

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SHERMAN. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. SHERMAN) will be postponed.

The point of no quorum is considered withdrawn.

Mr. GUTIERREZ. Mr. Chairman, I move that the Committee do now rise. The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CASTLE) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER CONSIDERATION OF AMENDMENT NO. 2 DURING FURTHER CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole resumes its consideration of H.R. 975, that I be permitted to offer amendment No. 2 printed in House Report 107-42.

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

There was no objection.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 147 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 975.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, a request for a recorded

vote on amendment No. 4 printed in the House Report 108-42 offered by the gentleman from California (Mr. SHERMAN) had been postponed.

Under the order of the House of today, it is now in order to consider amendment No. 2 printed in House Report 108-42.

AMENDMENT NO. 2 OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer Amendment No. 2.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. GUTIERREZ:

Subsection (b) of section 1234 (Involuntary Cases) of H.R. 975 is amended by striking "shall not apply with respect to cases commenced under title 11 of the United States Code before such date" and inserting "shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date".

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from Illinois (Mr. GUTIERREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this noncontroversial amendment changes the effective date on the involuntary bankruptcy provision of H.R. 975, also known as section 1234. My amendment is identical to language that was included in the corresponding provision, section 1233, of H.R. 5745.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GUTIERREZ. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is a constructive amendment. I urge the committee to adopt it.

Mr. GUTIERREZ. Mr. Chairman, reclaiming my time, if there is no objection, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does anyone claim the time in opposition?

If not, the question is on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 5 printed in House Report 108-42.

AMENDMENT NO. 5 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 5 in the nature of a substitute offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2003".

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

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

SEC. 102. DISMISSAL OR CONVERSION.

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

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 13";

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

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

(i) in the first sentence—

(I) by striking "but not" and inserting "or";

(II) by inserting "; or, with the debtor's consent, convert such a case to a case under chapter 13 of this title," after "consumer debts"; and

(III) by striking "substantial abuse" and inserting "abuse"; and

(ii) by striking the last sentence and inserting the following:

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

"(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 30 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

"(B) the debtor filed a petition for the relief in bad faith.

"(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4.

"(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

"(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4.

"(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—