tion of the effectiveness of such course of in-  
5           struction or program, including any evaluation  
6           of satisfaction of course of instruction or pro-  
7           gram requirements for each debtor attending  
8           such course of instruction or program, which  
9           shall be available for inspection and evaluation  
10          by the Executive Office for United States  
11          Trustees, the United States trustee, bankruptcy  
12          administrator, or chief bankruptcy judge for the  
13          district in which such course of instruction or  
14          program is offered; and

15          “(2) for any 1-year period if the provider there-  
16          of has demonstrated that the course meets the  
17          standards of paragraph (1) and, in addition—

18                 “(A) has been effective in assisting a sub-  
19                 stantial number of debtors to understand per-  
20                 sonal financial management; and

21                 “(B) is otherwise likely to increase sub-  
22                 stantially debtor understanding of personal fi-  
23                 nancial management.

24          “(e) The District Court may, at any time, investigate  
25          the qualifications of a credit counseling agency referred

1 to in subsection (a), and request production of documents  
2 to ensure the integrity and effectiveness of such credit  
3 counseling agencies. The District Court may, at any time,  
4 remove from the approved list under subsection (a) a cred-  
5 it counseling agency upon finding such agency does not  
6 meet the qualifications of subsection (b).

7 “(f) The United States trustee or bankruptcy admin-  
8 istrator shall notify the clerk that a credit counseling  
9 agency or an instructional course is no longer approved,  
10 in which case the clerk shall remove it from the list main-  
11 tained under subsection (a).

12 “(g)(1) No credit counseling service may provide to  
13 a credit reporting agency information concerning whether  
14 an individual debtor has received or sought instruction  
15 concerning personal financial management from the credit  
16 counseling service.

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

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

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

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

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

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

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

12           “(j) On request of a party in interest, the court shall  
13 issue an order under subsection (c) confirming that the  
14 automatic stay has been terminated.”.

15 **SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY**  
16 **EXPENSES.**

17           For purposes of section 707(b) of title 11, United  
18 States Code, as amended by this Act, the Director of the  
19 Executive Office for United States Trustees shall, not  
20 later than 180 days after the date of enactment of this  
21 Act, issue schedules of reasonable and necessary adminis-  
22 trative expenses of administering a chapter 13 plan for  
23 each judicial district of the United States.

1                   **TITLE II—ENHANCED**  
2                   **CONSUMER PROTECTION**  
3           **Subtitle A—Penalties for Abusive**  
4                   **Creditor Practices**

5   **SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**  
6                   **TION.**

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

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

14                   “(A) the claim was filed by a creditor who un-  
15                   reasonably refused to negotiate a reasonable alter-  
16                   native repayment schedule proposed by an approved  
17                   credit counseling agency described in section 111  
18                   acting on behalf of the debtor;

19                   “(B) the offer of the debtor under subpara-  
20                   graph (A)—

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

23                           “(ii) provided for payment of at least 60  
24                           percent of the amount of the debt over a period

1 not to exceed the repayment period of the loan,  
2 or a reasonable extension thereof; and

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

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

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

9 “(B) the proposed alternative repayment sched-  
10 ule was made prior to expiration of the 60-day pe-  
11 riod specified in paragraph (1)(B)(i).”.

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

15 “(h) The trustee may not avoid a transfer if such  
16 transfer was made as a part of an alternative repayment  
17 plan between the debtor and any creditor of the debtor  
18 created by an approved credit counseling agency.”.

19 **SEC. 202. EFFECT OF DISCHARGE.**

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

22 “(i) The willful failure of a creditor to credit pay-  
23 ments received under a plan confirmed under this title (in-  
24 cluding a plan of reorganization confirmed under chapter  
25 11 of this title), unless the plan is dismissed, in default,

1 or the creditor has not received payments required to be  
2 made under the plan in the manner required by the plan  
3 (including crediting the amounts required under the plan),  
4 shall constitute a violation of an injunction under sub-  
5 section (a)(2) if the act of the creditor to collect and fail-  
6 ure to credit payments in the manner required by the plan  
7 caused material injury to the debtor.

8 “(j) Subsection (a)(2) does not operate as an injunc-  
9 tion against an act by a creditor that is the holder of a  
10 secured claim, if—

11 “(1) such creditor retains a security interest in  
12 real property that is the principal residence of the  
13 debtor;

14 “(2) such act is in the ordinary course of busi-  
15 ness between the creditor and the debtor; and

16 “(3) such act is limited to seeking or obtaining  
17 periodic payments associated with a valid security  
18 interest in lieu of pursuit of in rem relief to enforce  
19 the lien.”.

20 **SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION**  
21 **PRACTICES.**

22 (a) IN GENERAL.—Section 524 of title 11, United  
23 States Code, as amended by this Act, is amended—

24 (1) in subsection (c), by striking paragraph (2)  
25 and inserting the following:

1           “(2) the debtor received the disclosures de-  
2           scribed in subsection (k) at or before the time at  
3           which the debtor signed the agreement;”;

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

5           “(k)(1) The disclosures required under subsection  
6 (c)(2) shall consist of the disclosure statement described  
7 in paragraph (3), completed as required in that para-  
8 graph, together with the agreement, statement, declara-  
9 tion, motion and order described, respectively, in para-  
10 graphs (4) through (8), and shall be the only disclosures  
11 required in connection with the reaffirmation.

12          “(2) Disclosures made under paragraph (1) shall be  
13 made clearly and conspicuously and in writing. The terms  
14 ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall  
15 be disclosed more conspicuously than other terms, data or  
16 information provided in connection with this disclosure,  
17 except that the phrases ‘Before agreeing to reaffirm a  
18 debt, review these important disclosures’ and ‘Summary  
19 of Reaffirmation Agreement’ may be equally conspicuous.  
20 Disclosures may be made in a different order and may  
21 use terminology different from that set forth in para-  
22 graphs (2) through (8), except that the terms ‘Amount  
23 Reaffirmed’ and ‘Annual Percentage Rate’ must be used  
24 where indicated.

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

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

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

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

12           “(i) the total amount which the debtor  
13 agrees to reaffirm, and

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

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

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

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

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

1           “(i) if, at the time the petition is filed, the  
2 debt is open end credit as defined under the  
3 Truth in Lending Act (15 U.S.C. 1601 et seq.),  
4 then—

5           “(I) the annual percentage rate deter-  
6 mined under paragraphs (5) and (6) of  
7 section 127(b) of the Truth in Lending Act  
8 (15 U.S.C. 1637(b) (5) and (6)), as appli-  
9 cable, as disclosed to the debtor in the  
10 most recent periodic statement prior to the  
11 agreement or, if no such periodic state-  
12 ment has been provided the debtor during  
13 the prior 6 months, the annual percentage  
14 rate as it would have been so disclosed at  
15 the time the disclosure statement is given  
16 the debtor, or to the extent this annual  
17 percentage rate is not readily available or  
18 not applicable, then

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

1 identifying the amount of each such bal-  
2 ance included 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 subclause (I) and the sim-  
6 ple interest rate under subclause (II);

7 “(ii) if, at the time the petition is filed, the  
8 debt is closed end credit as defined under the  
9 Truth in Lending Act (15 U.S.C. 1601 et seq.),  
10 then—

11 “(I) the annual percentage rate under  
12 section 128(a)(4) of the Truth in Lending  
13 Act (15 U.S.C. 1638(a)(4)), as disclosed to  
14 the debtor in the most recent disclosure  
15 statement given the debtor prior to the re-  
16 affirmation agreement with respect to the  
17 debt, or, if no such disclosure statement  
18 was provided the debtor, the annual per-  
19 centage rate as it would have been so dis-  
20 closed at the time the disclosure statement  
21 is given the debtor, or to the extent this  
22 annual percentage rate is not readily avail-  
23 able or not applicable, then

24 “(II) the simple interest rate applica-  
25 ble to the amount reaffirmed as of the date

1           the disclosure statement is given the debt-  
2           or, or if different simple interest rates  
3           apply to different balances, the simple in-  
4           terest rate applicable to each such balance,  
5           identifying the amount of such balance in-  
6           cluded in the amount reaffirmed, or

7                   “(III) if the entity making the disclo-  
8                   sure elects, to disclose the annual percent-  
9                   age rate under (I) and the simple interest  
10                  rate under (II).

11                  “(F) If the underlying debt transaction was dis-  
12                  closed as a variable rate transaction on the most re-  
13                  cent disclosure given under the Truth in Lending  
14                  Act (15 U.S.C. 1601 et seq.), by stating ‘The inter-  
15                  est rate on your loan may be a variable interest rate  
16                  which changes from time to time, so that the annual  
17                  percentage rate disclosed here may be higher or  
18                  lower.’.

19                  “(G) If the debt is secured by a security inter-  
20                  est which has not been waived in whole or in part  
21                  or determined to be void by a final order of the  
22                  court at the time of the disclosure, by disclosing that  
23                  a security interest or lien in goods or property is as-  
24                  serted over some or all of the obligations you are re-  
25                  affirming and listing the items and their original

1 purchase price that are subject to the asserted secu-  
2 rity interest, or if not a purchase-money security in-  
3 terest then listing by items or types and the original  
4 amount of the loan.

5 “(H) At the election of the creditor, a state-  
6 ment of the repayment schedule using 1 or a com-  
7 bination of the following—

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

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

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

24 “(I) The following statement: ‘Note: When this  
25 disclosure refers to what a creditor “may” do, it

1 does not use the word “may” to give the creditor  
2 specific permission. The word “may” is used to tell  
3 you what might occur if the law permits the creditor  
4 to take the action. If you have questions about your  
5 reaffirmation or what the law requires, talk to the  
6 attorney who helped you negotiate this agreement. If  
7 you don’t have an attorney helping you, the judge  
8 will explain the effect of your reaffirmation when the  
9 reaffirmation hearing is held.’.

10 “(J)(i) The following additional statements:

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

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

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

1           “3. If you were represented by an attorney  
2 during the negotiation of the reaffirmation agree-  
3 ment, the attorney must have signed the certification  
4 in Part C.

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

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

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

18           “7. If you were not represented by an attorney  
19 during the negotiation of the reaffirmation agree-  
20 ment, it will not be effective unless the court ap-  
21 proves it. The court will notify you of the hearing on  
22 your reaffirmation agreement. You must attend this  
23 hearing in bankruptcy court where the judge will re-  
24 view your agreement. The bankruptcy court must  
25 approve the agreement as consistent with your best

1 interests, except that no court approval is required  
2 if the agreement is for a consumer debt secured by  
3 a mortgage, deed of trust, security deed or other lien  
4 on your real property, like your home.

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

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

23 “Are you required to enter into a reaffirmation  
24 agreement by any law? No, you are not required to reaf-  
25 firm a debt by any law. Only agree to reaffirm a debt if

1 it is in your best interest. Be sure you can afford the pay-  
2 ments you agree to make.

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

17       “(ii) In the case of a reaffirmation under sub-  
18 section (m)(2), numbered paragraph 6 in the disclo-  
19 sures required by clause (i) of this subparagraph  
20 shall read as follows:

21       “‘6. If you were represented by an attorney  
22 during the negotiation of the reaffirmation agree-  
23 ment, your reaffirmation agreement becomes effec-  
24 tive upon filing with the court.’.



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

5           “(C) In the case of a reaffirmation agreement under  
6           subsection (m)(2), subparagraph (B) is not applicable.

7           “(6)(A) The statement in support of reaffirmation  
8           agreement, which the debtor shall sign and date prior to  
9           filing with the court, shall consist of the following:

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

12          ““1. I believe this agreement will not impose an  
13          undue hardship on my dependents or me. I can afford to  
14          make the payments on the reaffirmed debt because my  
15          monthly income (take home pay plus any other income re-  
16          ceived) is \$\_\_\_\_\_, and my actual current monthly ex-  
17          penses including monthly payments on post-bankruptcy  
18          debt and other reaffirmation agreements total \$\_\_\_\_\_,  
19          leaving \$\_\_\_\_\_ to make the required payments on this  
20          reaffirmed debt. I understand that if my income less my  
21          monthly expenses does not leave enough to make the pay-  
22          ments, this reaffirmation agreement is presumed to be an  
23          undue hardship on me and must be reviewed by the court.  
24          However, this presumption may be overcome if I explain

1 to the satisfaction of the court how I can afford to make  
2 the payments here: \_\_\_\_\_.

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

6 “(B) Where the debtor is represented by counsel and  
7 is reaffirming a debt owed to a creditor defined in section  
8 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C.  
9 461(b)(1)(A)(iv)), the statement of support of the reaffir-  
10 mation agreement, which the debtor shall sign and date  
11 prior to filing with the court, shall consist of the following:

12 “‘I believe this agreement is in my financial interest.  
13 I can afford to make the payments on the reaffirmed debt.  
14 I received a copy of the Reaffirmation Disclosure State-  
15 ment in Part A and a completed and signed reaffirmation  
16 agreement.’.

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

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

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

3        “‘I believe this agreement is in my best interest  
4 based on the income and expenses I have disclosed in my  
5 Statement in Support of this reaffirmation agreement  
6 above, and because (provide any additional relevant rea-  
7 sons the court should consider):

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

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

12       “‘Court Order: The court grants the debtor’s motion  
13 and approves the reaffirmation agreement described  
14 above.’.

15       “‘(9) Subsection (a)(2) does not operate as an injunc-  
16 tion against an act by a creditor that is the holder of a  
17 secured claim, if—

18               “(A) such creditor retains a security interest in  
19 real property that is the debtor’s principal residence;

20               “(B) such act is in the ordinary course of busi-  
21 ness between the creditor and the debtor; and

22               “(C) such act is limited to seeking or obtaining  
23 periodic payments associated with a valid security  
24 interest in lieu of pursuit of in rem relief to enforce  
25 the lien.

1 “(l) Notwithstanding any other provision of this title:

2 “(1) A creditor may accept payments from a  
3 debtor before and after the filing of a reaffirmation  
4 agreement with the court.

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

8 “(3) The requirements of subsections (c)(2) and  
9 (k) shall be satisfied if disclosures required under  
10 those subsections are given in good faith.

11 “(m)(1) Until 60 days after a reaffirmation agree-  
12 ment is filed with the court (or such additional period as  
13 the court, after notice and hearing and for cause, orders  
14 before the expiration of such period), it shall be presumed  
15 that the reaffirmation agreement is an undue hardship on  
16 the debtor if the debtor’s monthly income less the debtor’s  
17 monthly expenses as shown on the debtor’s completed and  
18 signed statement in support of the reaffirmation agree-  
19 ment required under subsection (k)(6)(A) is less than the  
20 scheduled payments on the reaffirmed debt. This pre-  
21 sumption shall be reviewed by the court. The presumption  
22 may be rebutted in writing by the debtor if the statement  
23 includes an explanation which identifies additional sources  
24 of funds to make the payments as agreed upon under the  
25 terms of the reaffirmation agreement. If the presumption

1 is not rebutted to the satisfaction of the court, the court  
 2 may disapprove the agreement. No agreement shall be dis-  
 3 approved without notice and hearing to the debtor and  
 4 creditor and such hearing shall be concluded before the  
 5 entry of the debtor’s discharge.

6 “(2) This subsection does not apply to reaffirmation  
 7 agreements where the creditor is a credit union, as defined  
 8 in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12  
 9 U.S.C. 461(b)(1)(A)(iv)).”.

10 (b) LAW ENFORCEMENT.—

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

14 **“§ 158. Designation of United States attorneys and**  
 15 **agents of the Federal Bureau of Inves-**  
 16 **tigation to address abusive reaffirma-**  
 17 **tions of debt and materially fraudulent**  
 18 **statements in bankruptcy schedules**

19 “(a) IN GENERAL.—The Attorney General of the  
 20 United States shall designate the individuals described in  
 21 subsection (b) to have primary responsibility in carrying  
 22 out enforcement activities in addressing violations of sec-  
 23 tion 152 or 157 relating to abusive reaffirmations of debt.  
 24 In addition to addressing the violations referred to in the  
 25 preceding sentence, the individuals described under sub-

1 section (b) shall address violations of section 152 or 157  
2 relating to materially fraudulent statements in bankruptcy  
3 schedules that are intentionally false or intentionally mis-  
4 leading.

5 “(b) UNITED STATES DISTRICT ATTORNEYS AND  
6 AGENTS OF THE FEDERAL BUREAU OF INVESTIGA-  
7 TION.—The individuals referred to in subsection (a) are—

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

10 “(2) an agent of the Federal Bureau of Inves-  
11 tigation (within the meaning of section 3107) for  
12 each field office of the Federal Bureau of Investiga-  
13 tion.

14 “(c) BANKRUPTCY INVESTIGATIONS.—Each United  
15 States attorney designated under this section shall, in ad-  
16 dition to any other responsibilities, have primary responsi-  
17 bility for carrying out the duties of a United States attor-  
18 ney under section 3057.

19 “(d) BANKRUPTCY PROCEDURES.—The bankruptcy  
20 courts shall establish procedures for referring any case  
21 which may contain a materially fraudulent statement in  
22 a bankruptcy schedule to the individuals designated under  
23 this section.”.

1           (2) CLERICAL AMENDMENT.—The analysis for  
2           chapter 9 of title 18, United States Code, is amend-  
3           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.”.

4   **SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON**  
5                                   **SALE OF PREDATORY LOANS.**

6           Section 363 of title 11, United States Code, is  
7           amended by adding at the end the following:

8           “(p) Notwithstanding subsection (f), if a person pur-  
9           chases any interest in a consumer credit transaction that  
10          is subject to the Truth in Lending Act (15 U.S.C. 1601  
11          et seq.), or any interest in a consumer credit contract as  
12          defined by the Federal Trade Commission Preservation of  
13          Claims Trade Regulation, and that interest is purchased  
14          through a sale under this section, then that person shall  
15          remain subject to all claims and defenses that are related  
16          to the consumer credit transaction or contract, to the  
17          same extent as that person would be subject to such claims  
18          and defenses of the consumer had the sale taken place  
19          other than under title 11.

20   **SEC. 205. GAO STUDY ON REAFFIRMATION PROCESS.**

21          (a) STUDY.—The General Accounting Office (in this  
22          section referred to as the “GAO”) shall conduct a study  
23          of the reaffirmation process under title 11, United States  
24          Code, to determine the overall treatment of consumers

1 within the context of that process, including consideration  
2 of—

3 (1) the policies and activities of creditors with  
4 respect to reaffirmation; and

5 (2) whether consumers are fully, fairly and con-  
6 sistently informed of their rights pursuant to this  
7 title.

8 (b) REPORT TO CONGRESS.—Not later than 1½  
9 years after the date of enactment of this Act, the GAO  
10 shall submit a report to the Congress on the results of  
11 the study conducted under subsection (a), together with  
12 any recommendations for legislation to address any abu-  
13 sive or coercive tactics found within the reaffirmation  
14 process.

## 15 **Subtitle B—Priority Child Support**

### 16 **SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGA-** 17 **TION.**

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

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

21 (2) by inserting after paragraph (14) the fol-  
22 lowing:

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

1 that accrues on that debt as provided under applica-  
2 ble nonbankruptcy law notwithstanding any other  
3 provision of this title, that is—

4 “(A) owed to or recoverable by—

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

8 “(ii) a governmental unit;

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

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

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

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

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

1           “(D) not assigned to a nongovernmental  
2           entity, unless that obligation is assigned volun-  
3           tarily by the spouse, former spouse, child, or  
4           parent, legal guardian, or responsible relative of  
5           the child for the purpose of collecting the  
6           debt;”.

7 **SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP-**  
8 **PORT OBLIGATIONS.**

9           Section 507(a) of title 11, United States Code, is  
10 amended—

11           (1) by striking paragraph (7);

12           (2) by redesignating paragraphs (1) through  
13           (6) as paragraphs (2) through (7), respectively;

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

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

18           (5) in paragraph (4), as redesignated—

19           (A) by striking “Third” and inserting  
20           “Fourth”; and

21           (B) by striking the semicolon at the end  
22           and inserting a period;

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

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

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

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

7 “(1) First:

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

21 “(B) Subject to claims under subpara-  
22 graph (A), allowed unsecured claims for domes-  
23 tic support obligations that, as of the date the  
24 petition was filed are assigned by a spouse,  
25 former spouse, child of the debtor, or such

1 child’s parent, legal guardian, or responsible  
2 relative to a governmental unit (unless such ob-  
3 ligation is assigned voluntarily by the spouse,  
4 former spouse, child, parent, legal guardian, or  
5 responsible relative of the child for the purpose  
6 of collecting the debt) or are owed directly to or  
7 recoverable by a government unit under applica-  
8 ble nonbankruptcy law, on the condition that  
9 funds received under this paragraph by a gov-  
10 ernmental unit under this title after the date of  
11 filing of the petition be applied and distributed  
12 in accordance with applicable nonbankruptcy  
13 law.”.

14 **SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND**  
15 **DISCHARGE IN CASES INVOLVING DOMESTIC**  
16 **SUPPORT OBLIGATIONS.**

17 Title 11, United States Code, is amended—

18 (1) in section 1129(a), by adding at the end the  
19 following:

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

1 (2) in section 1208(c)—

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

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

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

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

10 (3) in section 1222(a)—

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

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

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

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

24 (4) in section 1222(b)—

1 (A) by redesignating paragraph (11) as  
2 paragraph (12); and

3 (B) by inserting after paragraph (10) the  
4 following:

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

12 (5) in section 1225(a)—

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

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

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

18 “(7) if the debtor is required by a judicial or  
19 administrative order or statute to pay a domestic  
20 support obligation, the debtor has paid all amounts  
21 payable under such order for such obligation that  
22 first become payable after the date on which the pe-  
23 tition is filed.”;

24 (6) in section 1228(a), in the matter preceding  
25 paragraph (1), by inserting “, and in the case of a

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

10 (7) in section 1307(c)—

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

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

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

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

19 (8) in section 1322(a)—

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

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

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

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

9           (9) in section 1322(b)—

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

12           (B) by redesignating paragraph (10) as  
13 paragraph (11); and

14           (C) inserting after paragraph (9) the fol-  
15 lowing:

16           “(10) provide for the payment of interest accru-  
17 ing after the date of the filing of the petition on un-  
18 secured claims that are nondischargeable under sec-  
19 tion 1328(a), except that such interest may be paid  
20 only to the extent that the debtor has disposable in-  
21 come available to pay such interest after making  
22 provision for full payment of all allowed claims;  
23 and”;

24           (10) in section 1325(a) (as amended by this  
25 Act), by adding at the end the following:

1           “(8) the debtor is required by a judicial or ad-  
 2           ministrative order or statute to pay a domestic sup-  
 3           port obligation, the debtor has paid all amounts pay-  
 4           able under such order or statute for such obligation  
 5           that first becomes payable after the date on which  
 6           the petition is filed; and”;

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

18 **SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**  
 19 **SUPPORT OBLIGATION PROCEEDINGS.**

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

23                 “(2) under subsection (a)—

24                         “(A) of the commencement or continuation  
 25                         of a civil action or proceeding—

1           “(i) for the establishment of paternity;

2           “(ii) for the establishment or modi-  
3           fication of an order for domestic support  
4           obligations;

5           “(iii) concerning child custody or visi-  
6           tation;

7           “(iv) for the dissolution of a marriage,  
8           except to the extent that such proceeding  
9           seeks to determine the division of property  
10          that is property of the estate; or

11          “(v) regarding domestic violence;

12          “(B) the collection of a domestic support  
13          obligation from property that is not property of  
14          the estate;

15          “(C) with respect to the withholding of in-  
16          come that is property of the estate or property  
17          of the debtor for payment of a domestic support  
18          obligation under a judicial or administrative  
19          order;

20          “(D) the withholding, suspension, or re-  
21          striction of drivers’ licenses, professional and  
22          occupational licenses, and recreational licenses  
23          under State law, as specified in section  
24          466(a)(16) of the Social Security Act (42  
25          U.S.C. 666(a)(16));

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

5           “(F) the interception of tax refunds, as  
6 specified in sections 464 and 466(a)(3) of the  
7 Social Security Act (42 U.S.C. 664 and  
8 666(a)(3)) or under an analogous State law; or

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

12 **SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**  
13 **ALIMONY, MAINTENANCE, AND SUPPORT.**

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

16           (1) in subsection (a)—

17               (A) by striking paragraph (5) and insert-  
18 ing the following:

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

20               (B) in paragraph (15)—

21                   (i) by inserting “to a spouse, former  
22 spouse, or child of the debtor and” before  
23 “not of the kind”;

24                   (ii) by inserting “or” after “court of  
25 record,”; and

1 (iii) by striking “unless—” and all  
2 that follows through the end of the para-  
3 graph and inserting a semicolon; and  
4 (C) by striking paragraph (18); and  
5 (2) in subsection (c), by striking “(6), or (15)”  
6 each place it appears and inserting “or (6)”.

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

8 Section 522 of title 11, United States Code, is  
9 amended—

10 (1) in subsection (c), by striking paragraph (1)  
11 and inserting the following:

12 “(1) a debt of a kind specified in paragraph (1)  
13 or (5) of section 523(a) (in which case, notwith-  
14 standing any provision of applicable nonbankruptcy  
15 law to the contrary, such property shall be liable for  
16 a debt of a kind specified in section 523(a)(5));”;

17 (2) in subsection (f)(1)(A), by striking the dash  
18 and all that follows through the end of the subpara-  
19 graph and inserting “of a kind that is specified in  
20 section 523(a)(5); or”; and

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

1 **SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS**  
2 **AGAINST PREFERENTIAL TRANSFER MO-**  
3 **TIONS.**

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

6 “(7) to the extent such transfer was a bona fide  
7 payment of a debt for a domestic support obliga-  
8 tion;”.

9 **SEC. 218. DISPOSABLE INCOME DEFINED.**

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

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

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

21 (a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-  
22 tion 704 of title 11, United States Code, as amended by  
23 this Act, is amended—

24 (1) in subsection (a)—

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

1 (B) in paragraph (9), by striking the pe-  
2 riod and inserting a semicolon; and

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

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

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

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

11 “(A)(i) notify in writing the holder of the claim  
12 of the right of that holder to use the services of a  
13 State child support enforcement agency established  
14 under sections 464 and 466 of the Social Security  
15 Act (42 U.S.C. 664, 666) for the State in which the  
16 holder resides for assistance in collecting child sup-  
17 port during and after the bankruptcy procedures;

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

21 “(iii) include in the notice an explanation of the  
22 rights of the holder of the claim to payment of the  
23 claim under this chapter; 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 727, notify the holder of  
9           that 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), (4), or (14A) 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       (b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—  
7 Section 1106 of title 11, United States Code, is  
8 amended—

9           (1) in subsection (a)—

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

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

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

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

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

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

22               “(A)(i) notify in writing the holder of the claim  
23 of the right of that holder to use the services of a  
24 State child support enforcement agency established  
25 under sections 464 and 466 of the Social Security

1 Act (42 U.S.C. 664, 666) for the State in which the  
2 holder resides; and

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

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

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

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

16 “(I) the granting of the discharge;

17 “(II) the last recent known address of the  
18 debtor;

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

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

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

25 or

1                   “(bb) was reaffirmed by the debtor  
2                   under section 524(c).

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

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

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

14           (1) in subsection (b)—

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

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

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

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

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

1       “(c)(1) In any case described in subsection (b)(6), the  
2 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, 666) for the State in which the  
8 holder resides; and

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

12           “(B)(i) notify, in writing, the State child sup-  
13 port agency (of the State in which the holder of the  
14 claim resides), and the holder of the claim, of the  
15 claim;

16           “(ii) include in the notice under this paragraph  
17 the name, address, and telephone number of the  
18 holder of the claim; and

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

23                   “(I) the granting of the discharge;

24                   “(II) the last recent known address of the  
25 debtor;

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

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

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

7                   or

8                   “(bb) was reaffirmed by the debtor  
9                   under section 524(c).

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

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

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

21                  (1) in subsection (b)—

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

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

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

2 “(6) if, with respect to an individual debtor,  
3 there is a claim for a domestic support obligation,  
4 provide the applicable notification specified in sub-  
5 section (d).”; and

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

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

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

15 “(ii) include in the notice under this paragraph  
16 the address and telephone number of the child sup-  
17 port enforcement agency; and

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

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

24 “(iii) at such time as the debtor is granted a  
25 discharge under section 1328, notify the holder of

1 the 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 (14) 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.”.

1 **SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDU-**  
2 **CATIONAL BENEFITS AND LOANS.**

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

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

10 “(A)(i) an educational benefit overpayment  
11 or loan made, insured, or guaranteed by a gov-  
12 ernmental unit, or made under any program  
13 funded in whole or in part by a governmental  
14 unit or nonprofit institution; or

15 “(ii) an obligation to repay funds received  
16 as an educational benefit, scholarship, or sti-  
17 pend; or

18 “(B) any other educational loan that is a  
19 qualified education loan, as that term is defined  
20 in section 221(e)(1) of the Internal Revenue  
21 Code of 1986, incurred by an individual debt-  
22 or;”.

1           **Subtitle C—Other Consumer**  
2                           **Protections**

3   **SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANK-**  
4                           **RUPTCY FILINGS.**

5           Section 110 of title 11, United States Code, is  
6 amended—

7                   (1) in subsection (a)(1), by striking “an attor-  
8           ney or an employee of an attorney” and inserting  
9           “the attorney for the debtor or an employee of such  
10          attorney under the direct supervision of such attor-  
11          ney”;

12                  (2) in subsection (b)—

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

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

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

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

24                          “(2)(A) Before preparing any document for filing or  
25           accepting any fees from a debtor, the bankruptcy petition

1 preparer shall provide to the debtor a written notice to  
2 debtors concerning bankruptcy petition preparers, which  
3 shall be on an official form issued by the Judicial Con-  
4 ference of the United States.

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

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

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

14 “(iii) shall—

15 “(I) be signed by—

16 “(aa) the debtor; and

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

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

21 (3) in subsection (c)—

22 (A) in paragraph (2)—

23 (i) by striking “(2) For purposes” and  
24 inserting “(2)(A) Subject to subparagraph  
25 (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 redesignated, the following:

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

15 (C) in paragraph (2), as redesignated—

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

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

23 (iii) by adding at the end the fol-  
24 lowing: “If rules or guidelines setting a  
25 maximum fee for services have been pro-

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

7 (D) by striking paragraph (3), as redesign-  
8 nated, and inserting the following:

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

13 “(i) rendered by the preparer during the  
14 12-month period immediately preceding the  
15 date of filing of the petition; or

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

19 “(B) All fees charged by a bankruptcy petition  
20 preparer may be forfeited in any case in which the  
21 bankruptcy petition preparer fails to comply with  
22 this subsection or subsection (b), (c), (d), (e), (f), or  
23 (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 striking “or the United States trustee” and in-  
6 sserting “the United States trustee, the bank-  
7 ruptcy administrator, or the court, on the ini-  
8 tiative 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)(1) 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, United States trustee, or bankruptcy adminis-  
16 trator, and after the court holds a hearing with respect  
17 to that violation or act, the court shall order the bank-  
18 ruptcy petition preparer to pay to the 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, the United States trustee,  
17 or the bankruptcy administrator.”; 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, the United  
12          States trustee, or the bankruptcy administrator may file  
13          a motion for an order imposing a fine on the bankruptcy  
14          petition preparer for each violation of this section.

15          “(4)(A) Fines imposed under this subsection in judi-  
16          cial districts served by United States trustees shall be paid  
17          to the United States trustee, who shall deposit an amount  
18          equal to such fines in a special account of the United  
19          States Trustee System Fund referred to in section  
20          586(e)(2) of title 28. Amounts deposited under this sub-  
21          paragraph shall be available to fund the enforcement of  
22          this section on a national basis.

23          “(B) Fines imposed under this subsection in judicial  
24          districts served by bankruptcy administrators shall be de-  
25          posited as offsetting receipts to the fund established under

1 section 1931 of title 28, and shall remain available until  
 2 expended to reimburse any appropriation for the amount  
 3 paid out of such appropriation for expenses of the oper-  
 4 ation and maintenance of the courts of the United  
 5 States.”.

6 **SEC. 222. SENSE OF CONGRESS.**

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

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

12 Section 507(a) of title 11, United States Code, is  
 13 amended by inserting after paragraph (9) the following:

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

19 **SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANK-**  
 20 **RUPTCY.**

21 (a) IN GENERAL.—Section 522 of title 11, United  
 22 States Code, is amended—

23 (1) in subsection (b)—

24 (A) in paragraph (2)—

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

3 (ii) in subparagraph (B), by striking  
4 the period at the end and inserting “;  
5 and”;

6 (iii) by adding at the end the fol-  
7 lowing:

8 “(C) retirement funds to the extent that those  
9 funds are in a fund or account that is exempt from  
10 taxation under section 401, 403, 408, 408A, 414,  
11 457, or 501(a) of the Internal Revenue Code of  
12 1986.”; and

13 (iv) by striking “(2)(A) any property”  
14 and inserting:

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

16 “(A) any property”;

17 (B) by striking paragraph (1) and insert-  
18 ing:

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

23 (C) by striking “(b) Notwithstanding” and  
24 inserting “(b)(1) Notwithstanding”;

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

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

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

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

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

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

16 “(B) If the retirement funds are in a retirement  
17 fund that has not received a favorable determination  
18 under such section 7805, those funds are exempt  
19 from the estate if the debtor demonstrates that—

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

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

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

6           “(C) A direct transfer of retirement funds from  
7           1 fund or account that is exempt from taxation  
8           under section 401, 403, 408, 408A, 414, 457, or  
9           501(a) of the Internal Revenue Code of 1986, under  
10          section 401(a)(31) of the Internal Revenue Code of  
11          1986, or otherwise, shall not cease to qualify for ex-  
12          emption under paragraph (3)(C) or subsection  
13          (d)(12) by reason of that direct transfer.

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

20          “(ii) A distribution described in this clause is  
21          an amount that—

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

1           “(II) to the extent allowed by law, is de-  
2           posited in such a fund or account not later than  
3           60 days after the distribution of that amount.”;

4           and

5           (2) in subsection (d)—

6                 (A) in the matter preceding paragraph (1),  
7           by striking “subsection (b)(1)” and inserting  
8           “subsection (b)(2)”; and

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

10           “(12) Retirement funds to the extent that those  
11           funds are in a fund or account that is exempt from tax-  
12           ation under section 401, 403, 408, 408A, 414, 457, or  
13           501(a) of the Internal Revenue Code of 1986.”.

14           (b) AUTOMATIC STAY.—Section 362(b) of title 11,  
15           United States Code, is amended—

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

18                 (2) in paragraph (18), by striking the period  
19           and inserting a semicolon;

20                 (3) by inserting after paragraph (18) the fol-  
21           lowing:

22                 “(19) under subsection (a), of withholding of  
23           income from a debtor’s wages and collection of  
24           amounts withheld, under the debtor’s agreement au-  
25           thorizing that withholding and collection for the ben-

1       efit of a pension, profit-sharing, stock bonus, or  
2       other plan established under section 401, 403, 408,  
3       408A, 414, 457, or 501(a) of the Internal Revenue  
4       Code of 1986, that is sponsored by the employer of  
5       the debtor, or an affiliate, successor, or predecessor  
6       of such employer—

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

14             “(B) in the case of a loan from a thrift  
15             savings plan described in subchapter III of  
16             chapter 84 of title 5, that satisfies the require-  
17             ments of section 8433(g) of such title;”;

18             (4) by adding at the end of the flush material  
19             at the end of the subsection, the following: “Nothing  
20             in paragraph (19) may be construed to provide that  
21             any loan made under a governmental plan under  
22             section 414(d), or a contract or account under sec-  
23             tion 403(b) of the Internal Revenue Code of 1986  
24             constitutes a claim or a debt under this title.”.

1 (c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of  
2 title 11, United States Code, as amended by this Act, is  
3 amended by adding at the end the following:

4 “(18) owed to a pension, profit-sharing, stock  
5 bonus, or other plan established under section 401,  
6 403, 408, 408A, 414, 457, or 501(c) of the Internal  
7 Revenue Code of 1986, under—

8 “(A) a loan permitted under section  
9 408(b)(1) of the Employee Retirement Income  
10 Security Act of 1974, or subject to section  
11 72(p) of the Internal Revenue Code of 1986; or

12 “(B) a loan from the thrift savings plan  
13 described in subchapter III of chapter 84 of  
14 title 5, that satisfies the requirements of section  
15 8433(g) of such title.

16 Nothing in paragraph (18) may be construed to pro-  
17 vide that any loan made under a governmental plan  
18 under section 414(d), or a contract or account under  
19 section 403(b), of the Internal Revenue Code of  
20 1986 constitutes a claim or a debt under this title.”.

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

24 “(f) A plan may not materially alter the terms of a  
25 loan described in section 362(b)(19) and any amounts re-

1 quired to repay such loan shall not constitute ‘disposable  
2 income’ under section 1325.”.

3 (e) ASSET LIMITATION.—Section 522 of title 11,  
4 United States Code, is amended by adding at the end the  
5 following:

6 “(n) For assets in individual retirement accounts de-  
7 scribed in section 408 or 408A of the Internal Revenue  
8 Code of 1986, other than a simplified employee pension  
9 under section 408(k) of that Code or a simple retirement  
10 account under section 408(p) of that Code, the aggregate  
11 value of such assets exempted under this section, without  
12 regard to amounts attributable to rollover contributions  
13 under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and  
14 403(b)(8) of the Internal Revenue Code of 1986, and  
15 earnings thereon, shall not exceed \$1,000,000 (which  
16 amount shall be adjusted as provided in section 104 of  
17 this title) in a case filed by an individual debtor, except  
18 that such amount may be increased if the interests of jus-  
19 tice so require.”.

20 **SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANK-**  
21 **RUPTCY.**

22 (a) EXCLUSIONS.—Section 541 of title 11, United  
23 States Code, is amended—

24 (1) in subsection (b)—

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

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

5 (C) by inserting after paragraph (4) the  
6 following:

7 “(5) funds placed in an education individual re-  
8 tirement account (as defined in section 530(b)(1) of  
9 the Internal Revenue Code of 1986) not later than  
10 365 days before the date of filing of the petition,  
11 but—

12 “(A) only if the designated beneficiary of  
13 such account was a son, daughter, stepson,  
14 stepdaughter, grandchild, or step-grandchild of  
15 the debtor for the taxable year for which funds  
16 were placed in such account;

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

18 “(i) are not pledged or promised to  
19 any entity in connection with any extension  
20 of credit; and

21 “(ii) are not excess contributions (as  
22 described in section 4973(e) of the Internal  
23 Revenue Code of 1986); and

24 “(C) in the case of funds placed in all such  
25 accounts having the same designated bene-

1            beneficiary not earlier than 720 days nor later than  
2            365 days before such date, only so much of  
3            such funds as does not exceed \$5,000;

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

11                  “(A) only if the designated beneficiary of  
12                  the amounts paid or contributed to such tuition  
13                  program was a son, daughter, stepson, step-  
14                  daughter, grandchild, or step-grandchild of the  
15                  debtor for the taxable year for which funds  
16                  were paid or contributed;

17                  “(B) with respect to the aggregate amount  
18                  paid or contributed to such program having the  
19                  same designated beneficiary, only so much of  
20                  such amount as does not exceed the total con-  
21                  tributions permitted under section 529(b)(7) of  
22                  such Code with respect to such beneficiary, as  
23                  adjusted beginning on the date of the filing of  
24                  the petition by the annual increase or decrease  
25                  (rounded to the nearest tenth of 1 percent) in

1 the education expenditure category of the Con-  
2 sumer Price Index prepared by the Department  
3 of Labor; and

4 “(C) in the case of funds paid or contrib-  
5 uted to such program having the same des-  
6 igned beneficiary not earlier than 720 days  
7 nor later than 365 days before such date, only  
8 so much of such funds as does not exceed  
9 \$5,000;”; and

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

11 “(e) In determining whether any of the relationships  
12 specified in paragraph (5)(A) or (6)(A) of subsection (b)  
13 exists, a legally adopted child of an individual (and a child  
14 who is a member of an individual’s household, if placed  
15 with such individual by an authorized placement agency  
16 for legal adoption by such individual), or a foster child  
17 of an individual (if such child has as the child’s principal  
18 place of abode the home of the debtor and is a member  
19 of the debtor’s household) shall be treated as a child of  
20 such individual by blood.”.

21 (b) DEBTOR’S DUTIES.—Section 521 of title 11,  
22 United States Code, as amended by this Act, is amended  
23 by adding at the end the following:

24 “(c) In addition to meeting the requirements under  
25 subsection (a), a debtor shall file with the court a record

1 of any interest that a debtor has in an education individual  
2 retirement account (as defined in section 530(b)(1) of the  
3 Internal Revenue Code of 1986) or under a qualified State  
4 tuition program (as defined in section 529(b)(1) of such  
5 Code).”.

6 **SEC. 226. DEFINITIONS.**

7 (a) DEFINITIONS.—Section 101 of title 11, United  
8 States Code, is amended—

9 (1) by inserting after paragraph (2) the fol-  
10 lowing:

11 “(3) ‘assisted person’ means any person whose  
12 debts consist primarily of consumer debts and whose  
13 non-exempt assets are less than \$150,000;”;

14 (2) by inserting after paragraph (4) the fol-  
15 lowing:

16 “(4A) ‘bankruptcy assistance’ means any goods  
17 or services sold or otherwise provided to an assisted  
18 person with the express or implied purpose of pro-  
19 viding information, advice, counsel, document prepa-  
20 ration, or filing, or attendance at a creditors’ meet-  
21 ing or appearing in a proceeding on behalf of an-  
22 other or providing legal representation with respect  
23 to a case or proceeding under this title;”;

24 (3) by inserting after paragraph (12) the fol-  
25 lowing:

1           “(12A) ‘debt relief agency’ means any person  
2 who provides any bankruptcy assistance to an as-  
3 sisted person in return for the payment of money or  
4 other valuable consideration, or who is a bankruptcy  
5 petition preparer under section 110, but does not  
6 include—

7           “(A) any person that is an officer, director,  
8 employee or agent of that person;

9           “(B) a nonprofit organization which is ex-  
10 empt from taxation under section 501(c)(3) of  
11 the Internal Revenue Code of 1986;

12           “(C) a creditor of the person, to the extent  
13 that the creditor is assisting the person to re-  
14 structure any debt owed by the person to the  
15 creditor;

16           “(D) a depository institution (as defined in  
17 section 3 of the Federal Deposit Insurance Act)  
18 or any Federal credit union or State credit  
19 union (as those terms are defined in section  
20 101 of the Federal Credit Union Act), or any  
21 affiliate or subsidiary of such a depository insti-  
22 tution or credit union; or

23           “(E) an author, publisher, distributor, or  
24 seller of works subject to copyright protection  
25 under title 17, when acting in such capacity.”.

1 (b) CONFORMING AMENDMENT.—Section 104(b)(1)  
2 of title 11, United States Code, is amended by inserting  
3 “101(3),” after “sections”.

4 **SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.**

5 (a) ENFORCEMENT.—Subchapter II of chapter 5 of  
6 title 11, United States Code, is amended by adding at the  
7 end the following:

8 **“§ 526. Restrictions on debt relief agencies**

9 “(a) A debt relief agency shall not—

10 “(1) fail to perform any service that such agen-  
11 cy informed an assisted person or prospective as-  
12 sisted person it would provide in connection with a  
13 case or proceeding under this title;

14 “(2) make any statement, or counsel or advise  
15 any assisted person or prospective assisted person to  
16 make a statement in a document filed in a case or  
17 proceeding under this title, that is untrue and mis-  
18 leading, or that upon the exercise of reasonable care,  
19 should have been known by such agency to be untrue  
20 or misleading;

21 “(3) misrepresent to any assisted person or pro-  
22 spective assisted person, directly or indirectly, af-  
23 firmatively or by material omission, with respect  
24 to—

1           “(i) the services that such agency will pro-  
2           vide to such person; or

3           “(ii) the benefits and risks that may result  
4           if such person becomes a debtor in a case under  
5           this title; or

6           “(4) advise an assisted person or prospective  
7           assisted person to incur more debt in contemplation  
8           of such person filing a case under this title or to pay  
9           an attorney or bankruptcy petition preparer fee or  
10          charge for services performed as part of preparing  
11          for or representing a debtor in a case under this  
12          title.

13          “(b) Any waiver by any assisted person of any protec-  
14          tion or right provided under this section shall not be en-  
15          forceable against the debtor by any Federal or State court  
16          or any other person, but may be enforced against a debt  
17          relief agency.

18          “(c)(1) Any contract for bankruptcy assistance be-  
19          tween a debt relief agency and an assisted person that  
20          does not comply with the material requirements of this  
21          section, section 527, or section 528 shall be void and may  
22          not be enforced by any Federal or State court or by any  
23          other person, other than such assisted person.

24          “(2) Any debt relief agency shall be liable to an as-  
25          sisted person in the amount of any fees or charges in con-

1 nection with providing bankruptcy assistance to such per-  
2 son that such debt relief agency has received, for actual  
3 damages, and for reasonable attorneys' fees and costs if  
4 such agency is found, after notice and hearing, to have—

5           “(A) intentionally or negligently failed to com-  
6 ply with any provision of this section, section 527,  
7 or section 528 with respect to a case or proceeding  
8 under this title for such assisted person;

9           “(B) provided bankruptcy assistance to an as-  
10 sisted person in a case or proceeding under this title  
11 that is dismissed or converted to a case under an-  
12 other chapter of this title because of such agency's  
13 intentional or negligent failure to file any required  
14 document including those specified in section 521; or

15           “(C) intentionally or negligently disregarded the  
16 material requirements of this title or the Federal  
17 Rules of Bankruptcy Procedure applicable to such  
18 agency.

19           “(3) In addition to such other remedies as are pro-  
20 vided under State law, whenever the chief law enforcement  
21 officer of a State, or an official or agency designated by  
22 a State, has reason to believe that any person has violated  
23 or is violating this section, the State—

24           “(A) may bring an action to enjoin such viola-  
25 tion;

1           “(B) may bring an action on behalf of its resi-  
2           dents to recover the actual damages of assisted per-  
3           sons arising from such violation, including any liabil-  
4           ity under paragraph (2); and

5           “(C) in the case of any successful action under  
6           subparagraph (A) or (B), shall be awarded the costs  
7           of the action and reasonable attorney fees as deter-  
8           mined by the court.

9           “(4) The United States District Court for any district  
10          located in the State shall have concurrent jurisdiction of  
11          any action under subparagraph (A) or (B) of paragraph  
12          (3).

13          “(5) Notwithstanding any other provision of Federal  
14          law and in addition to any other remedy provided under  
15          Federal or State law, if the court, on its own motion or  
16          on motion of the United States trustee or the debtor, finds  
17          that a person intentionally violated this section, or en-  
18          gaged in a clear and consistent pattern or practice of vio-  
19          lating this section, the court may—

20                 “(A) enjoin the violation of such section; or

21                 “(B) impose an appropriate civil penalty  
22          against such person.”.

23          “(d) No provision of this section, section 527, or sec-  
24          tion 528 shall—

1           “(1) annul, alter, affect, or exempt any person  
2           subject to such sections from complying with any  
3           law of any State except to the extent that such law  
4           is inconsistent with those sections, and then only to  
5           the extent of the inconsistency; or

6           “(2) be deemed to limit or curtail the authority  
7           or ability—

8           “(A) of a State or subdivision or instru-  
9           mentality thereof, to determine and enforce  
10          qualifications for the practice of law under the  
11          laws of that State; or

12          “(B) of a Federal court to determine and  
13          enforce the qualifications for the practice of law  
14          before that court.”.

15          (b) CONFORMING AMENDMENT.—The table of sec-  
16          tions for chapter 5 of title 11, United States Code, is  
17          amended by inserting before the item relating to section  
18          527, the following:

“526. Debt relief enforcement.”.

19          **SEC. 228. DISCLOSURES.**

20          (a) DISCLOSURES.—Subchapter II of chapter 5 of  
21          title 11, United States Code, as amended by this Act, is  
22          amended by adding at the end the following:

23          **“§ 527. Disclosures**

24          “(a) A debt relief agency providing bankruptcy assist-  
25          ance to an assisted person shall provide—

1           “(1) the written notice required under section  
2           342(b)(1) of this title; and

3           “(2) to the extent not covered in the written no-  
4           tice described in paragraph (1), and not later than  
5           3 business days after the first date on which a debt  
6           relief agency first offers to provide any bankruptcy  
7           assistance services to an assisted person, a clear and  
8           conspicuous written notice advising assisted persons  
9           that—

10                   “(A) all information that the assisted per-  
11                   son is required to provide with a petition and  
12                   thereafter during a case under this title is re-  
13                   quired to be complete, accurate, and truthful;

14                   “(B) all assets and all liabilities are re-  
15                   quired to be completely and accurately disclosed  
16                   in the documents filed to commence the case,  
17                   and the replacement value of each asset as de-  
18                   fined in section 506 of this title must be stated  
19                   in those documents where requested after rea-  
20                   sonable inquiry to establish such value;

21                   “(C) current monthly income, the amounts  
22                   specified in section 707(b)(2), and, in a case  
23                   under chapter 13, disposable income (deter-  
24                   mined in accordance with section 707(b)(2)),

1 are required to be stated after reasonable in-  
2 quiry; and

3 “(D) information that an assisted person  
4 provides during their case may be audited pur-  
5 suant to this title, and that failure to provide  
6 such information may result in dismissal of the  
7 proceeding under this title or other sanction in-  
8 cluding, in some instances, criminal sanctions.

9 “(b) A debt relief agency providing bankruptcy assist-  
10 ance to an assisted person shall provide each assisted per-  
11 son at the same time as the notices required under sub-  
12 section (a)(1) with the following statement, to the extent  
13 applicable, or one substantially similar. The statement  
14 shall be clear and conspicuous and shall be in a single  
15 document separate from other documents or notices pro-  
16 vided to the assisted person:

17 “‘IMPORTANT INFORMATION ABOUT BANK-  
18 RUPTCY ASSISTANCE SERVICES FROM AN AT-  
19 TORNEY OR BANKRUPTCY PETITION PRE-  
20 PARER.

21 “‘If you decide to seek bankruptcy relief, you can  
22 represent yourself, you can hire an attorney to represent  
23 you, or you can get help in some localities from a bank-  
24 ruptcy petition preparer who is not an attorney. THE  
25 LAW REQUIRES AN ATTORNEY OR BANKRUPTCY

1 PETITION PREPARER TO GIVE YOU A WRITTEN  
2 CONTRACT SPECIFYING WHAT THE ATTORNEY  
3 OR BANKRUPTCY PETITION PREPARER WILL DO  
4 FOR YOU AND HOW MUCH IT WILL COST. Ask to  
5 see the contract before you hire anyone.

6       “‘The following information helps you understand  
7 what must be done in a routine bankruptcy case to help  
8 you evaluate how much service you need. Although bank-  
9 ruptcy can be complex, many cases are routine.

10       “‘Before filing a bankruptcy case, either you or your  
11 attorney should analyze your eligibility for different forms  
12 of debt relief made available by the Bankruptcy Code and  
13 which form of relief is most likely to be beneficial for you.  
14 Be sure you understand the relief you can obtain and its  
15 limitations. To file a bankruptcy case, documents called  
16 a Petition, Schedules and Statement of Financial Affairs,  
17 as well as in some cases a Statement of Intention need  
18 to be prepared correctly and filed with the bankruptcy  
19 court. You will have to pay a filing fee to the bankruptcy  
20 court. Once your case starts, you will have to attend the  
21 required first meeting of creditors where you may be ques-  
22 tioned by a court official called a “trustee” and by credi-  
23 tors.

24       “‘If you choose to file a chapter 7 case, you may  
25 be asked by a creditor to reaffirm a debt. You may want

1 help deciding whether to do so and a creditor is not per-  
2 mitted to coerce you into reaffirming your debts.

3       “‘If you choose to file a chapter 13 case in which  
4 you repay your creditors what you can afford over 3 to  
5 5 years, you may also want help with preparing your chap-  
6 ter 13 plan and with the confirmation hearing on your  
7 plan which will be before a bankruptcy judge.

8       “‘If you select another type of relief under the Bank-  
9 ruptcy Code other than chapter 7 or chapter 13, you will  
10 want to find out what needs to be done from someone fa-  
11 miliar with that type of relief.

12       “‘Your bankruptcy case may also involve litigation.  
13 You are generally permitted to represent yourself in litiga-  
14 tion in bankruptcy court, but only attorneys, not bank-  
15 ruptcy petition preparers, can give you legal advice.’.

16       “(c) Except to the extent the debt relief agency pro-  
17 vides the required information itself after reasonably dili-  
18 gent inquiry of the assisted person or others so as to ob-  
19 tain such information reasonably accurately for inclusion  
20 on the petition, schedules or statement of financial affairs,  
21 a debt relief agency providing bankruptcy assistance to an  
22 assisted person, to the extent permitted by nonbankruptcy  
23 law, shall provide each assisted person at the time re-  
24 quired for the notice required under subsection (a)(1) rea-  
25 sonably sufficient information (which shall be provided in

1 a clear and conspicuous writing) to the assisted person  
2 on how to provide all the information the assisted person  
3 is required to provide under this title pursuant to section  
4 521, including—

5           “(1) how to value assets at replacement value,  
6 determine current monthly income, the amounts  
7 specified in section 707(b)(2) and, in a chapter 13  
8 case, how to determine disposable income in accord-  
9 ance with section 707(b)(2) and related calculations;

10           “(2) how to complete the list of creditors, in-  
11 cluding how to determine what amount is owed and  
12 what address for the creditor should be shown; and

13           “(3) how to determine what property is exempt  
14 and how to value exempt property at replacement  
15 value as defined in section 506 of this title.

16           “(d) A debt relief agency shall maintain a copy of  
17 the notices required under subsection (a) of this section  
18 for 2 years after the date on which the notice is given  
19 the assisted person.”.

20           (b) CONFORMING AMENDMENT.—The table of sec-  
21 tions for chapter 5 of title 11, United States Code, as  
22 amended by this Act, is amended by inserting after the  
23 item relating to section 526 the following:

“527. Disclosures.”.

1 **SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.**

2 (a) ENFORCEMENT.—Subchapter II of chapter 5 of  
3 title 11, United States Code, as amended by this Act, is  
4 amended by adding at the end the following:

5 **“§ 528. Requirements for debt relief agencies**

6 “(a) A debt relief agency shall—

7 “(1) not later than 5 business days after the  
8 first date such agency provides any bankruptcy as-  
9 sistance services to an assisted person, but prior to  
10 such assisted person’s petition under this title being  
11 filed, execute a written contract with such assisted  
12 person that explains clearly and conspicuously—

13 “(A) the services such agency will provide  
14 to such assisted person; and

15 “(B) the fees or charges for such services,  
16 and the terms of payment;

17 “(2) provide the assisted person with a copy of  
18 the fully executed and completed contract;

19 “(3) clearly and conspicuously disclose in any  
20 advertisement of bankruptcy assistance services or of  
21 the benefits of bankruptcy directed to the general  
22 public (whether in general media, seminars or spe-  
23 cific mailings, telephonic or electronic messages, or  
24 otherwise) that the services or benefits are with re-  
25 spect to bankruptcy relief under this title; and

1           “(4) clearly and conspicuously using the fol-  
2           lowing statement: ‘We are a debt relief agency. We  
3           help people file for bankruptcy relief under the  
4           Bankruptcy Code.’ or a substantially similar state-  
5           ment.

6           “(b)(1) An advertisement of bankruptcy assistance  
7           services or of the benefits of bankruptcy directed to the  
8           general public includes—

9           “(A) descriptions of bankruptcy assistance in  
10          connection with a chapter 13 plan whether or not  
11          chapter 13 is specifically mentioned in such adver-  
12          tisement; and

13          “(B) statements such as ‘federally supervised  
14          repayment plan’ or ‘Federal debt restructuring help’  
15          or other similar statements that could lead a reason-  
16          able consumer to believe that debt counseling was  
17          being offered when in fact the services were directed  
18          to providing bankruptcy assistance with a chapter  
19          13 plan or other form of bankruptcy relief under  
20          this title.

21          “(2) An advertisement, directed to the general public,  
22          indicating that the debt relief agency provides assistance  
23          with respect to credit defaults, mortgage foreclosures, evic-  
24          tion proceedings, excessive debt, debt collection pressure,  
25          or inability to pay any consumer debt shall—

1           “(A) disclose clearly and conspicuously in such  
2           advertisement that the assistance may involve bank-  
3           ruptcy relief under this title; and

4           “(B) include the following statement: ‘We are a  
5           debt relief agency. We help people file for bank-  
6           ruptcy relief under the Bankruptcy Code.’ or a sub-  
7           stantially similar statement.”.

8           (b) CONFORMING AMENDMENT.—The table of sec-  
9           tions for chapter 5 of title 11, United States Code, as  
10          amended by this Act, is amended by inserting after the  
11          item relating to section 527, the following:

“528. Debtor’s bill of rights.”.

12          **SEC. 230. GAO STUDY.**

13          (a) STUDY.—Not later than 270 days after the date  
14          of enactment of this Act, the Comptroller General of the  
15          United States shall conduct a study of the feasibility, ef-  
16          fectiveness, and cost of requiring trustees appointed under  
17          title 11, United States Code, or the bankruptcy courts,  
18          to provide to the Office of Child Support Enforcement  
19          promptly after the commencement of cases by individual  
20          debtors under such title, the names and social security  
21          numbers of such debtors for the purposes of allowing such  
22          Office to determine whether such debtors have out-  
23          standing obligations for child support (as determined on  
24          the basis of information in the Federal Case Registry or  
25          other national database).

1 (b) REPORT.—Not later than 300 days after the date  
2 of enactment of this Act, the Comptroller General shall  
3 submit to the President pro tempore of the Senate and  
4 the Speaker of the House of Representatives a report con-  
5 taining the results of the study required by subsection (a).

6 **SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFOR-**  
7 **MATION.**

8 (a) IN GENERAL.—Section 363(b)(1) of title 11,  
9 United States Code, is amended by striking the period at  
10 the end and inserting the following:“, except that if the  
11 debtor has disclosed a policy to an individual prohibiting  
12 the transfer of personally identifiable information about  
13 the individual to unaffiliated third persons, and the policy  
14 remains in effect at the time of the bankruptcy filing, the  
15 trustee may not sell or lease such personally identifiable  
16 information to any person, unless—

17 “(A) the sale is consistent with such prohi-  
18 bition; or

19 “(B) the court, after notice and hearing  
20 and due consideration of the facts, cir-  
21 cumstances, and conditions of the sale or lease,  
22 approves the sale or lease.”.

23 (b) DEFINITION.—Section 101 of title 11, United  
24 States Code, is amended by inserting after paragraph (41)  
25 the following:

1           “(41A) ‘personally identifiable information’, if  
2 provided by the individual to the debtor in connec-  
3 tion with obtaining a product or service from the  
4 debtor primarily for personal, family, or household  
5 purposes—

6           “(A) means—

7           “(i) the individual’s first name (or ini-  
8 tials) and last name, whether given at  
9 birth or adoption or legally changed;

10           “(ii) the physical address for the indi-  
11 vidual’s home;

12           “(iii) the individual’s e-mail address;

13           “(iv) the individual’s home telephone  
14 number;

15           “(v) the individual’s social security  
16 number; or

17           “(vi) the individual’s credit card ac-  
18 count number; and

19           “(B) means, when identified in connection  
20 with one or more of the items of information  
21 listed in subparagraph (A)—

22           “(i) an individual’s birth date, birth  
23 certificate number, or place of birth; or

24           “(ii) any other information concerning  
25 an identified individual that, if disclosed,

1                   will result in the physical or electronic con-  
2                   tacting or identification of that person;”.

3 **SEC. 232. CONSUMER PRIVACY OMBUDSMAN.**

4           (a) IN GENERAL.—

5                   (1) APPOINTMENT ON REQUEST.—If the trustee  
6                   intends to sell or lease personally identifiable infor-  
7                   mation in a manner which requires a hearing de-  
8                   scribed in section 363(b)(1)(B), the trustee shall re-  
9                   quest, and the court shall appoint, an individual to  
10                  serve as ombudsman during the case not later  
11                  than—

12                           (A) on or before the expiration of 30 days  
13                           after the date of the order for relief; or

14                           (B) 5 days prior to any hearing described  
15                           in section 363(b)(1)(B) of title 11, United  
16                           States Code, as amended by this Act.

17                  (2) DUTIES OF OMBUDSMAN.—It shall be the  
18                  duty of the ombudsman to provide the court infor-  
19                  mation to assist the court in its consideration of the  
20                  facts, circumstances, and conditions of the sale or  
21                  lease under section 363(b)(1)(B) of title 11, United  
22                  States Code, as amended by this Act. Such informa-  
23                  tion may include a presentation of the debtor’s pri-  
24                  vacy policy in effect, potential losses or gains of pri-  
25                  vacy to consumers if the sale or lease is approved,

1 potential costs or benefits to consumers if the sale  
2 or lease is approved, and potential alternatives which  
3 mitigate potential privacy losses or potential costs to  
4 consumers.

5 (3) NOTICE TO OMBUDSMAN.—The ombudsman  
6 shall receive notice of, and shall have a right to ap-  
7 pear and be heard, at any hearing described in sec-  
8 tion 363b(1)(B) of title 11, United States Code, as  
9 amended by this Act.

10 (4) CONFIDENTIALITY.—The ombudsman shall  
11 maintain any personally identifiable information ob-  
12 tained by the ombudsman under this title as con-  
13 fidential information.

14 (b) APPOINTMENT.—If the court orders the appoint-  
15 ment of an ombudsman under this section, the United  
16 States Trustee shall appoint 1 disinterested person, other  
17 than the United States trustee, to serve as the ombuds-  
18 man.

19 (c) COMPENSATION OF CONSUMER PRIVACY OM-  
20 BUDSMAN.—Section 330(a)(1) of title 11, United States  
21 Code, is amended in the matter preceding subparagraph  
22 (A), by inserting “an ombudsman appointed under section  
23 332,” before “an examiner”.

1 **SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF**  
2 **MINOR CHILDREN.**

3 (a) PROHIBITION.—Chapter 1 of title 11, United  
4 States Code, is amended by adding after section 111, as  
5 added by this Act, the following:

6 **“§ 112. Prohibition on disclosure of identity of minor**  
7 **children**

8 “In a case under this title, the debtor may be re-  
9 quired to provide information regarding a minor child in-  
10 volved in matters under this title, but may not be required  
11 to disclose in the public records in the case the name of  
12 such minor child. Notwithstanding section 107(a), the  
13 debtor may be required to disclose the name of such minor  
14 child in a nonpublic record maintained by the court. Such  
15 nonpublic record shall be available for inspection by the  
16 judge, United States Trustee, the trustee, or an auditor  
17 under section 603 of the Bankruptcy Reform Act of 2001.  
18 Each such judge, United States Trustee, trustee, or audi-  
19 tor shall maintain the confidentiality of the identity of  
20 such minor child in the nonpublic record.”.

21 (b) CLERICAL AMENDMENT.—The table of sections  
22 for chapter 1 of title 11, United States Code, is amended  
23 by adding at the end the following:

“112. Prohibition on disclosure of identity of minor children.”.

1           **TITLE III—DISCOURAGING**  
2           **BANKRUPTCY ABUSE**

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

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

6           (1) by striking “by a court” and inserting “on  
7 a prisoner by any court”,

8           (2) by striking “section 1915(b) or (f)” and in-  
9 sserting “subsection (b) or (f)(2) of section 1915”,  
10 and

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

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

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

16           (1) in paragraph (1), by striking “and” at the  
17 end;

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

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

21           “(3) if a single or joint case is filed by or  
22 against an individual debtor under chapter 7, 11, or  
23 13, and if a single or joint case of the debtor was  
24 pending within the preceding 1-year period but was  
25 dismissed, other than a case refiled under a chapter

1 other than chapter 7 after dismissal under section  
2 707(b)—

3 “(A) the stay under subsection (a) with re-  
4 spect to any action taken with respect to a debt  
5 or property securing such debt or with respect  
6 to any lease shall terminate with respect to the  
7 debtor on the 30th day after the filing of the  
8 later case;

9 “(B) upon motion by a party in interest  
10 for continuation of the automatic stay and upon  
11 notice and a hearing, the court may extend the  
12 stay in particular cases as to any or all credi-  
13 tors (subject to such conditions or limitations  
14 as the court may then impose) after notice and  
15 a hearing completed before the expiration of the  
16 30-day period only if the party in interest dem-  
17 onstrates that the filing of the later case is in  
18 good faith as to the creditors to be stayed; and

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

23 “(i) as to all creditors, if—

24 “(I) more than 1 previous case  
25 under any of chapter 7, 11, or 13 in

1 which the individual was a debtor was  
2 pending within the preceding 1-year  
3 period;

4 “(II) a previous case under any  
5 of chapter 7, 11, or 13 in which the  
6 individual was a debtor was dismissed  
7 within such 1-year period, after the  
8 debtor failed to—

9 “(aa) file or amend the peti-  
10 tion or other documents as re-  
11 quired by this title or the court  
12 without substantial excuse (but  
13 mere inadvertence or negligence  
14 shall not be a substantial excuse  
15 unless the dismissal was caused  
16 by the negligence of the debtor’s  
17 attorney);

18 “(bb) provide adequate pro-  
19 tection as ordered by the court;  
20 or

21 “(cc) perform the terms of a  
22 plan confirmed by the court; or

23 “(III) there has not been a sub-  
24 stantial change in the financial or per-  
25 sonal affairs of the debtor since the

1 dismissal of the next most previous  
2 case under chapter 7, 11, or 13 or  
3 any other reason to conclude that the  
4 later case will be concluded—

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

7 “(bb) if a case under chap-  
8 ter 11 or 13, with a confirmed  
9 plan which will be fully per-  
10 formed; and

11 “(ii) as to any creditor that com-  
12 menced an action under subsection (d) in  
13 a previous case in which the individual was  
14 a debtor if, as of the date of dismissal of  
15 such case, that action was still pending or  
16 had been resolved by terminating, condi-  
17 tioning, or limiting the stay as to actions  
18 of such creditor; and

19 “(4)(A)(i) if a single or joint case is filed by or  
20 against an individual debtor under this title, and if  
21 2 or more single or joint cases of the debtor were  
22 pending within the previous year but were dismissed,  
23 other than a case refiled under section 707(b), the  
24 stay under subsection (a) shall not go into effect  
25 upon the filing of the later case; and

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

4           “(B) if, within 30 days after the filing of the  
5 later case, a party in interest requests the court may  
6 order the stay to take effect in the case as to any  
7 or all creditors (subject to such conditions or limita-  
8 tions as the court may impose), after notice and  
9 hearing, only if the party in interest demonstrates  
10 that the filing of the later case is in good faith as  
11 to the creditors to be stayed;

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

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

19           “(i) as to all creditors if—

20           “(I) 2 or more previous cases under  
21 this title in which the individual was a  
22 debtor were pending within the 1-year pe-  
23 riod;

24           “(II) a previous case under this title  
25 in which the individual was a debtor was

1 dismissed within the time period stated in  
2 this paragraph after the debtor failed to  
3 file or amend the petition or other docu-  
4 ments as required by this title or the court  
5 without substantial excuse (but mere inad-  
6 vertence or negligence shall not be sub-  
7 stantial excuse unless the dismissal was  
8 caused by the negligence of the debtor's at-  
9 torney), failed to pay adequate protection  
10 as ordered by the court, or failed to per-  
11 form the terms of a plan confirmed by the  
12 court; or

13 “(III) there has not been a substan-  
14 tial change in the financial or personal af-  
15 fairs of the debtor since the dismissal of  
16 the next most previous case under this  
17 title, or any other reason to conclude that  
18 the later case will not be concluded, if a  
19 case under chapter 7, with a discharge,  
20 and if a case under chapter 11 or 13, with  
21 a confirmed plan that will be fully per-  
22 formed; or

23 “(ii) as to any creditor that commenced an  
24 action under subsection (d) in a previous case  
25 in which the individual was a debtor if, as of

1           the date of dismissal of such case, such action  
2           was still pending or had been resolved by termi-  
3           nating, conditioning, or limiting the stay as to  
4           action of such creditor.”.

5 **SEC. 303. CURBING ABUSIVE FILINGS.**

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

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

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

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

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

19           “(A) transfer of all or part ownership of,  
20           or other interest in, the real property without  
21           the consent of the secured creditor or court ap-  
22           proval; or

23           “(B) multiple bankruptcy filings affecting  
24           the real property.

1 If recorded in compliance with applicable State laws gov-  
2 erning notices of interests or liens in real property, an  
3 order entered under this subsection shall be binding in any  
4 other case under this title purporting to affect the real  
5 property filed not later than 2 years after the date of entry  
6 of such order by the court, except that a debtor in a subse-  
7 quent case may move for relief from such order based  
8 upon changed circumstances or for good cause shown,  
9 after notice and a hearing. Any Federal, State, or local  
10 governmental unit that accepts notices of interests or liens  
11 in real property shall accept any certified copy of an order  
12 described in this subsection for indexing and recording.”.

13 (b) AUTOMATIC STAY.—Section 362(b) of title 11,  
14 United States Code, is amended by inserting after para-  
15 graph (19), as added by this Act, the following:

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

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

4                   “(A) if the debtor is ineligible under sec-  
5                   tion 109(g) to be a debtor in a bankruptcy case;  
6                   or

7                   “(B) if the bankruptcy case was filed in  
8                   violation of a bankruptcy court order in a prior  
9                   bankruptcy case prohibiting the debtor from  
10                  being a debtor in another bankruptcy case;”.

11 **SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY**  
12                   **SECURITY.**

13           Title 11, United States Code, is amended—

14                   (1) in section 521(a) (as so designated by this  
15           Act)—

16                           (A) in paragraph (4), by striking “, and”  
17                           at the end and inserting a semicolon;

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

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

21                   “(6) in an individual case under chapter 7 of  
22                   this title, not retain possession of personal property  
23                   as to which a creditor has an allowed claim for the  
24                   purchase price secured in whole or in part by an in-  
25                   terest in that personal property unless, in the case

1 of an individual debtor, the debtor, not later than 45  
2 days after the first meeting of creditors under sec-  
3 tion 341(a), either—

4 “(A) enters into an agreement with the  
5 creditor pursuant to section 524(c) of this title  
6 with respect to the claim secured by such prop-  
7 erty; or

8 “(B) redeems such property from the secu-  
9 rity interest pursuant to section 722 of this  
10 title.

11 If the debtor fails to so act within the 45-day period re-  
12 ferred to in paragraph (6), the stay under section 362(a)  
13 of this title is terminated with respect to the personal  
14 property of the estate or of the debtor which is affected,  
15 such property shall no longer be property of the estate,  
16 and the creditor may take whatever action as to such prop-  
17 erty as is permitted by applicable nonbankruptcy law, un-  
18 less the court determines on the motion of the trustee  
19 brought before the expiration of such 45-day period, and  
20 after notice and a hearing, that such property is of con-  
21 sequential value or benefit to the estate, orders appro-  
22 priate adequate protection of the creditor’s interest, and  
23 orders the debtor to deliver any collateral in the debtor’s  
24 possession to the trustee.”; 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)”;

11                   (B) by redesignating subsection (h) as sub-  
12                   section (k); and

13                   (C) by inserting after subsection (g) the  
14                   following:

15           “(h)(1) In an individual case under chapter 7, 11,  
16           or 13, the stay provided by subsection (a) is terminated  
17           with respect to personal property of the estate or of the  
18           debtor securing in whole or in part a claim, or subject  
19           to an unexpired lease, and such personal property shall  
20           no longer be property of the estate if the debtor fails with-  
21           in the applicable time set by section 521(a)(2) of this  
22           title—

23                   “(A) to file timely any statement of intention  
24                   required under section 521(a)(2) of this title with  
25                   respect to that property or to indicate in that state-

1       ment that the debtor will either surrender the prop-  
2       erty or retain it and, if retaining it, either redeem  
3       the property pursuant to section 722 of this title, re-  
4       affirm the debt it secures pursuant to section 524(c)  
5       of this title, or assume the unexpired lease pursuant  
6       to section 365(p) of this title if the trustee does not  
7       do so, as applicable; and

8               “(B) to take timely the action specified in that  
9       statement of intention, as it may be amended before  
10      expiration of the period for taking action, unless the  
11      statement of intention specifies reaffirmation and  
12      the creditor refuses to reaffirm on the original con-  
13      tract terms.

14      “(2) Paragraph (1) does not apply if the court deter-  
15      mines, on the motion of the trustee filed before the expira-  
16      tion of the applicable time set by section 521(a)(2), after  
17      notice and a hearing, that such property is of consequen-  
18      tial value or benefit to the estate, and orders appropriate  
19      adequate protection of the creditor’s interest, and orders  
20      the debtor to deliver any collateral in the debtor’s posses-  
21      sion to the trustee. If the court does not so determine,  
22      the stay provided by subsection (a) shall terminate upon  
23      the conclusion of the proceeding on the motion.”; and

24               (2) in section 521—

1 (A) in subsection (a)(2), as so designated  
2 by this Act, by striking “consumer”;

3 (B) in subsection (a)(2)(B), as so des-  
4 ignated by this Act—

5 (i) by striking “forty-five days after  
6 the filing of a notice of intent under this  
7 section” and inserting “30 days after the  
8 first date set for the meeting of creditors  
9 under section 341(a) of this title”; and

10 (ii) by striking “forty-five day” and  
11 inserting “30-day”;

12 (C) in subsection (a)(2)(C), as so des-  
13 ignated by this Act, by inserting “, except as  
14 provided in section 362(h) of this title” before  
15 the semicolon; and

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

17 “(d) If the debtor fails timely to take the action speci-  
18 fied in subsection (a)(6) of this section, or in paragraphs  
19 (1) and (2) of section 362(h) of this title, with respect  
20 to property which a lessor or bailor owns and has leased,  
21 rented, or bailed to the debtor or as to which a creditor  
22 holds a security interest not otherwise voidable under sec-  
23 tion 522(f), 544, 545, 547, 548, or 549 of this title, noth-  
24 ing in this title shall prevent or limit the operation of a  
25 provision in the underlying lease or agreement which has

1 the effect of placing the debtor in default under such lease  
 2 or agreement by reason of the occurrence, pendency, or  
 3 existence of a proceeding under this title or the insolvency  
 4 of the debtor. Nothing in this subsection shall be deemed  
 5 to justify limiting such a provision in any other cir-  
 6 cumstance.”.

7 **SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT**  
 8 **IN CHAPTER 13.**

9 (a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title  
 10 11, United States Code, is amended to read as follows:

11 “(i) the plan provides that—

12 “(I) the holder of such claim retain  
 13 the lien securing such claim until the ear-  
 14 lier of—

15 “(aa) the payment of the under-  
 16 lying debt determined under nonbank-  
 17 ruptcy law; or

18 “(bb) discharge under section  
 19 1328; and

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

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

5 “For purposes of paragraph (5), section 506 shall not  
6 apply to a claim described in that paragraph if the creditor  
7 has a purchase money security interest securing the debt  
8 that is the subject of the claim, the debt was incurred  
9 within the 3-year period preceding the filing of the peti-  
10 tion, and the collateral for that debt consists of a motor  
11 vehicle (as defined in section 30102 of title 49) acquired  
12 for the personal use of the debtor, or if collateral for that  
13 debt consists of any other thing of value, if the debt was  
14 incurred during the 1-year period preceding that filing.”.

15 (c) DEFINITIONS.—Section 101 of title 11, United  
16 States Code, as amended by this Act, is amended—

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

19 “(13A) ‘debtor’s principal residence’—

20 “(A) means a residential structure, includ-  
21 ing incidental property, without regard to  
22 whether that structure is attached to real prop-  
23 erty; and

1           “(B) includes an individual condominium  
2           or cooperative unit, a mobile or manufactured  
3           home, or trailer;”; and

4           (2) by inserting after paragraph (27), the fol-  
5           lowing:

6           “(27A) ‘incidental property’ means, with re-  
7           spect to a debtor’s principal residence—

8                   “(A) property commonly conveyed with a  
9                   principal residence in the area where the real  
10                  estate is located;

11                   “(B) all easements, rights, appurtenances,  
12                  fixtures, rents, royalties, mineral rights, oil or  
13                  gas rights or profits, water rights, escrow  
14                  funds, or insurance proceeds; and

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

16 **SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.**

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

19                   (1) by striking “180 days” and inserting “730  
20                  days”; and

21                   (2) by striking “, or for a longer portion of  
22                  such 180-day period than in any other place” and  
23                  inserting “or if the debtor’s domicile has not been  
24                  located at a single State for such 730-day period,  
25                  the place in which the debtor’s domicile was located

1 for 180 days immediately preceding the 730-day pe-  
2 riod or for a longer portion of such 180-day period  
3 than in any other place”.

4 **SEC. 308. LIMITATION.**

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

7 (1) in subsection (b)(3)(A), as so designated by  
8 this Act, by inserting “subject to subsection (o),” be-  
9 fore “any property”; and

10 (2) by adding at the end the following new sub-  
11 section:

12 “(o)(1) As a result of electing under subsection  
13 (b)(3)(A) to exempt property under State or local law, a  
14 debtor may not exempt any amount of interest that ex-  
15 ceeds, in the aggregate, \$125,000 in value in—

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

18 “(B) a cooperative that owns property that the  
19 debtor or a dependent of the debtor uses as a resi-  
20 dence; or

21 “(C) a burial plot for the debtor or a dependent  
22 of the debtor.

23 “(2) The limitation under paragraph (1) shall not  
24 apply to an exemption claimed under subsection (b)(3)(A)

1 by a family farmer for the principal residence of that  
2 farmer.”.

3 **SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER**  
4 **13 CASES.**

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

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

10 (2) in subparagraph (B)—

11 (A) by striking “in the converted case,  
12 with allowed secured claims” and inserting  
13 “only in a case converted to a case under chap-  
14 ter 11 or 12, but not in a case converted to a  
15 case under chapter 7, with allowed secured  
16 claims in cases under chapters 11 and 12”; and

17 (B) by striking the period and inserting “;  
18 and”; and

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

20 “(C) with respect to cases converted from chap-  
21 ter 13—

22 “(i) the claim of any creditor holding secu-  
23 rity as of the date of the petition shall continue  
24 to be secured by that security unless the full  
25 amount of such claim determined under appli-

1 cable nonbankruptcy law has been paid in full  
2 as of the date of conversion, notwithstanding  
3 any valuation or determination of the amount  
4 of an allowed secured claim made for the pur-  
5 poses of the chapter 13 proceeding; and

6 “(ii) unless a prebankruptcy default has  
7 been fully cured under the plan at the time of  
8 conversion, in any proceeding under this title or  
9 otherwise, the default shall have the effect given  
10 under applicable nonbankruptcy law.”.

11 (b) GIVING DEBTORS THE ABILITY TO KEEP  
12 LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section  
13 365 of title 11, United States Code, is amended by adding  
14 at the end the following:

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

19 “(2)(A) In the case of an individual under chapter  
20 7, the debtor may notify the creditor in writing that the  
21 debtor desires to assume the lease. Upon being so notified,  
22 the creditor may, at its option, notify the debtor that it  
23 is willing to have the lease assumed by the debtor and  
24 may condition such assumption on cure of any outstanding  
25 default on terms set by the contract.

1       “(B) If, not later than 30 days after notice is pro-  
2       vided under subparagraph (A), the debtor notifies the les-  
3       sor in writing that the lease is assumed, the liability under  
4       the lease will be assumed by the debtor and not by the  
5       estate.

6       “(C) The stay under section 362 and the injunction  
7       under section 524(a)(2) shall not be violated by notifica-  
8       tion of the debtor and negotiation of cure under this sub-  
9       section.

10       “(3) In a case under chapter 11 in which the debtor  
11       is an individual and in a case under chapter 13, if the  
12       debtor is the lessee with respect to personal property and  
13       the lease is not assumed in the plan confirmed by the  
14       court, the lease is deemed rejected as of the conclusion  
15       of the hearing on confirmation. If the lease is rejected,  
16       the stay under section 362 and any stay under section  
17       1301 is automatically terminated with respect to the prop-  
18       erty subject to the lease.”.

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

21               (1) CONFIRMATION OF PLAN.—Section  
22       1325(a)(5)(B) of title 11, United States Code, is  
23       amended—

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

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

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

4 “(iii) if—

5 “(I) property to be distributed  
6 pursuant to this subsection is in the  
7 form of periodic payments, such pay-  
8 ments shall be in equal monthly  
9 amounts; and

10 “(II) the holder of the claim is  
11 secured by personal property, the  
12 amount of such payments shall not be  
13 less than an amount sufficient to pro-  
14 vide to the holder of such claim ade-  
15 quate protection during the period of  
16 the plan; or”.

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

19 “(a)(1) Unless the court orders otherwise, the debtor  
20 shall commence making payments not later than 30 days  
21 after the date of the filing of the plan or the order for  
22 relief, whichever is earlier, in the amount—

23 “(A) proposed by the plan to the trustee;

24 “(B) scheduled in a lease of personal property  
25 directly to the lessor for that portion of the obliga-

1       tion that becomes due after the order for relief, re-  
2       ducing the payments under subparagraph (A) by the  
3       amount so paid and providing the trustee with evi-  
4       dence of such payment, including the amount and  
5       date of payment; and

6               “(C) that provides adequate protection directly  
7       to a creditor holding an allowed claim secured by  
8       personal property to the extent the claim is attrib-  
9       utable to the purchase of such property by the debt-  
10      or for that portion of the obligation that becomes  
11      due after the order for relief, reducing the payments  
12      under subparagraph (A) by the amount so paid and  
13      providing the trustee with evidence of such payment,  
14      including the amount and date of payment.

15      “(2) A payment made under paragraph (1)(A) shall  
16      be retained by the trustee until confirmation or denial of  
17      confirmation. If a plan is confirmed, the trustee shall dis-  
18      tribute any such payment in accordance with the plan as  
19      soon as is practicable. If a plan is not confirmed, the trust-  
20      ee shall return any such payments not previously paid and  
21      not yet due and owing to creditors pursuant to paragraph  
22      (3) to the debtor, after deducting any unpaid claim al-  
23      lowed under section 503(b).

24      “(3) Subject to section 363, the court may, upon no-  
25      tice and a hearing, modify, increase, or reduce the pay-

1 ments required under this subsection pending confirma-  
2 tion of a plan.

3       “(4) Not later than 60 days after the date of filing  
4 of a case under this chapter, a debtor retaining possession  
5 of personal property subject to a lease or securing a claim  
6 attributable in whole or in part to the purchase price of  
7 such property shall provide the lessor or secured creditor  
8 reasonable evidence of the maintenance of any required  
9 insurance coverage with respect to the use or ownership  
10 of such property and continue to do so for so long as the  
11 debtor retains possession of such property.”.

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

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

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

16                       “(I) consumer debts owed to a single cred-  
17 itor and aggregating more than \$750 for luxury  
18 goods or services incurred by an individual  
19 debtor on or within 90 days before the order for  
20 relief under this title are presumed to be non-  
21 dischargeable; and

22                       “(II) cash advances aggregating more than  
23 \$750 that are extensions of consumer credit  
24 under an open end credit plan obtained by an  
25 individual debtor on or within 70 days before

1 the order for relief under this title, are pre-  
2 sumed to be nondischargeable; and

3 “(ii) for purposes of this subparagraph—

4 “(I) the term ‘extension of credit under an  
5 open end credit plan’ means an extension of  
6 credit under an open end credit plan, within the  
7 meaning of the Consumer Credit Protection Act  
8 (15 U.S.C. 1601 et seq.);

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

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

17 **SEC. 311. AUTOMATIC STAY.**

18 (a) IN GENERAL.—Section 362(b) of title 11, United  
19 States Code, is amended—

20 (1) by inserting after paragraph (21), as added  
21 by this Act, the following:

22 “(23) under subsection (a)(3), of the com-  
23 mencement or continuation of any eviction, unlawful  
24 detainer action, or similar proceeding by a lessor

1       against a debtor seeking possession of residential  
2       property—

3               “(A) on which the debtor resides as a ten-  
4       ant; and

5               “(B) with respect to which—

6                       “(i) the debtor fails to make a rental  
7       payment that first becomes due under the  
8       unexpired specific term of a rental agree-  
9       ment or lease or under a tenancy under  
10      applicable State or local rent control law,  
11      after the date of filing of the petition or  
12      during the 10-day period preceding the  
13      date of filing of the petition, if the lessor  
14      files with the court a certification that the  
15      debtor has not made a payment for rent  
16      and serves a copy of the certification upon  
17      the debtor; or

18                      “(ii) the debtor has a month to month  
19      tenancy (or one of shorter term) other  
20      than under applicable State or local rent  
21      control law where timely payments are  
22      made pursuant to clause (i) if the lessor  
23      files with the court a certification that the  
24      requirements of this clause have been met

1           and serves a copy of the certification upon  
2           the debtor.

3           “(24) under subsection (a)(3), of the com-  
4           mencement or continuation of any eviction, unlawful  
5           detainer action, or similar proceeding by a lessor  
6           against a debtor seeking possession of residential  
7           property, if during the 2-year period preceding the  
8           date of filing of the petition, the debtor or another  
9           occupant of the leased premises—

10           “(A) commenced another case under this  
11           title; and

12           “(B) failed to make any rental payment  
13           that first became due under applicable non-  
14           bankruptcy law after the date of filing of the  
15           petition for that other case;

16           “(25) under subsection (a)(3), of an eviction ac-  
17           tion, to the extent that it seeks possession based on  
18           endangerment of property or the illegal use of con-  
19           trolled substances on the property, if the lessor files  
20           with the court a certification that such an eviction  
21           has been filed or the debtor has endangered property  
22           or illegally used or allowed to be used a controlled  
23           substance on the property during the 30-day period  
24           preceding the date of filing of the certification, and  
25           serves a copy of the certification upon the debtor;”;

1           (2) by adding at the end of the flush material  
2           at the end of the subsection the following: “With re-  
3           spect to the applicability of paragraph (23) or (25)  
4           to a debtor with respect to the commencement or  
5           continuation of a proceeding described in any such  
6           paragraph, the exception to the automatic stay shall  
7           become effective on the 15th day after the lessor  
8           meets the filing and notification requirements under  
9           any such paragraph, unless—

10                   “(A) the debtor files a certification with  
11                   the court and serves a copy of that certification  
12                   upon the lessor on or before that 15th day,  
13                   that—

14                           “(i) contests the truth or legal suffi-  
15                           ciency of the lessor’s certification; or

16                           “(ii) states that the tenant has taken  
17                           such action as may be necessary to remedy  
18                           the subject of the certification under para-  
19                           graph (23)(B)(i), except that no tenant  
20                           may take advantage of such remedy more  
21                           than once under this title; or

22                   “(B) the court orders that the exception to  
23                   the automatic stay shall not become effective, or  
24                   provides for a later date of applicability.”; and

1           (3) by adding at the end of the flush material  
2           added by paragraph (2), the following:

3   “Where a debtor makes a certification under subpara-  
4 graph (A), the clerk of the court shall set a hearing on  
5 a date no later than 10 days after the date of the filing  
6 of the certification of the debtor and provide written notice  
7 thereof. If the debtor can demonstrate to the satisfaction  
8 of the court that the rent payment due post-petition or  
9 10 days prior to the petition was made prior to the filing  
10 of the debtor’s certification under subparagraph (A), or  
11 that the situation giving rise to the exception in paragraph  
12 (25) does not exist or has been remedied to the court’s  
13 satisfaction, then a stay under subsection (a) shall be in  
14 effect until the termination of the stay under this section.  
15 If the debtor cannot make this demonstration to the satis-  
16 faction of the court, the court shall order the stay under  
17 subsection (a) lifted forthwith. Where a debtor does not  
18 file a certification under subparagraph (A), the stay under  
19 subsection (a) shall be lifted by operation of law and the  
20 clerk of the court shall certify a copy of the bankruptcy  
21 docket as sufficient evidence that the automatic stay of  
22 subsection (a) is lifted.”.

23 **SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY**  
24 **DISCHARGES.**

25           Title 11, United States Code, is amended—

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

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

5           “(f) Notwithstanding subsections (a) and (b), the  
6           court shall not grant a discharge of all debts provided for  
7           by the plan or disallowed under section 502, if the debtor  
8           has received a discharge—

9           “(1) in a case filed under chapter 7, 11, or 12  
10          of this title during the three-year period preceding  
11          the date of the order for relief under this chapter,  
12          or

13          “(2) in a case filed under chapter 13 of this  
14          title during the two-year period preceding the date  
15          of such order, except that if the debtor demonstrates  
16          extreme hardship requiring that a chapter 13 case  
17          be filed, the court may shorten the two-year pe-  
18          riod.”.

19 **SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND AN-**  
20 **TIQUES.**

21          (a) DEFINITION.—Section 522(f) of title 11, United  
22          States Code, is amended by adding at the end the fol-  
23          lowing:

24          “(4)(A) Subject to subparagraph (B), for purposes  
25          of paragraph (1)(B), the term ‘household goods’ means—

- 1           “(i) clothing;
- 2           “(ii) furniture;
- 3           “(iii) appliances;
- 4           “(iv) 1 radio;
- 5           “(v) 1 television;
- 6           “(vi) 1 VCR;
- 7           “(vii) linens;
- 8           “(viii) china;
- 9           “(ix) crockery;
- 10          “(x) kitchenware;
- 11          “(xi) educational materials and educational
- 12          equipment primarily for the use of minor dependent
- 13          children of the debtor, but only 1 personal computer
- 14          only if used primarily for the education or entertain-
- 15          ment of such minor children;
- 16          “(xii) medical equipment and supplies;
- 17          “(xiii) furniture exclusively for the use of minor
- 18          children, or elderly or disabled dependents of the
- 19          debtor; and
- 20          “(xiv) personal effects (including the toys and
- 21          hobby equipment of minor dependent children and
- 22          wedding rings) of the debtor and the dependents of
- 23          the debtor.
- 24          “(B) The term ‘household goods’ does not include—

1           “(i) works of art (unless by or of the debtor or  
2           the dependents of the debtor);

3           “(ii) electronic entertainment equipment (except  
4           1 television, 1 radio, and 1 VCR);

5           “(iii) items acquired as antiques;

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

7           “(v) a computer (except as otherwise provided  
8           for in this section), motor vehicle (including a trac-  
9           tor or lawn tractor), boat, or a motorized rec-  
10          reational device, conveyance, vehicle, watercraft, or  
11          aircraft.”.

12          (b) STUDY.—Not later than 2 years after the date  
13 of enactment of this Act, the Director of the Executive  
14 Office for United States Trustees shall submit a report  
15 to the Committee on the Judiciary of the Senate and the  
16 Committee on the Judiciary of the House of Representa-  
17 tives containing its findings regarding utilization of the  
18 definition of household goods, as defined in section  
19 522(f)(4) of title 11, United States Code, as added by this  
20 section, with respect to the avoidance of nonpossessory,  
21 nonpurchase money security interests in household goods  
22 under section 522(f)(1)(B) of title 11, United States Code,  
23 and the impact that section 522(f)(4) of that title, as  
24 added by this section, has had on debtors and on the bank-  
25 ruptcy courts. Such report may include recommendations

1 for amendments to section 522(f)(4) of title 11, United  
2 States Code, consistent with the Director's findings.

3 **SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE**  
4 **DEBTS.**

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

8 “(14A) incurred to pay a tax to a governmental  
9 unit, other than the United States, that would be  
10 nondischargeable under paragraph (1);”.

11 (b) DISCHARGE UNDER CHAPTER 13.—Section  
12 1328(a) of title 11, United States Code, is amended by  
13 striking paragraphs (1) through (3) and inserting the fol-  
14 lowing:

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

16 “(2) of the kind specified in paragraph (2), (3),  
17 (4), (5), (8), or (9) of section 523(a);

18 “(3) for restitution, or a criminal fine, included  
19 in a sentence on the debtor's conviction of a crime;  
20 or

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

1 **SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7**  
2 **AND 13 CASES.**

3 (a) NOTICE.—Section 342 of title 11, United States  
4 Code, as amended by this Act, is amended—

5 (1) in subsection (c)—

6 (A) by inserting “(1)” after “(c)”;

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

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

11 “(2) If, within the 90 days prior to the date of  
12 the filing of a petition in a voluntary case, the cred-  
13 itor supplied the debtor in at least 2 communications  
14 sent to the debtor with the current account number  
15 of the debtor and the address at which the creditor  
16 wishes to receive correspondence, then the debtor  
17 shall send any notice required under this title to the  
18 address provided by the creditor and such notice  
19 shall include the account number. In the event the  
20 creditor would be in violation of applicable nonbank-  
21 ruptcy law by sending any such communication with-  
22 in such 90-day period and if the creditor supplied  
23 the debtor in the last 2 communications with the  
24 current account number of the debtor and the ad-  
25 dress at which the creditor wishes to receive cor-  
26 respondence, then the debtor shall send any notice

1 required under this title to the address provided by  
2 the creditor and such notice shall include the ac-  
3 count number.”; and

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

5 “(e) At any time, a creditor, in a case of an individual  
6 debtor under chapter 7 or 13, may file with the court and  
7 serve on the debtor a notice of the address to be used to  
8 notify the creditor in that case. Five days after receipt  
9 of such notice, if the court or the debtor is required to  
10 give the creditor notice, such notice shall be given at that  
11 address.

12 “(f) An entity may file with the court a notice stating  
13 its address for notice in cases under chapters 7 and 13.  
14 After 30 days following the filing of such notice, any notice  
15 in any case filed under chapter 7 or 13 given by the court  
16 shall be to that address unless specific notice is given  
17 under subsection (e) with respect to a particular case.

18 “(g)(1) Notice given to a creditor other than as pro-  
19 vided in this section shall not be effective notice until that  
20 notice has been brought to the attention of the creditor.  
21 If the creditor designates a person or department to be  
22 responsible for receiving notices concerning bankruptcy  
23 cases and establishes reasonable procedures so that bank-  
24 ruptcy notices received by the creditor are to be delivered  
25 to such department or person, notice shall not be consid-

1 ered to have been brought to the attention of the creditor  
2 until received by such person or department.

3 “(2) No sanction under section 362(k) or any other  
4 sanction that a court may impose on account of violations  
5 of the stay under section 362(a) or failure to comply with  
6 section 542 or 543 may be imposed on any action of the  
7 creditor unless the action takes place after the creditor  
8 has received notice of the commencement of the case effec-  
9 tive under this section.”.

10 (b) DEBTOR’S DUTIES.—Section 521 of title 11,  
11 United States Code, as amended by this Act, is  
12 amended—

13 (1) in subsection (a), as so designated by this  
14 Act, by striking paragraph (1) and inserting the fol-  
15 lowing:

16 “(1) file—

17 “(A) a list of creditors; and

18 “(B) unless the court orders otherwise—

19 “(i) a schedule of assets and liabil-  
20 ities;

21 “(ii) a schedule of current income and  
22 current expenditures;

23 “(iii) a statement of the debtor’s fi-  
24 nancial affairs and, if applicable, a  
25 certificate—

1           “(I) of an attorney whose name  
2           is on the petition as the attorney for  
3           the debtor or any bankruptcy petition  
4           preparer signing the petition under  
5           section 110(b)(1) indicating that such  
6           attorney or bankruptcy petition pre-  
7           parer delivered to the debtor any no-  
8           tice required by section 342(b); or

9           “(II) if no attorney for the debt-  
10          or is indicated and no bankruptcy pe-  
11          tition preparer signed the petition, of  
12          the debtor that such notice was ob-  
13          tained and read by the debtor;

14          “(iv) copies of all payment advices or  
15          other evidence of payment, if any, received  
16          by the debtor from any employer of the  
17          debtor in the period 60 days before the fil-  
18          ing of the petition;

19          “(v) a statement of the amount of  
20          monthly net income, itemized to show how  
21          the amount is calculated; and

22          “(vi) a statement disclosing any rea-  
23          sonably anticipated increase in income or  
24          expenditures over the 12-month period fol-  
25          lowing the date of filing;” and

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

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

8           “(2)(A) The debtor shall provide either a tax return  
9           or transcript at the election of the debtor, for the latest  
10          taxable period prior to filing for which a tax return has  
11          been or should have been filed, to the trustee, not later  
12          than 7 days before the date first set for the first meeting  
13          of creditors, or the case shall be dismissed, unless the  
14          debtor demonstrates that the failure to file a return as  
15          required is due to circumstances beyond the control of the  
16          debtor.

17          “(B) If a creditor has requested a tax return or tran-  
18          script referred to in subparagraph (A), the debtor shall  
19          provide such tax return or transcript to the requesting  
20          creditor at the time the debtor provides the tax return or  
21          transcript to the trustee, or the case shall be dismissed,  
22          unless the debtor demonstrates that the debtor is unable  
23          to provide such information due to circumstances beyond  
24          the control of the debtor.

1       “(3)(A) At any time, a creditor in a case under chap-  
2 ter 13 may file with the court notice that the creditor re-  
3 quests the plan filed by the debtor in the case.

4       “(B) The court shall make such plan available to the  
5 creditor who requests such plan—

6               “(i) at a reasonable cost; and

7               “(ii) not later than 5 days after such request.

8       “(f) An individual debtor in a case under chapter 7,  
9 11, or 13 shall file with the court at the request of the  
10 judge, United States trustee, or any party in interest—

11               “(1) at the time filed with the taxing authority,  
12 the Federal tax returns or transcript thereof re-  
13 quired under applicable law, with respect to the pe-  
14 riod from the commencement of the case until such  
15 time as the case is closed;

16               “(2) at the time filed with the taxing authority,  
17 the Federal tax returns or transcript thereof re-  
18 quired under applicable law, that were not filed with  
19 the taxing authority when the schedules under sub-  
20 section (a)(1) were filed with respect to the period  
21 that is 3 years before the order of relief;

22               “(3) any amendments to any of the Federal tax  
23 returns or transcripts thereof, described in para-  
24 graph (1) or (2); and

1           “(4) in a case under chapter 13, a statement  
2           subject to the penalties of perjury by the debtor of  
3           the debtor’s income and expenditures in the pre-  
4           ceding tax year and monthly income, that shows how  
5           the amounts are calculated—

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

10                   “(B) thereafter, on or before the date that  
11                   is 45 days before each anniversary of the con-  
12                   firmation of the plan until the case is closed.

13           “(g)(1) A statement referred to in subsection (f)(4)  
14 shall disclose—

15                   “(A) the amount and sources of income of the  
16                   debtor;

17                   “(B) the identity of any person responsible with  
18                   the debtor for the support of any dependent of the  
19                   debtor; and

20                   “(C) the identity of any person who contrib-  
21                   uted, and the amount contributed, to the household  
22                   in which the debtor resides.

23           “(2) The tax returns, amendments, and statement of  
24           income and expenditures described in subsection (e)(2)(A)  
25           and subsection (f) shall be available to the United States

1 trustee, any bankruptcy administrator, any trustee, and  
2 any party in interest for inspection and copying, subject  
3 to the requirements of subsection (h).

4 “(h)(1) Not later than 180 days after the date of en-  
5 actment of the Bankruptcy Reform Act of 2001, the Di-  
6 rector of the Administrative Office of the United States  
7 Courts shall establish procedures for safeguarding the con-  
8 fidentiality of any tax information required to be provided  
9 under this section.

10 “(2) The procedures under paragraph (1) shall in-  
11 clude restrictions on creditor access to tax information  
12 that is required to be provided under this section.

13 “(3) Not later than 1 year and 180 days after the  
14 date of enactment of the Bankruptcy Reform Act of 2001,  
15 the Director of the Administrative Office of the United  
16 States Courts shall prepare and submit to Congress a re-  
17 port that—

18 “(A) assesses the effectiveness of the proce-  
19 dures under paragraph (1); and

20 “(B) if appropriate, includes proposed legisla-  
21 tion to—

22 “(i) further protect the confidentiality of  
23 tax information; and

1           “(ii) provide penalties for the improper use  
2           by any person of the tax information required  
3           to be provided under this section.

4           “(i) If requested by the United States trustee or a  
5 trustee serving in the case, the debtor shall provide—

6           “(1) a document that establishes the identity of  
7           the debtor, including a driver’s license, passport, or  
8           other document that contains a photograph of the  
9           debtor; and

10           “(2) such other personal identifying information  
11           relating to the debtor that establishes the identity of  
12           the debtor.”.

13 **SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**  
14 **ULES OR PROVIDE REQUIRED INFORMATION.**

15           Section 521 of title 11, United States Code, as  
16 amended by this Act, is amended by adding at the end  
17 the following:

18           “(j)(1) Notwithstanding section 707(a), and subject  
19 to paragraph (2), if an individual debtor in a voluntary  
20 case under chapter 7 or 13 fails to file all of the informa-  
21 tion required under subsection (a)(1) within 45 days after  
22 the filing of the petition commencing the case, the case  
23 shall be automatically dismissed effective on the 46th day  
24 after the filing of the petition.

1       “(2) With respect to a case described in paragraph  
2 (1), any party in interest may request the court to enter  
3 an order dismissing the case. If requested, the court shall  
4 enter an order of dismissal not later than 5 days after  
5 such request.

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

12 **SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON**  
13 **CONFIRMATION OF THE PLAN.**

14       Section 1324 of title 11, United States Code, is  
15 amended—

16           (1) by striking “After” and inserting the fol-  
17 lowing:

18       “(a) Except as provided in subsection (b) and after”;  
19 and

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

21       “(b) The hearing on confirmation of the plan may  
22 be held not earlier than 20 days and not later than 45  
23 days after the date of the meeting of creditors under sec-  
24 tion 341(a).”.

1 **SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**  
2 **IN CERTAIN CASES.**

3 Title 11, United States Code, is amended—

4 (1) by amending section 1322(d) to read as fol-  
5 lows:

6 “(d)(1) If the current monthly income of the debtor  
7 and the debtor’s spouse combined, when multiplied by 12,  
8 is not less than—

9 “(A) in the case of a debtor in a household of  
10 1 person, the median family income of the applicable  
11 State for 1 earner last reported by the Bureau of  
12 the Census;

13 “(B) in the case of a debtor in a household of  
14 2, 3, or 4 individuals, the highest median family in-  
15 come of the applicable State for a family of the same  
16 number or fewer individuals last reported by the Bu-  
17 reau of the Census; or

18 “(C) in the case of a debtor in a household ex-  
19 ceeding 4 individuals, the highest median family in-  
20 come of the applicable State for a family of 4 or  
21 fewer individuals last reported by the Bureau of the  
22 Census, plus \$525 per month for each individual in  
23 excess of 4,

24 the plan may not provide for payments over a period that  
25 is longer than 5 years.

1       “(2) If the current monthly income of the debtor and  
2 the debtor’s spouse combined, when multiplied by 12, is  
3 less than—

4           “(A) in the case of a debtor in a household of  
5 1 person, the median family income of the applicable  
6 State for 1 earner last reported by the Bureau of  
7 the Census;

8           “(B) in the case of a debtor in a household of  
9 2, 3, or 4 individuals, the highest median family in-  
10 come of the applicable State for a family of the same  
11 number or fewer individuals last reported by the Bu-  
12 reau of the Census; or

13           “(C) in the case of a debtor in a household ex-  
14 ceeding 4 individuals, the highest median family in-  
15 come of the applicable State for a family of 4 or  
16 fewer individuals last reported by the Bureau of the  
17 Census, plus \$525 per month for each individual in  
18 excess of 4,

19 the plan may not provide for payments over a period that  
20 is longer than 3 years, unless the court, for cause, ap-  
21 proves a longer period, but the court may not approve a  
22 period that is longer than 5 years.”;

23           (2) in section 1325(b)(1)(B), by striking  
24 “three-year period” and inserting “applicable com-  
25 mitment period”; and

1           (3) in section 1325(b), as amended by this Act,  
2           by adding at the end the following:

3           “(4) For purposes of this subsection, the ‘applicable  
4           commitment period’—

5                   “(A) subject to subparagraph (B), shall be—

6                           “(i) 3 years; or

7                           “(ii) not less than 5 years, if the current  
8                           monthly income of the debtor and the debtor’s  
9                           spouse combined, when multiplied by 12, is not  
10                          less than—

11                                   “(I) in the case of a debtor in a  
12                                   household of 1 person, the median family  
13                                   income of the applicable State for 1 earner  
14                                   last reported by the Bureau of the Census;

15                                   “(II) in the case of a debtor in a  
16                                   household of 2, 3, or 4 individuals, the  
17                                   highest median family income of the appli-  
18                                   cable State for a family of the same num-  
19                                   ber or fewer individuals last reported by  
20                                   the Bureau of the Census; or

21                                   “(III) in the case of a debtor in a  
22                                   household exceeding 4 individuals, the  
23                                   highest median family income of the appli-  
24                                   cable State for a family of 4 or fewer indi-  
25                                   viduals last reported by the Bureau of the

1                   Census, plus \$525 per month for each in-  
2                   dividual in excess of 4; and

3                   “(B) may be less than 3 or 5 years, whichever  
4                   is applicable under subparagraph (A), but only if the  
5                   plan provides for payment in full of all allowed unse-  
6                   cured claims over a shorter period.”; and

7                   (4) in section 1329(c), by striking “three  
8                   years” and inserting “the applicable commitment pe-  
9                   riod under section 1325(b)(1)(B)”.

10 **SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF**  
11                   **RULE 9011 OF THE FEDERAL RULES OF BANK-**  
12                   **RUPTCY PROCEDURE.**

13                   It is the sense of Congress that rule 9011 of the Fed-  
14                   eral Rules of Bankruptcy Procedure (11 U.S.C. App.)  
15                   should be modified to include a requirement that all docu-  
16                   ments (including schedules), signed and unsigned, sub-  
17                   mitted to the court or to a trustee by debtors who rep-  
18                   resent themselves and debtors who are represented by an  
19                   attorney be submitted only after the debtor or the debtor’s  
20                   attorney has made reasonable inquiry to verify that the  
21                   information contained in such documents is—

22                   (1) well grounded in fact; and

23                   (2) warranted by existing law or a good-faith  
24                   argument for the extension, modification, or reversal  
25                   of existing law.

1 **SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL**  
2 **CASES.**

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

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

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

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

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

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

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

17 or

18 “(ii) by the court for such specific period  
19 of time as the court finds is required for good  
20 cause, as described in findings made by the  
21 court.”.

22 **SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.**

23 (a) **PROPERTY OF THE ESTATE.—**

24 (1) **IN GENERAL.—**Subchapter I of chapter 11  
25 of title 11, United States Code, is amended by add-  
26 ing at the end the following:

1 **“§ 1115. Property of the estate**

2 “(a) In a case concerning an individual debtor, prop-  
3 erty of the estate includes, in addition to the property  
4 specified in section 541—

5 “(1) all property of the kind specified in section  
6 541 that the debtor acquires after the commence-  
7 ment of the case but before the case is closed, dis-  
8 missed, or converted to a case under chapter 7, 12,  
9 or 13, whichever occurs first; and

10 “(2) earnings from services performed by the  
11 debtor after the commencement of the case but be-  
12 fore the case is closed, dismissed, or converted to a  
13 case under chapter 7, 12, or 13, whichever occurs  
14 first.”.

15 “(b) Except as provided in section 1104 or a con-  
16 firmed plan or order confirming a plan, the debtor shall  
17 remain in possession of all property of the estate.”.

18 (2) CLERICAL AMENDMENT.—The table of sec-  
19 tions for chapter 11 of title 11, United States Code,  
20 is amended by adding at the end of the matter relat-  
21 ing to subchapter I the following:

“1115. Property of the estate.”.

22 (b) CONTENTS OF PLAN.—Section 1123(a) of title  
23 11, United States Code, is amended—

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

1           (2) in paragraph (7), by striking the period and  
2 inserting “; and”; and

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

4           “(8) in a case concerning an individual, provide  
5 for the payment to creditors through the plan of all  
6 or such portion of earnings from personal services  
7 performed by the debtor after the commencement of  
8 the case or other future income of the debtor as is  
9 necessary for the execution of the plan.”.

10       (c) CONFIRMATION OF PLAN.—

11           (1) REQUIREMENTS RELATING TO VALUE OF  
12 PROPERTY.—Section 1129(a) of title 11, United  
13 States Code, is amended by adding at the end the  
14 following:

15           “(15) In a case concerning an individual in  
16 which the holder of an allowed unsecured claim ob-  
17 jects to the confirmation of the plan—

18                   “(A) the value of the property to be dis-  
19 tributed under the plan on account of such  
20 claim is, as of the effective date of the plan, not  
21 less than the amount of such claim; or

22                   “(B) the value of the property to be dis-  
23 tributed under the plan is not less than the  
24 debtor’s projected disposable income (as that  
25 term is defined in section 1325(b)(2)) to be re-

1           ceived during the 5-year period beginning on  
2           the date that the first payment is due under the  
3           plan, or during the term of the plan, whichever  
4           is longer.”.

5           (2) REQUIREMENT RELATING TO INTERESTS IN  
6           PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11,  
7           United States Code, is amended by inserting before  
8           the period at the end the following: “, except that  
9           in a case concerning an individual, the debtor may  
10          retain property included in the estate under section  
11          1115, subject to the requirements of subsection  
12          (a)(14)”.

13          (d) EFFECT OF CONFIRMATION.—Section 1141(d) of  
14          title 11, United States Code, is amended—

15                 (1) in paragraph (2), by striking “The con-  
16                 firmation of a plan does not discharge an individual  
17                 debtor” and inserting “A discharge under this chap-  
18                 ter does not discharge an individual debtor”; and

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

20                 “(5) In a case concerning an individual—

21                         “(A) except as otherwise ordered for cause  
22                         shown, the discharge is not effective until completion  
23                         of all payments under the plan; and

24                         “(B) at any time after the confirmation of the  
25                         plan and after notice and a hearing, the court may

1 grant a discharge to a debtor that has not completed  
2 payments under the plan only if—

3 “(i) for each allowed unsecured claim, the  
4 value, as of the effective date of the plan, of  
5 property actually distributed under the plan on  
6 account of that claim is not less than the  
7 amount that would have been paid on such  
8 claim if the estate of the debtor had been liq-  
9 uidated under chapter 7 of this title on such  
10 date; and

11 “(ii) modification of the plan under 1127  
12 of this title is not practicable.”.

13 (e) MODIFICATION OF PLAN.—Section 1127 of title  
14 11, United States Code, is amended by adding at the end  
15 the following:

16 “(e) In a case concerning an individual, the plan may  
17 be modified at any time after confirmation of the plan but  
18 before the completion of payments under the plan, whether  
19 or not the plan has been substantially consummated, upon  
20 request of the debtor, the trustee, the United States trust-  
21 ee, or the holder of an allowed unsecured claim, to—

22 “(1) increase or reduce the amount of payments  
23 on claims of a particular class provided for by the  
24 plan;

1           “(2) extend or reduce the time period for such  
2           payments; or

3           “(3) alter the amount of the distribution to a  
4           creditor whose claim is provided for by the plan to  
5           the extent necessary to take account of any payment  
6           of such claim made other than under the plan.

7           “(f)(1) Sections 1121 through 1128 of this title and  
8           the requirements of section 1129 of this title apply to any  
9           modification under subsection (a).

10          “(2) The plan, as modified, shall become the plan  
11          only after there has been disclosure under section 1125,  
12          as the court may direct, notice and a hearing, and such  
13          modification is approved.”.

14   **SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICI-**  
15                           **PANT CONTRIBUTIONS AND OTHER PROP-**  
16                           **ERTY FROM THE ESTATE.**

17          (a) IN GENERAL.—Section 541(b) of title 11, United  
18          States Code, is amended by inserting after paragraph (6),  
19          as added by this Act, the following:

20                   “(7) any amount—

21                           “(A) withheld by an employer from the  
22                           wages of employees for payment as contribu-  
23                           tions to—

24                                   “(i) an employee benefit plan subject  
25                                   to title I of the Employee Retirement In-

1           come Security Act of 1974 (29 U.S.C.  
2           1001 et seq.) or under an employee benefit  
3           plan which is a governmental plan under  
4           section 414(d) of the Internal Revenue  
5           Code of 1986, a deferred compensation  
6           plan under section 457 of the Internal  
7           Revenue Code of 1986, or a tax-deferred  
8           annuity under section 403(b) of the Inter-  
9           nal Revenue Code of 1986, except that  
10          amount shall not constitute disposable in-  
11          come, as defined in section 1325(b)(2) of  
12          this title; or

13                 “(ii) a health insurance plan regulated  
14                 by State law whether or not subject to  
15                 such title; or

16                 “(B) received by the employer from em-  
17          ployees for payment as contributions to—

18                 “(i) an employee benefit plan subject  
19                 to title I of the Employee Retirement In-  
20                 come Security Act of 1974 (29 U.S.C.  
21                 1001 et seq.) or under an employee benefit  
22                 plan which is a governmental plan under  
23                 section 414(d) of the Internal Revenue  
24                 Code of 1986, a deferred compensation  
25                 plan under section 457 of the Internal

1 Revenue Code of 1986, or a tax-deferred  
2 annuity under section 403(b) of the Inter-  
3 nal Revenue Code of 1986, except that  
4 amount shall not constitute disposable in-  
5 come, as defined in section 1325(b)(2) of  
6 this title; 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 amend-  
11 ments made by this section shall not apply to cases com-  
12 menced under title 11, United States Code, before the ex-  
13 piration of the 180-day period beginning on the date of  
14 enactment of this Act.

15 **SEC. 323. EXCLUSIVE JURISDICTION IN MATTERS INVOLV-**  
16 **ING BANKRUPTCY PROFESSIONALS.**

17 (a) IN GENERAL.—Section 1334 of title 28, United  
18 States Code, is amended—

19 (1) in subsection (b), by striking “Notwith-  
20 standing” and inserting “Except as provided in sub-  
21 section (e)(2), and notwithstanding”; and

22 (2) by striking subsection (e) and inserting the  
23 following:

1       “(e) The district court in which a case under title  
2 11 is commenced or is pending shall have exclusive  
3 jurisdiction—

4               “(1) of all the property, wherever located, of the  
5 debtor as of the date of commencement of such case,  
6 and of property of the estate; and

7               “(2) over all claims or causes of action that in-  
8 volve construction of section 327 of title 11, United  
9 States Code, or rules relating to disclosure require-  
10 ments under section 327.”.

11       (b) APPLICABILITY.—This section shall only apply to  
12 cases filed after the date of enactment of this Act.

13 **SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE**  
14 **INCREASE.**

15       (a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE  
16 11, UNITED STATES CODE.—Section 1930(a) of title 28,  
17 United States Code, is amended by striking paragraph (1)  
18 and inserting the following:

19               “(1) For a case commenced—

20                       “(A) under chapter 7 of title 11, \$160; or

21                       “(B) under chapter 13 of title 11, \$150.”.

22       (b) UNITED STATES TRUSTEE SYSTEM FUND.—Sec-  
23 tion 589a(b) of title 28, United States Code, is amended—

24               (1) by striking paragraph (1) and inserting the  
25 following:

1           “(1)(A) 40.63 percent of the fees collected  
2           under section 1930(a)(1)(A) of this title in cases  
3           commenced under chapter 7 of title 11; and

4           “(B) 70.00 percent of the fees collected under  
5           section 1930(a)(1)(B) of this title in cases com-  
6           menced under chapter 13 of title 11;”;

7           (2) in paragraph (2), by striking “one-half”  
8           and inserting “three-fourths”; and

9           (3) in paragraph (4), by striking “one-half”  
10          and inserting “100 percent”.

11          (c) COLLECTION AND DEPOSIT OF MISCELLANEOUS  
12          BANKRUPTCY FEES.—Section 406(b) of the Judiciary Ap-  
13          propriations Act, 1990 (28 U.S.C. 1931 note) is amended  
14          by striking “pursuant to 28 U.S.C. section 1930(b) and  
15          30.76 per centum of the fees hereafter collected under 28  
16          U.S.C. section 1930(a)(1) and 25 percent of the fees here-  
17          after collected under 28 U.S.C. section 1930(a)(3) shall  
18          be deposited as offsetting receipts to the fund established  
19          under 28 U.S.C. section 1931” and inserting “under sec-  
20          tion 1930(b) of title 28, United States Code, and 31.25  
21          percent of the fees collected under section 1930(a)(1)(A)  
22          of that title, 30.00 percent of the fees collected under sec-  
23          tion 1930(a)(1)(B) of that title, and 25 percent of the fees  
24          collected under section 1930(a)(3) of that title shall be

1 deposited as offsetting receipts to the fund established  
2 under section 1931 of that title”.

3 **SEC. 325. SHARING OF COMPENSATION.**

4 Section 504 of title 11, United States Code, is  
5 amended by adding at the end the following:

6 “(c) This section shall not apply with respect to shar-  
7 ing, or agreeing to share, compensation with a bona fide  
8 public service attorney referral program that operates in  
9 accordance with non-Federal law regulating attorney re-  
10 ferral services and with rules of professional responsibility  
11 applicable to attorney acceptance of referrals.”.

12 **SEC. 326. FAIR VALUATION OF COLLATERAL.**

13 Section 506(a) of title 11, United States Code, is  
14 amended by—

15 (1) inserting “(1)” after “(a)”; and

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

17 “(2) In the case of an individual debtor under chap-  
18 ters 7 and 13, such value with respect to personal property  
19 securing an allowed claim shall be determined based on  
20 the replacement value of such property as of the date of  
21 filing the petition without deduction for costs of sale or  
22 marketing. With respect to property acquired for personal,  
23 family, or household purpose, replacement value shall  
24 mean the price a retail merchant would charge for prop-

1 erty of that kind considering the age and condition of the  
2 property at the time value is determined.”.

3 **SEC. 327. DEFAULTS BASED ON NONMONETARY OBLIGA-**  
4 **TIONS.**

5 (a) EXECUTORY CONTRACTS AND UNEXPIRED  
6 LEASES.—Section 365 of title 11, United States Code, is  
7 amended—

8 (1) in subsection (b)—

9 (A) in paragraph (1)(A), by striking the  
10 semicolon at the end and inserting the fol-  
11 lowing: “other than a default that is a breach  
12 of a provision relating to the satisfaction of any  
13 provision (other than a penalty rate or penalty  
14 provision) relating to a default arising from any  
15 failure to perform nonmonetary obligations  
16 under an unexpired lease of real property, if it  
17 is impossible for the trustee to cure such de-  
18 fault by performing nonmonetary acts at and  
19 after the time of assumption, except that if  
20 such default arises from a failure to operate in  
21 accordance with a nonresidential real property  
22 lease, then such default shall be cured by per-  
23 formance at and after the time of assumption  
24 in accordance with such lease, and pecuniary  
25 losses resulting from such default shall be com-

1            compensated in accordance with the provisions of  
2            paragraph (b)(1);” and

3            (B) in paragraph (2)(D), by striking “pen-  
4            alty rate or provision” and inserting “penalty  
5            rate or penalty provision”;

6            (2) in subsection (c)—

7            (A) in paragraph (2), by inserting “or” at  
8            the end;

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

11           (C) by striking paragraph (4);

12           (3) in subsection (d)—

13           (A) by striking paragraphs (5) through  
14           (9); and

15           (B) by redesignating paragraph (10) as  
16           paragraph (5); and

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

20           (b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Sec-  
21           tion 1124(2) of title 11, United States Code, is  
22           amended—

23           (1) in subparagraph (A), by inserting “or of a  
24           kind that section 365(b)(2) of this title expressly

1 does not require to be cured” before the semicolon  
2 at the end;

3 (2) in subparagraph (C), by striking “and” at  
4 the end;

5 (3) by redesignating subparagraph (D) as sub-  
6 paragraph (E); and

7 (4) by inserting after subparagraph (C) the fol-  
8 lowing:

9 “(D) if such claim or such interest arises  
10 from any failure to perform a nonmonetary ob-  
11 ligation, other than a default arising from fail-  
12 ure to operate a non-residential real property  
13 lease subject to section 365(b)(1)(A), com-  
14 pensates the holder of such claim or such inter-  
15 est (other than the debtor or an insider) for any  
16 actual pecuniary loss incurred by such holder as  
17 a result of such failure; and”.

18 **SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED**  
19 **THROUGH VIOLATIONS OF LAWS RELATING**  
20 **TO THE PROVISION OF LAWFUL GOODS AND**  
21 **SERVICES.**

22 Section 523(a) of title 11, United States Code, is  
23 amended—

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

1           (2) in paragraph (18), as added by section 224  
2 of this Act, by striking the period at the end of sub-  
3 paragraph (B) and inserting “; or”;

4           (3) by adding at the end of the flush material  
5 immediately following that paragraph (18), as added  
6 by section 224 of this Act, the following: “Nothing  
7 in paragraph (19) shall be construed to affect any  
8 expressive conduct (including peaceful picketing or  
9 other peaceful demonstration) protected from legal  
10 prohibition by the first amendment to the Constitu-  
11 tion of the United States.”; and

12           (4) by inserting before the flush material fol-  
13 lowing that paragraph (18), the following:

14           “(19) 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  
18 court-ordered damages, fine, penalty, citation, or at-  
19 torney fee or cost owed by the debtor, arising  
20 from—

21           “(A) an action alleging the violation of any  
22 Federal, State, or local statutory law, including  
23 but not limited to violations of sections 247 and  
24 248 of title 18, that results from the debtor’s—

1           “(i) harassment of, intimidation of,  
2           interference with, obstruction of, injury to,  
3           threat to, or violence against, any person—

4                   “(I) because that person provides  
5                   or has provided lawful goods or serv-  
6                   ices;

7                   “(II) because that person is or  
8                   has been obtaining lawful goods or  
9                   services; or

10                   “(III) to deter that person, any  
11                   other person, or a class of persons  
12                   from obtaining or providing lawful  
13                   goods or services; or

14                   “(ii) damage or destruction of prop-  
15                   erty of a facility providing lawful goods or  
16                   services; or

17                   “(B) a violation of a court order or injunc-  
18                   tion that protects access to a facility that pro-  
19                   vides lawful goods or services or the provision  
20                   of lawful goods or services.”.

21 **SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND**  
22 **BENEFITS.**

23           Section 503(b)(1)(A) of title 11, United States Code,  
24 is amended to read as follows:

1           “(A) the actual, necessary costs and expenses of  
2           preserving the estate, including wages, salaries, or  
3           commissions for services rendered after the com-  
4           mencement of the case, and wages and benefits  
5           awarded pursuant to an action brought in a court of  
6           law or the National Labor Relations Board as back  
7           pay attributable to any period of time after com-  
8           mencement of the case as a result of the debtor’s  
9           violation of Federal or State law, without regard to  
10          when the original unlawful act occurred or to wheth-  
11          er any services were rendered if the court determines  
12          that the award will not substantially increase the  
13          probability of layoff or termination of current em-  
14          ployees or of nonpayment of domestic support obli-  
15          gations during the case;”.

16 **TITLE IV—GENERAL AND SMALL**  
17 **BUSINESS BANKRUPTCY PRO-**  
18 **VISIONS**

19 **Subtitle A—General Business**  
20 **Bankruptcy Provisions**

21 **SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.**

22           (a) DEFINITION.—Section 101 of title 11, United  
23 States Code, as amended by this Act, is amended by in-  
24 serting after paragraph (48) the following:

1           “(48A) ‘securities self regulatory organization’  
2 means either a securities association registered with  
3 the Securities and Exchange Commission under sec-  
4 tion 15A of the Securities Exchange Act of 1934 (15  
5 U.S.C. 78o-3) or a national securities exchange reg-  
6 istered with the Securities and Exchange Commis-  
7 sion under section 6 of the Securities Exchange Act  
8 of 1934 (15 U.S.C. 78f);”.

9           (b) AUTOMATIC STAY.—Section 362(b) of title 11,  
10 United States Code, is amended by inserting after para-  
11 graph (24), as added by this Act, the following:

12           “(25) 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. 402. 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. 403. 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. 404. EXECUTORY CONTRACTS AND UNEXPIRED**  
20 **LEASES.**

21 (a) IN GENERAL.—Section 365(d)(4) of title 11,  
22 United States Code, is 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)(i) The court may extend the period determined  
 10 under subparagraph (A), prior to the expiration of the  
 11 120-day period, for 90 days upon motion of the trustee  
 12 or lessor for cause.

13           “(ii) If the court grants an extension under clause  
 14 (i), the court may grant a subsequent extension only upon  
 15 prior written consent of the lessor in each instance.”.

16           (b) EXCEPTION.—Section 365(f)(1) of title 11,  
 17 United States Code, is amended by striking “subsection”  
 18 the first place it appears and inserting “subsections (b)  
 19 and”.

20 **SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS**  
 21 **COMMITTEES.**

22           (a) APPOINTMENT.—Section 1102(a) of title 11,  
 23 United States Code, is amended by adding at the end the  
 24 following:

1       “(4) On request of a party in interest and after notice  
2 and a hearing, the court may order the United States  
3 trustee to change the membership of a committee ap-  
4 pointed under this subsection, if the court determines that  
5 the change is necessary to ensure adequate representation  
6 of creditors or equity security holders. The court may  
7 order the United States trustee to increase the number  
8 of members of a committee to include a creditor that is  
9 a small business concern (as described in section 3(a)(1)  
10 of the Small Business Act (15 U.S.C. 632(a)(1))), if the  
11 court determines that the creditor holds claims (of the  
12 kind represented by the committee) the aggregate amount  
13 of which, in comparison to the annual gross revenue of  
14 that creditor, is disproportionately large.”.

15       (b) INFORMATION.—Section 1102(b) of title 11,  
16 United States Code, is amended by adding at the end the  
17 following:

18       “(3) A committee appointed under subsection (a)  
19 shall—

20               “(A) provide access to information for creditors  
21 who—

22                       “(i) hold claims of the kind represented by  
23 that committee; and

24                       “(ii) are not appointed to the committee;

1           “(B) solicit and receive comments from the  
2           creditors described in subparagraph (A); and

3           “(C) be subject to a court order that compels  
4           any additional report or disclosure to be made to the  
5           creditors described in subparagraph (A).”.

6 **SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11,**  
7           **UNITED STATES CODE.**

8           Section 546 of title 11, United States Code, is  
9           amended—

10           (1) by redesignating the second subsection des-  
11           ignated as subsection (g) (as added by section  
12           222(a) of Public Law 103–394) as subsection (i);

13           (2) in subsection (i), as so redesignated, by in-  
14           serting “and subject to the prior rights of holders of  
15           security interests in such goods or the proceeds  
16           thereof,” after “consent of a creditor,”; and

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

18           “(j)(1) Notwithstanding paragraphs (2) and (3) of  
19           section 545, the trustee may not avoid a warehouseman’s  
20           lien for storage, transportation, or other costs incidental  
21           to the storage and handling of goods.

22           “(2) The prohibition under paragraph (1) shall be ap-  
23           plied in a manner consistent with any applicable State  
24           statute that is similar to section 7–209 of the Uniform  
25           Commercial Code, as in effect on the date of enactment

1 of the Bankruptcy Reform Act of 2001, or any successor  
2 thereto.”.

3 **SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11,**  
4 **UNITED STATES CODE.**

5 Section 330(a) of title 11, United States Code, is  
6 amended—

7 (1) in paragraph (3)—

8 (A) by striking “(A) In” and inserting  
9 “In”; and

10 (B) by inserting “to an examiner, trustee  
11 under chapter 11, or professional person” after  
12 “awarded”; and

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

14 “(7) In determining the amount of reasonable  
15 compensation to be awarded to a trustee, the court  
16 shall treat such compensation as a commission,  
17 based on section 326 of this title.”.

18 **SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.**

19 Section 1125 of title 11, United States Code, is  
20 amended by adding at the end the following:

21 “(g) Notwithstanding subsection (b), an acceptance  
22 or rejection of the plan may be solicited from a holder  
23 of a claim or interest if such solicitation complies with ap-  
24 plicable nonbankruptcy law and if such holder was solici-

1 ited before the commencement of the case in a manner  
2 complying with applicable nonbankruptcy law.”.

3 **SEC. 409. PREFERENCES.**

4 Section 547(e) of title 11, United States Code, is  
5 amended—

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

8 “(2) to the extent that such transfer was in  
9 payment of a debt incurred by the debtor in the or-  
10 dinary course of business or financial affairs of the  
11 debtor and the transferee, and such transfer was—

12 “(A) made in the ordinary course of busi-  
13 ness or financial affairs of the debtor and the  
14 transferee; or

15 “(B) made according to ordinary business  
16 terms;”;

17 (2) in paragraph (8), by striking the period at  
18 the end and inserting “; or”; and

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

20 “(9) if, in a case filed by a debtor whose debts  
21 are not primarily consumer debts, the aggregate  
22 value of all property that constitutes or is affected  
23 by such transfer is less than \$5,000.”.

1 **SEC. 410. VENUE OF CERTAIN PROCEEDINGS.**

2 Section 1409(b) of title 28, United States Code, is  
3 amended by inserting “, or a nonconsumer debt against  
4 a noninsider of less than \$10,000,” after “\$5,000”.

5 **SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

6 Section 1121(d) of title 11, United States Code, is  
7 amended—

8 (1) by striking “On” and inserting “(1) Subject  
9 to paragraph (2), on”; and

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

11 “(2)(A) The 120-day period specified in paragraph  
12 (1) may not be extended beyond a date that is 18 months  
13 after the date of the order for relief under this chapter.

14 “(B) The 180-day period specified in paragraph (1)  
15 may not be extended beyond a date that is 20 months after  
16 the date of the order for relief under this chapter.”.

17 **SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP IN-**  
18 **TERESTS.**

19 Section 523(a)(16) of title 11, United States Code,  
20 is amended—

21 (1) by striking “dwelling” the first place it ap-  
22 pears;

23 (2) by striking “ownership or” and inserting  
24 “ownership,”;

25 (3) by striking “housing” the first place it ap-  
26 pears; and

1           (4) by striking “but only” and all that follows  
2           through “such period” and inserting “or a lot in a  
3           homeowners association, for as long as the debtor or  
4           the trustee has a legal, equitable, or possessory own-  
5           ership interest in such unit, such corporation, or  
6           such lot,”.

7   **SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING**  
8                           **OF CREDITORS.**

9           Section 341(c) of title 11, United States Code, is  
10          amended by inserting at the end the following: “Notwith-  
11          standing any local court rule, provision of a State constitu-  
12          tion, any other Federal or State law that is not a bank-  
13          ruptcy law, or other requirement that representation at  
14          the meeting of creditors under subsection (a) be by an at-  
15          torney, a creditor holding a consumer debt or any rep-  
16          resentative of the creditor (which may include an entity  
17          or an employee of an entity and may be a representative  
18          for more than 1 creditor) shall be permitted to appear at  
19          and participate in the meeting of creditors in a case under  
20          chapter 7 or 13, either alone or in conjunction with an  
21          attorney for the creditor. Nothing in this subsection shall  
22          be construed to require any creditor to be represented by  
23          an attorney at any meeting of creditors.”.

1 **SEC. 414. DEFINITION OF DISINTERESTED PERSON.**

2 Section 101(14) of title 11, United States Code, is  
3 amended to read as follows:

4 “(14) ‘disinterested person’ means a person  
5 that—

6 “(A) is not a creditor, an equity security  
7 holder, or an insider;

8 “(B) is not and was not, within 2 years be-  
9 fore the date of the filing of the petition, a di-  
10 rector, officer, or employee of the debtor; and

11 “(C) does not have an interest materially  
12 adverse to the interest of the estate or of any  
13 class of creditors or equity security holders, by  
14 reason of any direct or indirect relationship to,  
15 connection with, or interest in, the debtor, or  
16 for any other reason;”.

17 **SEC. 415. FACTORS FOR COMPENSATION OF PROFES-**  
18 **SIONAL PERSONS.**

19 Section 330(a)(3) of title 11, United States Code, as  
20 amended by this Act, is amended—

21 (1) in subparagraph (D), by striking “and” at  
22 the end;

23 (2) by redesignating subparagraph (E) as sub-  
24 paragraph (F); and

25 (3) by inserting after subparagraph (D) the fol-  
26 lowing:

1           “(E) with respect to a professional person,  
2           whether the person is board certified or other-  
3           wise has demonstrated skill and experience in  
4           the bankruptcy field; and”.

5 **SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.**

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

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

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

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

13          “(B) Upon the filing of a report under subparagraph  
14 (A)—

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

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

20          “(C) In the case of any dispute arising out of an elec-  
21 tion described in subparagraph (A), the court shall resolve  
22 the dispute.”.

23 **SEC. 417. UTILITY SERVICE.**

24           Section 366 of title 11, United States Code, is  
25 amended—

1 (1) in subsection (a), by striking “subsection  
2 (b)” and inserting “subsections (b) and (c)”; and

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

4 “(c)(1)(A) For purposes of this subsection, the term  
5 ‘assurance of payment’ means—

6 “(i) a cash deposit;

7 “(ii) a letter of credit;

8 “(iii) a certificate of deposit;

9 “(iv) a surety bond;

10 “(v) a prepayment of utility consumption; or

11 “(vi) another form of security that is mutually  
12 agreed on between the utility and the debtor or the  
13 trustee.

14 “(B) For purposes of this subsection an administra-  
15 tive expense priority shall not constitute an assurance of  
16 payment.

17 “(2) Subject to paragraphs (3) and (4), with respect  
18 to a case filed under chapter 11, a utility referred to in  
19 subsection (a) may alter, refuse, or discontinue utility  
20 service, if during the 30-day period beginning on the date  
21 of filing of the petition, the utility does not receive from  
22 the debtor or the trustee adequate assurance of payment  
23 for utility service that is satisfactory to the utility.

24 “(3)(A) On request of a party in interest and after  
25 notice and a hearing, the court may order modification

1 of the amount of an assurance of payment under para-  
2 graph (2).

3 “(B) In making a determination under this para-  
4 graph whether an assurance of payment is adequate, the  
5 court may not consider—

6 “(i) the absence of security before the date of  
7 filing of the petition;

8 “(ii) the payment by the debtor of charges for  
9 utility service in a timely manner before the date of  
10 filing of the petition; or

11 “(iii) the availability of an administrative ex-  
12 pense priority.

13 “(4) Notwithstanding any other provision of law, with  
14 respect to a case subject to this subsection, a utility may  
15 recover or set off against a security deposit provided to  
16 the utility by the debtor before the date of filing of the  
17 petition without notice or order of the court.”.

18 **SEC. 418. BANKRUPTCY FEES.**

19 Section 1930 of title 28, United States Code, is  
20 amended—

21 (1) in subsection (a), by striking “Notwith-  
22 standing section 1915 of this title, the” and insert-  
23 ing “The”; and

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

1           “(f)(1) Under the procedures prescribed by the Judi-  
2 cial Conference of the United States, the district court or  
3 the bankruptcy court may waive the filing fee in a case  
4 under chapter 7 of title 11 for an individual if the court  
5 determines that such debtor has income less than 150 per-  
6 cent of the income official poverty line (as defined by the  
7 Office of Management and Budget, and revised annually  
8 in accordance with section 673(2) of the Omnibus Budget  
9 Reconciliation Act of 1981) applicable to a family of the  
10 size involved and is unable to pay that fee in installments.  
11 For purposes of this paragraph, the term “filing fee”  
12 means the filing required by subsection (a), or any other  
13 fee prescribed by the Judicial Conference under sub-  
14 sections (b) and (c) that is payable to the clerk upon the  
15 commencement of a case under chapter 7.

16           “(2) The district court or the bankruptcy court may  
17 waive for such debtors other fees prescribed under sub-  
18 sections (b) and (c).

19           “(3) This subsection does not restrict the district  
20 court or the bankruptcy court from waiving, in accordance  
21 with Judicial Conference policy, fees prescribed under this  
22 section for other debtors and creditors.”.

23 **SEC. 419. 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 United States  
5 Trustees, shall propose for adoption amended Fed-  
6 eral 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 **SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO IS A**  
2 **PLAN ADMINISTRATOR OF AN EMPLOYEE**  
3 **BENEFIT PLAN.**

4 (a) IN GENERAL.—Section 521(a) of title 11, United  
5 States Code, as so designated by section 106(d) of this  
6 Act, is amended—

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

9 (2) in paragraph (5), by striking the period at  
10 the end and inserting “; and”; and

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

12 “(6) unless a trustee is serving in the case, if  
13 at the time of filing, the debtor, served as the ad-  
14 ministrator (as defined in section 3 of the Employee  
15 Retirement Income Security Act of 1974 (29 U.S.C.  
16 1002)) of an employee benefit plan, continue to per-  
17 form the obligations required of the administrator.”.

18 (b) DUTIES OF TRUSTEES.—Section 704(a) of title  
19 11, United States Code, as so designated and otherwise  
20 amended by this Act, is amended—

21 (1) in paragraph (10), by striking “and” at the  
22 end;

23 (2) in paragraph (11), by striking the period at  
24 the end and inserting “; and”; and

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

1           “(12) where, at the time of the time of the com-  
2           mencement of the case, the debtor served as the ad-  
3           ministrator (as defined in section 3 of the Employee  
4           Retirement Income Security Act of 1974 (29 U.S.C.  
5           1002)) of an employee benefit plan, continue to per-  
6           form the obligations required of the administrator;”.

7           (c) CONFORMING AMENDMENT.—Section 1106(a) of  
8           title 11, United States Code, is amended by striking para-  
9           graph (1) and inserting the following:

10           “(1) perform the duties of the trustee, as speci-  
11           fied in paragraphs (2), (5), (7), (8), (9), (10), (11),  
12           and (12) of section 704;”.

## 13           **Subtitle B—Small Business**

### 14           **Bankruptcy Provisions**

#### 15           **SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT** 16           **AND PLAN.**

17           Section 1125 of title 11, United States Code, is  
18           amended—

19           (1) in subsection (a)(1), by inserting before the  
20           semicolon “and in determining whether a disclosure  
21           statement provides adequate information, the court  
22           shall consider the complexity of the case, the benefit  
23           of additional information to creditors and other par-  
24           ties in interest, and the cost of providing additional  
25           information”; and

1           (2) by striking subsection (f), and inserting the  
2 following:

3           “(f) Notwithstanding subsection (b), in a small busi-  
4 ness case—

5           “(1) the court may determine that the plan  
6 itself provides adequate information and that a sepa-  
7 rate disclosure statement is not necessary;

8           “(2) the court may approve a disclosure state-  
9 ment submitted on standard forms approved by the  
10 court or adopted under section 2075 of title 28; and

11           “(3)(A) the court may conditionally approve a  
12 disclosure statement subject to final approval after  
13 notice and a hearing;

14           “(B) acceptances and rejections of a plan may  
15 be solicited based on a conditionally approved disclo-  
16 sure statement if the debtor provides adequate infor-  
17 mation to each holder of a claim or interest that is  
18 solicited, but a conditionally approved disclosure  
19 statement shall be mailed not later than 20 days be-  
20 fore the date of the hearing on confirmation of the  
21 plan; and

22           “(C) the hearing on the disclosure statement  
23 may be combined with the hearing on confirmation  
24 of a plan.”.

1 **SEC. 432. DEFINITIONS.**

2 (a) DEFINITIONS.—Section 101 of title 11, United  
3 States Code, as amended by this Act, is amended by strik-  
4 ing paragraph (51C) and inserting the following:

5 “(51C) ‘small business case’ means a case filed  
6 under chapter 11 of this title in which the debtor is  
7 a small business debtor;

8 “(51D) ‘small business debtor’—

9 “(A) subject to subparagraph (B), means a  
10 person engaged in commercial or business ac-  
11 tivities (including any affiliate of such person  
12 that is also a debtor under this title and exclud-  
13 ing a person whose primary activity is the busi-  
14 ness of owning or operating real property or ac-  
15 tivities incidental thereto) that has aggregate  
16 noncontingent, liquidated secured and unse-  
17 cured debts as of the date of the petition or the  
18 order for relief in an amount not more than  
19 \$3,000,000 (excluding debts owed to 1 or more  
20 affiliates or insiders) for a case in which the  
21 United States trustee has not appointed under  
22 section 1102(a)(1) a committee of unsecured  
23 creditors or where the court has determined  
24 that the committee of unsecured creditors is not  
25 sufficiently active and representative to provide  
26 effective oversight of the debtor; and

1           “(B) does not include any member of a  
2           group of affiliated debtors that has aggregate  
3           noncontingent liquidated secured and unsecured  
4           debts in an amount greater than \$3,000,000  
5           (excluding debt owed to 1 or more affiliates or  
6           insiders);”.

7           (b) CONFORMING AMENDMENT.—Section 1102(a)(3)  
8 of title 11, United States Code, is amended by inserting  
9 “debtor” after “small business”.

10 **SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND**  
11 **PLAN.**

12           Within a reasonable period of time after the date of  
13 enactment of this Act, the Advisory Committee on Bank-  
14 ruptcy Rules of the Judicial Conference of the United  
15 States shall propose for adoption standard form disclosure  
16 statements and plans of reorganization for small business  
17 debtors (as defined in section 101 of title 11, United  
18 States Code, as amended by this Act), designed to achieve  
19 a practical balance between—

- 20           (1) the reasonable needs of the courts, the  
21           United States trustee, creditors, and other parties in  
22           interest for reasonably complete information; and  
23           (2) economy and simplicity for debtors.

1 **SEC. 434. UNIFORM NATIONAL REPORTING REQUIRE-**  
2 **MENTS.**

3 (a) REPORTING REQUIRED.—

4 (1) IN GENERAL.—Chapter 3 of title 11, United  
5 States Code, is amended by inserting after section  
6 307 the following:

7 **“§ 308. Debtor reporting requirements**

8 “(a) For purposes of this section, the term ‘profit-  
9 ability’ means, with respect to a debtor, the amount of  
10 money that the debtor has earned or lost during current  
11 and recent fiscal periods.

12 “(b) A small business debtor shall file periodic finan-  
13 cial and other reports containing information including—

14 “(1) the debtor’s profitability;

15 “(2) reasonable approximations of the debtor’s  
16 projected cash receipts and cash disbursements over  
17 a reasonable period;

18 “(3) comparisons of actual cash receipts and  
19 disbursements with projections in prior reports;

20 “(4)(A) whether the debtor is—

21 “(i) in compliance in all material respects  
22 with postpetition requirements imposed by this  
23 title and the Federal Rules of Bankruptcy Pro-  
24 cedure; and

1           “(ii) timely filing tax returns and other re-  
2           quired government filings and paying taxes and  
3           other administrative claims when due;

4           “(B) if the debtor is not in compliance with the  
5           requirements referred to in subparagraph (A)(i) or  
6           filing tax returns and other required government fil-  
7           ings and making the payments referred to in sub-  
8           paragraph (A)(ii), what the failures are and how, at  
9           what cost, and when the debtor intends to remedy  
10          such failures; and

11          “(C) such other matters as are in the best in-  
12          terests of the debtor and creditors, and in the public  
13          interest in fair and efficient procedures under chap-  
14          ter 11 of this title.”.

15          (2) CLERICAL AMENDMENT.—The table of sec-  
16          tions for chapter 3 of title 11, United States Code,  
17          is amended by inserting after the item relating to  
18          section 307 the following:

“308. Debtor reporting requirements.”.

19          (b) EFFECTIVE DATE.—The amendments made by  
20          subsection (a) shall take effect 60 days after the date on  
21          which rules are prescribed under section 2075 of title 28,  
22          United States Code, to establish forms to be used to com-  
23          ply with section 308 of title 11, United States Code, as  
24          added by subsection (a).

1 **SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR**  
2 **SMALL BUSINESS CASES.**

3 (a) PROPOSAL OF RULES AND FORMS.—The Advi-  
4 sory Committee on Bankruptcy Rules of the Judicial Con-  
5 ference of the United States shall propose for adoption  
6 amended Federal Rules of Bankruptcy Procedure and Of-  
7 ficial Bankruptcy Forms to be used by small business  
8 debtors to file periodic financial and other reports con-  
9 taining information, including information relating to—

10 (1) the debtor's profitability;

11 (2) the debtor's cash receipts and disburse-  
12 ments; and

13 (3) whether the debtor is timely filing tax re-  
14 turns and paying taxes and other administrative  
15 claims when due.

16 (b) PURPOSE.—The rules and forms proposed under  
17 subsection (a) shall be designed to achieve a practical bal-  
18 ance among—

19 (1) the reasonable needs of the bankruptcy  
20 court, the United States trustee, creditors, and other  
21 parties in interest for reasonably complete informa-  
22 tion;

23 (2) the small business debtor's interest that re-  
24 quired reports be easy and inexpensive to complete;  
25 and



1 court or the United States trustee, including initial  
2 debtor interviews, scheduling conferences, and meet-  
3 ings of creditors convened under section 341 unless  
4 the court waives that requirement after notice and  
5 hearing, upon a finding of extraordinary and com-  
6 pelling circumstances;

7 “(3) timely file all schedules and statements of  
8 financial affairs, unless the court, after notice and a  
9 hearing, grants an extension, which shall not extend  
10 such time period to a date later than 30 days after  
11 the date of the order for relief, absent extraordinary  
12 and compelling circumstances;

13 “(4) file all postpetition financial and other re-  
14 ports required by the Federal Rules of Bankruptcy  
15 Procedure or by local rule of the district court;

16 “(5) subject to section 363(c)(2), maintain in-  
17 surance customary and appropriate to the industry;

18 “(6)(A) timely file tax returns and other re-  
19 quired government filings; and

20 “(B) subject to section 363(c)(2), timely pay all  
21 administrative expense tax claims, except those  
22 being contested by appropriate proceedings being  
23 diligently prosecuted; and

24 “(7) allow the United States trustee, or a des-  
25 ignated representative of the United States trustee,

1 to inspect the debtor’s business premises, books, and  
2 records at reasonable times, after reasonable prior  
3 written notice, unless notice is waived by the debt-  
4 or.”.

5 (b) CLERICAL AMENDMENT.—The table of sections  
6 for chapter 11 of title 11, United States Code, is amended  
7 by adding at the end of the matter relating to subchapter  
8 I the following:

“1116. Duties of trustee or debtor in possession in small business cases.”.

9 **SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.**

10 Section 1121 of title 11, United States Code, is  
11 amended by striking subsection (e) and inserting the fol-  
12 lowing:

13 “(e) In a small business case—

14 “(1) only the debtor may file a plan until after  
15 180 days after the date of the order for relief, unless  
16 that period is—

17 “(A) extended as provided by this sub-  
18 section, after notice and hearing; or

19 “(B) the court, for cause, orders otherwise;

20 “(2) the plan, and any necessary disclosure  
21 statement, shall be filed not later than 300 days  
22 after the date of the order for relief; and

23 “(3) the time periods specified in paragraphs  
24 (1) and (2), and the time fixed in section 1129(e),

1 within which the plan shall be confirmed, may be ex-  
2 tended only if—

3 “(A) the debtor, after providing notice to  
4 parties in interest (including the United States  
5 trustee), demonstrates by a preponderance of  
6 the evidence that it is more likely than not that  
7 the court will confirm a plan within a reason-  
8 able period of time;

9 “(B) a new deadline is imposed at the time  
10 the extension is granted; and

11 “(C) the order extending time is signed be-  
12 fore the existing deadline has expired.”.

13 **SEC. 438. PLAN CONFIRMATION DEADLINE.**

14 Section 1129 of title 11, United States Code, is  
15 amended by adding at the end the following:

16 “(e)(1) In a small business case, the plan shall be  
17 confirmed not later than 45 days after the date that a  
18 plan is filed with the court as provided in section 1121(e).

19 “(2) The 45-day period referred to in paragraph (1)  
20 may be extended only if—

21 “(A) the debtor, after notice and hearing,  
22 demonstrates that it is more likely than not  
23 that the court will confirm a plan within a rea-  
24 sonable period of time;

1           “(B) a new deadline is imposed at the time  
2           at which the extension is granted; and

3           “(C) the order extending time is signed be-  
4           fore the existing deadline has expired.”.

5 **SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.**

6           Section 586(a) of title 28, United States Code, is  
7 amended—

8           (1) in paragraph (3)—

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

11               (B) by redesignating subparagraph (H) as  
12                subparagraph (I); and

13               (C) by inserting after subparagraph (G)  
14                the following:

15                   “(H) in small business cases (as defined in  
16                    section 101 of title 11), performing the addi-  
17                    tional duties specified in title 11 pertaining to  
18                    such cases; and”;

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

21           (3) in paragraph (6), by striking the period at  
22           the end and inserting a semicolon; and

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

24                   “(7) in each of such small business cases—

1           “(A) conduct an initial debtor interview as  
2 soon as practicable after the entry of order for  
3 relief but before the first meeting scheduled  
4 under section 341(a) of title 11, at which time  
5 the United States trustee shall—

6                   “(i) begin to investigate the debtor’s  
7 viability;

8                   “(ii) inquire about the debtor’s busi-  
9 ness plan;

10                   “(iii) explain the debtor’s obligations  
11 to file monthly operating reports and other  
12 required reports;

13                   “(iv) attempt to develop an agreed  
14 scheduling order; and

15                   “(v) inform the debtor of other obliga-  
16 tions;

17           “(B) if determined to be appropriate and  
18 advisable, visit the appropriate business prem-  
19 ises of the debtor and ascertain the state of the  
20 debtor’s books and records and verify that the  
21 debtor has filed its tax returns; and

22           “(C) review and monitor diligently the  
23 debtor’s activities, to identify as promptly as  
24 possible whether the debtor will be unable to  
25 confirm a plan; and

1           “(8) in any case in which the United States  
2 trustee finds material grounds for any relief under  
3 section 1112 of title 11, the United States trustee  
4 shall apply promptly after making that finding to  
5 the court for relief.”.

6 **SEC. 440. SCHEDULING CONFERENCES.**

7           Section 105(d) of title 11, United States Code, is  
8 amended—

9           (1) in the matter preceding paragraph (1), by  
10 striking “, may”; and

11           (2) by striking paragraph (1) and inserting the  
12 following:

13           “(1) shall hold such status conferences as are  
14 necessary to further the expeditious and economical  
15 resolution of the case; and”.

16 **SEC. 441. SERIAL FILER PROVISIONS.**

17           Section 362 of title 11, United States Code, as  
18 amended by this Act is amended—

19           (1) in subsection (k), as redesignated by this  
20 Act—

21           (A) by striking “An” and inserting “(1)  
22 Except as provided in paragraph (2), an”; and

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

24           “(2) If such violation is based on an action taken by  
25 an entity in the good faith belief that subsection (h) ap-

1 plies to the debtor, the recovery under paragraph (1) of  
2 this subsection against such entity shall be limited to ac-  
3 tual damages.”; and

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

5 “(1)(1) Except as provided in paragraph (2) of this  
6 subsection, the provisions of subsection (a) do not apply  
7 in a case in which the debtor—

8 “(A) is a debtor in a small business case pend-  
9 ing at the time the petition is filed;

10 “(B) was a debtor in a small business case that  
11 was dismissed for any reason by an order that be-  
12 came final in the 2-year period ending on the date  
13 of the order for relief entered with respect to the pe-  
14 tition;

15 “(C) was a debtor in a small business case in  
16 which a plan was confirmed in the 2-year period  
17 ending on the date of the order for relief entered  
18 with respect to the petition; or

19 “(D) is an entity that has succeeded to sub-  
20 stantially all of the assets or business of a small  
21 business debtor described in subparagraph (A), (B),  
22 or (C).

23 “(2) This subsection does not apply—

24 “(A) to an involuntary case involving no collu-  
25 sion by the debtor with creditors; or

1 “(B) to the filing of a petition if—

2 “(i) the debtor proves by a preponderance  
3 of the evidence that the filing of that petition  
4 resulted from circumstances beyond the control  
5 of the debtor not foreseeable at the time the  
6 case then pending was filed; and

7 “(ii) it is more likely than not that the  
8 court will confirm a feasible plan, but not a liq-  
9 uidating plan, within a reasonable period of  
10 time.”.

11 **SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CON-**  
12 **VERSION AND APPOINTMENT OF TRUSTEE.**

13 (a) EXPANDED GROUNDS FOR DISMISSAL OR CON-  
14 VERSION.—Section 1112 of title 11, United States Code,  
15 is amended by striking subsection (b) and inserting the  
16 following:

17 “(b)(1) Except as provided in paragraph (2) of this  
18 subsection, subsection (c) of this section, and section  
19 1104(a)(3), on request of a party in interest, and after  
20 notice and a hearing, the court shall convert a case under  
21 this chapter to a case under chapter 7 or dismiss a case  
22 under this chapter, whichever is in the best interest of  
23 creditors and the estate, if the movant establishes cause.

1       “(2) The relief provided in paragraph (1) shall not  
2 be granted if the debtor or another party in interest ob-  
3 jects and establishes that—

4               “(A) there is a reasonable likelihood that a  
5 plan will be confirmed within the timeframes es-  
6 tablished in sections 1121(e) and 1129(e) of  
7 this title, as amended, or in cases in which  
8 these sections do not apply, within a reasonable  
9 period of time; and

10              “(B) the grounds include an act or omission of  
11 the debtor—

12                      “(i) for which there exists a reasonable  
13 justification for the act or omission; and

14                      “(ii) that will be cured within a reasonable  
15 period of time fixed by the court.

16       “(3) The court shall commence the hearing on any  
17 motion under this subsection not later than 30 days after  
18 filing of the motion, and shall decide the motion not later  
19 than 15 days after commencement of the hearing, unless  
20 the movant expressly consents to a continuance for a spe-  
21 cific period of time or compelling circumstances prevent  
22 the court from meeting the time limits established by this  
23 paragraph.

24       “(4) For purposes of this subsection, the term ‘cause’  
25 includes—

1           “(A) substantial or continuing loss to or dimi-  
2           nution of the estate;

3           “(B) gross mismanagement of the estate;

4           “(C) failure to maintain appropriate insurance  
5           that poses a risk to the estate or to the public;

6           “(D) unauthorized use of cash collateral harm-  
7           ful to 1 or more creditors;

8           “(E) failure to comply with an order of the  
9           court;

10          “(F) repeated failure timely to satisfy any filing  
11          or reporting requirement established by this title or  
12          by any rule applicable to a case under this chapter;

13          “(G) failure to attend the meeting of creditors  
14          convened under section 341(a) or an examination or-  
15          dered under rule 2004 of the Federal Rules of  
16          Bankruptcy Procedure;

17          “(H) failure timely to provide information or  
18          attend meetings reasonably requested by the United  
19          States trustee or the bankruptcy administrator;

20          “(I) failure timely to pay taxes due after the  
21          date of the order for relief or to file tax returns due  
22          after the order for relief;

23          “(J) failure to file a disclosure statement, or to  
24          file or confirm a plan, within the time fixed by this  
25          title or by order of the court;

1           “(K) failure to pay any fees or charges required  
2           under chapter 123 of title 28;

3           “(L) revocation of an order of confirmation  
4           under section 1144;

5           “(M) inability to effectuate substantial con-  
6           summation of a confirmed plan;

7           “(N) material default by the debtor with re-  
8           spect to a confirmed plan;

9           “(O) termination of a confirmed plan by reason  
10          of the occurrence of a condition specified in the plan;  
11          and

12          “(P) failure of the debtor to pay any domestic  
13          support obligation that first becomes payable after  
14          the date on which the petition is filed.

15          “(5) The court shall commence the hearing on any  
16          motion under this subsection not later than 30 days after  
17          filing of the motion, and shall decide the motion not later  
18          than 15 days after commencement of the hearing, unless  
19          the movant expressly consents to a continuance for a spe-  
20          cific period of time or compelling circumstances prevent  
21          the court from meeting the time limits established by this  
22          paragraph.”.

23          (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF  
24          TRUSTEE.—Section 1104(a) of title 11, United States  
25          Code, is amended—

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

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

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

6           “(3) if grounds exist to convert or dismiss the  
7           case under section 1112, but the court determines  
8           that the appointment of a trustee or an examiner is  
9           in the best interests of creditors and the estate.”.

10 **SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED**  
11                           **STATES CODE, WITH RESPECT TO SMALL**  
12                           **BUSINESSES.**

13           Not later than 2 years after the date of enactment  
14 of this Act, the Administrator of the Small Business Ad-  
15 ministration, in consultation with the Attorney General,  
16 the Director of the Administrative Office of United States  
17 Trustees, and the Director of the Administrative Office  
18 of the United States Courts, shall—

19           (1) conduct a study to determine—

20                           (A) the internal and external factors that  
21                           cause small businesses, especially sole propri-  
22                           etorships, to become debtors in cases under title  
23                           11, United States Code, and that cause certain  
24                           small businesses to successfully complete cases  
25                           under chapter 11 of such title; and

1           (B) how Federal laws relating to bank-  
2           ruptcy may be made more effective and efficient  
3           in assisting small businesses to remain viable;  
4           and

5           (2) submit to the President pro tempore of the  
6           Senate and the Speaker of the House of Representa-  
7           tives a report summarizing that study.

8   **SEC. 444. PAYMENT OF INTEREST.**

9           Section 362(d)(3) of title 11, United States Code, is  
10          amended—

11           (1) by inserting “or 30 days after the court de-  
12           termines that the debtor is subject to this para-  
13           graph, whichever is later” after “90-day period”;  
14           and

15           (2) by striking subparagraph (B) and inserting  
16           the following:

17                   “(B) the debtor has commenced monthly  
18           payments that—

19                           “(i) may, in the debtor’s sole discre-  
20                           tion, notwithstanding section 363(c)(2), be  
21                           made from rents or other income generated  
22                           before or after the commencement of the  
23                           case by or from the property to each cred-  
24                           itor whose claim is secured by such real es-  
25                           tate (other than a claim secured by a judg-

1                   ment lien or by an unmatured statutory  
2                   lien); and

3                   “(ii) are in an amount equal to inter-  
4                   est at the then applicable nondefault con-  
5                   tract rate of interest on the value of the  
6                   creditor’s interest in the real estate; or”.

7 **SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.**

8           Section 503(b) of title 11, United States Code, is  
9 amended—

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

12           (2) in paragraph (6), by striking the period at  
13           the end and inserting a semicolon; and

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

15           “(7) with respect to a nonresidential real prop-  
16           erty lease previously assumed under section 365,  
17           and subsequently rejected, a sum equal to all mone-  
18           tary obligations due, excluding those arising from or  
19           relating to a failure to operate or penalty provisions,  
20           for the period of 2 years following the later of the  
21           rejection date or the date of actual turnover of the  
22           premises, without reduction or setoff for any reason  
23           whatsoever except for sums actually received or to be  
24           received from a nondebtor, and the claim for remain-

1       ing sums due for the balance of the term of the lease  
2       shall be a claim under section 502(b)(6);”.

3                               **TITLE V—MUNICIPAL**  
4                               **BANKRUPTCY PROVISIONS**

5   **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**  
6                               **TION.**

7       (a) TECHNICAL AMENDMENT RELATING TO MUNICI-  
8   PALITIES.—Section 921(d) of title 11, United States  
9   Code, is amended by inserting “notwithstanding section  
10 301(b)” before the period at the end.

11       (b) CONFORMING AMENDMENT.—Section 301 of title  
12 11, United States Code, is amended—

13               (1) by inserting “(a)” before “A voluntary”;  
14       and

15               (2) by striking the last sentence and inserting  
16       the following:

17       “(b) The commencement of a voluntary case under  
18 a chapter of this title constitutes an order for relief under  
19 such chapter.”.

20   **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAP-**  
21                               **TER 9.**

22       Section 901(a) of title 11, United States Code, is  
23 amended—

24               (1) by inserting “555, 556,” after “553,”; and

1           (2) by inserting “559, 560, 561, 562” after  
2           “557.”.

### 3       **TITLE VI—BANKRUPTCY DATA**

#### 4       **SEC. 601. IMPROVED BANKRUPTCY STATISTICS.**

5           (a) IN GENERAL.—Chapter 6 of title 28, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

#### 8       **“§ 159. Bankruptcy statistics**

9           “(a) The clerk of each district shall collect statistics  
10 regarding individual debtors with primarily consumer  
11 debts seeking relief under chapters 7, 11, and 13 of title  
12 11. Those statistics shall be on a standardized form pre-  
13 scribed by the Director of the Administrative Office of the  
14 United States Courts (referred to in this section as the  
15 ‘Director’).

16          “(b) The Director shall—

17               “(1) compile the statistics referred to in sub-  
18 section (a);

19               “(2) make the statistics available to the public;  
20 and

21               “(3) not later than October 31, 2002, and an-  
22 nually thereafter, prepare, and submit to Congress a  
23 report concerning the information collected under  
24 subsection (a) that contains an analysis of the infor-  
25 mation.

1       “(c) The compilation required under subsection (b)  
2 shall—

3           “(1) be itemized, by chapter, with respect to  
4 title 11;

5           “(2) be presented in the aggregate and for each  
6 district; and

7           “(3) include information concerning—

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

14               “(B) the current monthly income, average  
15 income, and average expenses of those debtors  
16 as reported on the schedules and statements  
17 that each such debtor files under sections 521  
18 and 1322 of title 11;

19               “(C) the aggregate amount of debt dis-  
20 charged in the reporting period, determined as  
21 the difference between the total amount of debt  
22 and obligations of a debtor reported on the  
23 schedules and the amount of such debt reported  
24 in categories which are predominantly non-  
25 dischargeable;

1           “(D) the average period of time between  
2 the filing of the petition and the closing of the  
3 case;

4           “(E) for the reporting period—

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

7               “(ii)(I) the total number of reaffirma-  
8 tions filed;

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

13               “(III) of those cases in which a reaf-  
14 firmation was filed, the number of cases in  
15 which the reaffirmation was approved by  
16 the court;

17           “(F) with respect to cases filed under  
18 chapter 13 of title 11, for the reporting  
19 period—

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

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

4           “(ii) the number of cases dismissed,  
5           the number of cases dismissed for failure  
6           to make payments under the plan, the  
7           number of cases refiled after dismissal,  
8           and the number of cases in which the plan  
9           was completed, separately itemized with re-  
10          spect to the number of modifications made  
11          before completion of the plan, if any; and

12          “(iii) the number of cases in which  
13          the debtor filed another case during the 6-  
14          year period preceding the filing;

15          “(G) the number of cases in which credi-  
16          tors were fined for misconduct and any amount  
17          of punitive damages awarded by the court for  
18          creditor misconduct; and

19          “(H) the number of cases in which sanc-  
20          tions under rule 9011 of the Federal Rules of  
21          Bankruptcy Procedure were imposed against  
22          debtor’s counsel or damages awarded under  
23          such Rule.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 for chapter 6 of title 28, United States Code, is amended  
 3 by adding at the end the following:

“159. Bankruptcy statistics.”.

4 (c) 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. UNIFORM RULES FOR THE COLLECTION OF BANK-**  
 8 **RUPTCY DATA.**

9 (a) AMENDMENT.—Chapter 39 of title 28, United  
 10 States Code, is amended by adding at the end the fol-  
 11 lowing:

12 **“§ 589b. Bankruptcy data**

13 “(a) RULES.—The Attorney General shall, within a  
 14 reasonable time after the effective date of this section,  
 15 issue rules requiring uniform forms for (and from time  
 16 to time thereafter to appropriately modify and approve)—

17 “(1) final reports by trustees in cases under  
 18 chapters 7, 12, and 13 of title 11; and

19 “(2) periodic reports by debtors in possession or  
 20 trustees, as the case may be, in cases under chapter  
 21 11 of title 11.

22 “(b) REPORTS.—Each report referred to in sub-  
 23 section (a) shall be designed (and the requirements as to  
 24 place and manner of filing shall be established) so as to  
 25 facilitate compilation of data and maximum possible ac-

1 cess of the public, both by physical inspection at one or  
2 more central filing locations, and by electronic access  
3 through the Internet or other appropriate media.

4       “(c) REQUIRED INFORMATION.—The information re-  
5 quired to be filed in the reports referred to in subsection  
6 (b) shall be that which is in the best interests of debtors  
7 and creditors, and in the public interest in reasonable and  
8 adequate information to evaluate the efficiency and practi-  
9 cality of the Federal bankruptcy system. In issuing rules  
10 proposing the forms referred to in subsection (a), the At-  
11 torney General shall strike the best achievable practical  
12 balance between—

13               “(1) the reasonable needs of the public for in-  
14 formation about the operational results of the Fed-  
15 eral bankruptcy system;

16               “(2) economy, simplicity, and lack of undue  
17 burden on persons with a duty to file reports; and

18               “(3) appropriate privacy concerns and safe-  
19 guards.

20       “(d) FINAL REPORTS.—Final reports proposed for  
21 adoption by trustees under chapters 7, 12, and 13 of title  
22 11 shall, in addition to such other matters as are required  
23 by law or as the Attorney General in the discretion of the  
24 Attorney General, shall propose, include with respect to  
25 a case under such title—

1           “(1) information about the length of time the  
2 case was pending;

3           “(2) assets abandoned;

4           “(3) assets exempted;

5           “(4) receipts and disbursements of the estate;

6           “(5) expenses of administration, including for  
7 use under section 707(b), actual costs of admin-  
8 istering cases under chapter 13 of title 11;

9           “(6) claims asserted;

10           “(7) claims allowed; and

11           “(8) distributions to claimants and claims dis-  
12 charged without payment,

13 in each case by appropriate category and, in cases under  
14 chapters 12 and 13 of title 11, date of confirmation of  
15 the plan, each modification thereto, and defaults by the  
16 debtor in performance under the plan.

17           “(e) PERIODIC REPORTS.—Periodic reports proposed  
18 for adoption by trustees or debtors in possession under  
19 chapter 11 of title 11 shall, in addition to such other mat-  
20 ters as are required by law or as the Attorney General,  
21 in the discretion of the Attorney General, shall propose,  
22 include—

23           “(1) information about the standard industry  
24 classification, published by the Department of Com-  
25 merce, for the businesses conducted by the debtor;

1           “(2) length of time the case has been pending;

2           “(3) number of full-time employees as of the  
3           date of the order for relief and at the end of each  
4           reporting period since the case was filed;

5           “(4) cash receipts, cash disbursements and  
6           profitability of the debtor for the most recent period  
7           and cumulatively since the date of the order for re-  
8           lief;

9           “(5) compliance with title 11, whether or not  
10          tax returns and tax payments since the date of the  
11          order for relief have been timely filed and made;

12          “(6) all professional fees approved by the court  
13          in the case for the most recent period and cumula-  
14          tively since the date of the order for relief (sepa-  
15          rately reported, for the professional fees incurred by  
16          or on behalf of the debtor, between those that would  
17          have been incurred absent a bankruptcy case and  
18          those not); and

19          “(7) plans of reorganization filed and confirmed  
20          and, with respect thereto, by class, the recoveries of  
21          the holders, expressed in aggregate dollar values  
22          and, in the case of claims, as a percentage of total  
23          claims of the class allowed.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 at the beginning of chapter 39 of title 28, United States  
3 Code, is amended by adding at the end the following:

“589b. Bankruptcy data.”.

4 **SEC. 603. AUDIT PROCEDURES.**

5 (a) IN GENERAL.—

6 (1) ESTABLISHMENT OF PROCEDURES.—The  
7 Attorney General (in judicial districts served by  
8 United States trustees) and the Judicial Conference  
9 of the United States (in judicial districts served by  
10 bankruptcy administrators) shall establish proce-  
11 dures to determine the accuracy, veracity, and com-  
12 pleteness of petitions, schedules, and other informa-  
13 tion which the debtor is required to provide under  
14 sections 521 and 1322 of title 11, and, if applicable,  
15 section 111 of title 11, in individual cases filed  
16 under chapter 7 or 13 of such title. Such audits  
17 shall be in accordance with generally accepted audit-  
18 ing standards and performed by independent cer-  
19 tified public accountants or independent licensed  
20 public accountants, provided that the Attorney Gen-  
21 eral and the Judicial Conference, as appropriate,  
22 may develop alternative auditing standards not later  
23 than 2 years after the date of enactment of this Act.

24 (2) PROCEDURES.—Those procedures required  
25 by paragraph (1) shall—

1 (A) establish a method of selecting appro-  
2 priate qualified persons to contract to perform  
3 those audits;

4 (B) establish a method of randomly select-  
5 ing cases to be audited, except that not less  
6 than 1 out of every 250 cases in each Federal  
7 judicial district shall be selected for audit;

8 (C) require audits for schedules of income  
9 and expenses which reflect greater than average  
10 variances from the statistical norm of the dis-  
11 trict in which the schedules were filed if those  
12 variances occur by reason of higher income or  
13 higher expenses than the statistical norm of the  
14 district in which the schedules were filed; and

15 (D) establish procedures for providing, not  
16 less frequently than annually, public informa-  
17 tion concerning the aggregate results of such  
18 audits including the percentage of cases, by dis-  
19 trict, in which a material misstatement of in-  
20 come or expenditures is reported.

21 (b) AMENDMENTS.—Section 586 of title 28, United  
22 States Code, is amended—

23 (1) in subsection (a), by striking paragraph (6)  
24 and inserting the following:

1           “(6) make such reports as the Attorney General  
2           directs, including the results of audits performed  
3           under section 603(a) of the Bankruptcy Reform Act  
4           of 2001; and”;

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

6           “(f)(1) The United States trustee for each district is  
7           authorized to contract with auditors to perform audits in  
8           cases designated by the United States trustee, in accord-  
9           ance with the procedures established under section 603(a)  
10          of the Bankruptcy Reform Act of 2001.

11          “(2)(A) The report of each audit referred to in para-  
12          graph (1) shall be filed with the court and transmitted  
13          to the United States trustee. Each report shall clearly and  
14          conspicuously specify any material misstatement of income  
15          or expenditures or of assets identified by the person per-  
16          forming the audit. In any case in which a material  
17          misstatement of income or expenditures or of assets has  
18          been reported, the clerk of the bankruptcy court shall give  
19          notice of the misstatement to the creditors in the case.

20          “(B) If a material misstatement of income or expend-  
21          itures or of assets is reported, the United States trustee  
22          shall—

23                 “(i) report the material misstatement, if appro-  
24                 priate, to the United States Attorney pursuant to  
25                 section 3057 of title 18; and

1           “(ii) if advisable, take appropriate action, in-  
2           cluding but not limited to commencing an adversary  
3           proceeding to revoke the debtor’s discharge pursuant  
4           to section 727(d) of title 11.”.

5           (c) AMENDMENTS TO SECTION 521 OF TITLE 11,  
6 U.S.C.—Section 521(a) of title 11, United States Code,  
7 as so designated by this Act, is amended in each of para-  
8 graphs (3) and (4) by inserting “or an auditor appointed  
9 under section 586(f) of title 28” after “serving in the  
10 case”.

11          (d) AMENDMENTS TO SECTION 727 OF TITLE 11,  
12 U.S.C.—Section 727(d) of title 11, United States Code,  
13 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           referred to in 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 all other papers,

1 things, or property belonging to the debtor that  
2 are requested for an audit referred to in section  
3 586(f) of title 28.”.

4 (e) 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. 604. SENSE OF CONGRESS REGARDING AVAILABILITY**  
8 **OF BANKRUPTCY DATA.**

9 It is the sense of Congress that—

10 (1) the national policy of the United States  
11 should be that all data held by bankruptcy clerks in  
12 electronic form, to the extent such data reflects only  
13 public records (as defined in section 107 of title 11,  
14 United States Code), should be released in a usable  
15 electronic form in bulk to the public, subject to such  
16 appropriate privacy concerns and safeguards as Con-  
17 gress and the Judicial Conference of the United  
18 States may determine; and

19 (2) there should be established a bankruptcy  
20 data system in which—

21 (A) a single set of data definitions and  
22 forms are used to collect data nationwide; and

23 (B) data for any particular bankruptcy  
24 case are aggregated in the same electronic  
25 record.

1     **TITLE VII—BANKRUPTCY TAX**  
2                     **PROVISIONS**

3     **SEC. 701. TREATMENT OF CERTAIN LIENS.**

4             (a) TREATMENT OF CERTAIN LIENS.—Section 724  
5 of title 11, United States Code, is amended—

6                     (1) in subsection (b), in the matter preceding  
7 paragraph (1), by inserting “(other than to the ex-  
8 tent that there is a properly perfected unavoidable  
9 tax lien arising in connection with an ad valorem tax  
10 on real or personal property of the estate)” after  
11 “under this title”;

12                     (2) in subsection (b)(2), by inserting “(except  
13 that such expenses, other than claims for wages, sal-  
14 aries, or commissions which arise after the filing of  
15 a petition, shall be limited to expenses incurred  
16 under chapter 7 of this title and shall not include ex-  
17 penses incurred under chapter 11 of this title)” after  
18 “507(a)(1)”; and

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

20             “(e) Before subordinating a tax lien on real or per-  
21 sonal property of the estate, the trustee shall—

22                     “(1) exhaust the unencumbered assets of the  
23 estate; and

24                     “(2) in a manner consistent with section  
25 506(c), recover from property securing an allowed

1 secured claim the reasonable, necessary costs and  
2 expenses of preserving or disposing of that property.

3 “(f) Notwithstanding the exclusion of ad valorem tax  
4 liens under this section and subject to the requirements  
5 of subsection (e), the following may be paid from property  
6 of the estate which secures a tax lien, or the proceeds of  
7 such property:

8 “(1) Claims for wages, salaries, and commis-  
9 sions that are entitled to priority under section  
10 507(a)(4).

11 “(2) Claims for contributions to an employee  
12 benefit plan entitled to priority under section  
13 507(a)(5).”.

14 (b) DETERMINATION OF TAX LIABILITY.—Section  
15 505(a)(2) of title 11, United States Code, is amended—

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

18 (2) in subparagraph (B), by striking the period  
19 at the end and inserting “; or”; and

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

21 “(C) the amount or legality of any amount aris-  
22 ing in connection with an ad valorem tax on real or  
23 personal property of the estate, if the applicable pe-  
24 riod for contesting or redetermining that amount

1 under any law (other than a bankruptcy law) has ex-  
2 pired.”.

3 **SEC. 702. TREATMENT OF FUEL TAX CLAIMS.**

4 Section 501 of title 11, United States Code, is  
5 amended by adding at the end the following:

6 “(e) A claim arising from the liability of a debtor for  
7 fuel use tax assessed consistent with the requirements of  
8 section 31705 of title 49 may be filed by the base jurisdic-  
9 tion designated pursuant to the International Fuel Tax  
10 Agreement and, if so filed, shall be allowed as a single  
11 claim.”.

12 **SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF**  
13 **TAXES.**

14 Section 505(b) of title 11, United States Code, is  
15 amended—

16 (1) in the first sentence, by inserting “at the  
17 address and in the manner designated in paragraph  
18 (1)” after “determination of such tax”;

19 (2) by striking “(1) upon payment” and insert-  
20 ing “(A) upon payment”;

21 (3) by striking “(A) such governmental unit”  
22 and inserting “(i) such governmental unit”;

23 (4) by striking “(B) such governmental unit”  
24 and inserting “(ii) such governmental unit”;

1           (5) by striking “(2) upon payment” and insert-  
2           ing “(B) upon payment”;

3           (6) by striking “(3) upon payment” and insert-  
4           ing “(C) upon payment”;

5           (7) by striking “(b)” and inserting “(2)”; and

6           (8) by inserting before paragraph (2), as so  
7           designated, the following:

8           “(b)(1)(A) The clerk of each district shall maintain  
9           a listing under which a Federal, State, or local govern-  
10          mental unit responsible for the collection of taxes within  
11          the district may—

12           “(i) designate an address for service of requests  
13           under this subsection; and

14           “(ii) describe where further information con-  
15           cerning additional requirements for filing such re-  
16           quests may be found.

17          “(B) If a governmental unit referred to in subpara-  
18          graph (A) does not designate an address and provide that  
19          address to the clerk under that subparagraph, any request  
20          made under this subsection may be served at the address  
21          for the filing of a tax return or protest with the appro-  
22          priate taxing authority of that governmental unit.”.

1 **SEC. 704. RATE OF INTEREST ON TAX CLAIMS.**

2 (a) IN GENERAL.—Subchapter I of chapter 5 of title  
3 11, United States Code, is amended by adding at the end  
4 the following:

5 **“§ 511. Rate of interest on tax claims**

6 “(a) If any provision of this title requires the pay-  
7 ment of interest on a tax claim or on an administrative  
8 expense tax, or the payment of interest to enable a creditor  
9 to receive the present value of the allowed amount of a  
10 tax claim, the rate of interest shall be the rate determined  
11 under applicable nonbankruptcy law.

12 “(b) In the case of taxes paid under a confirmed plan  
13 under this title, the rate of interest shall be determined  
14 as of the calendar month in which the plan is confirmed.”.

15 (b) CLERICAL AMENDMENT.—The table of sections  
16 for chapter 5 of title 11, United States Code, is amended  
17 by inserting after the item relating to section 510 the fol-  
18 lowing:

“511. Rate of interest on tax claims.”.

19 **SEC. 705. PRIORITY OF TAX CLAIMS.**

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

22 (1) in subparagraph (A)—

23 (A) in the matter preceding clause (i), by  
24 inserting “for a taxable year ending on or be-

1 fore the date of filing of the petition” after  
2 “gross receipts”;

3 (B) in clause (i), by striking “for a taxable  
4 year ending on or before the date of filing of  
5 the petition”; and

6 (C) by striking clause (ii) and inserting the  
7 following:

8 “(ii) assessed within 240 days before  
9 the date of the filing of the petition, exclu-  
10 sive of—

11 “(I) any time during which an  
12 offer in compromise with respect to  
13 that tax was pending or in effect dur-  
14 ing that 240-day period, plus 30 days;  
15 and

16 “(II) any time during which a  
17 stay of proceedings against collections  
18 was in effect in a prior case under  
19 this title during that 240-day period;  
20 plus 90 days.”; and

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

22 “An otherwise applicable time period specified in  
23 this paragraph shall be suspended for (i) any period  
24 during which a governmental unit is prohibited  
25 under applicable nonbankruptcy law from collecting

1 a tax as a result of a request by the debtor for a  
2 hearing and an appeal of any collection action taken  
3 or proposed against the debtor, plus 90 days; plus  
4 (ii) any time during which the stay of proceedings  
5 was in effect in a prior case under this title or dur-  
6 ing which collection was precluded by the existence  
7 of 1 or more confirmed plans under this title, plus  
8 90 days.”.

9 **SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

10 Section 507(a)(8)(B) of title 11, United States Code,  
11 is amended by striking “assessed” and inserting “in-  
12 curred”.

13 **SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**  
14 **TER 13.**

15 Section 1328(a)(2) of title 11, United States Code,  
16 as amended by section 314 of this Act, is amended by  
17 striking “paragraph” and inserting “section 507(a)(8)(C)  
18 or in paragraph (1)(B), (1)(C),”.

19 **SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**  
20 **TER 11.**

21 Section 1141(d) of title 11, United States Code, as  
22 amended by this Act, is amended by adding at the end  
23 the following:

24 “(6) Notwithstanding paragraph (1), the confirma-  
25 tion of a plan does not discharge a debtor that is a cor-

1 poration from any debt described in subparagraph (A) or  
2 (B) of section 523(a)(2) that is owed to a domestic govern-  
3 mental unit or owed to a person as the result of an action  
4 filed under subchapter III of chapter 37 of title 31, United  
5 States Code, or any similar State statute, or for a tax or  
6 customs duty with respect to which the debtor—

7           “(A) made a fraudulent return; or

8           “(B) willfully attempted in any manner to  
9 evade or defeat that tax or duty.”.

10 **SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO**  
11 **PREPETITION TAXES.**

12       Section 362(a)(8) of title 11, United States Code, is  
13 amended by striking “the debtor” and inserting “a cor-  
14 porate debtor’s tax liability for a taxable period the bank-  
15 ruptcy court may determine or concerning an individual  
16 debtor’s tax liability for a taxable period ending before the  
17 order for relief under this title”.

18 **SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**  
19 **CASES.**

20       Section 1129(a)(9) of title 11, United States Code,  
21 is amended—

22           (1) in subparagraph (B), by striking “and” at  
23 the end;

24           (2) in subparagraph (C), by striking “deferred  
25 cash payments,” and all that follows through the

1 end of the subparagraph, and inserting “regular in-  
2 stallment payments in cash—

3 “(i) of a total value, as of the effective  
4 date of the plan, equal to the allowed  
5 amount of such claim;

6 “(ii) over a period ending not later  
7 than 5 years after the date of the entry of  
8 the order for relief under section 301, 302,  
9 or 303; and

10 “(iii) in a manner not less favorable  
11 than the most favored nonpriority unse-  
12 cured claim provided for in the plan (other  
13 than cash payments made to a class of  
14 creditors under section 1122(b)); and”;  
15 and

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

17 “(D) with respect to a secured claim which  
18 would otherwise meet the description of an un-  
19 secured claim of a governmental unit under sec-  
20 tion 507(a)(8), but for the secured status of  
21 that claim, the holder of that claim will receive  
22 on account of that claim, cash payments, in the  
23 same manner and over the same period, as pre-  
24 scribed in subparagraph (C).”.

1 **SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**  
2 **ITED.**

3 Section 545(2) of title 11, United States Code, is  
4 amended by inserting before the semicolon at the end the  
5 following: “, except in any case in which a purchaser is  
6 a purchaser described in section 6323 of the Internal Rev-  
7 enue Code of 1986, or in any other similar provision of  
8 State or local law”.

9 **SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**  
10 **NESS.**

11 (a) PAYMENT OF TAXES REQUIRED.—Section 960 of  
12 title 28, United States Code, is amended—

13 (1) by inserting “(a)” before “Any”; and

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

15 “(b) A tax under subsection (a) shall be paid on or  
16 before the due date of the tax under applicable nonbank-  
17 ruptcy law, unless—

18 “(1) the tax is a property tax secured by a lien  
19 against property that is abandoned within a reason-  
20 able period of time after the lien attaches by the  
21 trustee of a bankruptcy estate under section 554 of  
22 title 11; or

23 “(2) payment of the tax is excused under a spe-  
24 cific provision of title 11.

1       “(c) In a case pending under chapter 7 of title 11,  
2 payment of a tax may be deferred until final distribution  
3 is made under section 726 of title 11, if—

4               “(1) the tax was not incurred by a trustee duly  
5 appointed under chapter 7 of title 11; or

6               “(2) before the due date of the tax, an order of  
7 the court makes a finding of probable insufficiency  
8 of funds of the estate to pay in full the administra-  
9 tive expenses allowed under section 503(b) of title  
10 11 that have the same priority in distribution under  
11 section 726(b) of title 11 as the priority of that  
12 tax.”.

13       (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—  
14 Section 503(b)(1)(B)(i) of title 11, United States Code,  
15 is amended by inserting “whether secured or unsecured,  
16 including property taxes for which liability is in rem, in  
17 personam, or both,” before “except”.

18       (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE  
19 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of  
20 title 11, United States Code, is amended—

21               (1) in subparagraph (B), by striking “and” at  
22 the end;

23               (2) in subparagraph (C), by adding “and” at  
24 the end; and

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

1           “(D) notwithstanding the requirements of sub-  
2           section (a), a governmental unit shall not be re-  
3           quired to file a request for the payment of an ex-  
4           pense described in subparagraph (B) or (C), as a  
5           condition of its being an allowed administrative ex-  
6           pense;”.

7           (d) PAYMENT OF TAXES AND FEES AS SECURED  
8           CLAIMS.—Section 506 of title 11, United States Code, is  
9           amended—

10           (1) in subsection (b), by inserting “or State  
11           statute” after “agreement”; and

12           (2) in subsection (c), by inserting “, including  
13           the payment of all ad valorem property taxes with  
14           respect to the property” before the period at the  
15           end.

16           **SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.**

17           Section 726(a)(1) of title 11, United States Code, is  
18           amended by striking “before the date on which the trustee  
19           commences distribution under this section;” and inserting  
20           the following: “on or before the earlier of—

21                   “(A) the date that is 10 days after the  
22                   mailing to creditors of the summary of the  
23                   trustee’s final report; or

24                   “(B) the date on which the trustee com-  
25                   mences final distribution under this section;”.

1 **SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AU-**  
2 **THORITIES.**

3 Section 523(a) of title 11, United States Code, as  
4 amended by this Act, is amended—

5 (1) in paragraph (1)(B)—

6 (A) in the matter preceding clause (i), by  
7 inserting “or equivalent report or notice,” after  
8 “a return,”;

9 (B) in clause (i), by inserting “or given”  
10 after “filed”; and

11 (C) in clause (ii)—

12 (i) by inserting “or given” after  
13 “filed”; and

14 (ii) by inserting “, report, or notice”  
15 after “return”; and

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

17 “For purposes of this subsection, the term ‘return’ means  
18 a return that satisfies the requirements of applicable non-  
19 bankruptcy law (including applicable filing requirements).  
20 Such term includes a return prepared pursuant to section  
21 6020(a) of the Internal Revenue Code of 1986, or similar  
22 State or local law, or a written stipulation to a judgment  
23 or a final order entered by a nonbankruptcy tribunal, but  
24 does not include a return made pursuant to section  
25 6020(b) of the Internal Revenue Code of 1986, or a simi-  
26 lar State or local law.”.

1 **SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UN-**  
2 **PAID TAXES.**

3 Section 505(b)(2) of title 11, United States Code, as  
4 amended by this Act, is amended by inserting “the es-  
5 tate,” after “misrepresentation,”.

6 **SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CON-**  
7 **FIRM CHAPTER 13 PLANS.**

8 (a) **FILING OF PREPETITION TAX RETURNS RE-**  
9 **QUIRED FOR PLAN CONFIRMATION.**—Section 1325(a) of  
10 title 11, United States Code, as amended by this Act, is  
11 amended by adding at the end the following:

12 “(9) the debtor has filed all applicable Federal,  
13 State, and local tax returns as required by section  
14 1308.”.

15 (b) **ADDITIONAL TIME PERMITTED FOR FILING TAX**  
16 **RETURNS.**—

17 (1) **IN GENERAL.**—Subchapter I of chapter 13  
18 of title 11, United States Code, is amended by add-  
19 ing at the end the following:

20 **“§ 1308. Filing of prepetition tax returns**

21 “(a) Not later than the day before the date on which  
22 the meeting of the creditors is first scheduled to be held  
23 under section 341(a), if the debtor was required to file  
24 a tax return under applicable nonbankruptcy law, the  
25 debtor shall file with appropriate tax authorities all tax

1 returns for all taxable periods ending during the 4-year  
2 period ending on the date of the filing of the petition.

3 “(b)(1) Subject to paragraph (2), if the tax returns  
4 required by subsection (a) have not been filed by the date  
5 on which the meeting of creditors is first scheduled to be  
6 held under section 341(a), the trustee may hold open that  
7 meeting for a reasonable period of time to allow the debtor  
8 an additional period of time to file any unfiled returns,  
9 but such additional period of time shall not extend  
10 beyond—

11 “(A) for any return that is past due as of the  
12 date of the filing of the petition, the date that is 120  
13 days after the date of that meeting; or

14 “(B) for any return that is not past due as of  
15 the date of the filing of the petition, the later of—

16 “(i) the date that is 120 days after the  
17 date of that meeting; or

18 “(ii) the date on which the return is due  
19 under the last automatic extension of time for  
20 filing that return to which the debtor is enti-  
21 tled, and for which request is timely made, in  
22 accordance with applicable nonbankruptcy law.

23 “(2) Upon notice and hearing, and order entered be-  
24 fore the tolling of any applicable filing period determined  
25 under this subsection, if the debtor demonstrates by a pre-

1 ponderance of the evidence that the failure to file a return  
2 as required under this subsection is attributable to cir-  
3 cumstances beyond the control of the debtor, the court  
4 may extend the filing period established by the trustee  
5 under this subsection for—

6           “(A) a period of not more than 30 days for re-  
7           turns described in paragraph (1); and

8           “(B) a period not to extend after the applicable  
9           extended due date for a return described in para-  
10          graph (2).

11          “(c) For purposes of this section, the term ‘return’  
12 includes a return prepared pursuant to subsection (a) or  
13 (b) of section 6020 of the Internal Revenue Code of 1986,  
14 or a similar State or local law, or a written stipulation  
15 to a judgment or a final order entered by a nonbankruptcy  
16 tribunal.”.

17           (2) CONFORMING AMENDMENT.—The table of  
18           sections at the beginning of chapter 13 of title 11,  
19           United States Code, is amended by inserting after  
20           the item relating to section 1307 the following:

“1308. Filing of prepetition tax returns.”.

21           (c) DISMISSAL OR CONVERSION ON FAILURE TO  
22 COMPLY.—Section 1307 of title 11, United States Code,  
23 is amended—

24           (1) by redesignating subsections (e) and (f) as  
25           subsections (f) and (g), respectively; and

1           (2) by inserting after subsection (d) the fol-  
2           lowing:

3           “(e) Upon the failure of the debtor to file a tax return  
4 under section 1308, on request of a party in interest or  
5 the United States trustee and after notice and a hearing,  
6 the court shall dismiss a case or convert a case under this  
7 chapter to a case under chapter 7 of this title, whichever  
8 is in the best interest of the creditors and the estate.”.

9           (d) **TIMELY FILED CLAIMS.**—Section 502(b)(9) of  
10 title 11, United States Code, is amended by inserting be-  
11 fore the period at the end the following: “, and except that  
12 in a case under chapter 13, a claim of a governmental  
13 unit for a tax with respect to a return filed under section  
14 1308 shall be timely if the claim is filed on or before the  
15 date that is 60 days after the date on which such return  
16 was filed as required”.

17           (e) **RULES FOR OBJECTIONS TO CLAIMS AND TO**  
18 **CONFIRMATION.**—It is the sense of Congress that the Ad-  
19 visory Committee on Bankruptcy Rules of the Judicial  
20 Conference of the United States should, as soon as prac-  
21 ticable after the date of enactment of this Act, propose  
22 for adoption amended Federal Rules of Bankruptcy Proce-  
23 dure which provide that—

24           (1) notwithstanding the provisions of Rule  
25           3015(f), in cases under chapter 13 of title 11,

1 United States Code, an objection to the confirmation  
2 of a plan filed by a governmental unit on or before  
3 the date that is 60 days after the date on which the  
4 debtor files all tax returns required under sections  
5 1308 and 1325(a)(7) of title 11, United States  
6 Code, shall be treated for all purposes as if such ob-  
7 jection had been timely filed before such confirma-  
8 tion; and

9 (2) in addition to the provisions of Rule 3007,  
10 in a case under chapter 13 of title 11, United States  
11 Code, no objection to a tax with respect to which a  
12 return is required to be filed under section 1308 of  
13 title 11, United States Code, shall be filed until such  
14 return has been filed as required.

15 **SEC. 717. STANDARDS FOR TAX DISCLOSURE.**

16 Section 1125(a)(1) of title 11, United States Code,  
17 is amended—

18 (1) by inserting “including a discussion of the  
19 potential material Federal tax consequences of the  
20 plan to the debtor, any successor to the debtor, and  
21 a hypothetical investor typical of the holders of  
22 claims or interests in the case,” after “records”; and

23 (2) by striking “a hypothetical reasonable inves-  
24 tor typical of holders of claims or interests” and in-  
25 serting “such a hypothetical investor”.

1 **SEC. 718. SETOFF OF TAX REFUNDS.**

2 Section 362(b) of title 11, United States Code, is  
3 amended by inserting after paragraph (25), as added by  
4 this Act, the following:

5 “(26) under subsection (a), of the setoff under  
6 applicable nonbankruptcy law of an income tax re-  
7 fund, by a governmental unit, with respect to a tax-  
8 able period that ended before the order for relief  
9 against an income tax liability for a taxable period  
10 that also ended before the order for relief, except  
11 that in any case in which the setoff of an income tax  
12 refund is not permitted under applicable nonbank-  
13 ruptcy law because of a pending action to determine  
14 the amount or legality of a tax liability, the govern-  
15 mental unit may hold the refund pending the resolu-  
16 tion of the action, unless the court, upon motion of  
17 the trustee and after notice and hearing, grants the  
18 taxing authority adequate protection (within the  
19 meaning of section 361) for the secured claim of  
20 that authority in the setoff under section 506(a);”.

21 **SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREAT-**  
22 **MENT OF STATE AND LOCAL TAXES.**

23 (a) IN GENERAL.—Section 346 of title 11, United  
24 States Code, is amended to read as follows:

1 **“§ 346. Special provisions related to the treatment of**  
2 **State and local taxes**

3 “(a) Whenever the Internal Revenue Code of 1986  
4 provides that a separate taxable estate or entity is created  
5 in a case concerning a debtor under this title, and the in-  
6 come, gain, loss, deductions, and credits of such estate  
7 shall be taxed to or claimed by the estate, a separate tax-  
8 able estate is also created for purposes of any State and  
9 local law imposing a tax on or measured by income and  
10 such income, gain, loss, deductions, and credits shall be  
11 taxed to or claimed by the estate and may not be taxed  
12 to or claimed by the debtor. The preceding sentence shall  
13 not apply if the case is dismissed. The trustee shall make  
14 tax returns of income required under any such State or  
15 local law.

16 “(b) Whenever the Internal Revenue Code of 1986  
17 provides that no separate taxable estate shall be created  
18 in a case concerning a debtor under this title, and the in-  
19 come, gain, loss, deductions, and credits of an estate shall  
20 be taxed to or claimed by the debtor, such income, gain,  
21 loss, deductions, and credits shall be taxed to or claimed  
22 by the debtor under a State or local law imposing a tax  
23 on or measured by income and may not be taxed to or  
24 claimed by the estate. The trustee shall make such tax  
25 returns of income of corporations and of partnerships as  
26 are required under any State or local law, but with respect

1 to partnerships, shall make said returns only to the extent  
2 such returns are also required to be made under such  
3 Code. The estate shall be liable for any tax imposed on  
4 such corporation or partnership, but not for any tax im-  
5 posed on partners or members.

6 “(c) With respect to a partnership or any entity treat-  
7 ed as a partnership under a State or local law imposing  
8 a tax on or measured by income that is a debtor in a case  
9 under this title, any gain or loss resulting from a distribu-  
10 tion of property from such partnership, or any distributive  
11 share of any income, gain, loss, deduction, or credit of a  
12 partner or member that is distributed, or considered dis-  
13 tributed, from such partnership, after the commencement  
14 of the case, is gain, loss, income, deduction, or credit, as  
15 the case may be, of the partner or member, and if such  
16 partner or member is a debtor in a case under this title,  
17 shall be subject to tax in accordance with subsection (a)  
18 or (b).

19 “(d) For purposes of any State or local law imposing  
20 a tax on or measured by income, the taxable period of  
21 a debtor in a case under this title shall terminate only  
22 if and to the extent that the taxable period of such debtor  
23 terminates under the Internal Revenue Code of 1986.

24 “(e) The estate in any case described in subsection  
25 (a) shall use the same accounting method as the debtor

1 used immediately before the commencement of the case,  
2 if such method of accounting complies with applicable non-  
3 bankruptcy tax law.

4       “(f) For purposes of any State or local law imposing  
5 a tax on or measured by income, a transfer of property  
6 from the debtor to the estate or from the estate to the  
7 debtor shall not be treated as a disposition for purposes  
8 of any provision assigning tax consequences to a disposi-  
9 tion, except to the extent that such transfer is treated as  
10 a disposition under the Internal Revenue Code of 1986.

11       “(g) Whenever a tax is imposed pursuant to a State  
12 or local law imposing a tax on or measured by income pur-  
13 suant to subsection (a) or (b), such tax shall be imposed  
14 at rates generally applicable to the same types of entities  
15 under such State or local law.

16       “(h) The trustee shall withhold from any payment of  
17 claims for wages, salaries, commissions, dividends, inter-  
18 est, or other payments, or collect, any amount required  
19 to be withheld or collected under applicable State or local  
20 tax law, and shall pay such withheld or collected amount  
21 to the appropriate governmental unit at the time and in  
22 the manner required by such tax law, and with the same  
23 priority as the claim from which such amount was with-  
24 held or collected was paid.

1       “(i)(1) To the extent that any State or local law im-  
2       posing a tax on or measured by income provides for the  
3       carryover of any tax attribute from one taxable period to  
4       a subsequent taxable period, the estate shall succeed to  
5       such tax attribute in any case in which such estate is sub-  
6       ject to tax under subsection (a).

7       “(2) After such a case is closed or dismissed, the  
8       debtor shall succeed to any tax attribute to which the es-  
9       tate succeeded under paragraph (1) to the extent con-  
10      sistent with the Internal Revenue Code of 1986.

11      “(3) The estate may carry back any loss or tax at-  
12      tribute to a taxable period of the debtor that ended before  
13      the order for relief under this title to the extent that—

14              “(A) applicable State or local tax law provides  
15              for a carryback in the case of the debtor; and

16              “(B) the same or a similar tax attribute may be  
17              carried back by the estate to such a taxable period  
18              of the debtor under the Internal Revenue Code of  
19              1986.

20      “(j)(1) For purposes of any State or local law impos-  
21      ing a tax on or measured by income, income is not realized  
22      by the estate, the debtor, or a successor to the debtor by  
23      reason of discharge of indebtedness in a case under this  
24      title, except to the extent, if any, that such income is sub-  
25      ject to tax under the Internal Revenue Code of 1986.

1       “(2) Whenever the Internal Revenue Code of 1986  
2 provides that the amount excluded from gross income in  
3 respect of the discharge of indebtedness in a case under  
4 this title shall be applied to reduce the tax attributes of  
5 the debtor or the estate, a similar reduction shall be made  
6 under any State or local law imposing a tax on or meas-  
7 ured by income to the extent such State or local law recog-  
8 nizes such attributes. Such State or local law may also  
9 provide for the reduction of other attributes to the extent  
10 that the full amount of income from the discharge of in-  
11 debtedness has not been applied.

12       “(k)(1) Except as provided in this section and section  
13 505, the time and manner of filing tax returns and the  
14 items of income, gain, loss, deduction, and credit of any  
15 taxpayer shall be determined under applicable nonbank-  
16 ruptcy law.

17       “(2) For Federal tax purposes, the provisions of this  
18 section are subject to the Internal Revenue Code of 1986  
19 and other applicable Federal nonbankruptcy law.”.

20       (b) CONFORMING AMENDMENTS.—

21               (1) Section 728 of title 11, United States Code,  
22 is repealed.

23               (2) Section 1146 of title 11, United States  
24 Code, is amended—

1 (A) by striking subsections (a) and (b);

2 and

3 (B) by redesignating subsections (c) and

4 (d) as subsections (a) and (b), respectively.

5 (3) Section 1231 of title 11, United States

6 Code, is amended—

7 (A) by striking subsections (a) and (b);

8 and

9 (B) by redesignating subsections (c) and

10 (d) as subsections (a) and (b), respectively.

11 **SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX**

12 **RETURNS.**

13 Section 521 of title 11, United States Code, as

14 amended by this Act, is amended by adding at the end

15 the following:

16 “(k)(1) Notwithstanding any other provision of this

17 title, if the debtor fails to file a tax return that becomes

18 due after the commencement of the case or to properly

19 obtain an extension of the due date for filing such return,

20 the taxing authority may request that the court enter an

21 order converting or dismissing the case.

22 “(2) If the debtor does not file the required return

23 or obtain the extension referred to in paragraph (1) within

24 90 days after a request is filed by the taxing authority

25 under that paragraph, the court shall convert or dismiss

1 the case, whichever is in the best interests of creditors and  
 2 the estate.”.

3 **TITLE VIII—ANCILLARY AND**  
 4 **OTHER CROSS-BORDER CASES**

5 **SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**  
 6 **UNITED STATES CODE.**

7 (a) IN GENERAL.—Title 11, United States Code, is  
 8 amended by inserting after chapter 13 the following:

9 **“CHAPTER 15—ANCILLARY AND OTHER**  
 10 **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.

“1516. Presumptions concerning recognition.

“1517. Order granting recognition.

“1518. Subsequent information.

“1519. Relief that may be granted upon filing petition for recognition.

“1520. Effects of recognition of a foreign main proceeding.

“1521. Relief that may be granted upon recognition.

“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-bor-  
5 der insolvency with the objectives of—

6 “(1) cooperation between—

7 “(A) United States courts, United States  
8 trustees, trustees, examiners, debtors, and debt-  
9 ors 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 where—

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, other  
23 than a foreign insurance company, identified by ex-  
24 clusion in section 109(b);

1           “(2) an individual, or to an individual and such  
2 individual’s spouse, who have debts within the limits  
3 specified in section 109(e) and who are citizens of  
4 the United States or aliens lawfully admitted for  
5 permanent residence in the United States; or

6           “(3) an entity subject to a proceeding under the  
7 Securities Investor Protection Act of 1970, a stock-  
8 broker subject to subchapter III of chapter 7 of this  
9 title, or a commodity broker subject to subchapter  
10 IV of chapter 7 of this title.

11          “(d) The court may not grant relief under this chap-  
12 ter with respect to any deposit, escrow, trust fund, or  
13 other security required or permitted under any applicable  
14 State insurance law or regulation for the benefit of claim  
15 holders in the United States.

16          “SUBCHAPTER I—GENERAL PROVISIONS

17        “§ 1502. **Definitions**

18          “For the purposes of this chapter, the term—

19               “(1) ‘debtor’ means an entity that is the subject  
20 of a foreign proceeding;

21               “(2) ‘establishment’ means any place of oper-  
22 ations where the debtor carries out a nontransitory  
23 economic activity;

1           “(3) ‘foreign court’ means a judicial or other  
2 authority competent to control or supervise a foreign  
3 proceeding;

4           “(4) ‘foreign main proceeding’ means a foreign  
5 proceeding taking place in the country where the  
6 debtor has the center of its main interests;

7           “(5) ‘foreign nonmain proceeding’ means a for-  
8 eign proceeding, other than a foreign main pro-  
9 ceeding, taking place in a country where the debtor  
10 has an establishment;

11           “(6) ‘trustee’ includes a trustee, a debtor in  
12 possession in a case under any chapter of this title,  
13 or a debtor under chapter 9 of this title;

14           “(7) ‘recognition’ means the entry of an order  
15 granting recognition of a foreign main proceeding or  
16 foreign nonmain proceeding under this chapter; and

17           “(8) ‘within the territorial jurisdiction of the  
18 United States’, when used with reference to property  
19 of a debtor, refers to tangible property located with-  
20 in the territory of the United States and intangible  
21 property deemed under applicable nonbankruptcy  
22 law to be located within that territory, including any  
23 property subject to attachment or garnishment that  
24 may properly be seized or garnished by an action in  
25 a Federal or State court in the United States.

1 **“§ 1503. International obligations of the United States**

2 “To the extent that this chapter conflicts with an ob-  
3 ligation of the United States arising out of any treaty or  
4 other form of agreement to which it is a party with one  
5 or more other countries, the requirements of the treaty  
6 or agreement prevail.

7 **“§ 1504. Commencement of ancillary case**

8 “A case under this chapter is commenced by the filing  
9 of a petition for recognition of a foreign proceeding under  
10 section 1515.

11 **“§ 1505. Authorization to act in a foreign country**

12 “A trustee or another entity (including an examiner)  
13 may be authorized by the court to act in a foreign country  
14 on behalf of an estate created under section 541. An entity  
15 authorized to act under this section may act in any way  
16 permitted by the applicable foreign law.

17 **“§ 1506. Public policy exception**

18 “Nothing in this chapter prevents the court from re-  
19 fusing to take an action governed by this chapter if the  
20 action would be manifestly contrary to the public policy  
21 of the United States.

22 **“§ 1507. Additional assistance**

23 “(a) Subject to the specific limitations stated else-  
24 where in this chapter the court, if recognition is granted,  
25 may provide additional assistance to a foreign representa-

1 tive under this title or under other laws of the United  
2 States.

3 “(b) In determining whether to provide additional as-  
4 sistance under this title or under other laws of the United  
5 States, the court shall consider whether such additional  
6 assistance, consistent with the principles of comity, will  
7 reasonably assure—

8 “(1) just treatment of all holders of claims  
9 against or interests in the debtor’s property;

10 “(2) protection of claim holders in the United  
11 States against prejudice and inconvenience in the  
12 processing of claims in such foreign proceeding;

13 “(3) prevention of preferential or fraudulent  
14 dispositions of property of the debtor;

15 “(4) distribution of proceeds of the debtor’s  
16 property substantially in accordance with the order  
17 prescribed by this title; and

18 “(5) if appropriate, the provision of an oppor-  
19 tunity for a fresh start for the individual that such  
20 foreign proceeding concerns.

21 **“§ 1508. Interpretation**

22 “In interpreting this chapter, the court shall consider  
23 its international origin, and the need to promote an appli-  
24 cation of this chapter that is consistent with the applica-  
25 tion of similar statutes adopted by foreign jurisdictions.

1 “SUBCHAPTER II—ACCESS OF FOREIGN REP-  
2 RESENTATIVES AND CREDITORS TO THE  
3 COURT

4 “§ 1509. Right of direct access

5 “(a) A foreign representative may commence a case  
6 under section 1504 by filing directly with the court a peti-  
7 tion for recognition of a foreign proceeding under section  
8 1515.

9 “(b) If the court grants recognition under section  
10 1515, and subject to any limitations that the court may  
11 impose consistent with the policy of this chapter—

12 “(1) the foreign representative has the capacity  
13 to sue and be sued in a court in the United States;

14 “(2) the foreign representative may apply di-  
15 rectly to a court in the United States for appropriate  
16 relief in that court; and

17 “(3) a court in the United States shall grant  
18 comity or cooperation to the foreign representative.

19 “(c) A request for comity or cooperation by a foreign  
20 representative in a court in the United States other than  
21 the court which granted recognition shall be accompanied  
22 by a certified copy of an order granting recognition under  
23 section 1517.

24 “(d) If the court denies recognition under this chap-  
25 ter, the court may issue any appropriate order necessary

1 to prevent the foreign representative from obtaining com-  
2 ity or cooperation from courts in the United States.

3 “(e) Whether or not the court grants recognition, and  
4 subject to sections 306 and 1510, a foreign representative  
5 is subject to applicable nonbankruptcy law.

6 “(f) Notwithstanding any other provision of this sec-  
7 tion, the failure of a foreign representative to commence  
8 a case or to obtain recognition under this chapter does  
9 not affect any right the foreign representative may have  
10 to sue in a court in the United States to collect or recover  
11 a claim which is the property of the debtor.

12 **“§ 1510. Limited jurisdiction**

13 “The sole fact that a foreign representative files a  
14 petition under section 1515 does not subject the foreign  
15 representative to the jurisdiction of any court in the  
16 United States for any other purpose.

17 **“§ 1511. Commencement of case under section 301 or**  
18 **303**

19 “(a) Upon recognition, a foreign representative may  
20 commence—

21 “(1) an involuntary case under section 303; or

22 “(2) a voluntary case under section 301 or 302,

23 if the foreign proceeding is a foreign main pro-  
24 ceeding.



1 “(2)(A) Subsection (a) and paragraph (1) do not  
2 change or codify present law as to the allowability of for-  
3 eign revenue claims or other foreign public law claims in  
4 a proceeding under this title.

5 “(B) Allowance and priority as to a foreign tax claim  
6 or other foreign public law claim shall be governed by any  
7 applicable tax treaty of the United States, under the con-  
8 ditions and circumstances specified therein.

9 **“§ 1514. Notification to foreign creditors concerning a**  
10 **case under this title**

11 “(a) Whenever in a case under this title notice is to  
12 be given to creditors generally or to any class or category  
13 of creditors, such notice shall also be given to the known  
14 creditors generally, or to creditors in the notified class or  
15 category, that do not have addresses in the United States.  
16 The court may order that appropriate steps be taken with  
17 a view to notifying any creditor whose address is not yet  
18 known.

19 “(b) Such notification to creditors with foreign ad-  
20 dresses described in subsection (a) shall be given individ-  
21 ually, unless the court considers that, under the cir-  
22 cumstances, some other form of notification would be  
23 more appropriate. No letter or other formality is required.

24 “(c) When a notification of commencement of a case  
25 is to be given to foreign creditors, the notification shall—

1           “(1) indicate the time period for filing proofs of  
2           claim and specify the place for their filing;

3           “(2) indicate whether secured creditors need to  
4           file their proofs of claim; and

5           “(3) contain any other information required to  
6           be included in such a notification to creditors under  
7           this title and the orders of the court.

8           “(d) Any rule of procedure or order of the court as  
9           to notice or the filing of a claim shall provide such addi-  
10          tional time to creditors with foreign addresses as is rea-  
11          sonable under the circumstances.

12           “SUBCHAPTER III—RECOGNITION OF A  
13           FOREIGN PROCEEDING AND RELIEF

14          “§ 1515. **Application for recognition**

15           “(a) A foreign representative applies to the court for  
16           recognition of the foreign proceeding in which the foreign  
17           representative has been appointed by filing a petition for  
18           recognition.

19           “(b) A petition for recognition shall be accompanied  
20           by—

21           “(1) a certified copy of the decision com-  
22           mencing the foreign proceeding and appointing the  
23           foreign representative;

1           “(2) a certificate from the foreign court affirm-  
2           ing the existence of the foreign proceeding and of  
3           the appointment of the foreign representative; or

4           “(3) in the absence of evidence referred to in  
5           paragraphs (1) and (2), any other evidence accept-  
6           able to the court of the existence of the foreign pro-  
7           ceeding and of the appointment of the foreign rep-  
8           resentative.

9           “(c) A petition for recognition shall also be accom-  
10          panied by a statement identifying all foreign proceedings  
11          with respect to the debtor that are known to the foreign  
12          representative.

13          “(d) The documents referred to in paragraphs (1)  
14          and (2) of subsection (b) shall be translated into English.  
15          The court may require a translation into English of addi-  
16          tional documents.

17          **“§ 1516. Presumptions concerning recognition**

18          “(a) If the decision or certificate referred to in section  
19          1515(b) indicates that the foreign proceeding is a foreign  
20          proceeding (as defined in section 101) and that the person  
21          or body is a foreign representative (as defined in section  
22          101), the court is entitled to so presume.

23          “(b) The court is entitled to presume that documents  
24          submitted in support of the petition for recognition are  
25          authentic, whether or not they have been legalized.

1       “(c) In the absence of evidence to the contrary, the  
2 debtor’s registered office, or habitual residence in the case  
3 of an individual, is presumed to be the center of the debt-  
4 or’s main interests.

5 **“§ 1517. Order granting recognition**

6       “(a) Subject to section 1506, after notice and a hear-  
7 ing, an order recognizing a foreign proceeding shall be en-  
8 tered if—

9           “(1) the foreign proceeding for which recogni-  
10 tion is sought is a foreign main proceeding or for-  
11 eign nonmain proceeding within the meaning of sec-  
12 tion 1502;

13           “(2) the foreign representative applying for rec-  
14 ognition is a person or body as defined in section  
15 101; and

16           “(3) the petition meets the requirements of sec-  
17 tion 1515.

18       “(b) The foreign proceeding shall be recognized—

19           “(1) as a foreign main proceeding if it is taking  
20 place in the country where the debtor has the center  
21 of its main interests; or

22           “(2) as a foreign nonmain proceeding if the  
23 debtor has an establishment within the meaning of  
24 section 1502 in the foreign country where the pro-  
25 ceeding is pending.

1       “(c) A petition for recognition of a foreign proceeding  
2 shall be decided upon at the earliest possible time. Entry  
3 of an order recognizing a foreign proceeding constitutes  
4 recognition under this chapter.

5       “(d) The provisions of this subchapter do not prevent  
6 modification or termination of recognition if it is shown  
7 that the grounds for granting it were fully or partially  
8 lacking or have ceased to exist, but in considering such  
9 action the court shall give due weight to possible prejudice  
10 to parties that have relied upon the order granting rec-  
11 ognition. The case under this chapter may be closed in  
12 the manner prescribed under section 350.

13 **“§ 1518. Subsequent information**

14       “From the time of filing the petition for recognition  
15 of the foreign proceeding, the foreign representative shall  
16 file with the court promptly a notice of change of status  
17 concerning—

18               “(1) any substantial change in the status of the  
19 foreign proceeding or the status of the foreign rep-  
20 resentative’s appointment; and

21               “(2) any other foreign proceeding regarding the  
22 debtor that becomes known to the foreign represent-  
23 ative.

1 **“§ 1519. Relief that may be granted upon filing peti-**  
2 **tion for recognition**

3 “(a) From the time of filing a petition for recognition  
4 until the court rules on the petition, the court may, at  
5 the request of the foreign representative, where relief is  
6 urgently needed to protect the assets of the debtor or the  
7 interests of the creditors, grant relief of a provisional na-  
8 ture, including—

9 “(1) staying execution against the debtor’s as-  
10 sets;

11 “(2) entrusting the administration or realiza-  
12 tion of all or part of the debtor’s assets located in  
13 the United States to the foreign representative or  
14 another person authorized by the court, including an  
15 examiner, in order to protect and preserve the value  
16 of assets that, by their nature or because of other  
17 circumstances, are perishable, susceptible to devalu-  
18 ation or otherwise in jeopardy; and

19 “(3) any relief referred to in paragraph (3),  
20 (4), or (7) of section 1521(a).

21 “(b) Unless extended under section 1521(a)(6), the  
22 relief granted under this section terminates when the peti-  
23 tion for recognition is granted.

24 “(c) It is a ground for denial of relief under this sec-  
25 tion that such relief would interfere with the administra-  
26 tion of a foreign main proceeding.



1           “(3) unless the court orders otherwise, the for-  
2           foreign representative may operate the debtor’s busi-  
3           ness and may exercise the rights and powers of a  
4           trustee under and to the extent provided by sections  
5           363 and 552; and

6           “(4) section 552 applies to property of the debt-  
7           or that is within the territorial jurisdiction of the  
8           United States.

9           “(b) Subsection (a) does not affect the right to com-  
10          mence an individual action or proceeding in a foreign  
11          country to the extent necessary to preserve a claim against  
12          the debtor.

13          “(c) Subsection (a) does not affect the right of a for-  
14          eign representative or an entity to file a petition com-  
15          mencing a case under this title or the right of any party  
16          to file claims or take other proper actions in such a case.

17          **“§ 1521. Relief that may be granted upon recognition**

18          “(a) Upon recognition of a foreign proceeding, wheth-  
19          er main or nonmain, where necessary to effectuate the  
20          purpose of this chapter and to protect the assets of the  
21          debtor or the interests of the creditors, the court may, at  
22          the request of the foreign representative, grant any appro-  
23          priate relief, including—

24                  “(1) staying the commencement or continuation  
25          of an individual action or proceeding concerning the

1 debtor's assets, rights, obligations or liabilities to the  
2 extent they have not been stayed under section  
3 1520(a);

4 “(2) staying execution against the debtor's as-  
5 sets to the extent it has not been stayed under sec-  
6 tion 1520(a);

7 “(3) suspending the right to transfer, encumber  
8 or otherwise dispose of any assets of the debtor to  
9 the extent this right has not been suspended under  
10 section 1520(a);

11 “(4) providing for the examination of witnesses,  
12 the taking of evidence or the delivery of information  
13 concerning the debtor's assets, affairs, rights, obliga-  
14 tions or liabilities;

15 “(5) entrusting the administration or realiza-  
16 tion of all or part of the debtor's assets within the  
17 territorial jurisdiction of the United States to the  
18 foreign representative or another person, including  
19 an examiner, authorized by the court;

20 “(6) extending relief granted under section  
21 1519(a); and

22 “(7) granting any additional relief that may be  
23 available to a trustee, except for relief available  
24 under sections 522, 544, 545, 547, 548, 550, and  
25 724(a).

1       “(b) Upon recognition of a foreign proceeding, wheth-  
2 er main or nonmain, the court may, at the request of the  
3 foreign representative, entrust the distribution of all or  
4 part of the debtor’s assets located in the United States  
5 to the foreign representative or another person, including  
6 an examiner, authorized by the court, provided that the  
7 court is satisfied that the interests of creditors in the  
8 United States are sufficiently protected.

9       “(c) In granting relief under this section to a rep-  
10 resentative of a foreign nonmain proceeding, the court  
11 must be satisfied that the relief relates to assets that,  
12 under the law of the United States, should be adminis-  
13 tered in the foreign nonmain proceeding or concerns infor-  
14 mation required in that proceeding.

15       “(d) The court may not enjoin a police or regulatory  
16 act of a governmental unit, including a criminal action or  
17 proceeding, under this section.

18       “(e) The standards, procedures, and limitations ap-  
19 plicable to an injunction shall apply to relief under para-  
20 graphs (1), (2), (3), and (6) of subsection (a).

21       “(f) The exercise of rights not subject to the stay  
22 arising under section 362(a) pursuant to paragraph (6),  
23 (7), (17), or (27) of section 362(b) or pursuant to section  
24 362(l) shall not be stayed by any order of a court or ad-  
25 ministrative agency in any proceeding under this chapter.

1 **“§ 1522. Protection of creditors and other interested**  
2 **persons**

3 “(a) The court may grant relief under section 1519  
4 or 1521, or may modify or terminate relief under sub-  
5 section (c), only if the interests of the creditors and other  
6 interested entities, including the debtor, are sufficiently  
7 protected.

8 “(b) The court may subject relief granted under sec-  
9 tion 1519 or 1521, or the operation of the debtor’s busi-  
10 ness under section 1520(a)(3) of this title, to conditions  
11 it considers appropriate, including the giving of security  
12 or the filing of a bond.

13 “(c) The court may, at the request of the foreign rep-  
14 resentative or an entity affected by relief granted under  
15 section 1519 or 1521, or at its own motion, modify or  
16 terminate such relief.

17 “(d) Section 1104(d) shall apply to the appointment  
18 of an examiner under this chapter. Any examiner shall  
19 comply with the qualification requirements imposed on a  
20 trustee by section 322.

21 **“§ 1523. Actions to avoid acts detrimental to creditors**

22 “(a) Upon recognition of a foreign proceeding, the  
23 foreign representative has standing in a case concerning  
24 the debtor pending under another chapter of this title to  
25 initiate actions under sections 522, 544, 545, 547, 548,  
26 550, 553, and 724(a).

1       “(b) When the foreign proceeding is a foreign  
2 nonmain proceeding, the court must be satisfied that an  
3 action under subsection (a) relates to assets that, under  
4 United States law, should be administered in the foreign  
5 nonmain proceeding.

6       **“§ 1524. Intervention by a foreign representative**

7       “Upon recognition of a foreign proceeding, the for-  
8 eign representative may intervene in any proceedings in  
9 a State or Federal court in the United States in which  
10 the debtor is a party.

11       “SUBCHAPTER IV—COOPERATION WITH FOR-  
12       EIGN COURTS AND FOREIGN REPRESENTA-  
13       TIVES

14       **“§ 1525. Cooperation and direct communication be-  
15       tween the court and foreign courts or for-  
16       eign representatives**

17       “(a) Consistent with section 1501, the court shall co-  
18 operate to the maximum extent possible with foreign  
19 courts or foreign representatives, either directly or  
20 through the trustee.

21       “(b) The court is entitled to communicate directly  
22 with, or to request information or assistance directly from,  
23 foreign courts or foreign representatives, subject to the  
24 rights of parties in interest to notice and participation.

1 **“§ 1526. Cooperation and direct communication be-**  
2 **tween the trustee and foreign courts or**  
3 **foreign representatives**

4 “(a) Consistent with section 1501, the trustee or  
5 other person, including an examiner, authorized by the  
6 court, shall, subject to the supervision of the court, cooper-  
7 ate to the maximum extent possible with foreign courts  
8 or foreign representatives.

9 “(b) The trustee or other person, including an exam-  
10 iner, authorized by the court is entitled, subject to the su-  
11 pervision of the court, to communicate directly with for-  
12 eign courts or foreign representatives.

13 **“§ 1527. Forms of cooperation**

14 “Cooperation referred to in sections 1525 and 1526  
15 may be implemented by any appropriate means,  
16 including—

17 “(1) appointment of a person or body, including  
18 an examiner, to act at the direction of the court;

19 “(2) communication of information by any  
20 means considered appropriate by the court;

21 “(3) coordination of the administration and su-  
22 pervision of the debtor’s assets and affairs;

23 “(4) approval or implementation of agreements  
24 concerning the coordination of proceedings; and

25 “(5) coordination of concurrent proceedings re-  
26 garding the same debtor.

1 “SUBCHAPTER V—CONCURRENT PROCEEDINGS

2 **“§ 1528. Commencement of a case under this title**

3 **after recognition of a foreign main pro-**

4 **ceeding**

5 “After recognition of a foreign main proceeding, a  
6 case under another chapter of this title may be commenced  
7 only if the debtor has assets in the United States. The  
8 effects of such case shall be restricted to the assets of the  
9 debtor that are within the territorial jurisdiction of the  
10 United States and, to the extent necessary to implement  
11 cooperation and coordination under sections 1525, 1526,  
12 and 1527, to other assets of the debtor that are within  
13 the jurisdiction of the court under sections 541(a) of this  
14 title, and 1334(e) of title 28, to the extent that such other  
15 assets are not subject to the jurisdiction and control of  
16 a foreign proceeding that has been recognized under this  
17 chapter.

18 **“§ 1529. Coordination of a case under this title and a**

19 **foreign proceeding**

20 “If a foreign proceeding and a case under another  
21 chapter of this title are taking place concurrently regard-  
22 ing the same debtor, the court shall seek cooperation and  
23 coordination under sections 1525, 1526, and 1527, and  
24 the following shall apply:

1           “(1) If the case in the United States is taking  
2 place at the time the petition for recognition of the  
3 foreign proceeding is filed—

4           “(A) any relief granted under section 1519  
5 or 1521 must be consistent with the relief  
6 granted in the case in the United States; and

7           “(B) even if the foreign proceeding is rec-  
8 ognized as a foreign main proceeding, section  
9 1520 does not apply.

10          “(2) If a case in the United States under this  
11 title commences after recognition, or after the filing  
12 of the petition for recognition, of the foreign  
13 proceeding—

14          “(A) any relief in effect under section  
15 1519 or 1521 shall be reviewed by the court  
16 and shall be modified or terminated if incon-  
17 sistent with the case in the United States; and

18          “(B) if the foreign proceeding is a foreign  
19 main proceeding, the stay and suspension re-  
20 ferred to in section 1520(a) shall be modified or  
21 terminated if inconsistent with the relief grant-  
22 ed in the case in the United States.

23          “(3) In granting, extending, or modifying relief  
24 granted to a representative of a foreign nonmain  
25 proceeding, the court must be satisfied that the re-

1        relief relates to assets that, under the laws of the  
2        United States, should be administered in the foreign  
3        nonmain proceeding or concerns information re-  
4        quired in that proceeding.

5            “(4) In achieving cooperation and coordination  
6        under sections 1528 and 1529, the court may grant  
7        any of the relief authorized under section 305.

8        **“§ 1530. Coordination of more than 1 foreign pro-**  
9            **ceeding**

10        “In matters referred to in section 1501, with respect  
11        to more than 1 foreign proceeding regarding the debtor,  
12        the court shall seek cooperation and coordination under  
13        sections 1525, 1526, and 1527, and the following shall  
14        apply:

15            “(1) Any relief granted under section 1519 or  
16        1521 to a representative of a foreign nonmain pro-  
17        ceeding after recognition of a foreign main pro-  
18        ceeding must be consistent with the foreign main  
19        proceeding.

20            “(2) If a foreign main proceeding is recognized  
21        after recognition, or after the filing of a petition for  
22        recognition, of a foreign nonmain proceeding, any  
23        relief in effect under section 1519 or 1521 shall be  
24        reviewed by the court and shall be modified or termi-

1 nated if inconsistent with the foreign main pro-  
2 ceeding.

3 “(3) If, after recognition of a foreign nonmain  
4 proceeding, another foreign nonmain proceeding is  
5 recognized, the court shall grant, modify, or termi-  
6 nate relief for the purpose of facilitating coordina-  
7 tion of the proceedings.

8 **“§ 1531. Presumption of insolvency based on recogni-  
9 tion of a foreign main proceeding**

10 “In the absence of evidence to the contrary, recogni-  
11 tion of a foreign main proceeding is, for the purpose of  
12 commencing a proceeding under section 303, proof that  
13 the debtor is generally not paying its debts as such debts  
14 become due.

15 **“§ 1532. Rule of payment in concurrent proceedings**

16 “Without prejudice to secured claims or rights in  
17 rem, a creditor who has received payment with respect to  
18 its claim in a foreign proceeding pursuant to a law relating  
19 to insolvency may not receive a payment for the same  
20 claim in a case under any other chapter of this title re-  
21 garding the debtor, so long as the payment to other credi-  
22 tors of the same class is proportionately less than the pay-  
23 ment the creditor has already received.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters  
 2 for title 11, United States Code, is amended by inserting  
 3 after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Cases ..... 1501”.

4 **SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28,**  
 5 **UNITED STATES CODE.**

6 (a) APPLICABILITY OF CHAPTERS.—Section 103 of  
 7 title 11, United States Code, is amended—

8 (1) in subsection (a), by inserting before the pe-  
 9 riod the following: “, and this chapter, sections 307,  
 10 362(l), 555 through 557, and 559 through 562  
 11 apply in a case under chapter 15”; and

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

13 “(j) Chapter 15 applies only in a case under such  
 14 chapter, except that—

15 “(1) sections 1505, 1513, and 1514 apply in all  
 16 cases under this title; and

17 “(2) section 1509 applies whether or not a case  
 18 under this title is pending.”.

19 (b) DEFINITIONS.—Section 101 of title 11, United  
 20 States Code, is amended by striking paragraphs (23) and  
 21 (24) and inserting the following:

22 “(23) ‘foreign proceeding’ means a collective ju-  
 23 dicial or administrative proceeding in a foreign coun-  
 24 try, including an interim proceeding, under a law re-  
 25 lating to insolvency or adjustment of debt in which

1 proceeding the assets and affairs of the debtor are  
2 subject to control or supervision by a foreign court,  
3 for the purpose of reorganization or liquidation;

4 “(24) ‘foreign representative’ means a person  
5 or body, including a person or body appointed on an  
6 interim basis, authorized in a foreign proceeding to  
7 administer the reorganization or the liquidation of  
8 the debtor’s assets or affairs or to act as a rep-  
9 resentative of the foreign proceeding;”.

10 (c) AMENDMENTS TO TITLE 28, UNITED STATES  
11 CODE.—

12 (1) PROCEDURES.—Section 157(b)(2) of title  
13 28, United States Code, is amended—

14 (A) in subparagraph (N), by striking  
15 “and” at the end;

16 (B) in subparagraph (O), by striking the  
17 period at the end and inserting “; and”; and

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

19 “(P) recognition of foreign proceedings and  
20 other matters under chapter 15 of title 11.”.

21 (2) BANKRUPTCY CASES AND PROCEEDINGS.—  
22 Section 1334(c) of title 28, United States Code, is  
23 amended by striking “Nothing in” and inserting  
24 “Except with respect to a case under chapter 15 of  
25 title 11, nothing in”.

1           (3) DUTIES OF TRUSTEES.—Section 586(a)(3)  
 2 of title 28, United States Code, is amended by strik-  
 3 ing “or 13” and inserting “13, or 15,”.

4           (4) VENUE OF CASES ANCILLARY TO FOREIGN  
 5 PROCEEDINGS.—Section 1410 of title 28, United  
 6 States Code, is amended to read as follows:

7 **“§1410. Venue of cases ancillary to foreign pro-**  
 8 **ceedings**

9           “A case under chapter 15 of title 11 may be com-  
 10 menced in the district court for the district—

11           “(1) in which the debtor has its principal place  
 12 of business or principal assets in the United States;

13           “(2) if the debtor does not have a place of busi-  
 14 ness or assets in the United States, in which there  
 15 is pending against the debtor an action or pro-  
 16 ceeding in a Federal or State court; or

17           “(3) in a case other than those specified in  
 18 paragraph (1) or (2), in which venue will be con-  
 19 sistent with the interests of justice and the conven-  
 20 ience of the parties, having regard to the relief  
 21 sought by the foreign representative.”.

22 (d) OTHER SECTIONS OF TITLE 11.—

23           (1) Section 109(b)(3) of title 11, United States  
 24 Code, is amended to read as follows:

1           “(3)(A) a foreign insurance company, engaged  
2           in such business in the United States; or

3           “(B) a foreign bank, savings bank, cooperative  
4           bank, savings and loan association, building and  
5           loan association, or credit union, that has a branch  
6           or agency (as defined in section 1(b) of the Inter-  
7           national Banking Act of 1978 (12 U.S.C. 3101) in  
8           the United States.”.

9           (2) Section 303(k) of title 11, United States  
10          Code, is repealed.

11          (3)(A) Section 304 of title 11, United States  
12          Code, is repealed.

13          (B) The table of sections at the beginning of  
14          chapter 3 of title 11, United States Code, is amend-  
15          ed by striking the item relating to section 304.

16          (C) Section 306 of title 11, United States Code,  
17          is amended by striking “, 304,” each place it ap-  
18          pears.

19          (4) Section 305(a)(2) of title 11, United States  
20          Code, is amended to read as follows:

21                 “(2)(A) a petition under section 1515 of this  
22                 title for recognition of a foreign proceeding has been  
23                 granted; and

1           “(B) the purposes of chapter 15 of this title  
2 would be best served by such dismissal or suspen-  
3 sion.”.

4           (5) Section 508 of title 11, United States Code,  
5 is amended—

6                   (A) by striking subsection (a); and

7                   (B) in subsection (b), by striking “(b)”.

8                   **TITLE IX—FINANCIAL**  
9                   **CONTRACT PROVISIONS**

10 **SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CON-**  
11 **SERVATORS OR RECEIVERS OF INSURED DE-**  
12 **POSITORY INSTITUTIONS.**

13           (a) DEFINITION OF QUALIFIED FINANCIAL CON-  
14 TRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit In-  
15 surance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by  
16 inserting “, resolution, or order” after “any similar agree-  
17 ment that the Corporation determines by regulation”.

18           (b) DEFINITION OF SECURITIES CONTRACT.—Sec-  
19 tion 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act  
20 (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as fol-  
21 lows:

22                           “(ii) SECURITIES CONTRACT.—The  
23 term ‘securities contract’—

24                                   “(I) means a contract for the  
25 purchase, sale, or loan of a security, a

1 certificate of deposit, a mortgage loan,  
2 or any interest in a mortgage loan, a  
3 group or index of securities, certifi-  
4 cates of deposit, or mortgage loans or  
5 interests therein (including any inter-  
6 est therein or based on the value  
7 thereof) or any option on any of the  
8 foregoing, including any option to  
9 purchase or sell any such security,  
10 certificate of deposit, mortgage loan,  
11 interest, group or index, or option,  
12 and including any repurchase or re-  
13 verse repurchase transaction on any  
14 such security, certificate of deposit,  
15 mortgage loan, interest, group or  
16 index, or option;

17 “(II) does not include any pur-  
18 chase, sale, or repurchase obligation  
19 under a participation in a commercial  
20 mortgage loan unless the Corporation  
21 determines by regulation, resolution,  
22 or order to include any such agree-  
23 ment within the meaning of such  
24 term;

1           “(III) means any option entered  
2           into on a national securities exchange  
3           relating to foreign currencies;

4           “(IV) means the guarantee by or  
5           to any securities clearing agency of  
6           any settlement of cash, securities, cer-  
7           tificates of deposit, mortgage loans or  
8           interests therein, group or index of se-  
9           curities, certificates of deposit, or  
10          mortgage loans or interests therein  
11          (including any interest therein or  
12          based on the value thereof) or option  
13          on any of the foregoing, including any  
14          option to purchase or sell any such se-  
15          curity, certificate of deposit, mortgage  
16          loan, interest, group or index, or op-  
17          tion;

18          “(V) means any margin loan;

19          “(VI) means any other agree-  
20          ment or transaction that is similar to  
21          any agreement or transaction referred  
22          to in this clause;

23          “(VII) means any combination of  
24          the agreements or transactions re-  
25          ferred to in this clause;

1           “(VIII) means any option to  
2 enter into any agreement or trans-  
3 action referred to in this clause;

4           “(IX) means a master agreement  
5 that provides for an agreement or  
6 transaction referred to in subclause  
7 (I), (III), (IV), (V), (VI), (VII), or  
8 (VIII), together with all supplements  
9 to any such master agreement, with-  
10 out regard to whether the master  
11 agreement provides for an agreement  
12 or transaction that is not a securities  
13 contract under this clause, except that  
14 the master agreement shall be consid-  
15 ered to be a securities contract under  
16 this clause only with respect to each  
17 agreement or transaction under the  
18 master agreement that is referred to  
19 in subclause (I), (III), (IV), (V), (VI),  
20 (VII), or (VIII); and

21           “(X) means any security agree-  
22 ment or arrangement or other credit  
23 enhancement related to any agree-  
24 ment or transaction referred to in this  
25 clause or any guarantee including re-

1                   imbursement obligation in connection  
2                   with any agreement or transaction re-  
3                   ferred to in this clause.”.

4           (c) DEFINITION OF COMMODITY CONTRACT.—Sec-  
5 tion 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act  
6 (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as fol-  
7 lows:

8                   “(iii) COMMODITY CONTRACT.—The  
9                   term ‘commodity contract’ means—

10                   “(I) with respect to a futures  
11                   commission merchant, a contract for  
12                   the purchase or sale of a commodity  
13                   for future delivery on, or subject to  
14                   the rules of, a contract market or  
15                   board of trade;

16                   “(II) with respect to a foreign fu-  
17                   tures commission merchant, a foreign  
18                   future;

19                   “(III) with respect to a leverage  
20                   transaction merchant, a leverage  
21                   transaction;

22                   “(IV) with respect to a clearing  
23                   organization, a contract for the pur-  
24                   chase or sale of a commodity for fu-  
25                   ture delivery on, or subject to the

1 rules of, a contract market or board  
2 of trade that is cleared by such clear-  
3 ing organization, or commodity option  
4 traded on, or subject to the rules of,  
5 a contract market or board of trade  
6 that is cleared by such clearing orga-  
7 nization;

8 “(V) with respect to a commodity  
9 options dealer, a commodity option;

10 “(VI) any other agreement or  
11 transaction that is similar to any  
12 agreement or transaction referred to  
13 in this clause;

14 “(VII) any combination of the  
15 agreements or transactions referred to  
16 in this clause;

17 “(VIII) any option to enter into  
18 any agreement or transaction referred  
19 to in this clause;

20 “(IX) a master agreement that  
21 provides for an agreement or trans-  
22 action referred to in subclause (I),  
23 (II), (III), (IV), (V), (VI), (VII), or  
24 (VIII), together with all supplements  
25 to any such master agreement, with-

1 out regard to whether the master  
2 agreement provides for an agreement  
3 or transaction that is not a com-  
4 modity contract under this clause, ex-  
5 cept that the master agreement shall  
6 be considered to be a commodity con-  
7 tract under this clause only with re-  
8 spect to each agreement or trans-  
9 action under the master agreement  
10 that is referred to in subclause (I),  
11 (II), (III), (IV), (V), (VI), (VII), or  
12 (VIII); or

13 “(X) any security agreement or  
14 arrangement or other credit enhance-  
15 ment related to any agreement or  
16 transaction referred to in this clause  
17 including any guarantee or reimburse-  
18 ment obligation in connection with  
19 any agreement or transaction referred  
20 to in this clause.”.

21 (d) DEFINITION OF FORWARD CONTRACT.—Section  
22 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12  
23 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

24 “(iv) FORWARD CONTRACT.—The  
25 term ‘forward contract’ means—

1           “(I) a contract (other than a  
2 commodity contract) for the purchase,  
3 sale, or transfer of a commodity or  
4 any similar good, article, service,  
5 right, or interest which is presently or  
6 in the future becomes the subject of  
7 dealing in the forward contract trade,  
8 or product or byproduct thereof, with  
9 a maturity date more than 2 days  
10 after the date the contract is entered  
11 into, including, a repurchase trans-  
12 action, reverse repurchase transaction,  
13 consignment, lease, swap, hedge  
14 transaction, deposit, loan, option, allo-  
15 cated transaction, unallocated trans-  
16 action, or any other similar agree-  
17 ment;

18           “(II) any combination of agree-  
19 ments or transactions referred to in  
20 subclauses (I) and (III);

21           “(III) any option to enter into  
22 any agreement or transaction referred  
23 to in subclause (I) or (II);

24           “(IV) a master agreement that  
25 provides for an agreement or trans-

1 action referred to in subclauses (I),  
2 (II), or (III), together with all supple-  
3 ments to any such master agreement,  
4 without regard to whether the master  
5 agreement provides for an agreement  
6 or transaction that is not a forward  
7 contract under this clause, except that  
8 the master agreement shall be consid-  
9 ered to be a forward contract under  
10 this clause only with respect to each  
11 agreement or transaction under the  
12 master agreement that is referred to  
13 in subclause (I), (II), or (III); or

14 “(V) any security agreement or  
15 arrangement or other credit enhance-  
16 ment related to any agreement or  
17 transaction referred to in subclause  
18 (I), (II), (III), or (IV) including any  
19 guarantee or reimbursement obliga-  
20 tion in connection with any agreement  
21 or transaction referred to in any such  
22 subclause.”.

23 (e) DEFINITION OF REPURCHASE AGREEMENT.—  
24 Section 11(e)(8)(D)(v) of the Federal Deposit Insurance

1 Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as  
2 follows:

3 “(v) REPURCHASE AGREEMENT.—The  
4 term ‘repurchase agreement’ (which defini-  
5 tion also applies to a reverse repurchase  
6 agreement)—

7 “(I) means an agreement, includ-  
8 ing related terms, which provides for  
9 the transfer of one or more certifi-  
10 cates of deposit, mortgage-related se-  
11 curities (as such term is defined in  
12 the Securities Exchange Act of 1934),  
13 mortgage loans, interests in mortgage-  
14 related securities or mortgage loans,  
15 eligible bankers’ acceptances, qualified  
16 foreign government securities or secu-  
17 rities that are direct obligations of, or  
18 that are fully guaranteed by, the  
19 United States or any agency of the  
20 United States against the transfer of  
21 funds by the transferee of such certifi-  
22 cates of deposit, eligible bankers’ ac-  
23 ceptances, securities, mortgage loans,  
24 or interests with a simultaneous  
25 agreement by such transferee to

1 transfer to the transferor thereof cer-  
2 tificates of deposit, eligible bankers'  
3 acceptances, securities, mortgage  
4 loans, or interests as described above,  
5 at a date certain not later than 1 year  
6 after such transfers or on demand,  
7 against the transfer of funds, or any  
8 other similar agreement;

9 “(II) does not include any repur-  
10 chase obligation under a participation  
11 in a commercial mortgage loan unless  
12 the Corporation determines by regula-  
13 tion, resolution, or order to include  
14 any such participation within the  
15 meaning of such term;

16 “(III) means any combination of  
17 agreements or transactions referred to  
18 in subclauses (I) and (IV);

19 “(IV) means any option to enter  
20 into any agreement or transaction re-  
21 ferred to in subclause (I) or (III);

22 “(V) means a master agreement  
23 that provides for an agreement or  
24 transaction referred to in subclause  
25 (I), (III), or (IV), together with all

1 supplements to any such master  
2 agreement, without regard to whether  
3 the master agreement provides for an  
4 agreement or transaction that is not a  
5 repurchase agreement under this  
6 clause, except that the master agree-  
7 ment shall be considered to be a re-  
8 purchase agreement under this sub-  
9 clause only with respect to each agree-  
10 ment or transaction under the master  
11 agreement that is referred to in sub-  
12 clause (I), (III), or (IV); and

13 “(VI) means any security agree-  
14 ment or arrangement or other credit  
15 enhancement related to any agree-  
16 ment or transaction referred to in  
17 subclause (I), (III), (IV), or (V) in-  
18 cluding any guarantee or reimburse-  
19 ment obligation in connection with  
20 any agreement or transaction referred  
21 to in any such subclause.

22 For purposes of this clause, the term  
23 ‘qualified foreign government security’  
24 means a security that is a direct obligation  
25 of, or that is fully guaranteed by, the cen-

1           tral government of a member of the Orga-  
2           nization for Economic Cooperation and  
3           Development (as determined by regulation  
4           or order adopted by the appropriate Fed-  
5           eral banking authority).”.

6           (f) DEFINITION OF SWAP AGREEMENT.—Section  
7   11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12  
8   U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

9                   “(vi) SWAP AGREEMENT.—The term  
10           ‘swap agreement’ means—

11                           “(I) any agreement, including the  
12                           terms and conditions incorporated by  
13                           reference in any such agreement,  
14                           which is an interest rate swap, option,  
15                           future, or forward agreement, includ-  
16                           ing a rate floor, rate cap, rate collar,  
17                           cross-currency rate swap, and basis  
18                           swap; a spot, same day-tomorrow, to-  
19                           morrow-next, forward, or other for-  
20                           eign exchange or precious metals  
21                           agreement; a currency swap, option,  
22                           future, or forward agreement; an eq-  
23                           uity index or equity swap, option, fu-  
24                           ture, or forward agreement; a debt  
25                           index or debt swap, option, future, or

1 forward agreement; a total return,  
2 credit spread or credit swap, option,  
3 future, or forward agreement; a com-  
4 modity index or commodity swap, op-  
5 tion, future, or forward agreement; or  
6 a weather swap, weather derivative, or  
7 weather option;

8 “(II) any agreement or trans-  
9 action that is similar to any other  
10 agreement or transaction referred to  
11 in this clause and is of a type that has  
12 been, is presently, or in the future be-  
13 comes, the subject of recurrent deal-  
14 ings in the swap markets (including  
15 terms and conditions incorporated by  
16 reference in such agreement) and that  
17 is a forward, swap, future, or option  
18 on one or more rates, currencies, com-  
19 modities, equity securities or other eq-  
20 uity instruments, debt securities or  
21 other debt instruments, quantitative  
22 measures associated with an occur-  
23 rence, extent of an occurrence, or con-  
24 tingency associated with a financial,  
25 commercial, or economic consequence,

1 or economic or financial indices or  
2 measures of economic or financial risk  
3 or value;

4 “(III) any combination of agree-  
5 ments or transactions referred to in  
6 this clause;

7 “(IV) any option to enter into  
8 any agreement or transaction referred  
9 to in this clause;

10 “(V) a master agreement that  
11 provides for an agreement or trans-  
12 action referred to in subclause (I),  
13 (II), (III), or (IV), together with all  
14 supplements to any such master  
15 agreement, without regard to whether  
16 the master agreement contains an  
17 agreement or transaction that is not a  
18 swap agreement under this clause, ex-  
19 cept that the master agreement shall  
20 be considered to be a swap agreement  
21 under this clause only with respect to  
22 each agreement or transaction under  
23 the master agreement that is referred  
24 to in subclause (I), (II), (III), or (IV);  
25 and

1                   “(VI) any security agreement or  
2                   arrangement or other credit enhance-  
3                   ment related to any agreements or  
4                   transactions referred to in subclause  
5                   (I), (II), (III), (IV), or (V) including  
6                   any guarantee or reimbursement obli-  
7                   gation in connection with any agree-  
8                   ment or transaction referred to in any  
9                   such subclause.

10                   Such term is applicable for purposes of  
11                   this title only and shall not be construed or  
12                   applied so as to challenge or affect the  
13                   characterization, definition, or treatment of  
14                   any swap agreement under any other stat-  
15                   ute, regulation, or rule, including the Secu-  
16                   rities Act of 1933, the Securities Exchange  
17                   Act of 1934, the Public Utility Holding  
18                   Company Act of 1935, the Trust Indenture  
19                   Act of 1939, the Investment Company Act  
20                   of 1940, the Investment Advisers Act of  
21                   1940, the Securities Investor Protection  
22                   Act of 1970, the Commodity Exchange  
23                   Act, the Gramm-Leach-Bliley Act, and the  
24                   Legal Certainty for Bank Products Act of  
25                   2000.”.

1 (g) DEFINITION OF TRANSFER.—Section  
2 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12  
3 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

4 “(viii) TRANSFER.—The term ‘trans-  
5 fer’ means every mode, direct or indirect,  
6 absolute or conditional, voluntary or invol-  
7 untary, of disposing of or parting with  
8 property or with an interest in property,  
9 including retention of title as a security in-  
10 terest and foreclosure of the depository in-  
11 stitution’s equity of redemption.”.

12 (h) TREATMENT OF QUALIFIED FINANCIAL CON-  
13 TRACTS.—Section 11(e)(8) of the Federal Deposit Insur-  
14 ance Act (12 U.S.C. 1821(e)(8)) is amended—

15 (1) in subparagraph (A)—

16 (A) by striking “paragraph (10)” and in-  
17 serting “paragraphs (9) and (10)”;

18 (B) in clause (i), by striking “to cause the  
19 termination or liquidation” and inserting “such  
20 person has to cause the termination, liquida-  
21 tion, or acceleration”; and

22 (C) by striking clause (ii) and inserting the  
23 following:

24 “(ii) any right under any security  
25 agreement or arrangement or other credit

1 enhancement related to one or more quali-  
2 fied financial contracts described in clause  
3 (i);” and

4 (2) in subparagraph (E), by striking clause (ii)  
5 and inserting the following:

6 “(ii) any right under any security  
7 agreement or arrangement or other credit  
8 enhancement related to one or more quali-  
9 fied financial contracts described in clause  
10 (i);”.

11 (i) AVOIDANCE OF TRANSFERS.—Section  
12 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12  
13 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section  
14 5242 of the Revised Statutes of the United States (12  
15 U.S.C. 91) or any other Federal or State law relating to  
16 the avoidance of preferential or fraudulent transfers,” be-  
17 fore “the Corporation”.

18 **SEC. 902. AUTHORITY OF THE CORPORATION WITH RE-**  
19 **SPECT TO FAILED AND FAILING INSTITU-**  
20 **TIONS.**

21 (a) IN GENERAL.—Section 11(e)(8) of the Federal  
22 Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is  
23 amended—

24 (1) in subparagraph (E), by striking “other  
25 than paragraph (12) of this subsection, subsection

1 (d)(9)” and inserting “other than subsections (d)(9)  
2 and (e)(10)”;

3 (2) by adding at the end the following new sub-  
4 paragraphs:

5 “(F) CLARIFICATION.—No provision of law  
6 shall be construed as limiting the right or  
7 power of the Corporation, or authorizing any  
8 court or agency to limit or delay, in any man-  
9 ner, the right or power of the Corporation to  
10 transfer any qualified financial contract in ac-  
11 cordance with paragraphs (9) and (10) of this  
12 subsection or to disaffirm or repudiate any such  
13 contract in accordance with subsection (e)(1) of  
14 this section.

15 “(G) WALKAWAY CLAUSES NOT EFFEC-  
16 TIVE.—

17 “(i) IN GENERAL.—Notwithstanding  
18 the provisions of subparagraphs (A) and  
19 (E), and sections 403 and 404 of the Fed-  
20 eral Deposit Insurance Corporation Im-  
21 provement Act of 1991, no walkaway  
22 clause shall be enforceable in a qualified fi-  
23 nancial contract of an insured depository  
24 institution in default.

1                   “(ii) WALKAWAY CLAUSE DEFINED.—  
2                   For purposes of this subparagraph, the  
3                   term ‘walkaway clause’ means a provision  
4                   in a qualified financial contract that, after  
5                   calculation of a value of a party’s position  
6                   or an amount due to or from 1 of the par-  
7                   ties in accordance with its terms upon ter-  
8                   mination, liquidation, or acceleration of the  
9                   qualified financial contract, either does not  
10                  create a payment obligation of a party or  
11                  extinguishes a payment obligation of a  
12                  party in whole or in part solely because of  
13                  such party’s status as a nondefaulting  
14                  party.”.

15               (b) TECHNICAL AND CONFORMING AMENDMENT.—  
16 Section 11(e)(12)(A) of the Federal Deposit Insurance  
17 Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting  
18 “or the exercise of rights or powers by” after “the ap-  
19 pointment of”.

20 **SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF**  
21 **QUALIFIED FINANCIAL CONTRACTS.**

22               (a) TRANSFERS OF QUALIFIED FINANCIAL CON-  
23 TRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9)  
24 of the Federal Deposit Insurance Act (12 U.S.C.  
25 1821(e)(9)) is amended to read as follows:

1           “(9) TRANSFER OF QUALIFIED FINANCIAL CON-  
2 TRACTS.—

3           “(A) IN GENERAL.—In making any trans-  
4 fer of assets or liabilities of a depository institu-  
5 tion in default which includes any qualified fi-  
6 nancial contract, the conservator or receiver for  
7 such depository institution shall either—

8           “(i) transfer to one financial institu-  
9 tion, other than a financial institution for  
10 which a conservator, receiver, trustee in  
11 bankruptcy, or other legal custodian has  
12 been appointed or which is otherwise the  
13 subject of a bankruptcy or insolvency  
14 proceeding—

15           “(I) all qualified financial con-  
16 tracts between any person or any af-  
17 filiate of such person and the deposi-  
18 tory institution in default;

19           “(II) all claims of such person or  
20 any affiliate of such person against  
21 such depository institution under any  
22 such contract (other than any claim  
23 which, under the terms of any such  
24 contract, is subordinated to the claims

1 of general unsecured creditors of such  
2 institution);

3 “(III) all claims of such deposi-  
4 tory institution against such person or  
5 any affiliate of such person under any  
6 such contract; and

7 “(IV) all property securing or  
8 any other credit enhancement for any  
9 contract described in subclause (I) or  
10 any claim described in subclause (II)  
11 or (III) under any such contract; or

12 “(ii) transfer none of the qualified fi-  
13 nancial contracts, claims, property or other  
14 credit enhancement referred to in clause (i)  
15 (with respect to such person and any affil-  
16 iate of such person).

17 “(B) TRANSFER TO FOREIGN BANK, FOR-  
18 EIGN FINANCIAL INSTITUTION, OR BRANCH OR  
19 AGENCY OF A FOREIGN BANK OR FINANCIAL IN-  
20 STITUTION.—In transferring any qualified fi-  
21 nancial contracts and related claims and prop-  
22 erty under subparagraph (A)(i), the conservator  
23 or receiver for the depository institution shall  
24 not make such transfer to a foreign bank, fi-  
25 nancial institution organized under the laws of

1 a foreign country, or a branch or agency of a  
2 foreign bank or financial institution unless,  
3 under the law applicable to such bank, financial  
4 institution, branch or agency, to the qualified  
5 financial contracts, and to any netting contract,  
6 any security agreement or arrangement or other  
7 credit enhancement related to one or more  
8 qualified financial contracts, the contractual  
9 rights of the parties to such qualified financial  
10 contracts, netting contracts, security agree-  
11 ments or arrangements, or other credit en-  
12 hancements are enforceable substantially to the  
13 same extent as permitted under this section.

14 “(C) TRANSFER OF CONTRACTS SUBJECT  
15 TO THE RULES OF A CLEARING ORGANIZA-  
16 TION.—In the event that a conservator or re-  
17 ceiver transfers any qualified financial contract  
18 and related claims, property, and credit en-  
19 hancements pursuant to subparagraph (A)(i)  
20 and such contract is cleared by or subject to the  
21 rules of a clearing organization, the clearing or-  
22 ganization shall not be required to accept the  
23 transferee as a member by virtue of the trans-  
24 fer.

1           “(D) DEFINITIONS.—For purposes of this  
2 paragraph, the term ‘financial institution’  
3 means a broker or dealer, a depository institu-  
4 tion, a futures commission merchant, or any  
5 other institution, as determined by the Corpora-  
6 tion by regulation to be a financial institution,  
7 and the term ‘clearing organization’ has the  
8 same meaning as in section 402 of the Federal  
9 Deposit Insurance Corporation Improvement  
10 Act of 1991.”.

11       (b) NOTICE TO QUALIFIED FINANCIAL CONTRACT  
12 COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal  
13 Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is  
14 amended in the material immediately following clause (ii)  
15 by striking “the conservator” and all that follows through  
16 the period and inserting the following: “the conservator  
17 or receiver shall notify any person who is a party to any  
18 such contract of such transfer by 5:00 p.m. (eastern time)  
19 on the business day following the date of the appointment  
20 of the receiver in the case of a receivership, or the business  
21 day following such transfer in the case of a conservator-  
22 ship.”.

23       (c) RIGHTS AGAINST RECEIVER AND TREATMENT OF  
24 BRIDGE BANKS.—Section 11(e)(10) of the Federal De-

1 posit Insurance Act (12 U.S.C. 1821(e)(10)) is  
2 amended—

3 (1) by redesignating subparagraph (B) as sub-  
4 paragraph (D); and

5 (2) by inserting after subparagraph (A) the fol-  
6 lowing new subparagraphs:

7 “(B) CERTAIN RIGHTS NOT ENFORCE-  
8 ABLE.—

9 “(i) RECEIVERSHIP.—A person who is  
10 a party to a qualified financial contract  
11 with an insured depository institution may  
12 not exercise any right that such person has  
13 to terminate, liquidate, or net such con-  
14 tract under paragraph (8)(A) of this sub-  
15 section or section 403 or 404 of the Fed-  
16 eral Deposit Insurance Corporation Im-  
17 provement Act of 1991, solely by reason of  
18 or incidental to the appointment of a re-  
19 ceiver for the depository institution (or the  
20 insolvency or financial condition of the de-  
21 pository institution for which the receiver  
22 has been appointed)—

23 “(I) until 5:00 p.m. (eastern  
24 time) on the business day following

1 the date of the appointment of the re-  
2 ceiver; or

3 “(II) after the person has re-  
4 ceived notice that the contract has  
5 been transferred pursuant to para-  
6 graph (9)(A).

7 “(ii) CONSERVATORSHIP.—A person  
8 who is a party to a qualified financial con-  
9 tract with an insured depository institution  
10 may not exercise any right that such per-  
11 son has to terminate, liquidate, or net such  
12 contract under paragraph (8)(E) of this  
13 subsection or sections 403 or 404 of the  
14 Federal Deposit Insurance Corporation  
15 Improvement Act of 1991, solely by reason  
16 of or incidental to the appointment of a  
17 conservator for the depository institution  
18 (or the insolvency or financial condition of  
19 the depository institution for which the  
20 conservator has been appointed).

21 “(iii) NOTICE.—For purposes of this  
22 paragraph, the Corporation as receiver or  
23 conservator of an insured depository insti-  
24 tution shall be deemed to have notified a  
25 person who is a party to a qualified finan-

1           cial contract with such depository institu-  
2           tion if the Corporation has taken steps  
3           reasonably calculated to provide notice to  
4           such person by the time specified in sub-  
5           paragraph (A).

6           “(C) TREATMENT OF BRIDGE BANKS.—

7           The following institutions shall not be consid-  
8           ered to be a financial institution for which a  
9           conservator, receiver, trustee in bankruptcy, or  
10          other legal custodian has been appointed or  
11          which is otherwise the subject of a bankruptcy  
12          or insolvency proceeding for purposes of para-  
13          graph (9):

14               “(i) A bridge bank.

15               “(ii) A depository institution orga-  
16               nized by the Corporation, for which a con-  
17               servator is appointed either—

18                       “(I) immediately upon the orga-  
19                       nization of the institution; or

20                       “(II) at the time of a purchase  
21                       and assumption transaction between  
22                       the depository institution and the Cor-  
23                       poration as receiver for a depository  
24                       institution in default.”.

1 **SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR**  
2 **REPUDIATION OF QUALIFIED FINANCIAL**  
3 **CONTRACTS.**

4 Section 11(e) of the Federal Deposit Insurance Act  
5 (12 U.S.C. 1821(e)) is amended—

6 (1) by redesignating paragraphs (11) through  
7 (15) as paragraphs (12) through (16), respectively;

8 (2) by inserting after paragraph (10) the fol-  
9 lowing new paragraph:

10 “(11) DISAFFIRMANCE OR REPUDIATION OF  
11 QUALIFIED FINANCIAL CONTRACTS.—In exercising  
12 the rights of disaffirmance or repudiation of a con-  
13 servator or receiver with respect to any qualified fi-  
14 nancial contract to which an insured depository in-  
15 stitution is a party, the conservator or receiver for  
16 such institution shall either—

17 “(A) disaffirm or repudiate all qualified fi-  
18 nancial contracts between—

19 “(i) any person or any affiliate of  
20 such person; and

21 “(ii) the depository institution in de-  
22 fault; or

23 “(B) disaffirm or repudiate none of the  
24 qualified financial contracts referred to in sub-  
25 paragraph (A) (with respect to such person or  
26 any affiliate of such person).”; and

1           (3) by including at the end of section 11(e) the  
2 following new paragraph:

3           “( ) SAVINGS CLAUSE.—The meaning of  
4 terms used in this subsection (e) are applicable for  
5 purposes of this subsection (e) only, and shall not be  
6 construed or applied so as to challenge or affect the  
7 characterization, definition, or treatment of any  
8 similar terms under any other statute, regulation, or  
9 rule, including the Gramm-Leach-Bliley Act, the  
10 Legal Certainty for Bank Products Act of 2000, the  
11 securities law (as that term is defined in section  
12 3(a)(47) of the Securities Exchange Act of 1934),  
13 and the Commodity Exchange Act.”.

14 **SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER**  
15 **AGREEMENTS.**

16           Section 11(e)(8)(D)(vii) of the Federal Deposit In-  
17 surance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to  
18 read as follows:

19           “(vii) TREATMENT OF MASTER  
20 AGREEMENT AS ONE AGREEMENT.—Any  
21 master agreement for any contract or  
22 agreement described in any preceding  
23 clause of this subparagraph (or any master  
24 agreement for such master agreement or  
25 agreements), together with all supplements

1 to such master agreement, shall be treated  
2 as a single agreement and a single quali-  
3 fied financial contract. If a master agree-  
4 ment contains provisions relating to agree-  
5 ments or transactions that are not them-  
6 selves qualified financial contracts, the  
7 master agreement shall be deemed to be a  
8 qualified financial contract only with re-  
9 spect to those transactions that are them-  
10 selves qualified financial contracts.”.

11 **SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION**  
12 **IMPROVEMENT ACT OF 1991.**

13 (a) DEFINITIONS.—Section 402 of the Federal De-  
14 posit Insurance Corporation Improvement Act of 1991 (12  
15 U.S.C. 4402) is amended—

16 (1) in paragraph (2)—

17 (A) in subparagraph (A)(ii), by inserting  
18 before the semicolon “, or is exempt from such  
19 registration by order of the Securities and Ex-  
20 change Commission”; and

21 (B) in subparagraph (B), by inserting be-  
22 fore the period “, that has been granted an ex-  
23emption under section 4(c)(1) of the Com-  
24modity Exchange Act, or that is a multilateral

1 clearing organization (as defined in section 408  
2 of this Act)’’;

3 (2) in paragraph (6)—

4 (A) by redesignating subparagraphs (B)  
5 through (D) as subparagraphs (C) through (E),  
6 respectively;

7 (B) by inserting after subparagraph (A)  
8 the following new subparagraph:

9 “(B) an uninsured national bank or an un-  
10 insured State bank that is a member of the  
11 Federal Reserve System, if the national bank or  
12 State member bank is not eligible to make ap-  
13 plication to become an insured bank under sec-  
14 tion 5 of the Federal Deposit Insurance Act;’’;  
15 and

16 (C) by amending subparagraph (C) (as re-  
17 designated) to read as follows:

18 “(C) a branch or agency of a foreign bank,  
19 a foreign bank and any branch or agency of the  
20 foreign bank, or the foreign bank that estab-  
21 lished the branch or agency, as those terms are  
22 defined in section 1(b) of the International  
23 Banking Act of 1978;’’;

24 (3) in paragraph (11), by inserting before the  
25 period “and any other clearing organization with

1       which such clearing organization has a netting con-  
2       tract”;

3               (4) by amending paragraph (14)(A)(i) to read  
4       as follows:

5                       “(i) means a contract or agreement  
6                       between 2 or more financial institutions,  
7                       clearing organizations, or members that  
8                       provides for netting present or future pay-  
9                       ment obligations or payment entitlements  
10                      (including liquidation or closeout values re-  
11                      lating to such obligations or entitlements)  
12                      among the parties to the agreement; and”;  
13                      and

14               (5) by adding at the end the following new  
15       paragraph:

16                       “(15) PAYMENT.—The term ‘payment’ means a  
17                       payment of United States dollars, another currency,  
18                       or a composite currency, and a noncash delivery, in-  
19                       cluding a payment or delivery to liquidate an  
20                       unmatured obligation.”.

21       (b) ENFORCEABILITY OF BILATERAL NETTING CON-  
22       TRACTS.—Section 403 of the Federal Deposit Insurance  
23       Corporation Improvement Act of 1991 (12 U.S.C. 4403)  
24       is amended—

1           (1) by striking subsection (a) and inserting the  
2           following:

3           “(a) GENERAL RULE.—Notwithstanding any other  
4           provision of State or Federal law (other than paragraphs  
5           (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal  
6           Deposit Insurance Act or any order authorized under sec-  
7           tion 5(b)(2) of the Securities Investor Protection Act of  
8           1970), the covered contractual payment obligations and  
9           the covered contractual payment entitlements between any  
10          2 financial institutions shall be netted in accordance with,  
11          and subject to the conditions of, the terms of any applica-  
12          ble netting contract (except as provided in section  
13          561(b)(2) of title 11, United States Code).”;

14          (2) by adding at the end the following new sub-  
15          section:

16          “(f) ENFORCEABILITY OF SECURITY AGREE-  
17          MENTS.—The provisions of any security agreement or ar-  
18          rangement or other credit enhancement related to one or  
19          more netting contracts between any 2 financial institu-  
20          tions shall be enforceable in accordance with their terms  
21          (except as provided in section 561(b)(2) of title 11, United  
22          States Code), and shall not be stayed, avoided, or other-  
23          wise limited by any State or Federal law (other than para-  
24          graphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the

1 Federal Deposit Insurance Act and section 5(b)(2) of the  
2 Securities Investor Protection Act of 1970).”.

3 (c) ENFORCEABILITY OF CLEARING ORGANIZATION  
4 NETTING CONTRACTS.—Section 404 of the Federal De-  
5 posit Insurance Corporation Improvement Act of 1991 (12  
6 U.S.C. 4404) is amended—

7 (1) by striking subsection (a) and inserting the  
8 following:

9 “(a) GENERAL RULE.—Notwithstanding any other  
10 provision of State or Federal law (other than paragraphs  
11 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal  
12 Deposit Insurance Act and any order authorized under  
13 section 5(b)(2) of the Securities Investor Protection Act  
14 of 1970), the covered contractual payment obligations and  
15 the covered contractual payment entitlements of a member  
16 of a clearing organization to and from all other members  
17 of a clearing organization shall be netted in accordance  
18 with and subject to the conditions of any applicable net-  
19 ting contract (except as provided in section 561(b)(2) of  
20 title 11, United States Code).”; and

21 (2) by adding at the end the following new sub-  
22 section:

23 “(h) ENFORCEABILITY OF SECURITY AGREE-  
24 MENTS.—The provisions of any security agreement or ar-  
25 rangement or other credit enhancement related to one or

1 more netting contracts between any 2 members of a clear-  
2 ing organization shall be enforceable in accordance with  
3 their terms (except as provided in section 561(b)(2) of  
4 title 11, United States Code), and shall not be stayed,  
5 avoided, or otherwise limited by any State or Federal law  
6 (other than paragraphs (8)(E), (8)(F), and (10)(B) of sec-  
7 tion 11(e) of the Federal Deposit Insurance Act and sec-  
8 tion 5(b)(2) of the Securities Investor Protection Act of  
9 1970).”.

10 (d) ENFORCEABILITY OF CONTRACTS WITH UNIN-  
11 SURED NATIONAL BANKS, UNINSURED FEDERAL  
12 BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE  
13 MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The  
14 Federal Deposit Insurance Corporation Improvement Act  
15 of 1991 (12 U.S.C. 4401 et seq.) is amended—

16 (1) by redesignating section 407 as section  
17 407A; and

18 (2) by inserting after section 406 the following  
19 new section:

1 **“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED**  
2 **NATIONAL BANKS, UNINSURED FEDERAL**  
3 **BRANCHES AND AGENCIES, CERTAIN UNIN-**  
4 **SURED STATE MEMBER BANKS, AND EDGE**  
5 **ACT CORPORATIONS.**

6 “(a) IN GENERAL.—Notwithstanding any other pro-  
7 vision of law, paragraphs (8), (9), (10), and (11) of section  
8 11(e) of the Federal Deposit Insurance Act shall apply  
9 to an uninsured national bank or uninsured Federal  
10 branch or Federal agency, a corporation chartered under  
11 section 25A of the Federal Reserve Act, or an uninsured  
12 State member bank which operates, or operates as, a mul-  
13 tilateral clearing organization pursuant to section 409 of  
14 this Act, except that for such purpose—

15 “(1) any reference to the ‘Corporation as re-  
16 ceiver’ or ‘the receiver or the Corporation’ shall refer  
17 to the receiver appointed by the Comptroller of the  
18 Currency in the case of an uninsured national bank  
19 or uninsured Federal branch or agency, or to the re-  
20 ceiver appointed by the Board of Governors of the  
21 Federal Reserve System in the case of a corporation  
22 chartered under section 25A of the Federal Reserve  
23 Act or an uninsured State member bank;

24 “(2) any reference to the ‘Corporation’ (other  
25 than in section 11(e)(8)(D) of such Act), the ‘Cor-  
26 poration, whether acting as such or as conservator

1 or receiver’, a ‘receiver’, or a ‘conservator’ shall refer  
2 to the receiver or conservator appointed by the  
3 Comptroller of the Currency in the case of an unin-  
4 sured national bank or uninsured Federal branch or  
5 agency, or to the receiver or conservator appointed  
6 by the Board of Governors of the Federal Reserve  
7 System in the case of a corporation chartered under  
8 section 25A of the Federal Reserve Act or an unin-  
9 sured State member bank; and

10 “(3) any reference to an ‘insured depository in-  
11 stitution’ or ‘depository institution’ shall refer to an  
12 uninsured national bank, an uninsured Federal  
13 branch or Federal agency, a corporation chartered  
14 under section 25A of the Federal Reserve Act, or an  
15 uninsured State member bank which operates, or op-  
16 erates as, a multilateral clearing organization pursu-  
17 ant to section 409 of this Act.

18 “(b) LIABILITY.—The liability of a receiver or conser-  
19 vator of an uninsured national bank, uninsured Federal  
20 branch or agency, a corporation chartered under section  
21 25A of the Federal Reserve Act, or an uninsured State  
22 member bank which operates, or operates as, a multilat-  
23 eral clearing organization pursuant to section 409 of this  
24 Act, shall be determined in the same manner and subject  
25 to the same limitations that apply to receivers and con-

1 servators of insured depository institutions under section  
2 11(e) of the Federal Deposit Insurance Act.

3 “(c) REGULATORY AUTHORITY.—

4 “(1) IN GENERAL.—The Comptroller of the  
5 Currency in the case of an uninsured national bank  
6 or uninsured Federal branch or agency and the  
7 Board of Governors of the Federal Reserve System  
8 in the case of a corporation chartered under section  
9 25A of the Federal Reserve Act, or an uninsured  
10 State member bank that operates, or operates as, a  
11 multilateral clearing organization pursuant to sec-  
12 tion 409 of the Act, in consultation with the Federal  
13 Deposit Insurance Corporation, may each promul-  
14 gate regulations solely to implement this section.

15 “(2) SPECIFIC REQUIREMENT.—In promul-  
16 gating regulations, limited solely to implementing  
17 paragraphs (8), (9), (10), and (11) of section 11(e)  
18 of the Federal Deposit Insurance Act, the Comp-  
19 troller of the Currency and the Board of Governors  
20 of the Federal Reserve System each shall ensure  
21 that their regulations generally are consistent with  
22 the regulations and policies of the Federal Deposit  
23 Insurance Corporation adopted pursuant to the Fed-  
24 eral Deposit Insurance Act.

1       “(d) DEFINITIONS.—For purposes of this section, the  
2 terms ‘Federal branch’, ‘Federal agency’, and ‘foreign  
3 bank’ have the same meanings as in section 1(b) of the  
4 International Banking Act of 1978.”.

5 **SEC. 907. BANKRUPTCY CODE AMENDMENTS.**

6       (a) DEFINITIONS OF FORWARD CONTRACT, REPUR-  
7 CHASE AGREEMENT, SECURITIES CLEARING AGENCY,  
8 SWAP AGREEMENT, COMMODITY CONTRACT, AND SECU-  
9 RITIES CONTRACT.—Title 11, United States Code, is  
10 amended—

11           (1) in section 101—

12                   (A) in paragraph (25)—

13                           (i) by striking “means a contract”  
14                           and inserting “means—

15                           “(A) a contract”;

16                           (ii) by striking “, or any combination  
17                           thereof or option thereon;” and inserting  
18                           “, or any other similar agreement;”; and

19                           (iii) by adding at the end the fol-  
20                           lowing:

21                           “(B) any combination of agreements or  
22                           transactions referred to in subparagraphs (A)  
23                           and (C);

1           “(C) any option to enter into an agreement  
2 or transaction referred to in subparagraph (A)  
3 or (B);

4           “(D) a master agreement that provides for  
5 an agreement or transaction referred to in sub-  
6 paragraph (A), (B), or (C), together with all  
7 supplements to any such master agreement,  
8 without regard to whether such master agree-  
9 ment provides for an agreement or transaction  
10 that is not a forward contract under this para-  
11 graph, except that such master agreement shall  
12 be considered to be a forward contract under  
13 this paragraph only with respect to each agree-  
14 ment or transaction under such master agree-  
15 ment that is referred to in subparagraph (A),  
16 (B), or (C); or

17           “(E) any security agreement or arrange-  
18 ment, or other credit enhancement related to  
19 any agreement or transaction referred to in  
20 subparagraph (A), (B), (C), or (D) including  
21 any guarantee or reimbursement obligation by  
22 or to a forward contract merchant or financial  
23 participant in connection with any agreement or  
24 transaction referred to in any such subpara-  
25 graph, but not to exceed the damages in con-

1 nection with any such agreement or transaction,  
2 measured in accordance with section 562;”;

3 (B) in paragraph (46), by striking “on any  
4 day during the period beginning 90 days before  
5 the date of” and inserting “at any time before”;

6 (C) by amending paragraph (47) to read  
7 as follows:

8 “(47) ‘repurchase agreement’ (which definition  
9 also applies to a reverse repurchase agreement)—

10 “(A) means—

11 “(i) an agreement, including related  
12 terms, which provides for the transfer of  
13 one or more certificates of deposit, mort-  
14 gage related securities (as defined in sec-  
15 tion 3 of the Securities Exchange Act of  
16 1934), mortgage loans, interests in mort-  
17 gage related securities or mortgage loans,  
18 eligible bankers’ acceptances, qualified for-  
19 eign government securities (defined as a  
20 security that is a direct obligation of, or  
21 that is fully guaranteed by, the central  
22 government of a member of the Organiza-  
23 tion for Economic Cooperation and Devel-  
24 opment), or securities that are direct obli-  
25 gations of, or that are fully guaranteed by,

1 the United States or any agency of the  
2 United States against the transfer of funds  
3 by the transferee of such certificates of de-  
4 posit, eligible bankers' acceptances, securi-  
5 ties, mortgage loans, or interests, with a  
6 simultaneous agreement by such transferee  
7 to transfer to the transferor thereof certifi-  
8 cates of deposit, eligible bankers' accept-  
9 ance, securities, mortgage loans, or inter-  
10 ests of the kind described in this clause, at  
11 a date certain not later than 1 year after  
12 such transfer or on demand, against the  
13 transfer of funds;

14 “(ii) any combination of agreements  
15 or transactions referred to in clauses (i)  
16 and (iii);

17 “(iii) an option to enter into an agree-  
18 ment or transaction referred to in clause  
19 (i) or (ii);

20 “(iv) a master agreement that pro-  
21 vides for an agreement or transaction re-  
22 ferred to in clause (i), (ii), or (iii), together  
23 with all supplements to any such master  
24 agreement, without regard to whether such  
25 master agreement provides for an agree-

1           ment or transaction that is not a repur-  
2           chase agreement under this paragraph, ex-  
3           cept that such master agreement shall be  
4           considered to be a repurchase agreement  
5           under this paragraph only with respect to  
6           each agreement or transaction under the  
7           master agreement that is referred to in  
8           clause (i), (ii), or (iii); or

9           “(v) any security agreement or ar-  
10          rangement or other credit enhancement re-  
11          lated to any agreement or transaction re-  
12          ferred to in clause (i), (ii), (iii), or (iv) in-  
13          cluding any guarantee or reimbursement  
14          obligation by or to a repo participant or fi-  
15          nancial participant in connection with any  
16          agreement or transaction referred to in  
17          any such clause, but not to exceed the  
18          damages in connection with any such  
19          agreement or transaction, measured in ac-  
20          cordance with section 562; and

21          “(B) does not include a repurchase obliga-  
22          tion under a participation in a commercial  
23          mortgage loan;”;

24          (D) in paragraph (48), by inserting “, or  
25          exempt from such registration under such sec-

1           tion pursuant to an order of the Securities and  
2           Exchange Commission,” after “1934”; and

3           (E) by amending paragraph (53B) to read  
4           as follows:

5           “(53B) ‘swap agreement’—

6           “(A) means—

7           “(i) any agreement, including the  
8           terms and conditions incorporated by ref-  
9           erence in such agreement, which is—

10           “(I) an interest rate swap, op-  
11           tion, future, or forward agreement, in-  
12           cluding a rate floor, rate cap, rate col-  
13           lar, cross-currency rate swap, and  
14           basis swap;

15           “(II) a spot, same day-tomorrow,  
16           tomorrow-next, forward, or other for-  
17           eign exchange or precious metals  
18           agreement;

19           “(III) a currency swap, option,  
20           future, or forward agreement;

21           “(IV) an equity index or equity  
22           swap, option, future, or forward  
23           agreement;

24           “(V) a debt index or debt swap,  
25           option, future, or forward agreement;

1           “(VI) a total return, credit  
2           spread or credit swap, option, future,  
3           or forward agreement;

4           “(VII) a commodity index or a  
5           commodity swap, option, future, or  
6           forward agreement; or

7           “(VIII) a weather swap, weather  
8           derivative, or weather option;

9           “(ii) any agreement or transaction  
10          that is similar to any other agreement or  
11          transaction referred to in this paragraph  
12          and that—

13               “(I) is of a type that has been, is  
14               presently, or in the future becomes,  
15               the subject of recurrent dealings in  
16               the swap markets (including terms  
17               and conditions incorporated by ref-  
18               erence therein); and

19               “(II) is a forward, swap, future,  
20               or option on one or more rates, cur-  
21               rencies, commodities, equity securities,  
22               or other equity instruments, debt se-  
23               curities or other debt instruments,  
24               quantitative measures associated with  
25               an occurrence, extent of an occur-

1                   rence, or contingency associated with  
2                   a financial, commercial, or economic  
3                   consequence, or economic or financial  
4                   indices or measures of economic or fi-  
5                   nancial risk or value;

6                   “(iii) any combination of agreements  
7                   or transactions referred to in this subpara-  
8                   graph;

9                   “(iv) any option to enter into an  
10                  agreement or transaction referred to in  
11                  this subparagraph;

12                  “(v) a master agreement that provides  
13                  for an agreement or transaction referred to  
14                  in clause (i), (ii), (iii), or (iv), together  
15                  with all supplements to any such master  
16                  agreement, and without regard to whether  
17                  the master agreement contains an agree-  
18                  ment or transaction that is not a swap  
19                  agreement under this paragraph, except  
20                  that the master agreement shall be consid-  
21                  ered to be a swap agreement under this  
22                  paragraph only with respect to each agree-  
23                  ment or transaction under the master  
24                  agreement that is referred to in clause (i),  
25                  (ii), (iii), or (iv); or

1           “(vi) any security agreement or ar-  
2           rangement or other credit enhancement re-  
3           lated to any agreements or transactions re-  
4           ferred to in clause (i) through (v) including  
5           any guarantee or reimbursement obligation  
6           by or to a swap participant or financial  
7           participant in connection with any agree-  
8           ment or transaction referred to in any such  
9           clause, but not to exceed the damages in  
10          connection with any such agreement or  
11          transaction, measured in accordance with  
12          section 562; and

13          “(B) is applicable for purposes of this title  
14          only, and shall not be construed or applied so  
15          as to challenge or affect the characterization,  
16          definition, or treatment of any swap agreement  
17          under any other statute, regulation, or rule, in-  
18          cluding the Securities Act of 1933, the Securi-  
19          ties Exchange Act of 1934, the Public Utility  
20          Holding Company Act of 1935, the Trust In-  
21          denture Act of 1939, the Investment Company  
22          Act of 1940, the Investment Advisers Act of  
23          1940, the Securities Investor Protection Act of  
24          1970, the Commodity Exchange Act, the

1           Gramm-Leach-Bliley Act, and the Legal Cer-  
2           tainty for Bank Products Act of 2000.”;

3           (2) in section 741(7), by striking paragraph (7)  
4           and inserting the following:

5           “(7) ‘securities contract’—

6           “(A) means—

7                   “(i) a contract for the purchase, sale,  
8                   or loan of a security, a certificate of de-  
9                   posit, a mortgage loan or any interest in a  
10                  mortgage loan, a group or index of securi-  
11                  ties, certificates of deposit, or mortgage  
12                  loans or interests therein (including an in-  
13                  terest therein or based on the value there-  
14                  of), or option on any of the foregoing, in-  
15                  cluding an option to purchase or sell any  
16                  such security, certificate of deposit, mort-  
17                  gage loan, interest, group or index, or op-  
18                  tion, and including any repurchase or re-  
19                  verse repurchase transaction on any such  
20                  security, certificate of deposit, mortgage  
21                  loan, interest, group or index, or option;

22                   “(ii) any option entered into on a na-  
23                  tional securities exchange relating to for-  
24                  eign currencies;

1           “(iii) the guarantee by or to any secu-  
2           rities clearing agency of a settlement of  
3           cash, securities, certificates of deposit,  
4           mortgage loans or interests therein, group  
5           or index of securities, or mortgage loans or  
6           interests therein (including any interest  
7           therein or based on the value thereof), or  
8           option on any of the foregoing, including  
9           an option to purchase or sell any such se-  
10          curity, certificate of deposit, mortgage  
11          loan, interest, group or index, or option;

12           “(iv) any margin loan;

13           “(v) any other agreement or trans-  
14          action that is similar to an agreement or  
15          transaction referred to in this subpara-  
16          graph;

17           “(vi) any combination of the agree-  
18          ments or transactions referred to in this  
19          subparagraph;

20           “(vii) any option to enter into any  
21          agreement or transaction referred to in  
22          this subparagraph;

23           “(viii) a master agreement that pro-  
24          vides for an agreement or transaction re-  
25          ferred to in clause (i), (ii), (iii), (iv), (v),

1 (vi), or (vii), together with all supplements  
2 to any such master agreement, without re-  
3 gard to whether the master agreement pro-  
4 vides for an agreement or transaction that  
5 is not a securities contract under this sub-  
6 paragraph, except that such master agree-  
7 ment shall be considered to be a securities  
8 contract under this subparagraph only with  
9 respect to each agreement or transaction  
10 under such master agreement that is re-  
11 ferred to in clause (i), (ii), (iii), (iv), (v),  
12 (vi), or (vii); or

13 “(ix) any security agreement or ar-  
14 rangement or other credit enhancement re-  
15 lated to any agreement or transaction re-  
16 ferred to in this subparagraph including  
17 any guarantee or reimbursement obligation  
18 by or to a stockbroker, securities clearing  
19 agency, financial institution, or financial  
20 participant in connection with any agree-  
21 ment or transaction referred to in this sub-  
22 paragraph, but not to exceed the damages  
23 in connection with any such agreement or  
24 transaction, measured in accordance with  
25 section 562; and

1           “(B) does not include any purchase, sale,  
2           or repurchase obligation under a participation  
3           in a commercial mortgage loan.”; and

4           (3) in section 761(4)—

5           (A) by striking “or” at the end of subpara-  
6           graph (D); and

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

8           “(F) any other agreement or transaction  
9           that is similar to an agreement or transaction  
10          referred to in this paragraph;

11          “(G) any combination of the agreements or  
12          transactions referred to in this paragraph;

13          “(H) any option to enter into an agree-  
14          ment or transaction referred to in this para-  
15          graph;

16          “(I) a master agreement that provides for  
17          an agreement or transaction referred to in sub-  
18          paragraph (A), (B), (C), (D), (E), (F), (G), or  
19          (H), together with all supplements to such mas-  
20          ter agreement, without regard to whether the  
21          master agreement provides for an agreement or  
22          transaction that is not a commodity contract  
23          under this paragraph, except that the master  
24          agreement shall be considered to be a com-  
25          modity contract under this paragraph only with

1           respect to each agreement or transaction under  
2           the master agreement that is referred to in sub-  
3           paragraph (A), (B), (C), (D), (E), (F), (G), or  
4           (H); or

5           “(J) any security agreement or arrange-  
6           ment or other credit enhancement related to  
7           any agreement or transaction referred to in this  
8           paragraph including any guarantee or reim-  
9           bursement obligation by or to a commodity  
10          broker or financial participant in connection  
11          with any agreement or transaction referred to  
12          in this paragraph, but not to exceed the dam-  
13          ages in connection with any such agreement or  
14          transaction, measured in accordance with sec-  
15          tion 562;”.

16          (b) DEFINITIONS OF FINANCIAL INSTITUTION, FI-  
17          NANCIAL PARTICIPANT, AND FORWARD CONTRACT MER-  
18          CHANT.—Section 101 of title 11, United States Code, is  
19          amended—

20                 (1) by striking paragraph (22) and inserting  
21          the following:

22                 “(22) ‘financial institution’ means—

23                         “(A) a Federal reserve bank, or an entity  
24                         (domestic or foreign) that is a commercial or  
25                         savings bank, industrial savings bank, savings

1 and loan association, trust company, or receiver  
2 or conservator for such entity and, when any  
3 such Federal reserve bank, receiver, conservator  
4 or entity is acting as agent or custodian for a  
5 customer in connection with a securities con-  
6 tract, as defined in section 741, such customer;  
7 or

8 “(B) in connection with a securities con-  
9 tract, as defined in section 741, an investment  
10 company registered under the Investment Com-  
11 pany Act of 1940;”;

12 (2) by inserting after paragraph (22) the fol-  
13 lowing:

14 “(22A) ‘financial participant’ means—

15 “(A) an entity that, at the time it enters  
16 into a securities contract, commodity contract,  
17 swap agreement, repurchase agreement, or for-  
18 ward contract, or at the time of the filing of the  
19 petition, has one or more agreements or trans-  
20 actions described in paragraph (1), (2), (3), (4),  
21 (5), or (6) of section 561(a) with the debtor or  
22 any other entity (other than an affiliate) of a  
23 total gross dollar value of not less than  
24 \$1,000,000,000 in notional or actual principal  
25 amount outstanding on any day during the pre-

1           vious 15-month period, or has gross mark-to-  
2           market positions of not less than \$100,000,000  
3           (aggregated across counterparties) in one or  
4           more such agreements or transactions with the  
5           debtor or any other entity (other than an affil-  
6           iate) on any day during the previous 15-month  
7           period; or

8                   “(B) a clearing organization (as that term  
9           is defined in section 402 of the Federal Deposit  
10          Insurance Corporation Improvement Act of  
11          1991);”; and

12          (3) by striking paragraph (26) and inserting  
13          the following:

14                   “(26) ‘forward contract merchant’ means a  
15          Federal reserve bank, or an entity the business of  
16          which consists in whole or in part of entering into  
17          forward contracts as or with merchants in a com-  
18          modity, as defined in section 761 or any similar  
19          good, article, service, right, or interest which is pres-  
20          ently or in the future becomes the subject of dealing  
21          in the forward contract trade;”.

22          (c) DEFINITION OF MASTER NETTING AGREEMENT  
23          AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-  
24          tion 101 of title 11, United States Code, is amended by

1 inserting after paragraph (38) the following new para-  
2 graphs:

3 “(38A) ‘master netting agreement’—

4 “(A) means an agreement providing for  
5 the exercise of rights, including rights of net-  
6 ting, setoff, liquidation, termination, accelera-  
7 tion, or closeout, under or in connection with  
8 one or more contracts that are described in any  
9 one or more of paragraphs (1) through (5) of  
10 section 561(a), or any security agreement or ar-  
11 rangement or other credit enhancement related  
12 to one or more of the foregoing, including any  
13 guarantee or reimbursement obligation related  
14 to 1 or more of the foregoing; and

15 “(B) if the agreement contains provisions  
16 relating to agreements or transactions that are  
17 not contracts described in paragraphs (1)  
18 through (5) of section 561(a), shall be deemed  
19 to be a master netting agreement only with re-  
20 spect to those agreements or transactions that  
21 are described in any one or more of paragraphs  
22 (1) through (5) of section 561(a);

23 “(38B) ‘master netting agreement participant’  
24 means an entity that, at any time before the filing

1 of the petition, is a party to an outstanding master  
2 netting agreement with the debtor;”.

3 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,  
4 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-  
5 CHASE AGREEMENTS, AND MASTER NETTING AGREE-  
6 MENTS UNDER THE AUTOMATIC-STAY.—

7 (1) IN GENERAL.—Section 362(b) of title 11,  
8 United States Code, as amended by this Act, is  
9 amended—

10 (A) in paragraph (6), by inserting  
11 “, pledged to and under the control of,” after  
12 “held by”;

13 (B) in paragraph (7), by inserting  
14 “, pledged to and under the control of,” after  
15 “held by”;

16 (C) by striking paragraph (17) and insert-  
17 ing the following:

18 “(17) under subsection (a), of the setoff by a  
19 swap participant or financial participant of a mutual  
20 debt and claim under or in connection with one or  
21 more swap agreements that constitutes the setoff of  
22 a claim against the debtor for any payment or other  
23 transfer of property due from the debtor under or in  
24 connection with any swap agreement against any  
25 payment due to the debtor from the swap partici-

1       pant or financial participant under or in connection  
2       with any swap agreement or against cash, securities,  
3       or other property held by, pledged to and under the  
4       control of, or due from such swap participant or fi-  
5       nancial participant to margin, guarantee, secure, or  
6       settle any swap agreement;” and

7               (D) by inserting after paragraph (26), as

8               added by this Act, the following new paragraph:

9               “(27) under subsection (a), of the setoff by a  
10       master netting agreement participant of a mutual  
11       debt and claim under or in connection with one or  
12       more master netting agreements or any contract or  
13       agreement subject to such agreements that con-  
14       stitutes the setoff of a claim against the debtor for  
15       any payment or other transfer of property due from  
16       the debtor under or in connection with such agree-  
17       ments or any contract or agreement subject to such  
18       agreements against any payment due to the debtor  
19       from such master netting agreement participant  
20       under or in connection with such agreements or any  
21       contract or agreement subject to such agreements or  
22       against cash, securities, or other property held by,  
23       pledged to and under the control of, or due from  
24       such master netting agreement participant to mar-  
25       gin, guarantee, secure, or settle such agreements or

1 any contract or agreement subject to such agree-  
2 ments, to the extent that such participant is eligible  
3 to exercise such offset rights under paragraph (6),  
4 (7), or (17) for each individual contract covered by  
5 the master netting agreement in issue; or”.

6 (2) LIMITATION.—Section 362 of title 11,  
7 United States Code, as amended by this Act, is  
8 amended by adding at the end the following:

9 “(m) LIMITATION.—The exercise of rights not sub-  
10 ject to the stay arising under subsection (a) pursuant to  
11 paragraph (6), (7), (17), or (27) of subsection (b) shall  
12 not be stayed by any order of a court or administrative  
13 agency in any proceeding under this title.”.

14 (e) LIMITATION OF AVOIDANCE POWERS UNDER  
15 MASTER NETTING AGREEMENT.—Section 546 of title 11,  
16 United States Code, as amended by this Act, is  
17 amended—

18 (1) in subsection (g) (as added by section 103  
19 of Public Law 101–311)—

20 (A) by striking “under a swap agreement”;

21 (B) by striking “in connection with a swap  
22 agreement” and inserting “under or in connec-  
23 tion with any swap agreement”; and

1 (C) by inserting “or financial participant”  
2 after “swap participant” each place that term  
3 appears; and

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

5 “(k) Notwithstanding sections 544, 545, 547,  
6 548(a)(1)(B), and 548(b) the trustee may not avoid a  
7 transfer made by or to a master netting agreement partici-  
8 pant under or in connection with any master netting  
9 agreement or any individual contract covered thereby that  
10 is made before the commencement of the case, except  
11 under section 548(a)(1)(A) and except to the extent that  
12 the trustee could otherwise avoid such a transfer made  
13 under an individual contract covered by such master net-  
14 ting agreement.”.

15 (f) FRAUDULENT TRANSFERS OF MASTER NETTING  
16 AGREEMENTS.—Section 548(d)(2) of title 11, United  
17 States Code, is amended—

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

20 (2) in subparagraph (D), by striking the period  
21 and inserting “; and”; and

22 (3) by adding at the end the following new sub-  
23 paragraph:

24 “(E) a master netting agreement participant  
25 that receives a transfer in connection with a master

1 netting agreement or any individual contract covered  
2 thereby takes for value to the extent of such trans-  
3 fer, except that, with respect to a transfer under any  
4 individual contract covered thereby, to the extent  
5 that such master netting agreement participant oth-  
6 erwise did not take (or is otherwise not deemed to  
7 have taken) such transfer for value.”.

8 (g) TERMINATION OR ACCELERATION OF SECURITIES  
9 CONTRACTS.—Section 555 of title 11, United States Code,  
10 is amended—

11 (1) by amending the section heading to read as  
12 follows:

13 **“§ 555. Contractual right to liquidate, terminate, or**  
14 **accelerate a securities contract”;**

15 and

16 (2) in the first sentence, by striking “liquida-  
17 tion” and inserting “liquidation, termination, or ac-  
18 celeration”.

19 (h) TERMINATION OR ACCELERATION OF COMMOD-  
20 ITIES OR FORWARD CONTRACTS.—Section 556 of title 11,  
21 United States Code, is amended—

22 (1) by amending the section heading to read as  
23 follows:

1 **“§ 556. Contractual right to liquidate, terminate, or**  
2 **accelerate a commodities contract or for-**  
3 **ward contract”;**

4 (2) in the first sentence, by striking “liquida-  
5 tion” and inserting “liquidation, termination, or ac-  
6 celeration”; and

7 (3) in the second sentence, by striking “As  
8 used” and all that follows through “right,” and in-  
9 serting “As used in this section, the term ‘contract-  
10 tual right’ includes a right set forth in a rule or  
11 bylaw of a derivatives clearing organization (as de-  
12 fined in the Commodity Exchange Act), a multilat-  
13 eral clearing organization (as defined in the Federal  
14 Deposit Insurance Corporation Improvement Act of  
15 1991), a national securities exchange, a national se-  
16 curities association, a securities clearing agency, a  
17 contract market designated under the Commodity  
18 Exchange Act, a derivatives transaction execution  
19 facility registered under the Commodity Exchange  
20 Act, or a board of trade (as defined in the Com-  
21 modity Exchange Act) or in a resolution of the gov-  
22 erning board thereof and a right,”.

23 (i) TERMINATION OR ACCELERATION OF REPUR-  
24 CHASE AGREEMENTS.—Section 559 of title 11, United  
25 States Code, is amended—

1           (1) by amending the section heading to read as  
2 follows:

3 **“§ 559. Contractual right to liquidate, terminate, or**  
4 **accelerate a repurchase agreement”;**

5           (2) in the first sentence, by striking “liquida-  
6 tion” and inserting “liquidation, termination, or ac-  
7 celeration”; and

8           (3) in the third sentence, by striking “As used”  
9 and all that follows through “right,” and inserting  
10 “As used in this section, the term ‘contractual right’  
11 includes a right set forth in a rule or bylaw of a de-  
12 rivatives clearing organization (as defined in the  
13 Commodity Exchange Act), a multilateral clearing  
14 organization (as defined in the Federal Deposit In-  
15 surance Corporation Improvement Act of 1991), a  
16 national securities exchange, a national securities as-  
17 sociation, a securities clearing agency, a contract  
18 market designated under the Commodity Exchange  
19 Act, a derivatives transaction execution facility reg-  
20 istered under the Commodity Exchange Act, or a  
21 board of trade (as defined in the Commodity Ex-  
22 change Act) or in a resolution of the governing  
23 board thereof and a right,”.

1 (j) LIQUIDATION, TERMINATION, OR ACCELERATION  
2 OF SWAP AGREEMENTS.—Section 560 of title 11, United  
3 States Code, is amended—

4 (1) by amending the section heading to read as  
5 follows:

6 **“§ 560. Contractual right to liquidate, terminate, or  
7 accelerate a swap agreement”;**

8 (2) in the first sentence, by striking “termi-  
9 nation of a swap agreement” and inserting “liquida-  
10 tion, termination, or acceleration of one or more  
11 swap agreements”;

12 (3) by striking “in connection with any swap  
13 agreement” and inserting “in connection with the  
14 termination, liquidation, or acceleration of one or  
15 more swap agreements”; and

16 (4) in the second sentence, by striking “As  
17 used” and all that follows through “right,” and in-  
18 serting “As used in this section, the term ‘contrac-  
19 tual right’ includes a right set forth in a rule or  
20 bylaw of a derivatives clearing organization (as de-  
21 fined in the Commodity Exchange Act), a multilat-  
22 eral clearing organization (as defined in the Federal  
23 Deposit Insurance Corporation Improvement Act of  
24 1991), a national securities exchange, a national se-  
25 curities association, a securities clearing agency, a

1 contract market designated under the Commodity  
2 Exchange Act, a derivatives transaction execution  
3 facility registered under the Commodity Exchange  
4 Act, or a board of trade (as defined in the Com-  
5modity Exchange Act) or in a resolution of the gov-  
6erning board thereof and a right,”.

7 (k) LIQUIDATION, TERMINATION, ACCELERATION, OR  
8 OFFSET UNDER A MASTER NETTING AGREEMENT AND  
9 ACROSS CONTRACTS.—

10 (1) IN GENERAL.—Title 11, United States  
11 Code, is amended by inserting after section 560 the  
12 following:

13 **“§ 561. Contractual right to terminate, liquidate, ac-**  
14 **celerate, or offset under a master netting**  
15 **agreement and across contracts; pro-**  
16 **ceedings under chapter 15**

17 “(a) IN GENERAL.—Subject to subsection (b), the ex-  
18 ercise of any contractual right, because of a condition of  
19 the kind specified in section 365(e)(1), to cause the termi-  
20 nation, liquidation, or acceleration of or to offset or net  
21 termination values, payment amounts, or other transfer  
22 obligations arising under or in connection with one or  
23 more (or the termination, liquidation, or acceleration of  
24 one or more)—

1           “(1) securities contracts, as defined in section  
2       741(7);

3           “(2) commodity contracts, as defined in section  
4       761(4);

5           “(3) forward contracts;

6           “(4) repurchase agreements;

7           “(5) swap agreements; or

8           “(6) master netting agreements,

9 shall not be stayed, avoided, or otherwise limited by oper-  
10 ation of any provision of this title or by any order of a  
11 court or administrative agency in any proceeding under  
12 this title.

13       “(b) EXCEPTION.—

14           “(1) IN GENERAL.—A party may exercise a  
15 contractual right described in subsection (a) to ter-  
16minate, liquidate, or accelerate only to the extent  
17that such party could exercise such a right under  
18section 555, 556, 559, or 560 for each individual  
19contract covered by the master netting agreement in  
20issue.

21           “(2) COMMODITY BROKERS.—If a debtor is a  
22commodity broker subject to subchapter IV of chap-  
23ter 7—

24                   “(A) a party may not net or offset an obli-  
25gation to the debtor arising under, or in con-

1           nection with, a commodity contract traded on  
2           or subject to the rules of a contract market des-  
3           ignated under the Commodity Exchange Act or  
4           a derivatives transaction execution facility reg-  
5           istered under the Commodity Exchange Act  
6           against any claim arising under, or in connec-  
7           tion with, other instruments, contracts, or  
8           agreements listed in subsection (a) except to  
9           the extent that the party has positive net equity  
10          in the commodity accounts at the debtor, as cal-  
11          culated under that subchapter IV; and

12                 “(B) another commodity broker may not  
13           net or offset an obligation to the debtor arising  
14           under, or in connection with, a commodity con-  
15           tract entered into or held on behalf of a cus-  
16           tomer of the debtor and traded on or subject to  
17           the rules of a contract market designated under  
18           the Commodity Exchange Act or a derivatives  
19           transaction execution facility registered under  
20           the Commodity Exchange Act against any claim  
21           arising under, or in connection with, other in-  
22           struments, contracts, or agreements listed in  
23           subsection (a).

24                 “(3) CONSTRUCTION.—No provision of sub-  
25          paragraph (A) or (B) of paragraph (2) shall prohibit

1 the offset of claims and obligations that arise  
2 under—

3 “(A) a cross-margining agreement or simi-  
4 lar arrangement that has been approved by the  
5 Commodity Futures Trading Commission or  
6 submitted to the Commodity Futures Trading  
7 Commission under paragraph (1) or (2) of sec-  
8 tion 5c(c) of the Commodity Exchange Act and  
9 has not been abrogated or rendered ineffective  
10 by the Commodity Futures Trading Commis-  
11 sion; or

12 “(B) any other netting agreement between  
13 a clearing organization, as defined in section  
14 761, and another entity that has been approved  
15 by the Commodity Futures Trading Commis-  
16 sion.

17 “(c) DEFINITION.—As used in this section, the term  
18 ‘contractual right’ includes a right set forth in a rule or  
19 bylaw of a derivatives clearing organization (as defined in  
20 the Commodity Exchange Act), a multilateral clearing or-  
21 ganization (as defined in the Federal Deposit Insurance  
22 Corporation Improvement Act of 1991), a national securi-  
23 ties exchange, a national securities association, a securities  
24 clearing agency, a contract market designated under the  
25 Commodity Exchange Act, a derivatives transaction execu-

1 tion facility registered under the Commodity Exchange  
2 Act, or a board of trade (as defined in the Commodity  
3 Exchange Act) or in a resolution of the governing board  
4 thereof, and a right, whether or not evidenced in writing,  
5 arising under common law, under law merchant, or by rea-  
6 son of normal business practice.

7       “(d) CASES ANCILLARY TO FOREIGN PRO-  
8 CEEDINGS.—Any provisions of this title relating to securi-  
9 ties contracts, commodity contracts, forward contracts, re-  
10 purchase agreements, swap agreements, or master netting  
11 agreements shall apply in a case under chapter 15 of this  
12 title, so that enforcement of contractual provisions of such  
13 contracts and agreements in accordance with their terms  
14 will not be stayed or otherwise limited by operation of any  
15 provision of this title or by order of a court in any case  
16 under this title, and to limit avoidance powers to the same  
17 extent as in a proceeding under chapter 7 or 11 of this  
18 title (such enforcement not to be limited based on the  
19 presence or absence of assets of the debtor in the United  
20 States).”.

21           (2) CONFORMING AMENDMENT.—The table of  
22 sections for chapter 5 of title 11, United States  
23 Code, is amended by inserting after the item relating  
24 to section 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a  
master netting agreement and across contracts; proceedings  
under chapter 15.”.

1 (l) COMMODITY BROKER LIQUIDATIONS.—Title 11,  
2 United States Code, is amended by inserting after section  
3 766 the following:

4 **“§ 767. Commodity broker liquidation and forward**  
5 **contract merchants, commodity brokers,**  
6 **stockbrokers, financial institutions, fi-**  
7 **ancial participants, securities clearing**  
8 **agencies, swap participants, repo partici-**  
9 **pants, and master netting agreement par-**  
10 **ticipants**

11 “Notwithstanding any other provision of this title,  
12 the exercise of rights by a forward contract merchant,  
13 commodity broker, stockbroker, financial institution, fi-  
14 nancial participant, securities clearing agency, swap par-  
15 ticipant, repo participant, or master netting agreement  
16 participant under this title shall not affect the priority of  
17 any unsecured claim it may have after the exercise of such  
18 rights.”.

19 (m) STOCKBROKER LIQUIDATIONS.—Title 11,  
20 United States Code, is amended by inserting after section  
21 752 the following:

1 **“§ 753. Stockbroker liquidation and forward contract**  
2 **merchants, commodity brokers, stock-**  
3 **brokers, financial institutions, financial**  
4 **participants, securities clearing agencies,**  
5 **swap participants, repo participants, and**  
6 **master netting agreement participants**

7 “Notwithstanding any other provision of this title,  
8 the exercise of rights by a forward contract merchant,  
9 commodity broker, stockbroker, financial institution, secu-  
10 rities clearing agency, swap participant, repo participant,  
11 financial participant, or master netting agreement partici-  
12 pant under this title shall not affect the priority of any  
13 unsecured claim it may have after the exercise of such  
14 rights.”.

15 (n) SETOFF.—Section 553 of title 11, United States  
16 Code, is amended—

17 (1) in subsection (a)(2)(B)(ii), by inserting be-  
18 fore the semicolon the following: “(except for a  
19 setoff of a kind described in section 362(b)(6),  
20 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559,  
21 560, or 561)”;

22 (2) in subsection (a)(3)(C), by inserting before  
23 the period the following: “(except for a setoff of a  
24 kind described in section 362(b)(6), 362(b)(7),  
25 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561  
26 of this title)”;

1           (3) in subsection (b)(1), by striking  
2           “362(b)(14),” and inserting “362(b)(17),  
3           362(b)(27), 555, 556, 559, 560, 561”.

4           (o) 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 sections 362(b)(7) and 546(f), by insert-  
11           ing “or financial participant” after “repo partici-  
12           pant” each place that term appears;

13           (3) in section 546(e), by inserting “financial  
14           participant,” after “financial institution,”;

15           (4) in section 548(d)(2)(B), by inserting “fi-  
16           nancial participant,” after “financial institution,”;

17           (5) in section 548(d)(2)(C), by inserting “or fi-  
18           nancial participant” after “repo participant”;

19           (6) in section 548(d)(2)(D), by inserting “or fi-  
20           nancial participant” after “swap participant”;

21           (7) in section 555—

22                   (A) by inserting “financial participant,”  
23                   after “financial institution,”; and

24                   (B) by striking the second sentence and in-  
25                   serting the following: “As used in this section,

1           the term ‘contractual right’ includes a right set  
2           forth in a rule or bylaw of a derivatives clearing  
3           organization (as defined in the Commodity Ex-  
4           change Act), a multilateral clearing organiza-  
5           tion (as defined in the Federal Deposit Insur-  
6           ance Corporation Improvement Act of 1991), a  
7           national securities exchange, a national securi-  
8           ties association, a securities clearing agency, a  
9           contract market designated under the Com-  
10          modity Exchange Act, a derivatives transaction  
11          execution facility registered under the Com-  
12          modity Exchange Act, or a board of trade (as  
13          defined in the Commodity Exchange Act), or in  
14          a resolution of the governing board thereof, and  
15          a right, whether or not in writing, arising under  
16          common law, under law merchant, or by reason  
17          of normal business practice”;

18           (8) in section 556, by inserting “, financial par-  
19          ticipant,” after “commodity broker”;

20           (9) in section 559, by inserting “or financial  
21          participant” after “repo participant” each place that  
22          term appears; and

23           (10) in section 560, by inserting “or financial  
24          participant” after “swap participant”.

1 (p) CONFORMING AMENDMENTS.—Title 11, United  
2 States Code, is amended—

3 (1) in the table of sections for chapter 5—

4 (A) by amending the items relating to sec-  
5 tions 555 and 556 to read as follows:

“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 and

7 (B) by amending the items relating to sec-  
8 tions 559 and 560 to read as follows:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase  
agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agree-  
ment.”;

9 and

10 (2) in the table of sections for chapter 7—

11 (A) by inserting after the item relating to  
12 section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, com-  
modity brokers, stockbrokers, financial institutions, financial  
participants, securities clearing agencies, swap participants,  
repo participants, and master netting agreement participants.”;

13 and

14 (B) by inserting after the item relating to  
15 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity bro-  
kers, stockbrokers, financial institutions, financial participants,  
securities clearing agencies, swap participants, repo partici-  
pants, and master netting agreement participants.”.

1 **SEC. 907A. SECURITIES BROKER/COMMODITY BROKER LIQ-**  
2 **UIDATION.**

3 The Securities and Exchange Commission and the  
4 Commodity Futures Trading Commission may consult  
5 with each other with respect to whether, under what cir-  
6 cumstances, and the extent to which security futures prod-  
7 ucts will be treated as commodity contracts or securities  
8 in a liquidation of a person that is both a securities broker  
9 and a commodity broker, and with respect to the treat-  
10 ment in such a liquidation of accounts in which both com-  
11 modity contracts and securities are carried.

12 **SEC. 908. RECORDKEEPING REQUIREMENTS.**

13 Section 11(e)(8) of the Federal Deposit Insurance  
14 Act (12 U.S.C. 1821(e)(8)) is amended by adding at the  
15 end the following new subparagraph:

16 “(H) RECORDKEEPING REQUIREMENTS.—  
17 The Corporation, in consultation with the ap-  
18 propriate Federal banking agencies, may by  
19 regulation require more detailed recordkeeping  
20 by any insured depository institution with re-  
21 spect to qualified financial contracts (including  
22 market valuations) only if such insured deposi-  
23 tory institution is in a troubled condition (as  
24 such term is defined by the Corporation pursu-  
25 ant to 12 U.S.C. 1831i).”;

1 **SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECU-**  
2 **TION REQUIREMENT.**

3 Section 13(e)(2) of the Federal Deposit Insurance  
4 Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

5 “(2) EXEMPTIONS FROM CONTEMPORANEOUS  
6 EXECUTION REQUIREMENT.—An agreement to pro-  
7 vide for the lawful collateralization of—

8 “(A) deposits of, or other credit extension  
9 by, a Federal, State, or local governmental enti-  
10 ty, or of any depositor referred to in section  
11 11(a)(2), including an agreement to provide col-  
12 lateral in lieu of a surety bond;

13 “(B) bankruptcy estate funds pursuant to  
14 section 345(b)(2) of title 11, United States  
15 Code;

16 “(C) extensions of credit, including any  
17 overdraft, from a Federal reserve bank or Fed-  
18 eral home loan bank; or

19 “(D) one or more qualified financial con-  
20 tracts, as defined in section 11(e)(8)(D),

21 shall not be deemed invalid pursuant to paragraph  
22 (1)(B) solely because such agreement was not exe-  
23 cuted contemporaneously with the acquisition of the  
24 collateral or because of pledges, delivery, or substi-  
25 tution of the collateral made in accordance with such  
26 agreement.”.

1 **SEC. 910. DAMAGE MEASURE.**

2 (a) IN GENERAL.—Title 11, United States Code, is  
3 amended—

4 (1) by inserting after section 561, as added by  
5 this Act, the following:

6 **“§ 562. Damage measure in connection with swap**  
7 **agreements, securities contracts, forward**  
8 **contracts, commodity contracts, repur-**  
9 **chase agreements, or master netting**  
10 **agreements**

11 “If the trustee rejects a swap agreement, securities  
12 contract (as defined in section 741), forward contract,  
13 commodity contract (as defined in section 761), repur-  
14 chase agreement, or master netting agreement pursuant  
15 to section 365(a), or if a forward contract merchant,  
16 stockbroker, financial institution, securities clearing agen-  
17 cy, repo participant, financial participant, master netting  
18 agreement participant, or swap participant liquidates, ter-  
19 minates, or accelerates such contract or agreement, dam-  
20 ages shall be measured as of the earlier of—

21 “(1) the date of such rejection; or

22 “(2) the date of such liquidation, termination,  
23 or acceleration.”; and

24 (2) in the table of sections for chapter 5, by in-  
25 sserting after the item relating to section 561 (as  
26 added by this Act) the following:

“562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.”.

1 (b) CLAIMS ARISING FROM REJECTION.—Section  
2 502(g) of title 11, United States Code, is amended—

3 (1) by inserting “(1)” after “(g)”; and

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

5 “(2) A claim for damages calculated in accordance  
6 with section 562 of this title shall be allowed under sub-  
7 section (a), (b), or (c), or disallowed under subsection (d)  
8 or (e), as if such claim had arisen before the date of the  
9 filing of the petition.”.

10 **SEC. 911. SIPC STAY.**

11 Section 5(b)(2) of the Securities Investor Protection  
12 Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding  
13 at the end the following new subparagraph:

14 “(C) EXCEPTION FROM STAY.—

15 “(i) Notwithstanding section 362 of  
16 title 11, United States Code, neither the  
17 filing of an application under subsection  
18 (a)(3) nor any order or decree obtained by  
19 SIPC from the court shall operate as a  
20 stay of any contractual rights of a creditor  
21 to liquidate, terminate, or accelerate a se-  
22 curities contract, commodity contract, for-  
23 ward contract, repurchase agreement, swap  
24 agreement, or master netting agreement,

1 as those terms are defined in sections 101,  
2 741, and 761 of title 11, United States  
3 Code, to offset or net termination values,  
4 payment amounts, or other transfer obliga-  
5 tions arising under or in connection with  
6 one or more of such contracts or agree-  
7 ments, or to foreclose on any cash collat-  
8 eral pledged by the debtor, whether or not  
9 with respect to one or more of such con-  
10 tracts or agreements.

11 “(ii) Notwithstanding clause (i), such  
12 application, order, or decree may operate  
13 as a stay of the foreclosure on, or disposi-  
14 tion of, securities collateral pledged by the  
15 debtor, whether or not with respect to one  
16 or more of such contracts or agreements,  
17 securities sold by the debtor under a repur-  
18 chase agreement, or securities lent under a  
19 securities lending agreement.

20 “(iii) As used in this subparagraph,  
21 the term ‘contractual right’ includes a  
22 right set forth in a rule or bylaw of a na-  
23 tional securities exchange, a national secu-  
24 rities association, or a securities clearing  
25 agency, a right set forth in a bylaw of a

1 clearing organization or contract market or  
2 in a resolution of the governing board  
3 thereof, and a right, whether or not in  
4 writing, arising under common law, under  
5 law merchant, or by reason of normal busi-  
6 ness practice.”.

7 **SEC. 912. ASSET-BACKED SECURITIZATIONS.**

8 Section 541 of title 11, United States Code, is  
9 amended—

10 (1) in subsection (b), by inserting after para-  
11 graph (7), as added by this Act, the following:

12 “(8) any eligible asset (or proceeds thereof), to  
13 the extent that such eligible asset was transferred by  
14 the debtor, before the date of commencement of the  
15 case, to an eligible entity in connection with an  
16 asset-backed securitization, except to the extent such  
17 asset (or proceeds or value thereof) may be recov-  
18 ered by the trustee under section 550 by virtue of  
19 avoidance under section 548(a);” and

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

22 “(f) For purposes of this section—

23 “(1) the term ‘asset-backed securitization’  
24 means a transaction in which eligible assets trans-  
25 ferred to an eligible entity are used as the source of

1 payment on securities, including, without limitation,  
2 all securities issued by governmental units, at least  
3 one class or tranche of which was rated investment  
4 grade by one or more nationally recognized securities  
5 rating organizations, when the securities were ini-  
6 tially issued by an issuer;

7 “(2) the term ‘eligible asset’ means—

8 “(A) financial assets (including interests  
9 therein and proceeds thereof), either fixed or re-  
10 volving, whether or not the same are in exist-  
11 ence as of the date of the transfer, including  
12 residential and commercial mortgage loans, con-  
13 sumer receivables, trade receivables, assets of  
14 governmental units, including payment obliga-  
15 tions relating to taxes, receipts, fines, tickets,  
16 and other sources of revenue, and lease receiv-  
17 ables, that, by their terms, convert into cash  
18 within a finite time period, plus any residual in-  
19 terest in property subject to receivables in-  
20 cluded in such financial assets plus any rights  
21 or other assets designed to assure the servicing  
22 or timely distribution of proceeds to security  
23 holders;

24 “(B) cash; and

1           “(C) securities, including without limita-  
2           tion, all securities issued by governmental units;

3           “(3) the term ‘eligible entity’ means—

4           “(A) an issuer; or

5           “(B) a trust, corporation, partnership, gov-  
6           ernmental unit, limited liability company (in-  
7           cluding a single member limited liability com-  
8           pany), or other entity engaged exclusively in the  
9           business of acquiring and transferring eligible  
10          assets directly or indirectly to an issuer and  
11          taking actions ancillary thereto;

12          “(4) the term ‘issuer’ means a trust, corpora-  
13          tion, partnership, governmental unit, limited liability  
14          company (including a single member limited liability  
15          company), or other entity engaged exclusively in the  
16          business of acquiring and holding eligible assets,  
17          issuing securities backed by eligible assets, and tak-  
18          ing actions ancillary thereto; and

19          “(5) the term ‘transferred’ means the debtor,  
20          under a written agreement, represented and war-  
21          ranted that eligible assets were sold, contributed, or  
22          otherwise conveyed with the intention of removing  
23          them from the estate of the debtor pursuant to sub-  
24          section (b)(8) (whether or not reference is made to

1 this title or any section hereof), irrespective and  
2 without limitation of—

3 “(A) whether the debtor directly or indi-  
4 rectly obtained or held an interest in the issuer  
5 or in any securities issued by the issuer;

6 “(B) whether the debtor had an obligation  
7 to repurchase or to service or supervise the  
8 servicing of all or any portion of such eligible  
9 assets; or

10 “(C) the characterization of such sale, con-  
11 tribution, or other conveyance for tax, account-  
12 ing, regulatory reporting, or other purposes.”.

13 **SEC. 913. EFFECTIVE DATE; APPLICATION OF AMEND-**  
14 **MENTS.**

15 (a) **EFFECTIVE DATE.**—This title shall take effect on  
16 the date of enactment of this Act.

17 (b) **APPLICATION OF AMENDMENTS.**—The amend-  
18 ments made by this title shall apply with respect to cases  
19 commenced or appointments made under any Federal or  
20 State law on or after the date of enactment of this Act,  
21 but shall not apply with respect to cases commenced or  
22 appointments made under any Federal or State law before  
23 the date of enactment of this Act.

1 **SEC. 914. SAVINGS CLAUSE.**

2       The meaning of terms used in this title are applicable  
 3 for purposes of this title only, and shall not be construed  
 4 or applied so as to challenge or affect the characterization,  
 5 definition, or treatment of any similar terms under any  
 6 other statute, regulation, or rule, including the Gramm-  
 7 Leach-Bliley Act, the Legal Certainty for Bank Products  
 8 Act of 2000, the securities laws (as that term is defined  
 9 in section 3(a)(47) of the Securities Exchange Act of  
 10 1934), and the Commodity Exchange Act.

11 **TITLE X—PROTECTION OF FAM-**  
 12 **ILY FARMERS AND FAMILY**  
 13 **FISHERMEN**

14 **SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.**

15 (a) REENACTMENT.—

16       (1) IN GENERAL.—Chapter 12 of title 11,  
 17 United States Code, as reenacted by section 149 of  
 18 division C of the Omnibus Consolidated and Emer-  
 19 gency Supplemental Appropriations Act, 1999 (Pub-  
 20 lic Law 105–277, 112 Stat. 2681-610), and amend-  
 21 ed by this Act, is reenacted.

22       (2) EFFECTIVE DATE.—Subsection (a) shall be  
 23 deemed to have taken effect on July 1, 2000.

24 (b) CONFORMING AMENDMENT.—Section 302 of the  
 25 Bankruptcy, Judges, United States Trustees, and Family

1 Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is  
2 amended by striking subsection (f).

3 **SEC. 1002. DEBT LIMIT INCREASE.**

4 (a) IN GENERAL.—Section 104(b) of title 11, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 “(4) The dollar amount in section 101(18) shall be  
8 adjusted at the same times and in the same manner as  
9 the dollar amounts in paragraph (1) of this subsection.”.

10 (b) EFFECTIVE DATE.—The first adjustment re-  
11 quired by section 104(b)(4) of title 11, United States  
12 Code, as added by subsection (a) of this section, shall  
13 occur on the later of—

14 (1) April 1, 2001; or

15 (2) 60 days after the date of enactment of this  
16 Act.

17 **SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL**  
18 **UNITS.**

19 (a) CONTENTS OF PLAN.—Section 1222(a)(2) of title  
20 11, United States Code, is amended to read as follows:

21 “(2) provide for the full payment, in deferred  
22 cash payments, of all claims entitled to priority  
23 under section 507, unless—

24 “(A) the claim is a claim owed to a govern-  
25 mental unit that arises as a result of the sale,

1 transfer, exchange, or other disposition of any  
2 farm asset used in the debtor’s farming oper-  
3 ation, in which case the claim shall be treated  
4 as an unsecured claim that is not entitled to  
5 priority under section 507, but the debt shall be  
6 treated in such manner only if the debtor re-  
7 ceives a discharge; or

8 “(B) the holder of a particular claim  
9 agrees to a different treatment of that claim;”.

10 (b) SPECIAL NOTICE PROVISIONS.—Section 1231(b)  
11 of title 11, United States Code, as so designated by this  
12 Act, is amended by striking “a State or local governmental  
13 unit” and inserting “any governmental unit”.

14 **SEC. 1004. DEFINITION OF FAMILY FARMER.**

15 Section 101(18) of title 11, United States Code, is  
16 amended—

17 (1) in subparagraph (A)—

18 (A) by striking “\$1,500,000” and inserting  
19 “\$3,000,000”; and

20 (B) by striking “80” and inserting “50”;  
21 and

22 (2) in subparagraph (B)(ii)—

23 (A) by striking “\$1,500,000” and inserting  
24 “\$3,000,000”; and

25 (B) by striking “80” and inserting “50”.

1 **SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY**  
2 **FARMER AND SPOUSE RECEIVE OVER 50 PER-**  
3 **CENT OF INCOME FROM FARMING OPER-**  
4 **ATION IN YEAR PRIOR TO BANKRUPTCY.**

5 Section 101(18)(A) of title 11, United States Code,  
6 is amended by striking “the taxable year preceding the  
7 taxable year” and inserting “at least 1 of the 3 calendar  
8 years preceding the year”.

9 **SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF**  
10 **DISPOSABLE INCOME.**

11 (a) IN GENERAL.—Section 1225(b) of title 11,  
12 United States Code, is amended by adding at the end the  
13 following:

14 “(3) If the plan provides for specific amounts  
15 of property to be distributed on account of allowed  
16 unsecured claims as required by paragraph (1)(B),  
17 those amounts equal or exceed the debtor’s projected  
18 disposable income for that period, and the plan  
19 meets the requirements for confirmation other than  
20 those of this subsection, the plan shall be con-  
21 firmed.”.

22 (b) MODIFICATION.—Section 1229 of title 11, United  
23 States Code, is amended by adding at the end the fol-  
24 lowing:

1       “(d)(1) A modification of the plan under this section  
2 may not increase the amount of payments that were due  
3 prior to the date of the order modifying the plan.

4       “(2) A modification of the plan under this section to  
5 increase payments based on an increase in the debtor’s  
6 disposable income may not require payments to unsecured  
7 creditors in any particular month greater than the debt-  
8 or’s disposable income for that month, unless the debtor  
9 proposes such a modification.

10       “(3) A modification of the plan in the last year of  
11 the plan shall not require payments that would leave the  
12 debtor with insufficient funds to carry on the farming op-  
13 eration after the plan is completed, unless the debtor pro-  
14 poses such a modification.”.

15 **SEC. 1007. FAMILY FISHERMEN.**

16       (a) DEFINITIONS.—Section 101 of title 11, United  
17 States Code, is amended—

18               (1) by inserting after paragraph (7) the fol-  
19 lowing:

20               “(7A) ‘commercial fishing operation’ includes—

21                       “(A) the catching or harvesting of fish,  
22 shrimp, lobsters, urchins, seaweed, shellfish, or  
23 other aquatic species or products;

24                       “(B) for purposes of section 109 and chap-  
25 ter 12, aquaculture activities consisting of rais-

1           ing for market any species or product described  
2           in subparagraph (A); and

3           “(C) the transporting by vessel of a pas-  
4           senger for hire (as defined in section 2101 of  
5           title 46) who is engaged in recreational fishing;

6           “(7B) ‘commercial fishing vessel’ means a ves-  
7           sel used by a fisherman to carry out a commercial  
8           fishing operation;”;

9           (2) by inserting after paragraph (19) the fol-  
10          lowing:

11          “(19A) ‘family fisherman’ means—

12           “(A) an individual or individual and spouse  
13           engaged in a commercial fishing operation (in-  
14           cluding aquaculture for purposes of chapter  
15           12)—

16           “(i) whose aggregate debts do not ex-  
17           ceed \$1,500,000 and not less than 80 per-  
18           cent of whose aggregate noncontingent, liq-  
19           uidated debts (excluding a debt for the  
20           principal residence of such individual or  
21           such individual and spouse, unless such  
22           debt arises out of a commercial fishing op-  
23           eration), on the date the case is filed, arise  
24           out of a commercial fishing operation

1 owned or operated by such individual or  
2 such individual and spouse; and

3 “(ii) who receive from such commer-  
4 cial fishing operation more than 50 percent  
5 of such individual’s or such individual’s  
6 and spouse’s gross income for the taxable  
7 year preceding the taxable year in which  
8 the case concerning such individual or such  
9 individual and spouse was filed; or

10 “(B) a corporation or partnership—

11 “(i) in which more than 50 percent of  
12 the outstanding stock or equity is held  
13 by—

14 “(I) 1 family that conducts the  
15 commercial fishing operation; or

16 “(II) 1 family and the relatives  
17 of the members of such family, and  
18 such family or such relatives conduct  
19 the commercial fishing operation; and

20 “(ii)(I) more than 80 percent of the  
21 value of its assets consists of assets related  
22 to the commercial fishing operation;

23 “(II) its aggregate debts do not ex-  
24 ceed \$1,500,000 and not less than 80 per-  
25 cent of its aggregate noncontingent, liq-

1           uidated debts (excluding a debt for 1  
 2           dwelling which is owned by such corpora-  
 3           tion or partnership and which a share-  
 4           holder or partner maintains as a principal  
 5           residence, unless such debt arises out of a  
 6           commercial fishing operation), on the date  
 7           the case is filed, arise out of a commercial  
 8           fishing operation owned or operated by  
 9           such corporation or such partnership; and  
 10           “(III) if such corporation issues stock,  
 11           such stock is not publicly traded;”;

12           (3) by inserting after paragraph (19A) the fol-  
 13           lowing:

14           “(19B) ‘family fisherman with regular annual  
 15           income’ means a family fisherman whose annual in-  
 16           come is sufficiently stable and regular to enable such  
 17           family fisherman to make payments under a plan  
 18           under chapter 12 of this title;”.

19           (b) WHO MAY BE A DEBTOR.—Section 109(f) of title  
 20           11, United States Code, is amended by inserting “or fam-  
 21           ily fisherman” after “family farmer”.

22           (c) CHAPTER 12.—Chapter 12 of title 11, United  
 23           States Code, is amended—

24           (1) in the chapter heading, by inserting “**OR**  
 25           **FISHERMAN**” after “**FAMILY FARMER**”;

1           (2) in section 1201, by adding at the end the  
2 following:

3           “(e)(1) Notwithstanding any other provision of law,  
4 for purposes of this subsection, a guarantor of a claim of  
5 a creditor under this section shall be treated in the same  
6 manner as a creditor with respect to the operation of a  
7 stay under this section.

8           “(2) For purposes of a claim that arises from the  
9 ownership or operation of a commercial fishing operation,  
10 a co-maker of a loan made by a creditor under this section  
11 shall be treated in the same manner as a creditor with  
12 respect to the operation of a stay under this section.”;

13           (3) in section 1203, by inserting “or commer-  
14 cial fishing operation” after “farm”;

15           (4) in section 1206, by striking “if the property  
16 is farmland or farm equipment” and inserting “if  
17 the property is farmland, farm equipment, or prop-  
18 erty of a commercial fishing operation (including a  
19 commercial fishing vessel)”;

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

21 **“§ 1232. Additional provisions relating to family fish-**  
22 **ermen**

23           “(a)(1) Notwithstanding any other provision of law,  
24 except as provided in subsection (c), with respect to any  
25 commercial fishing vessel of a family fisherman, the debts

1 of that family fisherman shall be treated in the manner  
2 prescribed in paragraph (2).

3 “(2)(A) For purposes of this chapter, a claim for a  
4 lien described in subsection (b) for a commercial fishing  
5 vessel of a family fisherman that could, but for this sub-  
6 section, be subject to a lien under otherwise applicable  
7 maritime law, shall be treated as an unsecured claim.

8 “(B) Subparagraph (A) applies to a claim for a lien  
9 resulting from a debt of a family fisherman incurred on  
10 or after the date of enactment of this chapter.

11 “(b) A lien described in this subsection is—

12 “(1) a maritime lien under subchapter III of  
13 chapter 313 of title 46 without regard to whether  
14 that lien is recorded under section 31343 of title 46;  
15 or

16 “(2) a lien under applicable State law (or the  
17 law of a political subdivision thereof).

18 “(c) Subsection (a) shall not apply to—

19 “(1) a claim made by a member of a crew or  
20 a seaman including a claim made for—

21 “(A) wages, maintenance, or cure; or

22 “(B) personal injury; or

23 “(2) a preferred ship mortgage that has been  
24 perfected under subchapter II of chapter 313 of title  
25 46.

1 “(d) For purposes of this chapter, a mortgage de-  
 2 scribed in subsection (c)(2) shall be treated as a secured  
 3 claim.”.

4 (d) CLERICAL AMENDMENTS.—

5 (1) TABLE OF CHAPTERS.—In the table of  
 6 chapters for title 11, United States Code, the item  
 7 relating to chapter 12, is amended to read as fol-  
 8 lows:

**“12. Adjustments of Debts of a Family Farmer or Family  
 Fisherman with Regular Annual Income ..... 1201”.**

9 (2) TABLE OF SECTIONS.—The table of sections  
 10 for chapter 12 of title 11, United States Code, is  
 11 amended by adding at the end the following new  
 12 item:

“1232. Additional provisions relating to family fishermen.”.

13 (e) Applicability.—

14 Nothing in this section shall change, affect, or  
 15 amend the Fishery Conservation and Management  
 16 Act of 1976 (16 U.S.C. 1801, et seq.).

## 17 **TITLE XI—HEALTH CARE AND** 18 **EMPLOYEE BENEFITS**

### 19 **SEC. 1101. DEFINITIONS.**

20 (a) HEALTH CARE BUSINESS DEFINED.—Section  
 21 101 of title 11, United States Code, is amended—

22 (1) by redesignating paragraph (27A), as added  
 23 by this Act, as paragraph (27B); and

1           (2) by inserting after paragraph (27) the fol-  
2       lowing:

3           “(27A) ‘health care business’—

4                   “(A) means any public or private entity  
5       (without regard to whether that entity is orga-  
6       nized for profit or not for profit) that is pri-  
7       marily engaged in offering to the general public  
8       facilities and services for—

9                           “(i) the diagnosis or treatment of in-  
10       jury, deformity, or disease; and

11                           “(ii) surgical, drug treatment, psy-  
12       chiatric, or obstetric care; and

13           “(B) includes—

14                   “(i) any—

15                           “(I) general or specialized hos-  
16       pital;

17                           “(II) ancillary ambulatory, emer-  
18       gency, or surgical treatment facility;

19                           “(III) hospice;

20                           “(IV) home health agency; and

21                           “(V) other health care institution  
22       that is similar to an entity referred to  
23       in subclause (I), (II), (III), or (IV);  
24       and

1                   “(ii) any long-term care facility, in-  
2                   cluding any—

3                               “(I) skilled nursing facility;

4                               “(II) intermediate care facility;

5                               “(III) assisted living facility;

6                               “(IV) home for the aged;

7                               “(V) domiciliary care facility; and

8                               “(VI) health care institution that  
9                   is related to a facility referred to in  
10                  subclause (I), (II), (III), (IV), or (V),  
11                  if that institution is primarily engaged  
12                  in offering room, board, laundry, or  
13                  personal assistance with activities of  
14                  daily living and incidentals to activi-  
15                  ties of daily living;”.

16           (b) PATIENT AND PATIENT RECORDS DEFINED.—  
17   Section 101 of title 11, United States Code, is amended  
18   by inserting after paragraph (40) the following:

19                   “(40A) ‘patient’ means any person who obtains  
20                  or receives services from a health care business;

21                   “(40B) ‘patient records’ means any written doc-  
22                  ument relating to a patient or a record recorded in  
23                  a magnetic, optical, or other form of electronic me-  
24                  dium;”.

1 (c) RULE OF CONSTRUCTION.—The amendments  
2 made by subsection (a) of this section shall not affect the  
3 interpretation of section 109(b) of title 11, United States  
4 Code.

5 **SEC. 1102. DISPOSAL OF PATIENT RECORDS.**

6 (a) IN GENERAL.—Subchapter III of chapter 3 of  
7 title 11, United States Code, is amended by adding at the  
8 end the following:

9 **“§ 351. Disposal of patient records**

10 “If a health care business commences a case under  
11 chapter 7, 9, or 11, and the trustee does not have a suffi-  
12 cient amount of funds to pay for the storage of patient  
13 records in the manner required under applicable Federal  
14 or State law, the following requirements shall apply:

15 “(1) The trustee shall—

16 “(A) promptly publish notice, in 1 or more  
17 appropriate newspapers, that if patient records  
18 are not claimed by the patient or an insurance  
19 provider (if applicable law permits the insur-  
20 ance provider to make that claim) by the date  
21 that is 365 days after the date of that notifica-  
22 tion, the trustee will destroy the patient  
23 records; and

24 “(B) during the first 180 days of the 365-  
25 day period described in subparagraph (A),

1            promptly attempt to notify directly each patient  
2            that is the subject of the patient records and  
3            appropriate insurance carrier concerning the  
4            patient records by mailing to the last known ad-  
5            dress of that patient, or a family member or  
6            contact person for that patient, and to the ap-  
7            propriate insurance carrier an appropriate no-  
8            tice regarding the claiming or disposing of pa-  
9            tient records.

10           “(2) If, after providing the notification under  
11           paragraph (1), patient records are not claimed dur-  
12           ing the 365-day period described under that para-  
13           graph, the trustee shall mail, by certified mail, at  
14           the end of such 365-day period a written request to  
15           each appropriate Federal agency to request permis-  
16           sion from that agency to deposit the patient records  
17           with that agency, except that no Federal agency is  
18           required to accept patient records under this para-  
19           graph.

20           “(3) If, following the 365-day period described  
21           in paragraph (2) and after providing the notification  
22           under paragraph (1), patient records are not claimed  
23           by a patient or insurance provider, or request is not  
24           granted by a Federal agency to deposit such records

1 with that agency, the trustee shall destroy those  
2 records by—

3 “(A) if the records are written, shredding  
4 or burning the records; or

5 “(B) if the records are magnetic, optical,  
6 or other electronic records, by otherwise de-  
7 stroying those records so that those records  
8 cannot be retrieved.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
10 for chapter 3 of title 11, United States Code, is amended  
11 by inserting after the item relating to section 350 the fol-  
12 lowing:

“351. Disposal of patient records.”.

13 **SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS**  
14 **OF CLOSING A HEALTH CARE BUSINESS AND**  
15 **OTHER ADMINISTRATIVE EXPENSES.**

16 Section 503(b) of title 11, United States Code, as  
17 amended by this Act, is amended by adding at the end  
18 the following:

19 “(8) the actual, necessary costs and expenses of  
20 closing a health care business incurred by a trustee  
21 or by a Federal agency (as that term is defined in  
22 section 551(1) of title 5) or a department or agency  
23 of a State or political subdivision thereof, including  
24 any cost or expense incurred—

1           “(A) in disposing of patient records in ac-  
2           cordance with section 351; or

3           “(B) in connection with transferring pa-  
4           tients from the health care business that is in  
5           the process of being closed to another health  
6           care business;

7           “(9) with respect to a nonresidential real prop-  
8           erty lease previously assumed under section 365,  
9           and subsequently rejected, a sum equal to all mone-  
10          tary obligations due, excluding those arising from or  
11          related to a failure to operate or penalty provisions,  
12          for the period of 2 years following the later of the  
13          rejection date or date of actual turnover of the  
14          premises, without reduction or setoff for any reason  
15          whatsoever except for sums actually received or to be  
16          received from a nondebtor, and the claim for remain-  
17          ing sums due for the balance of the term of the lease  
18          shall be a claim under section 502(b)(6); and”.

19 **SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PA-**  
20 **TIENT ADVOCATE.**

21 (a) IN GENERAL.—

22 (1) APPOINTMENT OF OMBUDSMAN.—Sub-  
23 chapter II of chapter 3 of title 11, United States  
24 Code, is amended by inserting after section 331 the  
25 following:

1 **“§ 332. Appointment of ombudsman**

2 “(a) IN GENERAL.—

3 “(1) AUTHORITY TO APPOINT.—Not later than  
4 30 days after a case is commenced by a health care  
5 business under chapter 7, 9, or 11, the court shall  
6 order the appointment of an ombudsman to monitor  
7 the quality of patient care to represent the interests  
8 of the patients of the health care business, unless  
9 the court finds that the appointment of the ombuds-  
10 man is not necessary for the protection of patients  
11 under the specific facts of the case.

12 “(2) QUALIFICATIONS.—If the court orders the  
13 appointment of an ombudsman, the United States  
14 trustee shall appoint 1 disinterested person, other  
15 than the United States trustee, to serve as an om-  
16 budsman. If the health care business is a long-term  
17 care facility, the trustee may appoint a person who  
18 is serving as a State Long-Term Care Ombudsman  
19 appointed under title III or VII of the Older Ameri-  
20 cans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et  
21 seq.).

22 In the event that the trustee does not appoint the State  
23 Long-Term Care Ombudsman to monitor the quality of  
24 patient care in a long-term care facility, the court shall  
25 notify the individual who serves as the State Long-Term

1 Care Ombudsman of the name and address of the indi-  
2 vidual who is appointed.

3 “(b) DUTIES.—An ombudsman appointed under sub-  
4 section (a) shall—

5 “(1) monitor the quality of patient care, to the  
6 extent necessary under the circumstances, including  
7 interviewing patients and physicians;

8 “(2) not later than 60 days after the date of  
9 appointment, and not less frequently than every 60  
10 days thereafter, report to the court, at a hearing or  
11 in writing, regarding the quality of patient care at  
12 the health care business involved; and

13 “(3) if the ombudsman determines that the  
14 quality of patient care is declining significantly or is  
15 otherwise being materially compromised, notify the  
16 court by motion or written report, with notice to ap-  
17 propriate parties in interest, immediately upon mak-  
18 ing that determination.

19 “(c) CONFIDENTIALITY.—An ombudsman shall main-  
20 tain any information obtained by the ombudsman under  
21 this section that relates to patients (including information  
22 relating to patient records) as confidential information.  
23 The ombudsman may not review confidential patient  
24 records, unless the court provides prior approval, with re-  
25 strictions on the ombudsman to protect the confidentiality

1 of patient records. If the individual appointed as ombuds-  
 2 man is a person who is also serving as a State Long-Term  
 3 Care Ombudsman appointed under title III or title VII  
 4 of the Older Americans Act of 1965 (42 U.S.C. 3021 et  
 5 seq., 3058 et seq.), that person shall have access to patient  
 6 records, consistent with authority spelled out in the Older  
 7 Americans Act and State laws governing the State Long-  
 8 Term Care Ombudsman program.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-  
 10 tions for chapter 3 of title 11, United States Code,  
 11 is amended by inserting after the item relating to  
 12 section 331 the following:

“332. Appointment of ombudsman.”.

13 (b) COMPENSATION OF OMBUDSMAN.—Section  
 14 330(a)(1) of title 11, United States Code, is amended—

15 (1) in the matter preceeding subparagraph (A),  
 16 by inserting “an ombudsman appointed under sec-  
 17 tion 331, or” before “a professional person”; and

18 (2) in subparagraph (A), by inserting “ombuds-  
 19 man,” before “professional person”.

20 **SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO**  
 21 **TRANSFER PATIENTS.**

22 (a) IN GENERAL.—Section 704(a) of title 11, United  
 23 States Code, as amended by this Act, is amended by add-  
 24 ing at the end the following:

1           “(11) use all reasonable and best efforts to  
2           transfer patients from a health care business that is  
3           in the process of being closed to an appropriate  
4           health care business that—

5                   “(A) is in the vicinity of the health care  
6           business that is closing;

7                   “(B) provides the patient with services  
8           that are substantially similar to those provided  
9           by the health care business that is in the pro-  
10          cess of being closed; and

11                   “(C) maintains a reasonable quality of  
12          care.”.

13          (b) CONFORMING AMENDMENT.—Section 1106(a)(1)  
14          of title 11, United States Code, is amended by striking  
15          “sections 704(2), 704(5), 704(7), 704(8), and 704(9)”  
16          and inserting “paragraphs (2), (5), (7), (8), (9), and (11)  
17          of section 704(a)”.

18          **SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION**

19                   **NOT SUBJECT TO AUTOMATIC STAY.**

20          Section 362(b) of title 11, United States Code, is  
21          amended by inserting after paragraph (27), as added by  
22          this Act, the following:

23                   “(28) under subsection (a), of the exclusion by  
24          the Secretary of Health and Human Services of the  
25          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 this Act, is amended—

11 (1) by striking “In this title—” and inserting  
12 “In this title, the following definitions shall apply.”;

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.”; and

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), by striking the semi-  
20 colon at the end and inserting a period.

21 **SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.**

22 Section 104 of title 11, United States Code, as  
23 amended by section 308 of this Act, is amended by insert-  
24 ing “522(f)(3),” after “522(d),” each place it appears.

1 **SEC. 1203. EXTENSION OF TIME.**

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

5 **SEC. 1204. TECHNICAL AMENDMENTS.**

6 Title 11, United States Code, is amended—

7 (1) in section 109(b)(2), by striking “subsection  
8 (c) or (d) of”; and

9 (2) in section 552(b)(1), by striking “product”  
10 each place it appears and inserting “products”.

11 **SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**  
12 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**  
13 **TITIONS.**

14 Section 110(j)(4) of title 11, United States Code, as  
15 so designated by this Act, is amended by striking “attor-  
16 ney’s” and inserting “attorneys”.

17 **SEC. 1206. LIMITATION ON COMPENSATION OF PROFES-**  
18 **SIONAL PERSONS.**

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

22 **SEC. 1207. EFFECT OF CONVERSION.**

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

1 **SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

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

5 **SEC. 1209. EXCEPTIONS TO DISCHARGE.**

6 Section 523 of title 11, United States Code, as  
7 amended by this Act, is amended—

8 (1) by transferring paragraph (15), as added by  
9 section 304(e) of Public Law 103–394 (108 Stat.  
10 4133), so as to insert such paragraph after sub-  
11 section (a)(14);

12 (2) in subsection (a)(9), by striking “motor ve-  
13 hicle” and inserting “motor vehicle, vessel, or air-  
14 craft”; and

15 (3) in subsection (e), by striking “a insured”  
16 and inserting “an insured”.

17 **SEC. 1210. EFFECT OF DISCHARGE.**

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

22 **SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREAT-**  
23 **MENT.**

24 Section 525(e) of title 11, United States Code, is  
25 amended—

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

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

6 **SEC. 1212. PROPERTY OF THE ESTATE.**

7           Section 541(b)(4)(B)(ii) of title 11, United States  
8           Code, is amended by inserting “365 or” before “542”.

9 **SEC. 1213. PREFERENCES.**

10          (a) IN GENERAL.—Section 547 of title 11, United  
11          States Code, as amended by this Act, is amended—

12                 (1) in subsection (b), by striking “subsection  
13                 (c)” and inserting “subsections (c) and (i)”; and

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

15                 “(i) If the trustee avoids under subsection (b) a  
16                 transfer made between 90 days and 1 year before the date  
17                 of the filing of the petition, by the debtor to an entity  
18                 that is not an insider for the benefit of a creditor that  
19                 is an insider, such transfer shall be considered to be avoid-  
20                 ed under this section only with respect to the creditor that  
21                 is an insider.”.

22          (b) APPLICABILITY.—The amendments made by this  
23          section shall apply to any case that is pending or com-  
24          menced on or after the date of enactment of this Act.

1 **SEC. 1214. POSTPETITION TRANSACTIONS.**

2 Section 549(c) of title 11, United States Code, is  
3 amended—

4 (1) by inserting “an interest in” after “transfer  
5 of” each place it appears;

6 (2) by striking “such property” and inserting  
7 “such real property”; and

8 (3) by striking “the interest” and inserting  
9 “such interest”.

10 **SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.**

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

13 **SEC. 1216. GENERAL PROVISIONS.**

14 Section 901(a) of title 11, United States Code, as  
15 amended by this Act, is amended by inserting “1123(d),”  
16 after “1123(b),”.

17 **SEC. 1217. ABANDONMENT OF RAILROAD LINE.**

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

21 **SEC. 1218. CONTENTS OF PLAN.**

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

1 **SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.**

2 Section 1334(d) of title 28, United States Code, is  
3 amended—

4 (1) by striking “made under this subsection”  
5 and inserting “made under subsection (c)”; and

6 (2) by striking “This subsection” and inserting  
7 “Subsection (c) and this subsection”.

8 **SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR**  
9 **RULE.**

10 Section 156(a) of title 18, United States Code, is  
11 amended—

12 (1) in the first undesignated paragraph—

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

15 (B) by striking the period at the end and  
16 inserting “; and”; and

17 (2) in the second undesignated paragraph—

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

20 (B) by striking “this title” and inserting  
21 “title 11”.

22 **SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE**  
23 **CORPORATIONS.**

24 (a) SALE OF PROPERTY OF ESTATE.—Section 363(d)  
25 of title 11, United States Code, is amended by striking

1 “only” and all that follows through the end of the sub-  
2 section and inserting “only—

3 “(1) in accordance with applicable nonbank-  
4 ruptcy law that governs the transfer of property by  
5 a corporation or trust that is not a moneyed, busi-  
6 ness, or commercial corporation or trust; and

7 “(2) to the extent not inconsistent with any re-  
8 lief granted under subsection (c), (d), (e), or (f) of  
9 section 362.”.

10 (b) CONFIRMATION OF PLAN FOR REORGANIZA-  
11 TION.—Section 1129(a) of title 11, United States Code,  
12 as amended by this Act, is amended by adding at the end  
13 the following:

14 “(16) All transfers of property of the plan shall  
15 be made in accordance with any applicable provi-  
16 sions of nonbankruptcy law that govern the transfer  
17 of property by a corporation or trust that is not a  
18 moneyed, business, or commercial corporation or  
19 trust.”.

20 (c) TRANSFER OF PROPERTY.—Section 541 of title  
21 11, United States Code, as amended by this Act, is  
22 amended by adding at the end the following:

23 “(g) Notwithstanding any other provision of this title,  
24 property that is held by a debtor that is a corporation de-  
25 scribed in section 501(c)(3) of the Internal Revenue Code

1 of 1986 and exempt from tax under section 501(a) of such  
2 Code may be transferred to an entity that is not such a  
3 corporation, but only under the same conditions as would  
4 apply if the debtor had not filed a case under this title.”.

5 (d) APPLICABILITY.—The amendments made by this  
6 section shall apply to a case pending under title 11, United  
7 States Code, on the date of enactment of this Act, or filed  
8 under that title on or after that date of enactment, except  
9 that the court shall not confirm a plan under chapter 11  
10 of title 11, United States Code, without considering  
11 whether this section would substantially affect the rights  
12 of a party in interest who first acquired rights with respect  
13 to the debtor after the date of the petition. The parties  
14 who may appear and be heard in a proceeding under this  
15 section include the attorney general of the State in which  
16 the debtor is incorporated, was formed, or does business.

17 (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
18 tion shall be construed to require the court in which a  
19 case under chapter 11 of title 11, United States Code, is  
20 pending to remand or refer any proceeding, issue, or con-  
21 troversy to any other court or to require the approval of  
22 any other court for the transfer of property.

1 **SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SE-**  
2 **CURITY INTERESTS.**

3 Section 547(c)(3)(B) of title 11, United States Code,  
4 is amended by striking “20” and inserting “30”.

5 **SEC. 1223. BANKRUPTCY JUDGESHIPS.**

6 (a) **SHORT TITLE.**—This section may be cited as the  
7 “Bankruptcy Judgeship Act of 2001”.

8 (b) **TEMPORARY JUDGESHIPS.**—

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

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

16 (B) Four additional bankruptcy judgeships  
17 for the central district of California.

18 (C) One additional bankruptcy judgeship  
19 for the district of Delaware.

20 (D) Two additional bankruptcy judgeships  
21 for the southern district of Florida.

22 (E) One additional bankruptcy judgeship  
23 for the southern district of Georgia.

24 (F) Three additional bankruptcy judge-  
25 ships for the district of Maryland.

1 (G) One additional bankruptcy judgeship  
2 for the eastern district of Michigan.

3 (H) One additional bankruptcy judgeship  
4 for the southern district of Mississippi.

5 (I) One additional bankruptcy judgeship  
6 for the district of New Jersey.

7 (J) One additional bankruptcy judgeship  
8 for the eastern district of New York.

9 (K) One additional bankruptcy judgeship  
10 for the northern district of New York.

11 (L) One additional bankruptcy judgeship  
12 for the southern district of New York.

13 (M) One additional bankruptcy judgeship  
14 for the eastern district of North Carolina.

15 (N) One additional bankruptcy judgeship  
16 for the eastern district of Pennsylvania.

17 (O) One additional bankruptcy judgeship  
18 for the middle district of Pennsylvania.

19 (P) One additional bankruptcy judgeship  
20 for the district of Puerto Rico.

21 (Q) One additional bankruptcy judgeship  
22 for the western district of Tennessee.

23 (R) One additional bankruptcy judgeship  
24 for the eastern district of Virginia.

1           (S) One additional bankruptcy judgeship  
2           for the district of South Carolina.

3           (T) One additional bankruptcy judgeship  
4           for the district of Nevada, and one for the dis-  
5           trict of Delaware.

6           (2) VACANCIES.—The first vacancy occurring in  
7           the office of a bankruptcy judge in each of the judi-  
8           cial districts set forth in paragraph (1) shall not be  
9           filled if the vacancy—

10           (A) results from the death, retirement, res-  
11           ignation, or removal of a bankruptcy judge; and

12           (B) occurs 5 years or more after the ap-  
13           pointment date of a bankruptcy judge ap-  
14           pointed under paragraph (1).

15           (c) EXTENSIONS.—

16           (1) IN GENERAL.—The temporary bankruptcy  
17           judgeship positions authorized for the northern dis-  
18           trict of Alabama, the district of Delaware, the dis-  
19           trict of Puerto Rico, and the eastern district of Ten-  
20           nessee under paragraphs (1), (3), (7), and (9) of  
21           section 3(a) of the Bankruptcy Judgeship Act of  
22           1992 (28 U.S.C. 152 note) are extended until the  
23           first vacancy occurring in the office of a bankruptcy  
24           judge in the applicable district resulting from the

1 death, retirement, resignation, or removal of a bank-  
2 ruptcy judge and occurring—

3 (A) 11 years or more after November 8,  
4 1993, with respect to the northern district of  
5 Alabama;

6 (B) 13 years or more after October 28,  
7 1993, with respect to the district of Delaware;

8 (C) 11 years or more after August 29,  
9 1994, with respect to the district of Puerto  
10 Rico; and

11 (D) 11 years or more after November 23,  
12 1993, with respect to the eastern district of  
13 Tennessee.

14 (2) APPLICABILITY OF OTHER PROVISIONS.—

15 All other provisions of section 3 of the Bankruptcy  
16 Judgeship Act of 1992 (28 U.S.C. 152 note) remain  
17 applicable to temporary judgeship positions referred  
18 to in this subsection.

19 (d) TECHNICAL AMENDMENTS.—Section 152(a) of  
20 title 28, United States Code, is amended—

21 (1) in paragraph (1), by striking the first sen-  
22 tence and inserting the following: “Each bankruptcy  
23 judge to be appointed for a judicial district, as pro-  
24 vided in paragraph (2), shall be appointed by the

1 United States court of appeals for the circuit in  
2 which such district is located.”; and

3 (2) in paragraph (2)—

4 (A) in the item relating to the middle dis-  
5 trict of Georgia, by striking “2” and inserting  
6 “3”; and

7 (B) in the collective item relating to the  
8 middle and southern districts of Georgia, by  
9 striking “Middle and Southern . . . . . 1”.

10 (e) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on the date of enactment of  
12 this Act.

13 **SEC. 1224. COMPENSATING TRUSTEES.**

14 Section 1326 of title 11, United States Code, is  
15 amended—

16 (1) in subsection (b)—

17 (A) in paragraph (1), by striking “and”;

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

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

21 “(3) if a chapter 7 trustee has been allowed  
22 compensation due to the conversion or dismissal of  
23 the debtor’s prior case pursuant to section 707(b),  
24 and some portion of that compensation remains un-  
25 paid in a case converted to this chapter or in the

1 case dismissed under section 707(b) and refiled  
2 under this chapter, the amount of any such unpaid  
3 compensation, which shall be paid monthly—

4 “(A) by prorating such amount over the  
5 remaining duration of the plan; and

6 “(B) by monthly payments not to exceed  
7 the greater of—

8 “(i) \$25; or

9 “(ii) the amount payable to unsecured  
10 nonpriority creditors, as provided by the  
11 plan, multiplied by 5 percent, and the re-  
12 sult divided by the number of months in  
13 the plan.”; and

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

15 “(d) Notwithstanding any other provision of this  
16 title—

17 “(1) compensation referred to in subsection  
18 (b)(3) is payable and may be collected by the trustee  
19 under that paragraph, even if such amount has been  
20 discharged in a prior proceeding under this title; and

21 “(2) such compensation is payable in a case  
22 under this chapter only to the extent permitted by  
23 subsection (b)(3).”.

1 **SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11,**  
2 **UNITED STATES CODE.**

3 Section 362(b)(18) of title 11, United States Code,  
4 is amended to read as follows:

5 “(18) under subsection (a) of the creation or  
6 perfection of a statutory lien for an ad valorem  
7 property tax, or a special tax or special assessment  
8 on real property whether or not ad valorem, imposed  
9 by a governmental unit, if such tax or assessment  
10 comes due after the filing of the petition;”.

11 **SEC. 1226. JUDICIAL EDUCATION.**

12 The Director of the Federal Judicial Center, in con-  
13 sultation with the Director of the Executive Office for  
14 United States Trustees, shall develop materials and con-  
15 duct such training as may be useful to courts in imple-  
16 menting this Act and the amendments made by this Act,  
17 including the requirements relating to the means test and  
18 reaffirmations under section 707(b) of title 11, United  
19 States Code, as amended by this Act.

20 **SEC. 1227. RECLAMATION.**

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 this  
25 section and subsection (c) of section 507, and subject to  
26 the prior rights of holders of security interests in such

1 goods or the proceeds thereof, the rights and powers of  
2 the trustee under sections 544(a), 545, 547, and 549 are  
3 subject to the right of a seller of goods that has sold goods  
4 to the debtor, in the ordinary course of such seller's busi-  
5 ness, to reclaim such goods if the debtor has received such  
6 goods while insolvent, not later than 45 days prior to the  
7 date of the commencement of a case under this title, but  
8 such seller may not reclaim such goods unless such seller  
9 demands in writing reclamation of such goods—

10           “(A) not later than 45 days after the date of  
11           receipt of such goods by the debtor; or

12           “(B) not later than 20 days after the date of  
13           commencement of the case, if the 45-day period ex-  
14           pires after the commencement of the case.

15           “(2) If a seller of goods fails to provide notice in the  
16           manner described in paragraph (1), the seller still may  
17           assert the rights contained in section 503(b)(7).”.

18           (b) ADMINISTRATIVE EXPENSES.—Section 503(b) of  
19           title 11, United States Code, as amended by this Act, is  
20           amended by adding at the end the following:

21           “(10) the value of any goods received by the  
22           debtor not later than 20 days prior to the date of  
23           commencement of a case under this title in which  
24           the goods have been sold to the debtor in the ordi-  
25           nary course of such debtor's business.”.

1 **SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO**  
2 **THE COURT.**

3 (a) CHAPTER 7 CASES.—The court shall not grant  
4 a discharge in the case of an individual seeking bank-  
5 ruptcy under chapter 7 of title 11, United States Code,  
6 unless requested tax documents have been provided to the  
7 court.

8 (b) CHAPTER 11 AND CHAPTER 13 CASES.—The  
9 court shall not confirm a plan of reorganization in the case  
10 of an individual under chapter 11 or 13 of title 11, United  
11 States Code, unless requested tax documents have been  
12 filed with the court.

13 (c) DOCUMENT RETENTION.—The court shall de-  
14 stroy documents submitted in support of a bankruptcy  
15 claim not sooner than 3 years after the date of the conclu-  
16 sion of a bankruptcy case filed by an individual under  
17 chapter 7, 11, or 13 of title 11, United States Code. In  
18 the event of a pending audit or enforcement action, the  
19 court may extend the time for destruction of such re-  
20 quested tax documents.

21 **SEC. 1229. ENCOURAGING CREDITWORTHINESS.**

22 (a) SENSE OF THE CONGRESS.—It is the sense of the  
23 Congress that—

24 (1) certain lenders may sometimes offer credit  
25 to consumers indiscriminately, without taking steps  
26 to ensure that consumers are capable of repaying

1 the resulting debt, and in a manner which may en-  
2 courage certain consumers to accumulate additional  
3 debt; and

4 (2) resulting consumer debt may increasingly be  
5 a major contributing factor to consumer insolvency.

6 (b) STUDY REQUIRED.—The Board of Governors of  
7 the Federal Reserve System (hereafter in this section re-  
8 ferred to as the “Board”) shall conduct a study of—

9 (1) consumer credit industry practices of solici-  
10 iting and extending credit—

11 (A) indiscriminately;

12 (B) without taking steps to ensure that  
13 consumers are capable of repaying the resulting  
14 debt; and

15 (C) in a manner that encourages con-  
16 sumers to accumulate additional debt; and

17 (2) the effects of such practices on consumer  
18 debt and insolvency.

19 (c) REPORT AND REGULATIONS.—Not later than 12  
20 months after the date of enactment of this Act, the  
21 Board—

22 (1) shall make public a report on its findings  
23 with respect to the indiscriminate solicitation and  
24 extension of credit by the credit industry;

1           (2) may issue regulations that would require  
2 additional disclosures to consumers; and

3           (3) may take any other actions, consistent with  
4 its existing statutory authority, that the Board finds  
5 necessary to ensure responsible industrywide prac-  
6 tices and to prevent resulting consumer debt and in-  
7 solvency.

8 **SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMP-**  
9 **TION.**

10         Section 541(b) of title 11, United States Code, is  
11 amended by inserting after paragraph (8), as added by  
12 this Act, the following:

13           “(9) subject to subchapter III of chapter 5, any  
14 interest of the debtor in property where the debtor  
15 pledged or sold tangible personal property (other  
16 than securities or written or printed evidences of in-  
17 debtedness or title) as collateral for a loan or ad-  
18 vance of money given by a person licensed under law  
19 to make such loans or advances, 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; or”.

6 **SEC. 1231. TRUSTEES.**

7           (a) **SUSPENSION AND TERMINATION OF PANEL**  
8 **TRUSTEES AND STANDING TRUSTEES.**—Section 586(d) of  
9 title 28, United States Code, is amended—

10           (1) by inserting “(1)” after “(d)”; and

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

12           “(2) A trustee whose appointment under subsection  
13 (a)(1) or under subsection (b) is terminated or who ceases  
14 to be assigned to cases filed under title 11, United States  
15 Code, may obtain judicial review of the final agency deci-  
16 sion by commencing an action in the United States district  
17 court for the district for which the panel to which the  
18 trustee is appointed under subsection (a)(1), or in the  
19 United States district court for the district in which the  
20 trustee is appointed under subsection (b) resides, after  
21 first exhausting all available administrative remedies,  
22 which if the trustee so elects, shall also include an admin-  
23 istrative hearing on the record. Unless the trustee elects  
24 to have an administrative hearing on the record, the trust-  
25 ee shall be deemed to have exhausted all administrative

1 remedies for purposes of this paragraph if the agency fails  
2 to make a final agency decision within 90 days after the  
3 trustee requests administrative remedies. The Attorney  
4 General shall prescribe procedures to implement this para-  
5 graph. The decision of the agency shall be affirmed by  
6 the district court unless it is unreasonable and without  
7 cause based on the administrative record before the agen-  
8 cy.”.

9 (b) EXPENSES OF STANDING TRUSTEES.—Section  
10 586(e) of title 28, United States Code, is amended by add-  
11 ing at the end the following:

12 “(3) After first exhausting all available administra-  
13 tive remedies, an individual appointed under subsection  
14 (b) may obtain judicial review of final agency action to  
15 deny a claim of actual, necessary expenses under this sub-  
16 section by commencing an action in the United States dis-  
17 trict court in the district where the individual resides. The  
18 decision of the agency shall be affirmed by the district  
19 court unless it is unreasonable and without cause based  
20 upon the administrative record before the agency.

21 “(4) The Attorney General shall prescribe procedures  
22 to implement this subsection.”.

23 **SEC. 1232. BANKRUPTCY FORMS.**

24 Section 2075 of title 28, United States Code, is  
25 amended by adding at the end the following:

1 “The bankruptcy rules promulgated under this section  
2 shall prescribe a form for the statement required under  
3 section 707(b)(2)(C) of title 11 and may provide general  
4 rules on the content of such statement.”.

5 **SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES**  
6 **TO COURTS OF APPEALS.**

7 (a) APPEALS.—Section 158 of title 28, United States  
8 Code, is amended—

9 (1) in subsection (c)(1), by striking “Subject to  
10 subsection (b),” and inserting “Subject to sub-  
11 sections (b) and (d)(2),”; and

12 (2) in subsection (d)—

13 (A) by inserting “(1)” after “(d)”; and

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

15 “(2)(A) A court of appeals that would have jurisdic-  
16 tion of a subsequent appeal under paragraph (1) or other  
17 law may authorize an immediate appeal of an order or  
18 decree, not otherwise appealable, that is entered in a case  
19 or proceeding pending under section 157 or is entered by  
20 the district court or bankruptcy appellate panel exercising  
21 jurisdiction under subsection (a) or (b), if the bankruptcy  
22 court, district court, bankruptcy appellate panel, or the  
23 parties acting jointly certify that—

24 “(i) the order or decree involves—

25 “(I) a substantial question of law;

1           “(II) a question of law requiring resolution  
2           of conflicting decisions; or

3           “(III) a matter of public importance; and

4           “(ii) an immediate appeal from the order or de-  
5           cree may materially advance the progress of the case  
6           or proceeding.

7           “(B) An appeal under this paragraph does not stay  
8           proceedings in the court from which the order or decree  
9           originated, unless the originating court or the court of ap-  
10          peals orders such a stay.”.

11          (b) PROCEDURAL RULES.—

12           (1) TEMPORARY APPLICATION.—A provision of  
13           this subsection shall apply to appeals under section  
14           158(d)(2) of title 28, United States Code, as added  
15           by subsection (a) of this section, until a rule of prac-  
16           tice and procedure relating to such provision and ap-  
17           peal is promulgated or amended under chapter 131  
18           of such title.

19           (2) CERTIFICATION.—A district court, bank-  
20           ruptcy court, or bankruptcy appellate panel may  
21           enter a certification as described in section  
22           158(d)(2) of title 28, United States Code, during  
23           proceedings pending before that court or panel.

24           (3) PROCEDURE.—Subject to the other provi-  
25           sions of this subsection, an appeal by permission

1 under section 158(d)(2) of title 28, United States  
2 Code, shall be taken in the manner prescribed in  
3 rule 5 of the Federal Rules of Appellate Procedure.

4 (4) FILING PETITION.—When permission to ap-  
5 peal is requested on the basis of a certification of  
6 the parties, a district court, bankruptcy court, or  
7 bankruptcy appellate panel, the petition shall be  
8 filed within 10 days after the certification is entered  
9 or filed.

10 (5) ATTACHMENT.—When permission to appeal  
11 is requested on the basis of a certification of a dis-  
12 trict court, bankruptcy court, or bankruptcy appel-  
13 late panel, a copy of the certification shall be at-  
14 tached to the petition.

15 (6) PANEL AND CLERK.—In a case pending be-  
16 fore a bankruptcy appellate panel in which permis-  
17 sion to appeal is requested, the terms “district  
18 court” and “district clerk”, as used in rule 5 of the  
19 Federal Rules of Appellate Procedure, mean “bank-  
20 ruptcy appellate panel” and “clerk of the bank-  
21 ruptcy appellate panel”, respectively.

22 (7) APPLICATION OF RULES.—In a case pend-  
23 ing before a district court, bankruptcy court, or  
24 bankruptcy appellate panel in which a court of ap-  
25 peals grants permission to appeal, the Federal Rules

1 of Appellate Procedure apply to the proceedings in  
2 the court of appeals, to the extent relevant, as if the  
3 appeal were taken from a final judgment, order, or  
4 decree of a district court, bankruptcy court, or bank-  
5 ruptcy appellate panel exercising appellate jurisdic-  
6 tion under subsection (a) or (b) of section 158 of  
7 title 28, United States Code.

8 **SEC. 1234. EXEMPTIONS.**

9 Section 522(g)(2) of title 11, United States Code, is  
10 amended by striking “subsection (f)(2)” and inserting  
11 “subsection (f)(1)(B)”.

12 **SEC. 1235. INVOLUNTARY CASES.**

13 Section 303 of title 11, United States Code, is  
14 amended—

15 (1) in subsection (b)(1), by—

16 (A) inserting “as to liability or amount”  
17 after “bona fide dispute”; and

18 (B) striking “if such claims” and inserting  
19 “if such undisputed claims”; and

20 (2) in subsection (h)(1), by inserting before the  
21 semicolon the following: “as to liability or amount”.

1 **SEC. 1236. 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) (as added by  
 5 this Act) the following:

6 “(14B) incurred to pay fines or penalties im-  
 7 posed under Federal election law;”.

8 **SEC. 1237. NO BANKRUPTCY FOR INSOLVENT POLITICAL**  
 9 **COMMITTEES.**

10 Section 105 of title 11, United States Code, is  
 11 amended by adding at the end the following:

12 “(e) A political committee subject to the jurisdiction  
 13 of the Federal Election Commission under Federal elec-  
 14 tion laws may not file for bankruptcy under this title.”.

15 **TITLE XIII—CONSUMER CREDIT**  
 16 **DISCLOSURE**

17 **SEC. 1301. 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-  
 26 cated on the front of the billing statement, disclosed

1 clearly and conspicuously: ‘Minimum Payment  
2 Warning: Making only the minimum payment will  
3 increase the interest you pay and the time it takes  
4 to repay your balance. For example, making only the  
5 typical 2% minimum monthly payment on a balance  
6 of \$1,000 at an interest rate of 17% would take 88  
7 months to repay the balance in full. For an estimate  
8 of the time it would take to repay your balance,  
9 making only minimum payments, call this toll-free  
10 number: \_\_\_\_\_.’ (the blank space to be  
11 filled in by the creditor).

12 “(B) In the case of an open end credit plan  
13 that requires a minimum monthly payment of more  
14 than 4 percent of the balance on which finance  
15 charges are accruing, the following statement, in a  
16 prominent location on the front of the billing state-  
17 ment, disclosed clearly and conspicuously: ‘Minimum  
18 Payment Warning: Making only the required min-  
19 imum payment will increase the interest you pay and  
20 the time it takes to repay your balance. Making a  
21 typical 5% minimum monthly payment on a balance  
22 of \$300 at an interest rate of 17% would take 24  
23 months to repay the balance in full. For an estimate  
24 of the time it would take to repay your balance,  
25 making only minimum monthly payments, call this

1 toll-free number: \_\_\_\_\_.’ (the blank space to  
2 be filled in by the creditor).

3 “(C) Notwithstanding subparagraphs (A) and  
4 (B), in the case of a creditor with respect to which  
5 compliance with this title is enforced by the Federal  
6 Trade Commission, the following statement, in a  
7 prominent location on the front of the billing state-  
8 ment, disclosed clearly and conspicuously: ‘Minimum  
9 Payment Warning: Making only the required min-  
10 imum payment will increase the interest you pay and  
11 the time it takes to repay your balance. For exam-  
12 ple, making only the typical 5% minimum monthly  
13 payment on a balance of \$300 at an interest rate of  
14 17% would take 24 months to repay the balance in  
15 full. For an estimate of the time it would take to  
16 repay your balance, making only minimum monthly  
17 payments, call the Federal Trade Commission at  
18 this toll-free number: \_\_\_\_\_.’ (the blank  
19 space to be filled in by the creditor). A creditor who  
20 is subject to this subparagraph shall not be subject  
21 to subparagraph (A) or (B).

22 “(D) Notwithstanding subparagraph (A), (B),  
23 or (C), in complying with any such subparagraph, a  
24 creditor may substitute an example based on an in-  
25 terest rate that is greater than 17 percent. Any

1 creditor that is subject to subparagraph (B) may  
2 elect to provide the disclosure required under sub-  
3 paragraph (A) in lieu of the disclosure required  
4 under subparagraph (B).

5 “(E) The Board shall, by rule, periodically re-  
6 calculate, as necessary, the interest rate and repay-  
7 ment period under subparagraphs (A), (B), and (C).

8 “(F)(i) The toll-free telephone number disclosed  
9 by a creditor or the Federal Trade Commission  
10 under subparagraph (A), (B), or (G), as appro-  
11 priate, may be a toll-free telephone number estab-  
12 lished and maintained by the creditor or the Federal  
13 Trade Commission, as appropriate, or may be a toll-  
14 free telephone number established and maintained  
15 by a third party for use by the creditor or multiple  
16 creditors or the Federal Trade Commission, as ap-  
17 propriate. The toll-free telephone number may con-  
18 nect consumers to an automated device through  
19 which consumers may obtain information described  
20 in subparagraph (A), (B), or (C), by inputting infor-  
21 mation using a touch-tone telephone or similar de-  
22 vice, if consumers whose telephones are not equipped  
23 to use such automated device are provided the op-  
24 portunity to be connected to an individual from  
25 whom the information described in subparagraph

1 (A), (B), or (C), as applicable, may be obtained. A  
2 person that receives a request for information de-  
3 scribed in subparagraph (A), (B), or (C) from an ob-  
4 ligor through the toll-free telephone number dis-  
5 closed under subparagraph (A), (B), or (C), as ap-  
6 plicable, shall disclose in response to such request  
7 only the information set forth in the table promul-  
8 gated by the Board under subparagraph (H)(i).

9 “(ii)(I) The Board shall establish and maintain  
10 for a period not to exceed 24 months following the  
11 effective date of the Bankruptcy Reform Act of  
12 2001, a toll-free telephone number, or provide a toll-  
13 free telephone number established and maintained  
14 by a third party, for use by creditors that are depos-  
15 itory institutions (as defined in section 3 of the Fed-  
16 eral Deposit Insurance Act), including a Federal  
17 credit union or State credit union (as defined in sec-  
18 tion 101 of the Federal Credit Union Act (12 U.S.C.  
19 1752)), with total assets not exceeding  
20 \$250,000,000. The toll-free telephone number may  
21 connect consumers to an automated device through  
22 which consumers may obtain information described  
23 in subparagraph (A) or (B), as applicable, by  
24 inputting information using a touch-tone telephone  
25 or similar device, if consumers whose telephones are

1 not equipped to use such automated device are pro-  
2 vided the opportunity to be connected to an indi-  
3 vidual from whom the information described in sub-  
4 paragraph (A) or (B), as applicable, may be ob-  
5 tained. A person that receives a request for informa-  
6 tion described in subparagraph (A) or (B) from an  
7 obligor through the toll-free telephone number dis-  
8 closed under subparagraph (A) or (B), as applicable,  
9 shall disclose in response to such request only the in-  
10 formation set forth in the table promulgated by the  
11 Board under subparagraph (H)(i). The dollar  
12 amount contained in this subclause shall be adjusted  
13 according to an indexing mechanism established by  
14 the Board.

15 “(II) Not later than 6 months prior to the expi-  
16 ration of the 24-month period referenced in sub-  
17 clause (I), the Board shall submit to the Committee  
18 on Banking, Housing, and Urban Affairs of the Sen-  
19 ate and the Committee on Financial Services of the  
20 House of Representatives a report on the program  
21 described in subclause (I).

22 “(G) The Federal Trade Commission shall es-  
23 tablish and maintain a toll-free number for the pur-  
24 pose of providing to consumers the information re-  
25 quired to be disclosed under subparagraph (C).

1 “(H) The Board shall—

2 “(i) establish a detailed table illustrating  
3 the approximate number of months that it  
4 would take to repay an outstanding balance if  
5 a consumer pays only the required minimum  
6 monthly payments and if no other advances are  
7 made, which table shall clearly present stand-  
8 ardized information to be used to disclose the  
9 information required to be disclosed under sub-  
10 paragraph (A), (B), or (C), as applicable;

11 “(ii) establish the table required under  
12 clause (i) by assuming—

13 “(I) a significant number of different  
14 annual percentage rates;

15 “(II) a significant number of different  
16 account balances;

17 “(III) a significant number of dif-  
18 ferent minimum payment amounts; and

19 “(IV) that only minimum monthly  
20 payments are made and no additional ex-  
21 tensions of credit are obtained; and

22 “(iii) promulgate regulations that provide  
23 instructional guidance regarding the manner in  
24 which the information contained in the table es-  
25 tablished under clause (i) should be used in re-

1           sponding to the request of an obligor for any  
2           information required to be disclosed under sub-  
3           paragraph (A), (B), or (C).

4           “(I) The disclosure requirements of this para-  
5           graph do not apply to any charge card account, the  
6           primary purpose of which is to require payment of  
7           charges in full each month.

8           “(J) A creditor that maintains a toll-free tele-  
9           phone number for the purpose of providing cus-  
10          tomers with the actual number of months that it will  
11          take to repay the customer’s outstanding balance is  
12          not subject to the requirements of subparagraph (A)  
13          or (B).

14          “(K) A creditor that maintains a toll-free tele-  
15          phone number for the purpose of providing cus-  
16          tomers with the actual number of months that it will  
17          take to repay an outstanding balance shall include  
18          the following statement on each billing statement:  
19          ‘Making only the minimum payment will increase  
20          the interest you pay and the time it takes to repay  
21          your balance. For more information, call this toll-  
22          free number: \_\_\_\_\_.’ (the blank space to be filled  
23          in by the creditor).”.

24          (b) REGULATORY IMPLEMENTATION.—

1           (1) IN GENERAL.—The Board of Governors of  
2 the Federal Reserve System (hereafter in this title  
3 referred to as the “Board”) shall promulgate regula-  
4 tions implementing the requirements of section  
5 127(b)(11) of the Truth in Lending Act, as added  
6 by subsection (a) of this section.

7           (2) EFFECTIVE DATE.—Section 127(b)(11) of  
8 the Truth in Lending Act, as added by subsection  
9 (a) of this section, and the regulations issued under  
10 paragraph (1) of this subsection shall not take effect  
11 until the later of—

12                   (A) 18 months after the date of enactment  
13 of this Act; or

14                   (B) 12 months after the publication of  
15 such final regulations by the Board.

16 (c) STUDY OF FINANCIAL DISCLOSURES.—

17           (1) IN GENERAL.—The Board may conduct a  
18 study to determine the types of information available  
19 to potential borrowers from consumer credit lending  
20 institutions regarding factors qualifying potential  
21 borrowers for credit, repayment requirements, and  
22 the consequences of default.

23           (2) FACTORS FOR CONSIDERATION.—In con-  
24 ducting a study under paragraph (1), the Board  
25 should, in consultation with the other Federal bank-

1 ing agencies (as defined in section 3 of the Federal  
2 Deposit Insurance Act), the National Credit Union  
3 Administration, and the Federal Trade Commission,  
4 consider the extent to which—

5 (A) consumers, in establishing new credit  
6 arrangements, are aware of their existing pay-  
7 ment obligations, the need to consider those ob-  
8 ligations in deciding to take on new credit, and  
9 how taking on excessive credit can result in fi-  
10 nancial difficulty;

11 (B) minimum periodic payment features  
12 offered in connection with open end credit plans  
13 impact consumer default rates;

14 (C) consumers make only the required  
15 minimum payment under open end credit plans;

16 (D) consumers are aware that making only  
17 required minimum payments will increase the  
18 cost and repayment period of an open end cred-  
19 it obligation; and

20 (E) the availability of low minimum pay-  
21 ment options is a cause of consumers experi-  
22 encing financial difficulty.

23 (3) REPORT TO CONGRESS.—Findings of the  
24 Board in connection with any study conducted under  
25 this subsection shall be submitted to Congress. Such

1 report shall also include recommendations for legis-  
2 lative initiatives, if any, of the Board, based on its  
3 findings.

4 **SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTEN-**  
5 **SIONS SECURED BY A DWELLING.**

6 (a) OPEN END CREDIT EXTENSIONS.—

7 (1) CREDIT APPLICATIONS.—Section  
8 127A(a)(13) of the Truth in Lending Act (15  
9 U.S.C. 1637a(a)(13)) is amended—

10 (A) by striking “CONSULTATION OF TAX  
11 ADVISER.—A statement that the” and inserting  
12 the following: “TAX DEDUCTIBILITY.—A state-  
13 ment that—

14 “(A) the”; and

15 (B) by striking the period at the end and  
16 inserting the following: “; and

17 “(B) in any case in which the extension of  
18 credit exceeds the fair market value (as defined  
19 under the Internal Revenue Code of 1986) of  
20 the dwelling, the interest on the portion of the  
21 credit extension that is greater than the fair  
22 market value of the dwelling is not tax deduct-  
23 ible for Federal income tax purposes.”.

1           (2) CREDIT ADVERTISEMENTS.—Section 147(b)  
2 of the Truth in Lending Act (15 U.S.C. 1665b(b))  
3 is amended—

4           (A) by striking “If any” and inserting the  
5 following:

6           “(1) IN GENERAL.—If any”; and

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

8           “(2) CREDIT IN EXCESS OF FAIR MARKET  
9 VALUE.—Each advertisement described in subsection  
10 (a) that relates to an extension of credit that may  
11 exceed the fair market value of the dwelling, and  
12 which advertisement is disseminated in paper form  
13 to the public or through the Internet, as opposed to  
14 by radio or television, shall include a clear and con-  
15 spicuous statement that—

16           “(A) the interest on the portion of the  
17 credit extension that is greater than the fair  
18 market value of the dwelling is not tax deduct-  
19 ible for Federal income tax purposes; and

20           “(B) the consumer should consult a tax  
21 adviser for further information regarding the  
22 deductibility of interest and charges.”.

23 (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 adviser 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 adviser  
17          for further information regarding the deductibility of  
18          interest and charges.”.

19          (c) REGULATORY IMPLEMENTATION.—

20           (1) IN GENERAL.—The Board shall promulgate  
21          regulations implementing the amendments made by  
22          this section.

23           (2) EFFECTIVE DATE.—Regulations issued  
24          under paragraph (1) shall not take effect until the  
25          later of—

1 (A) 12 months after the date of enactment  
2 of this Act; or

3 (B) 12 months after the date of publica-  
4 tion of such final regulations by the Board.

5 **SEC. 1303. DISCLOSURES RELATED TO “INTRODUCTORY**  
6 **RATES”.**

7 (a) **INTRODUCTORY RATE DISCLOSURES.**—Section  
8 127(e) of the Truth in Lending Act (15 U.S.C. 1637(e))  
9 is amended by adding at the end the following:

10 “(6) **ADDITIONAL NOTICE CONCERNING ‘INTRO-**  
11 **DUCTORY RATES’.**—

12 “(A) **IN GENERAL.**—Except as provided in  
13 subparagraph (B), an application or solicitation  
14 to open a credit card account and all pro-  
15 motional materials accompanying such applica-  
16 tion or solicitation for which a disclosure is re-  
17 quired under paragraph (1), and that offers a  
18 temporary annual percentage rate of interest,  
19 shall—

20 “(i) use the term ‘introductory’ in im-  
21 mediate proximity to each listing of the  
22 temporary annual percentage rate applica-  
23 ble to such account, which term shall ap-  
24 pear clearly and conspicuously;

1           “(ii) if the annual percentage rate of  
2 interest that will apply after the end of the  
3 temporary rate period will be a fixed rate,  
4 state in a clear and conspicuous manner in  
5 a prominent location closely proximate to  
6 the first listing of the temporary annual  
7 percentage rate (other than a listing of the  
8 temporary annual percentage rate in the  
9 tabular format described in section  
10 122(c)), the time period in which the intro-  
11 ductory period will end and the annual  
12 percentage rate that will apply after the  
13 end of the introductory period; and

14           “(iii) if the annual percentage rate  
15 that will apply after the end of the tem-  
16 porary rate period will vary in accordance  
17 with an index, state in a clear and con-  
18 spicuous manner in a prominent location  
19 closely proximate to the first listing of the  
20 temporary annual percentage rate (other  
21 than a listing in the tabular format pre-  
22 scribed by section 122(c)), the time period  
23 in which the introductory period will end  
24 and the rate that will apply after that,  
25 based on an annual percentage rate that

1           was in effect within 60 days before the  
2           date of mailing the application or solicita-  
3           tion.

4           “(B) EXCEPTION.—Clauses (ii) and (iii) of  
5           subparagraph (A) do not apply with respect to  
6           any listing of a temporary annual percentage  
7           rate on an envelope or other enclosure in which  
8           an application or solicitation to open a credit  
9           card account is mailed.

10          “(C) CONDITIONS FOR INTRODUCTORY  
11          RATES.—An application or solicitation to open  
12          a credit card account for which a disclosure is  
13          required under paragraph (1), and that offers a  
14          temporary annual percentage rate of interest  
15          shall, if that rate of interest is revocable under  
16          any circumstance or upon any event, clearly  
17          and conspicuously disclose, in a prominent man-  
18          ner on or with such application or solicitation—

19                 “(i) a general description of the cir-  
20                 cumstances that may result in the revoca-  
21                 tion of the temporary annual percentage  
22                 rate; and

23                 “(ii) if the annual percentage rate  
24                 that will apply upon the revocation of the  
25                 temporary annual percentage rate—

1           “(I) will be a fixed rate, the an-  
2           nual percentage rate that will apply  
3           upon the revocation of the temporary  
4           annual percentage rate; or

5           “(II) will vary in accordance with  
6           an index, the rate that will apply after  
7           the temporary rate, based on an an-  
8           nual percentage rate that was in ef-  
9           fect within 60 days before the date of  
10          mailing the application or solicitation.

11          “(D) DEFINITIONS.—In this paragraph—

12           “(i) the terms ‘temporary annual per-  
13           centage rate of interest’ and ‘temporary  
14           annual percentage rate’ mean any rate of  
15           interest applicable to a credit card account  
16           for an introductory period of less than 1  
17           year, if that rate is less than an annual  
18           percentage rate that was in effect within  
19           60 days before the date of mailing the ap-  
20           plication or solicitation; and

21           “(ii) the term ‘introductory period’  
22           means the maximum time period for which  
23           the temporary annual percentage rate may  
24           be applicable.

1           “(E) RELATION TO OTHER DISCLOSURE  
2           REQUIREMENTS.—Nothing in this paragraph  
3           may be construed to supersede subsection (a) of  
4           section 122, or any disclosure required by para-  
5           graph (1) or any other provision of this sub-  
6           section.”.

7           (b) REGULATORY IMPLEMENTATION.—

8           (1) IN GENERAL.—The Board shall promulgate  
9           regulations implementing the requirements of section  
10          127(c)(6) of the Truth in Lending Act, as added by  
11          this section.

12          (2) EFFECTIVE DATE.—Section 127(c)(6) of  
13          the Truth in Lending Act, as added by this section,  
14          and regulations issued under paragraph (1) of this  
15          subsection shall not take effect until the later of—

16                  (A) 12 months after the date of enactment  
17                  of this Act; or

18                  (B) 12 months after the date of publica-  
19                  tion of such final regulations by the Board.

20   **SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.**

21          (a) INTERNET-BASED APPLICATIONS AND SOLICITA-  
22          TIONS.—Section 127(c) of the Truth in Lending Act (15  
23          U.S.C. 1637(c)) is amended by adding at the end the fol-  
24          lowing:

1           “(7) INTERNET-BASED APPLICATIONS AND SO-  
2 LICITATIONS.—

3           “(A) IN GENERAL.—In any solicitation to  
4 open a credit card account for any person under  
5 an open end consumer credit plan using the  
6 Internet or other interactive computer service,  
7 the person making the solicitation shall clearly  
8 and conspicuously disclose—

9           “(i) the information described in sub-  
10 paragraphs (A) and (B) of paragraph (1);  
11 and

12           “(ii) the information described in  
13 paragraph (6).

14           “(B) FORM OF DISCLOSURE.—The disclo-  
15 sures required by subparagraph (A) shall be—

16           “(i) readily accessible to consumers in  
17 close proximity to the solicitation to open  
18 a credit card account; and

19           “(ii) updated regularly to reflect the  
20 current policies, terms, and fee amounts  
21 applicable to the credit card account.

22           “(C) DEFINITIONS.—For purposes of this  
23 paragraph—

24           “(i) the term ‘Internet’ means the  
25 international computer network of both

1 Federal and non-Federal interoperable  
2 packet switched data networks; and

3 “(ii) the term ‘interactive computer  
4 service’ means any information service,  
5 system, or access software provider that  
6 provides or enables computer access by  
7 multiple users to a computer server, in-  
8 cluding specifically a service or system that  
9 provides access to the Internet and such  
10 systems operated or services offered by li-  
11 braries or educational institutions.”.

12 (b) REGULATORY IMPLEMENTATION.—

13 (1) IN GENERAL.—The Board shall promulgate  
14 regulations implementing the requirements of section  
15 127(c)(7) of the Truth in Lending Act, as added by  
16 this section.

17 (2) EFFECTIVE DATE.—The amendment made  
18 by subsection (a) and the regulations issued under  
19 paragraph (1) of this subsection shall not take effect  
20 until the later of—

21 (A) 12 months after the date of enactment  
22 of this Act; or

23 (B) 12 months after the date of publica-  
24 tion of such final regulations by the Board.

1 **SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT**  
2 **DEADLINES AND PENALTIES.**

3 (a) DISCLOSURES RELATED TO LATE PAYMENT  
4 DEADLINES AND PENALTIES.—Section 127(b) of the  
5 Truth in Lending Act (15 U.S.C. 1637(b)) is amended  
6 by adding at the end the following:

7 “(12) If a late payment fee is to be imposed  
8 due to the failure of the obligor to make payment on  
9 or before a required payment due date, the following  
10 shall be stated clearly and conspicuously on the bill-  
11 ing statement:

12 “(A) The date on which that payment is  
13 due or, if different, the earliest date on which  
14 a late payment fee may be charged.

15 “(B) The amount of the late payment fee  
16 to be imposed if payment is made after such  
17 date.”.

18 (b) REGULATORY IMPLEMENTATION.—

19 (1) IN GENERAL.—The Board shall promulgate  
20 regulations implementing the requirements of section  
21 127(b)(12) of the Truth in Lending Act, as added  
22 by this section.

23 (2) EFFECTIVE DATE.—The amendment made  
24 by subsection (a) and regulations issued under para-  
25 graph (1) of this subsection shall not take effect  
26 until the later of—

1 (A) 12 months after the date of enactment  
2 of this Act; or

3 (B) 12 months after the date of publica-  
4 tion of such final regulations by the Board.

5 **SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAIL-  
6 URE TO INCUR FINANCE CHARGES.**

7 (a) PROHIBITION ON CERTAIN ACTIONS FOR FAIL-  
8 URE TO INCUR FINANCE CHARGES.—Section 127 of the  
9 Truth in Lending Act (15 U.S.C. 1637) is amended by  
10 adding at the end the following:

11 “(h) PROHIBITION ON CERTAIN ACTIONS FOR FAIL-  
12 URE TO INCUR FINANCE CHARGES.—A creditor of an ac-  
13 count under an open end consumer credit plan may not  
14 terminate an account prior to its expiration date solely be-  
15 cause the consumer has not incurred finance charges on  
16 the account. Nothing in this subsection shall prohibit a  
17 creditor from terminating an account for inactivity in 3  
18 or more consecutive months.”.

19 (b) REGULATORY IMPLEMENTATION.—

20 (1) IN GENERAL.—The Board shall promulgate  
21 regulations implementing the requirements of section  
22 127(h) of the Truth in Lending Act, as added by  
23 this section.

24 (2) EFFECTIVE DATE.—The amendment made  
25 by subsection (a) and regulations issued under para-

1 graph (1) of this subsection shall not take effect  
2 until the later of—

3 (A) 12 months after the date of enactment  
4 of this Act; or

5 (B) 12 months after the date of publica-  
6 tion of such final regulations by the Board.

7 **SEC. 1307. DUAL USE DEBIT CARD.**

8 (a) **REPORT.**—The Board may conduct a study of,  
9 and present to Congress a report containing its analysis  
10 of, consumer protections under existing law to limit the  
11 liability of consumers for unauthorized use of a debit card  
12 or similar access device. Such report, if submitted, shall  
13 include recommendations for legislative initiatives, if any,  
14 of the Board, based on its findings.

15 (b) **CONSIDERATIONS.**—In preparing a report under  
16 subsection (a), the Board may include—

17 (1) the extent to which section 909 of the Elec-  
18 tronic Fund Transfer Act (15 U.S.C. 1693g), as in  
19 effect at the time of the report, and the imple-  
20 menting regulations promulgated by the Board to  
21 carry out that section provide adequate unauthorized  
22 use liability protection for consumers;

23 (2) the extent to which any voluntary industry  
24 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. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**  
10           **TENDED TO DEPENDENT STUDENTS.**

11       (a) STUDY.—

12           (1) IN GENERAL.—The Board shall conduct a  
13       study regarding the impact that the extension of  
14       credit described in paragraph (2) has on the rate of  
15       bankruptcy cases filed under title 11, United States  
16       Code.

17           (2) EXTENSION OF CREDIT.—The extension of  
18       credit described in this paragraph is the extension of  
19       credit to individuals who are—

20           (A) claimed as dependents for purposes of  
21       the Internal Revenue Code of 1986; and

22           (B) enrolled within 1 year of successfully  
23       completing all required secondary education re-  
24       quirements and on a full-time basis, in postsec-  
25       ondary educational institutions.

1 (b) REPORT.—Not later than 1 year after the date  
2 of enactment of this Act, the Board shall submit to the  
3 Senate and the House of Representatives a report summa-  
4 rizing the results of the study conducted under subsection  
5 (a).

6 **SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.**

7 (a) REGULATIONS.—Not later than 6 months after  
8 the date of enactment of this Act, the Board, in consulta-  
9 tion with the other Federal banking agencies (as defined  
10 in section 3 of the Federal Deposit Insurance Act), the  
11 National Credit Union Administration Board, and the  
12 Federal Trade Commission, shall promulgate regulations  
13 to provide guidance regarding the meaning of the term  
14 “clear and conspicuous”, as used in subparagraphs (A),  
15 (B), and (C) of section 127(b)(11) and clauses (ii) and  
16 (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

17 (b) EXAMPLES.—Regulations promulgated under  
18 subsection (a) shall include examples of clear and con-  
19 spicuous model disclosures for the purposes of disclosures  
20 required by the provisions of the Truth in Lending Act  
21 referred to in subsection (a).

22 (c) STANDARDS.—In promulgating regulations under  
23 this section, the Board shall ensure that the clear and con-  
24 spicuous standard required for disclosures made under the  
25 provisions of the Truth in Lending Act referred to in sub-

1 section (a) can be implemented in a manner which results  
2 in disclosures which are reasonably understandable and  
3 designed to call attention to the nature and significance  
4 of the information in the notice.

5 **TITLE XIV—EMERGENCY EN-**  
6 **ERGY ASSISTANCE AND CON-**  
7 **SERVATION MEASURES**

8 **SEC. 1401. SHORT TITLE.**

9 This title may be cited as the “Energy Emergency  
10 Response Act of 2001”.

11 **SEC. 1402. FINDINGS AND PURPOSES.**

12 (a) FINDINGS.—The Congress finds that—

13 (1) high energy costs are causing hardship for  
14 families;

15 (2) restructured energy markets have increased  
16 the need for a higher and more consistent level of  
17 funding for low-income energy assistance programs;

18 (3) conservation programs implemented by the  
19 States and the low-income weatherization program  
20 reduce costs and need for additional energy supplies;

21 (4) energy conservation is a cornerstone of na-  
22 tional energy security policy;

23 (5) the Federal Government is the largest con-  
24 sumer of energy in the economy of the United  
25 States; and



1 ing: “\$310,000,000 for fiscal years 2001 and 2002,  
2 \$325,000,000 for fiscal year 2003, \$400,000,000 for fis-  
3 cal year 2004, and \$500,000,000 for fiscal year 2005.”.

4 (c) STATE ENERGY CONSERVATION GRANTS.—Sec-  
5 tion 365(f) of the Energy Policy and Conservation Act (42  
6 U.S.C. 6325(f)) is amended by striking “for fiscal years  
7 1999 through 2003 such sums as may be necessary” and  
8 inserting: “\$75,000,000 for each of fiscal years 2001  
9 through 2005”.

10 **SEC. 1404. FEDERAL ENERGY MANAGEMENT REVIEWS.**

11 Section 543 of the National Energy Conservation  
12 Policy Act (42 U.S.C. 8253) is amended by adding at the  
13 end the following:

14 “(e) PRIORITY RESPONSE REVIEWS.—Each agency  
15 shall—

16 “(1) not later than October 1, 2001, undertake  
17 a comprehensive review of all practicable measures  
18 for—

19 “(A) increasing energy and water con-  
20 servation; and

21 “(B) using renewable energy sources; and

22 “(2) not later than 180 days after completing  
23 the review, implement measures to achieve not less  
24 than 50 percent of the potential efficiency and re-  
25 newable savings identified in the review.”.

1 **SEC. 1405. COST SAVINGS FROM REPLACEMENT FACILI-**  
2 **TIES.**

3 Section 801(a) of the National Energy Conservation  
4 Policy Act (42 U.S.C. 8287(a)) is amended by adding at  
5 the end the following:

6 “(3)(A) In the case of an energy savings contract or  
7 energy savings performance contract providing for energy  
8 savings through the construction and operation of one or  
9 more buildings or facilities to replace one or more existing  
10 buildings or facilities, benefits ancillary to the purpose of  
11 such contract under paragraph (1) may include savings  
12 resulting from reduced costs of operation and maintenance  
13 at such replacement buildings or facilities when compared  
14 with costs of operation and maintenance at the buildings  
15 or facilities being replaced.

16 “(B) Notwithstanding paragraph (2)(B), aggregate  
17 annual payments by an agency under an energy savings  
18 contract or energy savings performance contract referred  
19 to in subparagraph (A) may take into account (through  
20 the procedures developed pursuant to this section) savings  
21 resulting from reduced costs of operation and maintenance  
22 as described in subparagraph (A).”

23 **SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE**  
24 **CONTRACT SUNSET.**

25 Section 801(c) of the National Energy Conservation  
26 Policy Act (42 U.S.C. 8287(c)) is repealed.

1 **SEC. 1407. ENERGY SAVINGS PERFORMANCE CONTRACT**

2 **DEFINITIONS.**

3 (a) ENERGY SAVINGS.—Section 804(2) of the Na-  
4 tional Energy Conservation Policy Act (42 U.S.C.  
5 8287c(2)) is amended to read as follows:

6 “(2) The term ‘energy savings’ means a reduction in  
7 the cost of energy, water, or wastewater treatment from  
8 a base cost established through a methodology set forth  
9 in the contract, used by either—

10 “(A) an existing federally owned building or  
11 buildings or other federally owned facilities as a re-  
12 sult of—

13 “(i) the lease or purchase of operating  
14 equipment, improvements, altered operation and  
15 maintenance, or technical services;

16 “(ii) more efficient use of existing energy  
17 sources by cogeneration or heat recovery, ex-  
18 cluding any cogeneration process for other than  
19 a federally owned building or buildings or other  
20 federally owned facilities; or

21 “(iii) more efficient use of water at an exist-  
22 ing federally owned building or buildings, in ei-  
23 ther interior or exterior applications; or

24 “(B) a replacement facility under section  
25 801(a)(3).”.

1 (b) ENERGY SAVINGS CONTRACT.—Section 804(3) of  
2 the National Energy Conservation Policy Act (42 U.S.C.  
3 8287c(3)) is amended to read as follows:

4 “(3) The terms ‘energy savings contract’ and ‘energy  
5 savings performance contract’ mean a contract which pro-  
6 vides for—

7 “(A) the performance of services for the design,  
8 acquisition, installation, testing, operation, and,  
9 where appropriate, maintenance and repair, of an  
10 identified energy, water conservation, or wastewater  
11 treatment measure or series of measures at one or  
12 more locations; or

13 “(B) energy savings through the construction  
14 and operation of one or more buildings or facilities  
15 to replace one or more existing buildings or facili-  
16 ties.”.

17 (c) ENERGY OR WATER CONSERVATION MEASURE.—  
18 Section 804(4) of the National Energy Conservation Pol-  
19 icy Act (42 U.S.C. 8287c(4)) is amended to read a follows:

20 “(4) The term ‘energy or water conservation  
21 measure’ means—

22 “(A) an energy conservation measure, as  
23 defined in section 551(4) (42 U.S.C. 8259(4));

24 or

1           “(B) a water conservation measure that  
 2           improves the efficiency of water use, is life cycle  
 3           cost effective, and involves water conservation,  
 4           water recycling or reuse, improvements in oper-  
 5           ation or maintenance efficiencies, retrofit activi-  
 6           ties or other related activities, not affecting the  
 7           power generating operations at a federally  
 8           owned hydroelectric dam.”.

9 **SEC. 1408. EFFECTIVE DATE.**

10        This title and the amendments made by this title  
 11 shall take effect upon the date of enactment of this title.

12 **TITLE XV—GENERAL EFFECTIVE**  
 13 **DATE; APPLICATION OF**  
 14 **AMENDMENTS**

15 **SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMEND-**  
 16 **MENTS.**

17        (a) **EFFECTIVE DATE.**—Except as otherwise provided  
 18 in this Act, this Act and the amendments made by this  
 19 Act shall take effect 180 days after the date of enactment  
 20 of this Act.

21        (b) **APPLICATION OF AMENDMENTS.**—Except as oth-  
 22 erwise provided in this Act, the amendments made by this  
 23 Act shall not apply with respect to cases commenced under  
 24 title 11, United States Code, before the effective date of  
 25 this Act.

1       **TITLE XVI—MISCELLANEOUS**  
2                                   **PROVISIONS**

3       **SEC. 1601. REIMBURSEMENT OF RESEARCH, DEVELOP-**  
4                                   **MENT, AND MAINTENANCE COSTS.**

5           (a) IN GENERAL.—Not later August 1, 2001, the  
6 Federal Crop Insurance Corporation shall promulgate  
7 final regulations to carry out section 522(b) of the Federal  
8 Crop Insurance Act (7 U.S.C. 522(b)), without regard  
9 to—

10                   (1) the notice and comment provisions of sec-  
11 tion 553 of title 5, United States Code;

12                   (2) the Statement of Policy of the Secretary of  
13 Agriculture effective July 24, 1971 (36 Fed. Reg.  
14 13804), relating to notices of proposed rulemaking  
15 and public participation in rulemaking; and

16                   (3) chapter 35 of title 44, United States Code  
17 (commonly known as the “Paperwork Reduction  
18 Act”).

19           (b) CONGRESSIONAL REVIEW OF AGENCY RULE-  
20 MAKING.—In carrying out this section, the Corporation  
21 shall use the authority provided under section 808 of title  
22 5, United States Code.

1           (c) EFFECTIVE DATE.—The final regulations pro-  
2 mulgated under subsection (a) shall take effect on the date  
3 of publication of the final regulations.

Passed the Senate March 15, 2001.

Attest:

*Secretary.*

107TH CONGRESS  
1ST SESSION

**S. 420**

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**AN ACT**

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

S 420 ES—2

S 420 ES—3

S 420 ES—4

S 420 ES—5

S 420 ES—6

S 420 ES—7

S 420 ES—8

S 420 ES—9

S 420 ES—10

S 420 ES—11

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