

bring these very worthy initiatives to the floor. I appreciate their support and their effort.

Mr. Speaker, I urge our colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 2799.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 2799.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1530

RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT OF 1998

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2604) to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2604

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 "Religious Liberty and Charitable Donation Protection Act of 1998".

SEC. 2. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

"(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

"(A) is made by a natural person; and

"(B) consists of—

"(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

"(ii) cash.

"(4) In this section, the term 'qualified religious or charitable entity or organization' means—

"(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

"(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986."

SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "(1) made" and inserting "(A) made";

(3) by striking "(2)(A)" and inserting "(B)(i);

(4) by striking "(B)(i)" and inserting "(ii)(1)";

(5) by striking "(ii) was" and inserting "(II) was";

(6) by striking "(iii)" and inserting "(III)";

and

(7) by adding at the end the following:

"(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

"(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

"(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions."

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking "(b) The trustee" and inserting "(b)(1) Except as provided in paragraph (2), the trustee"; and

(2) by adding at the end the following:

"(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case."

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)";

(2) in subsection (f)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)"; and

(3) in subsection (g)—

(A) by striking "section 548(a)(1)" each place it appears and inserting "section 548(a)(1)(A)"; and

(B) by striking "548(a)(2)" and inserting "548(a)(1)(B)".

SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: "including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made".

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: "In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4))."

(c) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: "In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4))."

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act is intended to limit the applicability of the Reli-

gious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the rule, the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of this legislation and wish to set the stage for some of the comments that we will hear during the debate on this measure.

This issue was brought to our attention by the gentlewoman from Idaho (Mrs. CHENOWETH) and the gentleman from California (Mr. PACKARD) on two separate pieces of legislation that dealt with the same issue. Their legislative efforts came from different angles and from different perspectives, but the ultimate purpose was the same: to try to rectify a situation in which a contributor to a charitable organization, for the purpose of our hypothetical say to a church organization, makes a contribution, he subsequently files for bankruptcy, and a decision is made by the bankruptcy court and direction is given to the bankruptcy trustee to recover that amount paid by contribution to the church because it came within a certain period of time and, therefore, was not subject to be clear of the bankruptcy laws. So now we have the strange situation of a bankruptcy trustee having to assert a claim against a church.

Mr. Speaker, that seemed unseemly to a great number of people. The gentlewoman from Idaho and the gentleman from California took to the legislative process to try to bring about a change. Hence their legislation, hence the action of the Committee on the Judiciary, and we have arrived at this stage.

What we have done ultimately is to mirror, or try to mirror as much as we can, the Senate version of this same issue in legislation that they have passed so that we can be better prepared when the time comes for ultimate decision to be made by a conference in the two bodies. That is why we have come to the floor at this moment with the vehicle being H.R. 2604.

Mr. Speaker, after the gentleman from New York (Mr. NADLER) presents his opening statement, I will yield to these two Members so that they can fully explain the contents of the legislation, the purpose, et cetera.

Mr. Speaker, I urge adoption of H.R. 2604, the "Religious Liberty and Charitable Donation