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Calendar No. 416

112TH CONGRESS
2D SESSION

S. 2370

To amend title 11, United States Code, to make bankruptcy organization more efficient for small business debtors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

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

MAY 24, 2012

Reported by Mr. LEAHY, without amendment

A BILL

To amend title 11, United States Code, to make bankruptcy organization more efficient for small business debtors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Reorganization Efficiency and Clarity Act".

SEC. 2. FLEXIBILITY IN CONFIRMATION.

Section 1129(e) of title 11, United States Code, is amended by striking ''45 days'' and inserting ''90 days''.

SEC. 3. CLARITY IN PERIODIC REPORTING REQUIREMENTS.

Section 308(b) of title 11, United States Code, is amended—

(1) in paragraph (4), by adding ''and'' at the end;

(2) in paragraph (5), by striking ''; and'' at the end and inserting a period; and

(3) by striking paragraph (6).

SEC. 4. RETAINING PROFESSIONAL SERVICES.

(a) IN GENERAL.—Section 327 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (a), a person is not disqualified for employment under this section by a small business debtor solely because such person holds a claim of less than $5,000 that arose prior to the date of commencement of the case.''.

(b) ADJUSTMENTS TO DOLLAR AMOUNT.—Section 104 of title 11, United States Code, is amended by inserting ''327(g),'' after ''303(b),''.

SEC. 5. ENFORCEMENT OF SMALL BUSINESS SELECTION.

Section 1112(b)(4) of title 11, United States Code, is amended—

(1) by redesignating subparagraphs (O) and (P) as subparagraphs (P) and (Q), respectively; and

(2) by inserting after subparagraph (N) the following:

"(O) failure of a small business debtor to designate itself as a small business debtor;".

SEC. 6. REPORT.

Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Administrative Office of United States Courts and the Executive Office of United States Trustees, shall submit a report to Congress detailing—

(1) the number and percentage of all cases filed under chapter 11 of title 11, United States Code, in which the debtor is a small business debtor, as that term is defined in section 101(51D) of title 11, United States Code;

(2) the number of cases and rates of confirmations for small business debtors in cases filed under chapter 11 of title 11, United States Code, as compared with—

(A) all debtors in cases filed under that chapter 11;

(B) all debtors in cases filed under that chapter 11 that are not small business debtors;

(C) debtors in cases filed under that chapter 11 that—

(i) are not small business debtors; and

(ii) have less than $5,000,000 in debt;

(D) debtors in cases filed under that chapter 11 that—

(i) are not small business debtors; and

(ii) have less than $10,000,000 in debt;

(E) debtors in cases filed under chapter 12 of title 11, United States Code; and

(F) debtors in cases filed under that chapter 13 that are business cases;

(3) the number of cases filed under chapter 11 of title 11, United States Code, in which the debtor has less than $2,190,000 in debt outstanding, but does not designate itself a small business debtor;

(4) recommendations for improving the confirmation rate for small business debtors; and

(5) an analysis on whether the definition of the term ''small business debtor'' should be amended to include businesses with—

(A) less than $5,000,000 in debt; and

(B) less than $10,000,000 in debt.

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