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SA 948. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 949. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 950. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 951. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 952. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 953. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 959. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 961. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 962. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 963. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 964. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

TEXT OF AMENDMENTS

SA 924. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 1, strike “cell”.

SA 925. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 1, strike “generation”.

SA 926. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 1, strike “and”.

SA 927. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 1, strike “research.”.

SA 928. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 3, strike “Part”.

SA 929. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 3, strike “Title 11, United States Code, and for other purposes.”.

SA 930. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 3, strike “of the Title”.

SA 931. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 3, strike “IV”.

SA 932. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows: On page 2, line 3, strike “of the Public”.

SA 933. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred
Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike “short”.

On page 1, line 4, strike “title”.

On page 1, line 4, strike “this”.

On page 1, line 4, strike “Act”.

On page 1, line 4, strike “Act”.

On page 1, line 4, strike “may”.

On page 1, line 4, strike “be”.

On page 1, line 4, strike “cited”.

On page 1, line 4, strike “as”.

On page 1, line 4, strike “sec”.

On page 2, line 1, strike “sec”.

On page 1, line 4, strike “the”.

SA 949. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike “Stem”.

SA 950. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike “cell”.

SA 951. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike “Research”.

SA 952. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 5, strike “Act”.

SA 953. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 5, strike “of”.

SA 954. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 5, strike “2001”.

SA 955. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 2, line 1, strike “sec”.

SA 956. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide
for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "2."

SA 957. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "Human".

SA 958. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "embryonic".

SA 959. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "stem".

SA 960. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "by".

SA 961. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "sec.".

SA 962. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "498C.".

SA 963. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "human".

SA 964. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike "section".

SA 972. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "after".

SA 973. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "inserting".

SA 974. Mr. LEAHY (for himself, Mr. HATCH, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 333, to amend title 11, United States Code, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 2001".

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

Title I—Needs-Based Bankruptcy

Subtitle A—Penalties for Abusive Creditor Practices

Subtitle B—Priority Child Support

Subtitle II—Enhanced Consumer Protection

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.


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 obligations.

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 transfers.

Sec. 218. Disposable income defined.

Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain edu-
ca
tional 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 agen-
cies.

Sec. 228. Disclosures.

Sec. 229. Requirements for debt relief agen-
cies.

Sec. 230. GAO study.

Sec. 231. Privacy of nonpublic personal
information.

Sec. 232. Consumer privacy ombudsman.

Sec. 233. Prohibition on disclosure of iden-
tifiable minor children.

TITLE III—DISCOURAGING BANKRUPTCY
ABUSE

Sec. 301. Reinforcement of the fresh start.

Sec. 302. Discouraging bad faith repeat fil-
ings.

Sec. 303. Curbing abusive filings.

Sec. 304. Debtor retention of personal prop-
erty security.

Sec. 305. Relief from the automatic stay
when the debtor does not com-
plete intended surrender of con-
sumer debt collateral.

Sec. 306. Giving secured creditors fair treat-
ment in chapter 13.

Sec. 307. Domiciliary requirements for ex-
ceptions.

Sec. 308. Limitations.

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 bank-
ruptcy discharges.

Sec. 313. Definition of household goods and
antiques.

Sec. 314. Debt incurred to pay nondischarge-
able debts.

Sec. 315. Giving creditors fair notice in
bankruptcy.

Sec. 316. Debt incurred to pay nondischarge-
able debts.

Sec. 317. Adequate time to prepare for hear-
ing 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 expa-
nsion of rule 9011 of the Federal
Rules of Bankruptcy Procedure.

Sec. 320. Prompt relief from stay in indi-
vidual cases.

Sec. 321. Chapter 11 cases filed by individ-
uals.

Sec. 322. Excluding employee benefit plan
participant contributions and
other property from the estate.

Sec. 323. Exclusive jurisdiction in matters
involving bankruptcy profes-
sionals.

Sec. 324. United States trustee program fil-
ing fee increase.

Sec. 325. Sharing of compensation.

Sec. 326. Fair valuation of collateral.

Sec. 327. Defaults based on nonmonetary ob-
ligations.

Sec. 328. Nondischargeability of debts in-
curred through violations of
laws relating to the provision of
lawful goods and services.

Sec. 329. Clarification of postpetition wages
benefits.

TITLE IV—GENERAL AND SMALL
BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy
Provisions

Sec. 401. Adequate protection for investors.

Sec. 402. Mergers of creditors and equity se-
curity holders.

Sec. 403. Protection of refinance of security
interest.

Sec. 404. Executory contracts and unexpired
leases.

Sec. 405. Creditors and equity security hold-
er committees.

Sec. 406. Amendment section 546 of title 11,
United States Code.

Sec. 407. Amendments to section 330(a) of
title 11, United States Code.

Sec. 408. Postpetition disclosure and solici-
tation.

Sec. 409. Preferences.

Sec. 410. Venue of certain proceedings.

Sec. 411. Period for filing plan under chapter
11.

Sec. 412. Fees arising from certain owner-
ship interests.

Sec. 413. Creditor representation at first
meeting of creditors.

Sec. 414. Dismissal of a disinterested person.

Sec. 415. Factors for compensation of profes-
sional persons.

Sec. 416. Appointment of elected trustee.

Sec. 417. Utility service.

Sec. 418. Bankruptcy fees.

Sec. 419. More complete information regard-
ing 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 state-
ment and plan.

Sec. 432. Definitions.

Sec. 433. Standard form disclosure state-
ment and plan.

Sec. 434. Uniform national reporting re-
quirements.

Sec. 435. Uniform reporting rules and forms
for small business cases.

Sec. 436. Duties in small business cases.

Sec. 437. Plan filing and confirmation dead-
lines.

Sec. 438. Plan confirmation deadline.

Sec. 439. Duties of the United States trustee.

Sec. 440. Scheduling conferences.

Sec. 441. Serial filler provisions.

Sec. 442. Expanded grounds for dismissal or
conversion and appointment of
trustee.

Sec. 443. Study of operation of title 11,
United States Code, with re-
spect to small businesses.

Sec. 444. Priority for administrative ex-
penses.

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 avail-
ability 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 determina-
tion 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 cases.

Sec. 709. Stay of tax proceedings limited to
prepetition taxes.

Sec. 710. Periodic payment of taxes in chap-
ter 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 in-
stitutions.

Sec. 903. Amendments relating to transfers
among qualified financial contracts.

Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.

Sec. 905. Clarifying amendments relating to
master agreements.

Sec. 906. Federal Deposit Insurance Corpora-
tion 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 chap-
ter 12.

Sec. 1002. Debt limit increase.

Sec. 1003. Certain claims owed to govern-
mental units.

Sec. 1004. Definition of family farmer.

Sec. 1005. Elimination of requirement that
family farmer and spouse re-
ceive over 50 percent of income
from farming operation in year
prior to bankruptcy.

Sec. 1006. Prohibition of retroactive assess-
ment of disposable income.

Sec. 1007. Family fishermen.

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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 on certain 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. Postpetition transactions.
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 reclamation.
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.
Sec. 1237. Bankruptcy for insolvent political committees.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhance disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to “introductory rates”.
Sec. 1304. Interest on credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibit 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 family members.
Sec. 1309. Clarification of clear and conspicuous.

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 reorganization.
Sec. 1405. Cost savings from replacement facilities.
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.

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 by inserting “an abuse” after “abuse”.
(1) by striking the section heading and inserting the following:
“(707. Dismissal of a case or conversion to a case under chapter 11 or 13”;
and
(2) in subsection (b)—
(A) by inserting “(1)” after “(b)”; and
(B) in paragraph (1), as redesignated by paragraph (1) of section 707(b)(2) of this title.
(II) by inserting the debtor’s monthly expenses described in the preceding sentence, or §6,000, the lesser of—
(I) the amount determined under clauses (ii), (iii), (iv), and (v); and
(ii) the lesser of—
(i) the amount determined under clauses (i), (ii), (iii), and (iv), and multiplied by 120; or
(ii) the amount determined under section 1311(a)(2), as in effect on the date of the entry of the order for relief, for the debtor, and the amount of any property of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payment for debts. In an individual debtor’s monthly expenses shall include the debtor’s reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 390 of the Family Violence Prevention and Services Act (P.L. 100-320), or other applicable federal law. The expenses included in the debtor’s monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, it is demonstrated that it is reasonable and necessary, the debtor’s monthly expenses may also include an additional allowance for food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.
“(II) In addition, the debtor’s monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor’s immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent and who is unable to pay for such reasonable and necessary expenses.
“(III) In addition, for a debtor eligible for chapter 13, the debtor’s monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the debtor, in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.
“(IV) In addition, the debtor’s monthly expenses may include the actual expenses for each dependent child under the age of 18 years of $300 per child to attend a private or public elementary or secondary school, if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and that such expenses are not already accounted for in the Internal Revenue Service standards referred to in section 767(b)(2) of this title.
“(V) In addition, if it is demonstrated that it is reasonable and necessary, the debtor’s monthly expenses may also include an additional allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the International Revenue Service, based on the actual expenses for housing and energy costs, if the debtor provides documentation of such expenses.
“(VI) The debtor’s average monthly payments on account of secured debts shall be calculated as—
“(I) the sum of—
(1)(II) The debtor’s monthly expenses shall be the debtor’s applicable monthly expenses amounts specified under the National Standards and Local Standards, and the debtor’s actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the debtor’s dependents, that serves as collateral for secured debts; divided by
I. The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

(1) the total amount of debts entitled to priority; divided by

(2) 60.

(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

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

(1) itemize each additional expense or adjustment of income; and

(2) provide documentation for such expense or adjustment to income; and

(bb) a detailed explanation of the special circumstances that make such expenses or adjustments to income necessary and reasonable.

(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate additional expenses or adjustments to income are required.

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

(1) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

(2) $10,000.

(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

(D) In considering under paragraph (1) whether a presumption of abuse would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

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

(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

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

(1) a trustee appointed under section 586(a)(1) of title 28 or from a panel of private trustees maintained by the bankruptcy administrator brings a motion for dismissal or conversion under this subsection; and

(ii) the court—

(I) grants that motion; and

(ii) finds that the action of the counsel for the defendant under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

(B) If the court finds that the attorney for the defendant under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure, at a minimum, the court shall order—

(1) the assessment of an appropriate civil penalty against the counsel for the debtor; and

(ii) the imposition of the civil penalty against the trustee, the United States trustee, or the bankruptcy administrator.

(C) In the course of an adversary proceeding, the court may order the debtor to reimburse the trustee for—

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

(ii) all reasonable costs in prosecuting a motion brought by a party in interest other than a trustee, United States trustee, or bankruptcy administrator under this subsection.

(D) The court does not grant the motion; and

(1) the court finds that—

(i) the position of the party that brought the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

(ii) the court brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(i).

(C) For purposes of this paragraph—

(i) the term ‘small business’ means an unincorporated business, partnership, corporation, association or organization that—

(1) has less than 25 full-time employees as determined on the date the motion is filed; and

(2) is engaged in commercial or business activity; and

(iii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

(A) a parent corporation; and

(B) any other subsidiary corporation of the parent corporation.

(6) Only the judge, United States trustee, or bankruptcy administrator may bring 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, multiplied by 12, is equal to or less than—

(A) 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 last reported by the Bureau of the Census; and

(B) 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 the same number or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.

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

‘‘(10A) ‘current monthly income’—

‘‘(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable, derived during the 6-month period preceding the date of determination, which shall be the date which is the last day of the calendar month immediately preceding the date of the bankruptcy filing. If the debtor is providing the debtor’s or the debtor’s spouse’s schedule of current monthly income of the filing and otherwise the date of determination shall be such date on which the debtor’s current monthly income is determined by the court for the purposes of this Act; and

(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor’s spouse), on a regular basis to the household expenses of the debtor or the debtor’s dependents (and, in a joint case, the debtor’s spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act and payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes;’’.

(2) by adding at the end the following:

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

(1) by inserting ‘‘(a)’’ before ‘‘The trustee shall or’’; and

(2) by adding at the end the following:

‘‘(b) With respect to an individual debtor under this chapter—

(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor is presumed to be an abuse under section 707(b); and

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

(2) The United States trustee or bankruptcy administrator shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be appropriate, if the United States
trustee or bankruptcy administrator determined that the case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not 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 last reported by the Bureau of the Census; or

(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census.

(3) In any case in which a motion to dismiss or convert, or a statement is required to be filed by this subsection, the United States trustee or bankruptcy administrator may decline to file a motion to dismiss or convert pursuant to section 706(b)(2) if the product of the debtor's current monthly income multiplied by 12 exceeds 100 percent, but not more than 150 percent of—

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

(ii) $10,000.

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

"(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (6), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(7) the action of the debtor in filing the petition was in good faith.

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

(1) in paragraphs (1) and (2) and inserting "to unsecured creditors" after "to make payments"; and

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

"(2) For purposes of this subsection, the term 'applicable income' means current monthly income (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable State or Federal law) of the debtor, multiplied by 12, if the product of the debtor's current monthly income, when multiplied by 12, is not less than—

(i) 25 percent of the debtor's nonpriority unsecured claims in the case or $6,000, whichever is greater; or

(ii) $10,000.

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

"(A) in paragraph (2), by striking "and" at the end; and

"(B) in paragraph (6), by striking the period and inserting a semicolon; and

"(C) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(D) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(E) 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 the same number or fewer individuals last reported by the Bureau of the Census, plus $252 per month for each individual in excess of 4.

(1) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1325(a) of title 11, United States Code, is amended by adding the following

"(C) the amount is not otherwise allowed for purposes of subtitle C of title 11, United States Code, that are consistent with the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

"(i) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

"(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

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

SEC. 104. NOTICE OF ALTERNATIVES.

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

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

"(i) a brief description of—

"(A) articles 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies; and

"(ii) statements specifying that—

"(A) A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a bankruptcy case is subject to local examination by the Attorney General.

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT CURRICULUM AND MATERIALS.—The Director of the Executive Office by a preponderance of the evidence that the filing for bankruptcy is neces-
for United States Trustees (in this section referred to as the "Director") shall select a curriculum and materials that will be used to educate individual debtors on how to better manage their finances.

(2) USE.—For an 18-month period beginning not later than 270 days after the date of enactment of this Act, such curriculum and materials shall be used to provide financial management training programs to individual debtors under this section.

(3) EVALUATION.—

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

"(h)(1) Subject to paragraphs (2) and (3), an individual may not be a debtor under this title unless that individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in subsection (a) an individual or group briefing, including a briefing conducted by the Internet, that outlined the possibilities for available credit counseling services to the individual in performing a related budget analysis.

(2) The paragraph (1) shall apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of that district determines that the approved nonprofit budget and credit counseling agencies for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency because of the requirements of paragraph (1)."

SEC. 106. CREDIT COUNSELING.

(a) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

SEC. 106A. PROVISIONS RELATING TO CREDIT COUNSELING.

(a) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

(b) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

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(c) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

(d) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

(e) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

(f) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

(g) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.

(h) CREDIT COUNSELING.—The Director shall submit a report to the Speaker of the House of Representatives and the President of the Senate in which to test the effectiveness of such curriculum and materials developed under subsection (a), and such programs and their costs.
debtor’s bankruptcy case number) to permit telephone or through the Internet, if the such facilities may include the provision of course of instruction is offered, except that methodologies designed to assist debtors in bankruptcy administrator shall only approve an instructional course concerning personal financial management:

"(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling service that will—

(A) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

(i) are not employed by the agency; and

(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

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

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

(D) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

(E) provide adequate counseling with respect to client credit problems that includes an analysis of the client’s current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debt;

(F) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraphs (G) and (H); and

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

(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(f) The District Court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and required documents to ensure the integrity and effectiveness of such credit counseling agencies. The District Court may, at any time, remove from the approved list a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(g) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(h) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.

"(i) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to

(A) the claim was filed by a creditor who

(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1); or

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

"(j) The debtor shall have the burden of proving, by clear and convincing evidence, that

(A) the creditor unreasonably refused to consider the debtor’s proposal; and

(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(1).

ClariClu:—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based on unsecured consumer debts by not more than 20 percent of the claim, if—

(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency described in section 111 acting on behalf of the debtor;

(B) the offer of the debtor under subparagraph (A)—

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

(ii) provided for payment at least 60 percent of the amount of the debt over a period not exceeding the remaining period of the loan, or a reasonable extension thereof; and

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

"(l) The court may, at any time, remove from the approved list a credit counseling agency.

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

"(e) Such act constitutes a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments received under a plan caused material injury to the debtor.

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

"(f) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title), unless the plan is dismissed, in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments received under a plan caused material injury to the debtor.

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

"(g) Such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.”
(a) In GENERAL.—Section 524 of title 11, United States Code, as amended by this Act, is amended—

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

'(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;'

(2) by adding at the end the following:

'(k) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with an agreement, statement, declaration, motion, and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation agreement or, if no such periodic statement has been provided the debtor during the prior 6 months, the annual percentage rate under subclause (II);

(3) if different from that set forth in paragraphs (2) through (8), except that the terms 'Annual Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with the agreement or, if no such periodic statement has been made, may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be used where indicated.

(3) the disclosure statement required under this paragraph shall consist of the following:

'(A) the statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures.'

'(B) Under the heading 'Summary of Reaffirmation Agreement' the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code.'

'(C) The 'Amount Reaffirmed', using that term, which shall be—

'(i) the total amount which the debtor agrees to reaffirm, and

'(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

'(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

'(i) 'The amount of debt you have agreed to reaffirm'; and

'(ii) your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'

'(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

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

'(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act (15 U.S.C. 1607(b) (5) and (6)), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor; or

'(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance included in the amount reaffirmed, or

'(III) the entity making the disclosure elects, to disclose the annual percentage rate under subclause (II);

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

'(I) the annual percentage rate under section 127(b) of the Truth in Lending Act (15 U.S.C. 1638(a)(1)), as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent such annual percentage rate is not readily available or not applicable, then

'(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance included in the amount reaffirmed, or

'(III) if the entity making the disclosure elects, to disclose the simple interest rate under subclause (II);

'(iii) the total amount which the debtor agrees to reaffirm, or

'(iv) the amount of such balance included in the amount reaffirmed, or

'(v) your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'

'(F) if the underlying debt transaction was disclosed in a variety of the sections of, and is attached to, the most recent disclosure given under the Truth in Lending Act (15 U.S.C. 1601 et seq.), by stating 'The interest rate on your loan may change from time to time, so that the annual percentage rate disclosed here may be higher or lower.'

'(G) if the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure statement, by stating that no court approval is required if the agreement is signed or a combination of the following—

'(i) by making the statement: 'Your first payment in the amount of $ is due on

'but the future payment amount may be different. Consult your reaffirmation or credit agreement, by applicable, and stating the amount of the first payment and the due date of that payment in the places provided;

'(ii) by making the statement: 'Your payment schedule will be ', and describing the payment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed; and

'(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party;

'(H) at the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

'(i) making the statement: 'Your initial payment in the amount of $ is due on

'(ii) your charge for property, service or account, or a combination of the following—

'but the payment amount may be different. Consult your reaffirmation or credit agreement, by applicable, and stating the amount of the first payment and the due date of that payment in the places provided;

'(iii) by making the statement: 'Your payment schedule will be ', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed; and

'(iv) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party;

'(I) the following statement: 'Note: When this disclosure refers to what a creditor "may" do, it does not mean that the creditor "will" do that. It is your responsibility to give the creditor specific permission. The word "may" is used to tell you what might occur if the law permits the creditor to take such action but does not tell you what the creditor will do. For example, the law may permit your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the decision to reaffirm on when the reaffirmation hearing is held.',

'(j) the following additional statement—

'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If you do not complete the reaffirmation agreement, the attorney must have signed the certification in Part C.'

'(k) by adding at the end the following:

'5. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must have completed and signed Part E.

'6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

'7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, your agreement is not effective unless the attorney approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing. If you do not attend, the bankruptcy court may review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.'

'Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 90 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged by your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your money to collect the debt. Your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms

7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, your agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

8. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, your agreement is not effective unless the attorney approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing. If you do not attend, the bankruptcy court may review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.'
of the agreement in the future under certain conditions.

"Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

"What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security interest based on the income and expenses I estimated for the reaffirmation agreement, which the court shall approve a reaffirmation agreement. If the presumption is not rebutted, the court shall disapprove the agreement. A debtor may disapprove an agreement in which the creditor has a security interest in lieu of pursuit of injunctions against the violations referred to in the preceding sentence, the individuals described in subsection (a)(2) may disapprove the agreement. If the presumption is not rebutted, the court shall disapprove the agreement. A debtor may disapprove an agreement in which the creditor has a security interest in lieu of pursuit of injunctions against the violations referred to in the preceding sentence, the individuals described in subsection (a)(2) may disapprove the agreement.

"I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

"Signature of Debtor's Attorney: Date:

"(B) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payments required under this paragraph.

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

"(6)(A) The declaration shall consist of the following:

"(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out the enforcement activities in addressing violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules.

"(b) LAW ENFORCEMENT.—(1) a United States attorney for each judicial district of the United States; and

"(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3007) for each field office of the Federal Bureau of Investigation.

"(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney referred to in subsection (a)(2) may disapprove the agreement. If the presumption is not rebutted, the court shall disapprove the agreement. A debtor may disapprove an agreement in which the creditor has a security interest in lieu of pursuit of injunctions against the violations referred to in the preceding sentence, the individuals described in subsection (a)(2) may disapprove the agreement.

"(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.
§ 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.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREATORY LOANS.

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

"(p) Notwithstanding subsection (6), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), or any interest in a consumer credit contract as defined by the Federal Trade Commission Preservation of Claims Trade Regulation, and that interest is purchased through a sale under this section, then that person shall remain subject to all claims and defenses that are related to the consumer credit transaction or contract, to the same extent as that person would be subject to such claims and defenses of the consumer had the sale taken place under title 11.

SEC. 205. GAO STUDY ON REAFFIRMATION PROCESS.

(a) STUDY.—The General Accounting Office (in this section referred to as the "GAO") shall conduct a study of the reaffirmation process under title 11, United States Code, to determine the overall treatment of consumer credit obligations under title 11, United States Code, and that interest is purchased through a sale under this section, then that person shall remain subject to all claims and defenses that are related to the consumer credit transaction or contract, to the same extent as that person would be subject to such claims and defenses of the consumer had the sale taken place under title 11.

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Subtitle B—Priority Child Support Obligations

SEC. 211. DOMESTIC SUPPORT OBLIGATION.

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

(1) by striking paragraph (7);

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

(3) in paragraph (2), as redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as redesignated, by striking "Second" and inserting "Third";

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

(A) by striking "Third" and inserting "Fourth"; and

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

(6) in paragraph (5), as redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as redesignated, the following:

"(1) First:

"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit in favor of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

"(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that first become due after the date specified in subsection (a)(1)(B) only if the plan provides that all domestic support obligation that first becomes payable after the date on which the petition is filed;";

(2) in section 1322(b)—

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

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

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are not domestic support obligations that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid after "completion of the debtor of all payments under the plan";";

(3) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(4) in section 1223(a)—

(A) by redesignating paragraph (9) as paragraph (10); and

(B) by inserting at the end the following:

"(9) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, after such debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(5) in section 1222(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "or" and "and";

(C) by adding at the end the following:

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

(6) in section 1322(b), in the matter preceding paragraph (11), by inserting "and" and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor has disposable income available to pay such interest after making provision for full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(7) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "or" and "and";

(C) by adding at the end the following:

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

(8) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "and";

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(9) in section 1322(b)—

(A) in paragraph (11), by striking "or" and "and" at the end;

(B) in paragraph (12), by striking the period at the end and inserting "or" and "and";

(C) by adding at the end the following:

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

(10) in section 1322(b), in the matter preceding paragraph (11), by inserting "and" and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;";
will be applied to make payments under the plan.

SEC. 215. Nondischargeability of certain debts for support, maintenance, and assistance.
Section 523 of title 11, United States Code, is amended—
(1) in subsection (a)—
(A) by striking paragraph (5) and inserting the following:
"(5) for a domestic support obligation;"
(B) in paragraph (15), by striking ""(i) notify in writing the child support enforcement agency; and"
and inserting ``(i) notify in writing the State child support enforcement agency of the State in which the holder of the claim resides of the claim; and''
(C) by striking paragraph (18); and
(2) by adding at the end the following:
"(19) in section 1325(b)(2)(A), by striking ""(A)(i) notify in writing the holder of the child support enforcement agency; and"
and inserting ``(A)(i) notify in writing the State child support enforcement agency of the State in which the holder of the claim resides of the claim; and''

SEC. 216. CONTINUED LIABILITY OF PROPERTY.
Section 522 of title 11, United States Code, is amended—
(1) in subsection (c), by striking paragraph (1) and inserting the following:
"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a));"
(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a); or'' and
(3) in subsection (g)(2), by striking subsection (f)(2)"" and inserting subsection (f)(1)(B)."

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENCE TRANSFER MOTIONS.
Section 547(c)(7) of title 11, United States Code, is amended to read as follows:
"(7) to the extent such transfer was a bona
fide payment of a debt for a domestic support obligation;"

SEC. 218. DISCHARGEABLE INCOME DEFINED.
(a) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or" after "court of" and inserting "or" after "dependent of the debtor".
(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or" for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".

SEC. 219. COLLECTION OF CHILD SUPPORT.
(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by this Act, is amended—
(1) in subsection (a)—
(A) in paragraph (6), by striking ""(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and"
and inserting ``(A)(i) in any case described in subsection (a)(7), the trustee shall—``(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and''
and (B) by adding at the end the following:
"(B)(i) notify, in writing, the State child support agency of the State in which the holder of the claim resides of the claim; and"
"(B)(i) notify, in writing, the State child support agency of the State in which the holder of the claim resides of the claim; and''
and inserting ``(B)(i) notify, in writing, the State child support agency of the State in which the holder of the claim resides of the claim; and''
and (ii) by adding at the end the following:
"(ii) not of the kind'';
and inserting ``(ii) the interception of tax refunds, as specified in section 466(a)(3) of the Social Security Act (42 U.S.C. 666(a)(3)) or under an analogous State law; or"
and "(iii) for the dissolution of a marriage, except to the extent that such proceeding comes payable after the date on which the petition is filed'' after ''dependent of the debtor''.

SEC. 220. DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—
(1) in subsection (a)—
(A) in paragraph (6), by striking ""(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and"
and inserting ``(A)(i) in any case described in subsection (a)(7), the trustee shall—``(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and''
and (B) by adding at the end the following:
"(B)(i) notify, in writing, the State child support agency of the State in which the holder of the claim resides of the claim; and"
"(B)(i) notify, in writing, the State child support agency of the State in which the holder of the claim resides of the claim; and''
and inserting ``(B)(i) notify, in writing, the State child support agency of the State in which the holder of the claim resides of the claim; and''
and (ii) by adding at the end the following:
"(ii) not of the kind'';
and inserting ``(ii) the interception of tax refunds, as specified in section 466(a)(3) of the Social Security Act (42 U.S.C. 666(a)(3)) or under an analogous State law; or"
and "(iii) for the dissolution of a marriage, except to the extent that such proceeding comes payable after the date on which the petition is filed'' after ''dependent of the debtor''.
(A) in paragraph (4), by striking “and” at the end;
(B) in paragraph (5), by striking the period and inserting “and”;
(C) by adding at the end the following:
“(4) in subsection (d)—
(1) in paragraph (1), by striking at the end the following:
“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”;
(2) by adding at the end the following:
“(A) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and
(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and
(B) notify in writing the State child support agency of the State in which the holder of the claim resides of—
(I) the granting of the discharge;
(II) the last recent known address of the debtor;
(III) the last recent known name and address of the debtor’s employer; and
(IV) with respect to the debtor’s case, the name of each creditor that holds a claim that—
(aa) is not discharged under paragraph (2), (4), or (14) of section 523(a); or
(bb) was reaffirmed by the debtor under section 524(c).”;
and
(3) in subsection (c)—
(A) in paragraph (2)—
(i) by striking “(2) For purposes” and inserting “(2)(A) Subject to subparagraph (B), for purposes”;
and
(ii) by adding at the end the following:
“(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.
(B) The notice under subparagraph (A)—
(i) shall inform the debtor in simple language what a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;
(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and
(iii) shall—
(1) be signed by—
(aa) the debtor; and
(bb) the bankruptcy petition preparer, under penalty of perjury;
and
(2) be filed with any document for filing.”
Subtitle C—Other Consumer Protections
SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.
Section 110 of title 11, United States Code, is amended by striking paragraph (3) and inserting the following:
“(3) in subsection (c)—
(A) in paragraph (2)—
(i) by striking “(2) For purposes” and inserting “(2)(A) Subject to subparagraph (B), for purposes”;
and
(ii) by adding at the end the following:
“(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer.”;
and
(B) by striking paragraph (3); (4) in subsection (d)—
(A) by striking “(d)(1)” and inserting “(d)”;
and
(B) by striking paragraph (2); (5) in subsection (e)—
(A) by striking paragraph (2); and
(B) by adding at the end the following:
“(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).
“(B) The legal advice referred to in subparagraph (A) includes advising the debtor—
(1) to file a petition under this title; or
(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;
(II) whether the debtor’s debts will be eliminated or discharged in a case under this title;
(III) whether the debtor may or should promise to repay a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;
court shall order the bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction issued under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator.

(b) by striking paragraph (3) as redesignated under paragraph (1); and

(c) by inserting at the end the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction issued under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator.";

(i) by adding at the end the following:

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

(ii) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer failed to comply with a previous order issued under this section. The injunction issued under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator."

(ii) by adding at the end the following:

"(i) A bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction issued under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator; and

(iii) by adding at the end the following:

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

(ii) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer failed to comply with a previous order issued under this section. The injunction issued under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator."

(c) by adding a period at the end of paragraph (2) as redesignated under paragraph (1); and

(d) by striking paragraph (3), as redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

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

(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1)."

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

(C) An individual may exempt any funds recovered under this paragraph from the bankruptcy petition preparer."

"(3)(A) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 shall be used to pay the expenses of the operation and administration of the Internal Revenue Service; and

(B) any distribution described in clause (ii) of paragraph (2)(B) shall not be treated as a tax-exempt rollover distribution.

"(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance."
60 days after the distribution of that amount;" and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "(subsection (b)(1))" and inserting "subsection (b)(2))" and

(B) by inserting after the period at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986;". 

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

(1) in paragraph (17), by striking "or" at the end;

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

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, an affiliated successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) in the case of a loan from a thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of such title."; and

(4) by adding at the end of the flush material at the end of the subsection, the following:

"Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.".

(c) EXCEPTIONS TO DISCHARGE.—Section 522(a) of title 11, United States Code, as amended by the Act, is amended by adding at the end the following:

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

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

"(B) a loan from the thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 414(g)(3) of such title.

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

"(d) PLANNING LIMITATION.—Section 522(b) of title 11, United States Code, is amended by adding at the end the following:

"(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.".

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

"(n) For assets in individual retirement account to the extent of such account to the extent of $408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of that Code or a simple retirement account under section 408(p) of that Code, the aggregate value of such assets exempted under this section, regardless of amounts attributable to rollover contributions under section 402(c), 402(e)(3), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 (which amount shall be adjusted as provided in section 111(b) of this title) in a case filed by an individual debtor, except that such amount may be increased if the interests of justice so require."

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

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

(1) in subsection (b), by inserting after paragraph (4) the following:

"(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

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

"(B) only to the extent that such funds—

"(i) are not pledged or promised to any entity in connection with any extension of credit; and

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

"(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before the date of filing of the petition, but—

"(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which such funds were paid or contributed;

"(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual percentage change (as defined under the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

"(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days but not later than 365 days before the date of filing of the petition, only so much of such funds as does not exceed $5,000;"; and

(2) by adding at the end the following:

"(e) In determining whether any of the relationships specified in paragraph (5)(A) or (5)(B) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and a member of the debtor's household) shall be treated as a child of such individual by blood.".

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

"(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code)."

SEC. 226. DEFINITIONS.

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

(1) by inserting after paragraph (2) the following:

"(3) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;";

(2) by inserting after paragraph (4) the following:

"(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceedings on behalf of an assisted person; or providing legal representation with respect to a case or proceeding under this title;";

(3) by inserting after paragraph (12) the following:

"(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

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

"(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;".

"(C) a creditor of the person, to the extent that the creditor is assisting the person to restructure any debt owed by the person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity;"

(b) CONFORMING AMENDMENT.—Section 101(b)(1) of title 11, United States Code, is amended by inserting "101(3)," after "sections".
violation; violated or is violating this section, the official or agency designated by a State, chief law enforcement officer of a State, or are provided under State law, whenever the cause of such agency’s intentional or negligent failure to file any required document cause of such agency’s intentional or negligent failure to file any required document for services performed as part of preparing bankruptcy petition preparer fee or charge under this title or to pay an attorney or other person, other than bankruptcy assistance services from an attorney or bankruptcy petition preparer.

(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person with the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person: ''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER."

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer. The LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial to you. Be sure and the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affidavit, as well as a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a "trustee" and by creditors.

If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

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

If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to know what needs to be done from someone familiar with that form of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only bankruptcy petition preparers, can give you legal advice.'
SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

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

§ 528. Requirements for debt relief agencies

(a) A debt relief agency shall—

(1) 30 days after the date of the petition, or any previous return date and the filing of any written contract with such assisted person that explains clearly and conspicuously—

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

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

(2) provide the assisted person with a copy of the fully executed and completed written contract with such assisted person; and

(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

(4) clearly and conspicuously using the following statement: ‘‘We are a debt relief agency. We help people file for bankruptcy to stop or reduce debt, to protect personal, family, or household purposes—’’

or not chapter 13 is specifically mentioned in such advertisement.

(b) The statement in paragraph (a) shall include—

(1) the following information—

(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement.

(B) statements such as ‘‘federally supervised repayment plan’’ or ‘‘Federal debt restructuring help’’ or other similar statements that could lead a reasonable consumer to believe that debt restructuring was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

(B) include the following statement: ‘‘We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code. If you have a substantially similar statement.’’

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

528. Debtor’s bill of rights.’’

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General of the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) IN GENERAL.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:—

‘‘(i) the individual’s birth date, birth certificate number, or place of birth; or

(ii) any other information concerning an identified individual that, if disclosed, will result in the physical or electronic contacting or identification of that person;’’.

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

528. Debtor’s bill of rights.’’

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) IN GENERAL.—

(1) APPOINTMENT ON REQUEST.—If the trustee intends to sell or lease personally identifiable information in a manner which requires a notice described in subparagraph (B) of section 363(b)(1)(B), the trustee shall request, and the court shall appoint, an individual to serve as ombudsman during the case not later than—

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

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

(2) DUTIES OF OMBUDSMAN.—It shall be the duty of the ombudsman to provide the court information to assist the court in its consideration of the facts, circumstances, and conditions of the sale or lease under section 363(b)(1)(B) of title 11, United States Code, as amended by this Act. Such information may include a presentation of the debtor’s privacy policy in effect, potential losses or gains of privacy to consumers if the sale or lease is approved, potential costs or benefits to the debtor or to any other person if the sale or lease is approved, and potential alternatives which mitigate potential privacy losses or potential costs to consumers.

(b) NOTICE TO OMBUDSMAN.—The ombudsman shall receive notice of, and shall have a right to appear and be heard, at any hearing described in section 363(b)(1)(B) of title 11, United States Code, as amended by this Act.

(c) CONFIDENTIALITY.—The ombudsman shall maintain any personally identifiable information obtained by the ombudsman under this title as confidential information.

SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.

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

‘‘(1) In a case under this title, the debtor may be required to provide information regarding
a minor child involved in matters under this title, as required to be recorded in the public records in the case the name of such minor child. Notwithstanding section 107(a), the debtor may be required to disclose the name of such minor child in a nonpublic record maintained by the court. Such nonpublic record shall be available for inspection by the judge, United States Trustee, the trustee, or an auditor under section 633 of the Bankruptcy Reform Act of 2001. Each such judge, United States Trustee, trustee, or auditor shall maintain the confidentiality of the identity of such minor child in the nonpublic record.

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

"112. Prohibition on disclosure of identity of minor children."

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 524(g)(2) of title 11, United States Code, is amended—

(1) by striking "by a court," and inserting "on a party by any court'',

(2) by striking "section 1915(b) or (f)'' and inserting subsection (b) or (f)(2) of section 1915'', and

(3) by inserting "(or similar non-Federal law)'' after "title in which the individual was a debtor was dismissed within such 1-year period;''

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and'' at the end;

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

(3) by adding at the end the following:

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

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any claim filed by or against such debtor shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

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

(i) as to all creditors if—

(1) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

(II) a previous case under this title in which the individual was a debtor if, as of the date of dismissal of such case, such person had not been discharged by terminating, conditioning, or limiting the stay as to action of such creditor.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) In general.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting "or''; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against property under subsection (a), by a creditor whose claim is secured in whole or in part in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the property filed not later than 2 years after the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

(2) In general.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (9), as added by this Act, the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in a prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;"

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a) (as so designated by this Act)—

(A) in paragraph (4), by striking "and'' at the end and inserting a semicolon;

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

(C) by adding at the end the following:

"(b) in an individual case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan which will be fully performed; or

(i) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if,
days after the first meeting of creditors under section 341(a)—
(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; and 
(B) receives such property from the security interest pursuant to section 722 of this title.  
If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected thereby.  If no longer beneficial to the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee; and

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

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.  
Title 11, United States Code, is amended—  
(1) in section 362—
(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)"; 
(B) by redesignating subsection (h) as subsection (k); and 
(C) by inserting after subsection (g) the following:—
"(h) (1) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if it is taken in the applicable time set by section 521(a)(2) of this title—
"(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to property after notice to the holder of such a claim in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not so do, as applicable; and 
"(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.  If the court does not so determine, the stay provided by subsection (a) is terminated with respect to the personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if it is taken in the applicable time set by section 521(a)(2) of this title—
(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to property after notice to the holder of such a claim in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not so do, as applicable; and 
(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.  If the court does not so determine, the stay provided by subsection (a) is terminated with respect to the personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if it is taken in the applicable time set by section 521(a)(2) of this title—
(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to property after notice to the holder of such a claim in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not so do, as applicable; and 
(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.  If the court does not so determine, the stay provided by subsection (a) is terminated with respect to the personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if it is taken in the applicable time set by section 521(a)(2) of this title—
(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to property after notice to the holder of such a claim in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not so do, as applicable; and 
(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

CONEGRSSIONAL RECORD—SENATE  
July 12, 2001
PURCHASE MONEY SECURED CREDITORs.—

Section 365 of title 11, United States Code, is amended to read as follows:

"(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(ii) for purposes of this subparagraph—

"(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

"(II) the term 'open end credit plan' has the meaning given that term under section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602); and

"(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.';"

SEC. 310. LIMITATION ON LUXURY GOODS.

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

"(B) by adding at the end of the flush material at the end of the subsection the following: With respect to the applicability of subsection (B) with respect to the commencement or continuation of a proceeding described in any such paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under any such paragraph, unless—

"(A) the debtor files a certification with the court and serves a copy of that certification upon the lessor on or before that 15th day, that—

"(i) it certifies upon the debtor; or

"(ii) the tenant has taken such action as may be necessary to remedy the subject of the certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability;"; and

"(C) by adding at the end of the flush material added by paragraph (2), the following: Where a debtor makes a certification under subsection (A), the clerk of the court shall set a hearing on a date no later than 10 days after the date of the filing of the certification of the debtor and provide written notice thereof. If the debtor can demonstrate to the satisfaction of the court that the rent payment due post-petition or 10 days prior to the petition was made prior to the filing of the debtor's certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

"(C) by adding at the end of the flush material added by paragraph (2), the following: Where a debtor makes a certification under subsection (A), the clerk of the court shall set a hearing on a date no later than 10 days after the date of the filing of the certification of the debtor and provide written notice thereof. If the debtor can demonstrate to the satisfaction of the court that the rent payment due post-petition or 10 days prior to the petition was made prior to the filing of the debtor's certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability;"; and

"(C) by adding at the end of the flush material added by paragraph (2), the following: Where a debtor makes a certification under subsection (A), the clerk of the court shall set a hearing on a date no later than 10 days after the date of the filing of the certification of the debtor and provide written notice thereof. If the debtor can demonstrate to the satisfaction of the court that the rent payment due post-petition or 10 days prior to the petition was made prior to the filing of the debtor's certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability.";}
of the court, the court shall order the stay under section 362(a) of this title to be lifted forthwith. Where a debtor does not file a certification under subparagraph (A), the stay under subsection (a) shall be lifted by operation of law and the clerk of the court shall certify a copy of the bankruptcy docket as sufficient evidence that the automatic stay of subsection (a) is lifted.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

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

and

(2) by section 1328, by inserting after subsection (e) the following:

“(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502, if the debtor has received a discharge—

“(1) in a case filed under chapter 7, 11, or 12 of this title during the three-year period preceding the date of the order for relief under this chapter,

or

“(2) in a case under chapter 13 of this title during the two-year period preceding the date of such order, except that if the debtor demonstrates extreme hardship requiring that a chapter 13 case be filed, the court may shorten the two-year period.”.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

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

“(x) the term ‘household goods’ means—

“(i) clothing;

“(ii) furniture;

“(iii) educational expenses;

“(iv) 1 radio;

“(v) 1 television;

“(vi) 1 VCR;

“(vii) linens;

“(viii) china;

“(ix) crockery;

“(x) kitchenware;

“(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only personal computer only if used primarily for the education or entertainment of such minor children;

“(xii) medical equipment and supplies;

“(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

“(xiv) personal effects (including the toys and hobby equipment of minor dependent children or elderly or disabled dependents of the debtor and the dependents of the debtor).

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

“(i) works of art (unless by or of the debtor or the dependents of the debtor);

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

“(iii) items acquired as antiques;

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

“(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.”.

(b) STUDY.—Not later than 2 years after the date of the enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of this title, in a case under this title, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the imposition of liability under section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director’s findings.

SEC. 314. BRIEF INCURRED TO PAY NON-DISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (1) the following:

“(1A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);”.

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

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

“(2) of the kind specified in paragraph (2), (3), (4), (5), or (9) of section 523(a);”.

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

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c)—

“(A) by inserting ‘‘(1)’’ after ‘‘(c)’’;

“(B) by striking ‘‘, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice’’;

and

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

“(1) a statement of the account number of the debtor and the address at which the creditor wishes to receive correspondence, if the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number.

In the event the creditor was in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if the creditor supplied the debtor in the last 2 communications sent to the debtor with the information requested by the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send such notice required under this title to such address provided by the creditor and such notice shall include the account number.”;

and

(2) by adding at the end the following:

“(e) At any time, a creditor, in the case of an individual debtor under chapter 7 or 13, or the case shall make those documents available to the creditor who requests those documents.”.

(b) STUDY.—The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to the filing of a petition in a voluntary case, requesting the petition, schedules, and a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

(2) by adding at the end the following:

“(e) At any time, a creditor, in the case of an individual debtor under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.”.

The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to the filing for which a tax return has been or shall have been required to be filed, not later than 7 days before the date first set for the first meeting of creditors, or the case shall be dismissed, unless the court, for cause shown, determines that the failure to file a return as required is due to circumstances beyond the control of the debtor.

If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax

SEC. 316. REPORT TO THE CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices are delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

(2) No sanction under section 362(k) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place more than 30 days after the commencement of the case effective under this section.”.

SEC. 317. DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a), so as designated by the word “by” by striking paragraph (1) and inserting the following:

“(1) file—

“(A) a list of creditors; and

“(B) unless the court orders otherwise—

“(i) a schedule of assets and liabilities; and

“(ii) a schedule of current and current expenditures;

“(ii) a statement of the debtor’s financial affairs and, if applicable, a certificate—

“(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 362(b); or

“(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

“(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer in the period 60 days before the filing of the petition;

“(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

“(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;”;

and

(2) by adding at the end the following:

“(e)(1) At any time, a creditor, in the case of an individual debtor under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.

The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to the filing for which a tax return has been or shall have been required to be filed, not later than 7 days before the date first set for the first meeting of creditors, or the case shall be dismissed, unless the court, for cause shown, determines that the failure to file a return as required is due to circumstances beyond the control of the debtor.

If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax
(3) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

(b) The court shall make such plan available to the creditor who requests such plan.

(ii) not later than 5 days after such request.

(i) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of the judge, United States trustee, or any party in interest—

(A) at the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, with respect to the period from the commencement of the case until such time as the case is closed,

(B) at the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief,

(C) to any of the Federal tax returns or transcripts thereof, described in paragraph (1) or (2); and

(D) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor’s income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated.

(a) beginning on the date that is the later of 90 days after the close of the debtor’s tax year or 1 year after the order for relief, unless a plan has been confirmed; and

(b) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

(3) Except as provided in subsection (b) and (c) and subject to the requirements of this paragraph, the bankruptcy administrator shall submit to the Senate Committee on the Judiciary, the House Committee on the Judiciary, and the Senate Committee on Appropriations, a report that—

(A) assesses the effectiveness of the procedures under this paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

(4) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

(A) a document that establishes the identity of the debtor, including a driver’s license, passport, or other document that contains a photograph of the debtor; and

(B) such other personal identifying information relating to the debtor that establishes the identity of the debtor.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521(a) of title 11, United States Code, as amended by this Act, is amended by adding the word "and" at the end of the following:

"(C) the identity of any person who

(1) by striking "After" and inserting the word "the"; and

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1326(b), as amended by this Act, by adding at the end the following:

"(4) For purposes of this subsection, the "applicable commitment period"—

(A) subject to subparagraph (B), shall be—

(i) 3 years; or

(ii) not less than 5 years, if the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—

(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census;

(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 last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4; and

(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), if the plan provides for payment in full of all allowed unsecured claims over a shorter period.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 3134 of title 11, United States Code, is amended—

(1) in section 1324(d), by inserting the word "and" after the word "is";

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1326(b), as amended by this Act, by adding at the end the following:

"(4) For purposes of this subsection, the "applicable commitment period"—

(A) subject to subparagraph (B), shall be—

(i) 3 years; or

(ii) not less than 5 years, if the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—

(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census;

(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 last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4; and

(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), if the plan provides for payment in full of all allowed unsecured claims over a shorter period.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 313(d) to read as follows:

"(d) If the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census;

(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 last reported by the Bureau of the Census; 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 last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 5 years.

(2) If the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not 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 ear last reported by the Bureau of the Census;

(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 by the same number or fewer individuals last reported by the Bureau of the Census; 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 last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 5 years.

(3) In section 1326(b), as amended by this Act, by adding at the end the following:

"(4) For purposes of this subsection, the "applicable commitment period"—

(A) subject to subparagraph (B), shall be—

(i) 3 years; or

(ii) not less than 5 years, if the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—

(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census;

(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 last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4; and

(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), if the plan provides for payment in full of all allowed unsecured claims over a shorter period.

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted in accordance with the Federal Rules of Bankruptcy Procedure.
SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

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

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request made by a party in interest under subsection (d), unless—

(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

(B) that 60-day period is extended—

(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court;.

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) In GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

``"§ 1115. Property of the estate"

"(a) in a case concerning an individual debtor, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whenever occurs after the commencement of such case and before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.

"(b) Except as provided in section 1101 or a confirmed plan or order confirming a plan, the debtor shall retain in possession of all property of the estate.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

"1115. Property of the estate.".

(c) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "and"; and

(3) by adding at the end the following:

"(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(d) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(b)(8) of title 11, United States Code, is amended by adding at the end the following:

"(15) In a case concerning an individual in which a holder of an unsecured claim objects to the confirmation of the plan—

(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

(B) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

"(2) by striking subsection (e) and inserting the following:

"(e) The district court in which a case is pending shall have exclusive jurisdiction—

"(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

"(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.

SEC. 322. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended by adding at the end the following:

"(a) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(1) In paragraph (1), by striking "the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

"(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

"(ii) modification of the plan under 1127 of this title is not practicable.''.

(b) APPLICABILITY.—The amendments made by this section shall not apply to cases commenced before title 11, United States Code, before the expiration of the 180-day period beginning on the date of enactment of this Act.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (8), as added by this Act, the following:

"(9) any amount—

"(A) withheld by an employer from the wages of employees for payment as contributions to—

"(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

"(ii) a health insurance plan regulated by State law whether or not subject to such title; or

"(B) received by the employer from employees for payment as contributions to—

"(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

"(ii) a health insurance plan regulated by State law whether or not subject to such title;''.

(b) APPLICABILITY.—The amendments made by this section shall not apply to cases commenced before title 11, United States Code, before the expiration of the 180-day period beginning on the date of enactment of this Act.

SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1990(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) For a case commenced—

"(A) under chapter 7 of title 11, $150; or

"(B) under chapter 13 of title 11, $150.''

(b) UTILITY OF FUND.—Section 412(b) of title 28, United States Code, is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) 40.63 percent of the fees collected under section 330(a)(1) of this title in

"(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.''.

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.
cases commenced under chapter 7 of title 11; and

(1) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11; and

(2) in paragraph (2), by striking “one-half” and inserting “three-fourths”; and

(3) in paragraph (4), by striking “one-half” and inserting “ninety percent”;

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 306(b) of the Judiciary Appropriations Act, 1996 (28 U.S.C. 751 note) is amended by striking “‘pursuant to 28 U.S.C. section 1930(b) and 30.76 per cent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931’” and inserting “‘pursuant to 28 U.S.C. section 1930(b) and 30.76 per cent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931’”.

§ 325. SHARING OF COMPENSATION.
Section 504 of title 11, United States Code, is amended by adding at the end the following:

“(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney referral services.”

§ 326. FAIR VALUATION OF COLLATERAL.
Section 506(a) of title 11, United States Code, is amended by—

(1) inserting “(1)” after “(a)”; and

(2) by adding at the end the following:

“(2) In the case of an individual debtor under chapters 7 and 13, such value with respect to property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for customary markdown for sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.”.

§ 327. DEFUALTS BASED ON NONMONETARY OBLIGATIONS.
(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon in the end and inserting the following: “other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts and at the time of the assumption or assignment, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performing the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of paragraphs (B) and (C);”;

(B) in paragraph (2)(D), by striking “penalty rate or provision” and inserting “penalty rate or penalty provision”;

(C) in subsection (c)—

(A) in paragraph (2), by inserting “or” at the end and inserting “, and”;

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

(C) by redesignating paragraph (4) as paragraph (5);

(D) by striking paragraph (5) and inserting the following:

“(5) In a case under chapter 7 of title 11, unless the court orders otherwise, if the debtor is the lessor of a lease of personal property, the trustee may, upon notice and a hearing, for cause shown, compel such lessor to lease such property to the trustee on such terms and conditions as the court determines are fair and equitable under the circumstances.”;

(ii) damage or destruction of property of a facility providing lawful goods or services; or

(II) a violation of a court order or injunction that provides lawful goods or services.”.

§ 328. OWNERSHIP OF PROPERTY SECURED BY A SECURITY INTEREST.
Section 552(b)(1)(A) of title 11, United States Code, is amended to read as follows:—

“(A) the actual, necessary costs and expenses of preserving the estate, including any costs of preserving the estate, including any costs of answering a summons or complaint, or otherwise preventing the transfer of property in violation of a court order or injunction that provides lawful goods or services, or

(2) the right to receive any services rendered after the commencement of the case, and wages and benefits awarded pursuant to an action brought in a court of law or the National Labor Relations Board as back pay attributable to any period of time after commencement of the case as a result of the debtor’s violation of Federal or State law, regardless to when the original unlawful act occurred or to whether any services were rendered if the court determines that the award will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case.”.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS
§ 401. ADEQUATE PROTECTION FOR INVESTORS.
(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by this Act, is amended by inserting after paragraph (48) the following:


(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (24), as added by this Act, the following:

“(25) under subsection (a), of—

“(A) the commencement or continuation of any action, application, or order by a securities self regulatory organization to enforce such organization’s regulatory power; and

“(B) the enforcement of an order or decree, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization’s regulatory power; or

“(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.”

§ 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.
Section 341 of title 11, United States Code, is amended by adding at the end the following:

“(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest, may order extrinsic evidence in addition to the evidence of the trial and any evidence adduced by a party for the purpose of discrediting the testimony of a witness, or for the purpose of finding the facts necessary to a proper determination of the issues presented to the court.”

§ 403. PROTECTION OF REFINANCE OF SECURITIES.
Subparagraphs (A), (B), and (C) of section 576(e)(2) of title 11, United States Code, are
each amended by striking "10" each place it appears in subsection (2) of section 3).

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) In General.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days upon motion of the trustee or lessor for cause.

(b) Exception.—Section 365(d)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsection (b) and".

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) Appointment.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the membership of a committee appointed for purposes of this section; and

(b) Information.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by the committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A)."

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 1022 of Public Law 103-394) as subsection (i); and

(2) in subsection (i), as so redesignated, by inserting "and subject to the prior rights of holders of any interests in such goods or the proceeds thereof," after "consent of a creditor;" and

(3) by adding at the end the following:

"(j)(1) No later than (2) and (3) of section 546, the trustee may not avoid a lessor's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 707 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Reform Act of 2001, or any successor thereof.

SEC. 407. AMENDMENTS TO SECTION 330A OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "(B)"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded;" and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.

SEC. 408. POSTPETITION DISCLOSURE AND LICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of a plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law."

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was not part of a pattern of similar or related transfers.

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;"

(2) in paragraph (8), by striking the period after "consumer" and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(2) Subject to paragraph (2), on;"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter."

SEC. 412. FEES ARISING FROM CERTAIN INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears; and

(2) by striking "ownership or" and inserting "ownership;".

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following:

"Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity who may be a representative of any direct or indirect interest in such entity, such corporation, or such lot),"

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) "disinterested person" means a person that—

(A) is not a creditor, an equity security holder, or an insider;

(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;"

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, as amended by this Act, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise demonstrates skill and experience in the bankruptcy field; and

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1109(b) of title 11, United States Code, is amended—

(1) by inserting ", or" after "his;"; and

(2) by adding at the end the following:

"(2)A) If an eligible, disinterested trustee is elected at a meeting of creditors under subsection (1), the United States trustee shall file a report certifying that election.

(B) Upon the filing of a report under subparagraph (A) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

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“(ii) the service of any trustee appointed under subsection (b) shall terminate.

“(c) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.”.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking “section 1915 of this title, the” and inserting “subsections (b) and (c)”; and

(2) by adding at the end the following:

“(c) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment as provided under paragraph (2).

“(B) For purposes of this subsection, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

“(3) Subject to paragraphs (3) and (4), with respect to a security deposit provided to the utility by the debtor before the date of filing of the petition, the court may determine that the debtor’s interest in any security referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 418. BANKRUPTCY FEES.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (a), by striking “Notwithstanding section 1915 of this title, the” and inserting “The”; and

(2) by adding at the end the following:

“(a) In general.—

“(1) unless an order of the court has been entered, a utility may not recover from a security deposit provided to the utility before the date of filing of the petition without notice or order of the court.

“(2) Subject to paragraphs (3) and (4), with respect to a security deposit provided to the utility by the debtor before the date of filing of the petition, the court may order modification of the amount of an assurance of payment as provided under paragraph (2).

“(B) For purposes of this subsection, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

“(3) Subject to paragraphs (3) and (4), with respect to a security deposit provided to the utility by the debtor before the date of filing of the petition, the court may determine that the debtor’s interest in any security referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) In General.—

(1) Disclosure.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall prepare and publish Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) Information.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) Purpose.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest in determining whether the debtor’s interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) In General.—Section 522(a) of title 11, United States Code, as redesignated by section 106(d) of this Act, is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) by adding at the end the following:

“(b) DUTIES OF TRUSTEE.—Section 704(a) of title 11, United States Code, as redesignated and otherwise amended by this Act, is amended—

(1) in paragraph (10), by striking “and” at the end;

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

(3) by adding at the end the following:

“(c) The court may determine that the plan administrator served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator.”.

(b) Conforming Amendment.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting “debtors” after “small business”.

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon “and in determining whether a disclosure statement provides adequate in-
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parties in interest for reasonably complete information; and
(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.

(1) In general.—Chapter 11 of title 11, United States Code, is amended by inserting after section 307 the following:

"§ 308. Debtor reporting requirements

(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, that the debtor has earned or lost during current and recent fiscal periods, the net income (or loss) of the small business debtor at such time (taking into account the debtor's future)."

(b) P URPOSE.—The rules and forms prescribed under section 307 the following:

"(1) the debtor's profitability;

(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

(4) whether the debtor is—

"(i) in compliance in all material respects with requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative claims when due;

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and in what time the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements..."

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 180 days after the date on which rules are published under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 436. PLAN CONFIRMATION DEADLINES.

Section 1123 of title 11, United States Code, is amended by adding at the end the following:

"(e)(1) In a small business case, the plan shall be confirmed not later than the 45th day after the date that a plan is filed with the court as provided in section 1121(e).

"(2) The 45-day period referred to in paragraph (1) may be extended only if—

"(A) the debtor, after notice and hearing, demonstrates that it is more likely than not that the court will confirm a plan within a reasonable period of time; "(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 437. DUTIES OF TRUSTEE OR DEBTOR IN POSSESSION IN SMALL BUSINESS CASES.

Section 1116 of title 11, United States Code, is amended by adding after the end of the definition of "profitability" the following:

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and in what time the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

"1116. Duties of trustee or debtor in possession in small business cases

In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

(1) append to any voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

(2) attend, through its senior management, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

(4) file all postpetition financial and other reports prescribed by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

(5) subject to section 308(c)(2), maintain insurance customary and appropriate to the industry;

(6) file timely tax returns and other required government filings; and

(7) by adding at the end the following:

"(B) by redesignating subparagraph (H) as subparagraph (I); and

"(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and"

"(2) in paragraph (5), by striking "and" at the end.

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief
sections 1121(e) and establishing the following:

(1) No stay shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and

SEC. 440. SCHEDULING CONFERENCES.
Section 105(d) of title 11, United States Code, is amended—

(1) in subsection (k), as redesignated by this Act;

(A) by striking “An” and inserting “(1) Except as provided in paragraph (2), an”;

(B) by adding at the end the following:

'(2) in paragraph (1), by striking “or” at the end of paragraph (1), by striking paragraphs (B), (C), and (D); and

(C) by adding at the end the following:

'(B) the grounds include an act or omission of the debtor—

(i) for which there exists a reasonable justification for the act or omission; and

(ii) that is within a reasonable period of time fixed by the court.

(3) The court shall commence the hearing on any motion under this subsection no later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

(4) For purposes of this subsection, the term ‘cause’ includes—

(A) substantial or continuing loss to or diminution of the estate;

(B) gross mismanagement of the estate;

(C) failure to maintain appropriate insurance that poses a risk to the estate or to the Public;

(D) unauthorized use of cash collateral harmful to 1 or more creditors;

(E) failure to comply with an order of the court;

(F) repeated failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator;

(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

(K) failure to pay any fees or charges required under section 327;

(L) revocation of an order of confirmation under section 1144;

(M) inability to effectuate substantial consummation of a confirmed plan;

(N) material default by the debtor with respect to a confirmed plan;

(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

(b) EXPANDED GROUNDS FOR APPOINTMENT OR TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

'(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

(6) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

(c) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OR TRUSTEE.—Section 1112 of title 11, United States Code, is amended—

(1) in subsection (a) do not apply in a case in which the debtor—

(A) is a debtor in a small business case pending at the time the petition is filed;

(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; and

(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).

(2) This subsection does not apply—

(A) to an involuntary case involving no creditors and the estate is not solvent; or

(B) to the filing of a petition if—

(i) there is a reasonable likelihood that a plan will be confirmed within the time the case then pending was filed; and

(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OR TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

'(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss such case under chapter 11, as the case may be, and in the best interests of creditors and the estate, if the movant establishes cause.

(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes that—

(A) there is a reasonable likelihood that a plan will be confirmed within the time frames established in sections 1121(e) and 1129(e) of this title, as amended, or in cases in which these sections do not apply, within a reasonable period of time; and

(B) the grounds include an act or omission of the debtor—

(i) for which there exists a reasonable justification for the act or omission; and

(ii) that is within a reasonable period of time fixed by the court.

(3) The court shall commence the hearing on any motion under this subsection no later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

(4) For purposes of this subsection, the term ‘cause’ includes—

(A) substantial or continuing loss to or diminution of the estate.

(B) gross mismanagement of the estate.

(C) failure to maintain appropriate insurance that poses a risk to the estate or to the Public.

(D) unauthorized use of cash collateral harmful to 1 or more creditors.

(E) failure to comply with an order of the court.

(F) repeated failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter.

(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure.

(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator.

(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief.

(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court.

(K) failure to pay any fees or charges required under section 327.

(L) revocation of an order of confirmation under section 1144.

(M) inability to effectuate substantial consummation of a confirmed plan.

(N) material default by the debtor with respect to a confirmed plan.

(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan.

(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

(6) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

(b) EXPANDED GROUNDS FOR APPOINTMENT OR TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) by inserting “or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later” after “90-day period”;

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

“(B) the debtor has commenced monthly payments that—

(i) may, in the debtor’s sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor’s interest in the real estate that would be a claim under section 502(b)(6))’’;

TITLE V—MUNICIPAL BANKRUPTCY

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

Section 502(d) of title 11, United States Code, is amended—

(1) by inserting “or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later” after “90-day period”;

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

“(B) the debtor has commenced monthly payments that—

(i) may, in the debtor’s sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor’s interest in the real estate that would be a claim under section 502(b)(6))’’;

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting “notwithstanding section 301(b)” before the period at the end.
(b) CONFORMING AMENDMENT.—Section 301 of United States Code, is amended—
(1) by inserting "(a)" before "A voluntary;" and
(2) by striking the last sentence and inserting the following:
"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.
Section 901(a) of title 11, United States Code, is amended to read as follows—
"(1) by inserting "555, 556," after "553,"; and
(2) by inserting "559, 560, 561, 562" after "557.

TITLE VI—BANKRUPTCY DATA
SEC. 601. IMPROVED BANKRUPTCY STATISTICS.
(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:
"§ 159. Bankruptcy statistics
"(a) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the "Director").
"(b) The Director shall—
"(1) compile the statistics referred to in subsection (a);
"(2) make the statistics available to the public; and
"(3) not later than October 31, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.
"(c) The compilation required under subsection (b) shall be that which the Director shall establish procedures to determine the reasonable needs of the public for such information about the operational results of the Federal bankruptcy system. In issuing rules establishing the requirements as to place and manner of filing or as the Attorney General in the discretion of the Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by the Attorney General), the Director shall establish procedures to determine the accuracy, veracity, and completeness of the information which is collected by the Director.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.
(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:
"§ 589b. Bankruptcy data
"(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve—
"(1) final reports by trustees in cases under chapters 7, 11, and 13 of title 11; and
"(2) periodic reports in possessions or trustees, as the case may be, in cases under chapter 11 of title 11.
"(b) REPORTS.—Each report referred to in subsection (a) shall be deemed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.
"(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—
"(1) the reasonable needs of the public for information for the operational results of the Federal bankruptcy system;
"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and
"(3) appropriate privacy concerns and safeguards.
"(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General shall, in the discretion of the Attorney General, shall propose, include—
"(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;
"(2) length of time the case has been pending;
"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;
"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;
"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made; and
"(6) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.
"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of title 28, United States Code, is amended by adding at the end the following:
"§ 589b. Bankruptcy data.

SEC. 603. AUDIT PROCEDURES.
(a) IN GENERAL.—
"(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 707 and 111 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.
Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform a required audit;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed and, if the variances were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 506 of title 28, United States Code, is amended—

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

‘‘(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Reform Act of 2001; and’’; and

(2) by adding at the end the following:

‘‘(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Reform Act of 2001.

‘‘(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously state the material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

‘‘(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

‘‘(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3637 of title 18; and

‘‘(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor’s discharge pursuant to section 727(d) of title 11.’’.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11.—Section 521(a) of title 11, United States Code, as so designated by this Act, is amended in each of paragraphs (3) and (4) by inserting “or an auditor appointed under section 506(f) of title 28” after “serving in the case”.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11.—Subtitle F of chapter 7, title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

‘‘(4) the debtor has failed to explain satisfactorily—

‘‘(A) a material misstatement in an audit referred to in section 506(f) of title 28; or

‘‘(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 506(f) of title 28.’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVALIABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be made publicly available in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States determine; and

(2) there should be a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(b) DETERMINATION OF TAX LIABILITY.—Section 509(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;

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

(3) by adding at the end the following:

‘‘(C) the amount or legality of any amount assessed in connection with an ad valorem tax claim, the rate of interest on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than to the extent that there is a properly determined and unencumbered claim for a credit due to a property of the estate) has expired;’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall be the rate determined under applicable nonbankruptcy law.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended, by adding at the end the following:

‘‘(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement and, if so filed, shall be allowed as a single claim.’’.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 506(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting “at the address and in the manner designated in paragraph (1)” after “determination of such tax”;

(2) by striking “(1) upon payment” and inserting “(A) upon payment”;

(3) by striking “(2) such governmental unit” and inserting “(i) such governmental unit”;

(4) by striking “(B) such governmental unit” and inserting “(ii) such governmental unit”;

(5) by striking “(2) upon payment” and inserting “(B) upon payment”;

(6) by striking “(3) upon payment” and inserting “(C) upon payment”;

(7) by striking “(b)” and inserting “(2)”;

(8) by inserting before paragraph (2), as so designated, the following:

‘‘(b)(1)(A) The clerk of each district shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

‘‘(i) designate an address for service of requests under this subsection; and

‘‘(ii) describe whether further information concerning additional requirements for filing such requests may be found.

‘‘(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the [filling of a tax return] or protest with the appropriate taxing authority of that governmental unit.’’.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

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

‘‘§ 511. Rate of interest on tax claims

‘‘(a) If any provision of this title requires the payment of interest on a claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

‘‘(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.’’

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(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

“511. Rate of interest on tax claims.”

SEC. 706. NO DISCHARGE OF FRAUDULENT TAXES

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

(1) in subparagraph (B)—

(A) in the matter preceding clause (i), by inserting “or a taxable period” after “the date of the filing of the petition” and after “gross receipts”; and

(B) in clause (i), by striking “for a taxable year ending on or before the date of filing of the petition”; and

(C) by striking clause (ii) and inserting the following:

“(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

“(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

“(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 90 days.”; and

(2) in adding at the end the following:

“‘An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus (ii) any time during which a stay of proceedings was in effect in a prior case under this title during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.”.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES

Section 507(a)(8)(B) of title 11, United States Code, as amended by striking “assessed” and inserting “incurred”.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES

IN CHAPTER 13.

Section 1322(c) of title 11, United States Code, as amended by section 314 of this Act, is amended by striking “paragraph” and inserting “section 507(a)(8)(C) or in paragraph (1)(B), (1)(C)”.

SEC. 709. NO DISCHARGE OF FRAUDULENT TAXES

IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt described in subparagraph (A) or (B) of section 523(a)(2) that is owed to a domestic governmental unit or owed to a person as the result of an action filed under subchapter III of chapter 5 of title 11, United States Code, or any similar State statute, or for a tax or customs duty with respect to which the debtor—

“(A) made a fraudulent return; or

“(B) willfully attempted in any manner to evade or defeat that tax or duty.”.

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO APPLICATION OF PREPETITION TAX LIENS

Section 362(a)(8) of title 11, United States Code, as amended by striking “the debtor” and inserting “a corporate debtor’s tax liabilities, in the period prior to the bankruptcy court may determine or concerning an individual debtor’s tax liability for a taxable pe-
(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

"1308. Filing of prepetition tax returns."

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following:

"(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONVERSION OF CLAIMS.—The provisions of this subsection shall apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(f) Whim. Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate under any such State or local law imposing a tax on or measured by income may not be taxed to or claimed by the estate, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(g) Special provisions related to the treatment of State and local taxes."

(a) In General.—Section 346 of title 11, United States Code, is amended to read as follows:

"346. Special provisions related to the treatment of State and local taxes.

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income. The trustee shall make such tax returns of income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the government."
attribute from one taxable period to a subsequent one, the estate is subject to tax under subsection (a), except as provided in subsection (b) of section 6501.

(2) The court may extend the due date for filing such tax return if the extension is requested by the taxpayer and the lease and the property are not included in the claim holder's estate.

(3) The estate may make a claim for an extension of the due date for filing such tax return, which shall be in the best interests of the estate and the claim holder.

§ 1501. Purpose and scope of application

(a) The purpose of this chapter is to provide for the appointment and recognition of foreign court-appointed representatives, and to provide for the appointment and recognition of foreign court-appointed representatives in a case under this title.

(b) The chapter applies to cases under this title in connection with a case under chapter 7 of title 11, United States Code.

(c) The chapter does not apply to cases under chapter 9 of title 11, United States Code.

Title VIII—Ancillary and Other Cross-Border Cases

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE

(a) In General—Title 11, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 1501. Purpose and scope of application.

1502. Definitions.


1504. Commencement of ancillary case.

1505. Authorization to act in a foreign country.

1506. Public policy exception.

1507. Additional assistance.

1508. Interpretation.

1509. Right of direct access.

1510. Limited protection.

1511. Commencement of case under section 101.

1512. Participation of a foreign representative in a case under this title.

1513. Access of foreign creditors to a case under this title.

1514. Notice to foreign creditors concerning a case under this title.


1516. Presumption 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.

1525. Cooperation with foreign courts and foreign representatives.

1526. Cooperation and direct communication between the court 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. Cooperation in a case under this title and a foreign proceeding.

1530. Coordination of more than 1 foreign proceeding.

1531. Presumption concerning insolvency based on recognition of a foreign main proceeding.

1532. Rule of payment in concurrent proceedings.

"§ 1501. Purpose and scope of application

(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency as a way to provide effective mechanisms for dealing with cross-border insolvency and to protect the interests of all creditors, and other interested entities, including the debtor; to ensure the avoidance of acts detrimental to creditors; and to provide for the facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

(b) This chapter applies where—

(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

(2) assistance is sought in a foreign country in connection with a case under this title;

(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

(c) This chapter does not apply to—

(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b); an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

(2) an entity subject to a proceeding under the Securities Investor Protection Act of 1934, as amended, if such proceeding is under chapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

(d) A court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

"SUBCHAPTER I—GENERAL PROVISIONS

§ 1502. Definitions

‘debtors’ means an entity that is the subject of a foreign proceeding.

‘establishment’ means any place of business, or portion thereof, where the debtor carries out a non-cross-border insolvency case.

‘financially troubled businesses’ means businesses that are experiencing financial difficulties that may result in significant losses for creditors.

‘foreign court’ means a judicial or legislative authority of a foreign country.

‘foreign court-appointed representatives’ means representatives appointed by a foreign court.

‘foreign country’ means a country other than the United States.

‘foreign main proceeding’ means a main proceeding taking place in a country where the debtor has the center of its main interests.

‘foreign nonmain proceeding’ means a proceeding taking place in a country other than a foreign main proceeding, where the debtor has the center of its main interests.

‘foreign representative’ means a representative appointed by a foreign court.

‘trusted trustee’ includes a trustee, a debtor in possession, and a successor to a debtor in possession.
§ 1503. International obligations of the United States

To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

§ 1504. Commencement of ancillary case

(a) A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

(b) Authorization to act in a foreign country

(1) A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

§ 1505. Public policy exception

“Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

§ 1506. Additional assistance

(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, taken with the principles of comity, will reasonably assure—

(1) just treatment of all holders of claims against or interests in the debtor’s property;

(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

(3) prevention of preferential or fraudulent dispositions of property of the debtor;

(4) distribution of proceeds of the debtor’s property substantially in accordance with the order of priority accorded by this title; and

(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

§ 1507. Interpretation

“In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

§ 1509. Right of direct access

(a) A foreign representative may commence a case under section 1501 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

(b) If the court grants recognition under section 1515, and subject to any limitations that the court deems consistent with the policy of this chapter—

(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

(3) a court in the United States shall grant comity or cooperation to the foreign representative.

(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition.

(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

(e) Whether or not the court grants recognition under section 1515, a foreign representative is subject to applicable nonbankruptcy law.

(f) Notwithstanding any other provision of this title, a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

§ 1510. Limited jurisdiction

“The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

§ 1511. Commencement of case under section 1515

(a) Upon recognition, a foreign representative may commence—

(1) an involuntary case under section 303; or

(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition.

(c) A petition for recognition shall also be accompanied by—

(1) indicate the time period for filing proofs of claim and specify the place for their filing;

(2) indicate whether secured creditors need to file their proofs of claim; and

(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

§ 1515. Application for recognition

(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

(b) A petition for recognition shall be accompanied by—

(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

(3) the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English, if necessary, and any other evidence required to be included in such a notification to creditors under this title shall be translated into English of any foreign language.

§ 1516. Presumptions concerning recognition

(a) If the decision or certificate referred to in section 1515(d) indicates that the foreign proceeding is a foreign proceeding (as defined in section 101) and that the person or
body is a foreign representative (as defined in section 1519), the court is entitled to so presume.

"(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

"(c) In the absence of evidence to the contrary, the debtor’s registered office, or habitual residence, in the case of an individual, is presumed to be the center of the debtor’s main interests.

§ 1517. Order granting recognition

"(a) Except in section 1006, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

"(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

"(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

"(3) the petition meets the requirements of section 1515.

"(b) The foreign proceeding shall be recognized—

"(1) as a foreign main proceeding if it is taking place in the country where the debtor has its center of main interests;

"(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending;

"(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

"(d) The provisions of this subchapter do not operate as a conclusive determination of law that the center of a debtor’s main interests, as defined in section 1502, is within the territorial jurisdiction of the United States; and

"(e) A foreign main proceeding constitutes recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. The case under this chapter may be closed in the manner prescribed under section 350.

§ 1518. Subsequent information

"From the time of filing the petition for recognition, the foreign procedure in a foreign main proceeding that is within the territorial jurisdiction of the United States to the foreign representative or an entity affected by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(b) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(c) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

"(d) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

§ 1520. Effects of recognition of a foreign main proceeding

"(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

"(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

"(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the extent that the sections would apply to property of an estate; and

"(3) unless the court otherwise orders, the foreign representative may operate the debtor’s business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

"(4) if the provision applicable to a transfer of an interest of the debtor that is within the territorial jurisdiction of the United States,

"(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

"(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title in the United States.

"(d) The foreign representative or an entity affected by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(e) Subsection (a) does not affect the exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) to the extent that the court, in its discretion, permits a party to object to the relief available under sections 522, 544, 545, 547, 549, 552, and 726(a).

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

§ 1522. Protection of creditors and other interested persons

"(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 1519 or 1521, or the operation of subsection (c), to conditions it considers appropriate, including the giving of security or the filing of a bond.

"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

"(d) Section 110(d) shall apply to the appointment of an examiner under this chapter.

"(e) Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

§ 1523. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 552, and 726(a).

"(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an act under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

§ 1524. Intervention by a foreign representative

"(a) Upon recognition of a foreign proceeding, the foreign representative may intervene in

within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

"(b) extending relief granted under section 1520(a) or (b); and

"(c) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 549, 552, and 726(a)

"(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, order the distribution of all or part of the debtor’s assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"(g) The court may subject relief granted under section 1519 or 1521, or the operation of subsection (c), to conditions it considers appropriate, including the giving of security or the filing of a bond.

"(h) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.
any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES"

§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

§ 1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

(1) appointment of a person or body, including an examiner, to act at the direction of the court;

(2) communication of information by any means considered appropriate by the court;

(3) coordination of the administration and supervision of the debtor’s assets and affairs;

(4) approval or implementation of agreements concerning the coordination of proceedings; and

(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS"

§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

§ 1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the court in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—"
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“(3)(A) a foreign insurance company, engaged in such business in the United States; or
“(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union which is a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 310l) in the United States.

(2) Section 303(k) of title 11, United States Code, is repealed.

(3)(A) Section 304 of title 11, United States Code, is amended—

(B) The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 304.

(C) Section 306 of title 11, United States Code, is amended by striking “304,” each place it appears.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read as follows: “(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and
“(B) the purposes of chapter 5 of this title would be best served by such dismissal or suspension.”

(5) Section 508 of title 11, United States Code, is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking “(b).”

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting “resolution, or order” after “any similar agreement that the Corporation determines by regulation”. (b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows: “(ii) SECURITIES CONTRACT.—The term ‘securities contract’—

(I) means a contract for the purchase, sale, or repurchase of a security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and a forward contract, futures contract, swap, or option on the security, certificate of deposit, mortgage loan, interest, group or index, or option; or

(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term; or

(III) applies to any agreement or transaction under a commodity or any similar good, article, or product of a commodity or any similar good, article, or product of a commodity or any similar good, article, or product, or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, derivative transaction, option, repurchase agreement, unallocated transaction, or any other similar agreement;

(IV) any option to enter into any agreement or transaction referred to in subclauses (I) and (III);

(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows: “(iii) COMMODITY CONTRACT.—The term ‘commodity contract’—

(I) means an agreement, including related agreements or transactions referred to in this clause; and

(II) includes agreements or transactions referred to in subclauses (I), (III), (IV), (V), (VI), (VII), or (VIII); and

(III) any agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), or (VIII); and

(X) any agreement or transaction referred to in this clause; and

(IX) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); and

(x) any option to enter into any agreement or transaction referred to in subclauses (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.”.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows: “(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

(I) a contract (other than a commodity contract) for the purchase, sale, or transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, derivative transaction, option, repurchase agreement, unallocated transaction, or any other similar agreement;
“(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate agreement, index swap agreement, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same-day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of concurrent dealings in swap markets (including terms and conditions incorporated by reference in such agreement) and that is for a forward, swap, future, or option on one or more rates or other economic, equity indices, equities or other equity indices, debt securities or other debt instruments, quantitative measures associated with an occurrence, or financial indices or measures of economic or financial risk or value;”.

The following paragraphs are amended to read:

“(VIII) TRANSFER.—The term ‘transfer’ means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including reassignment of title as a security interest and foreclosure of a depository institution’s equity of redemption.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(a) by striking “paragraph (9) and (10)”;

(b) in clause (1), by striking “to cause the termination or liquidation” and inserting “such person has to cause the termination, liquidation, or acceleration”;

(c) by striking clause (ii) and inserting the following:

“(ii) any right under any security agreement, arrangement, or other credit enhancement related to one or more qualified financial contracts described in clause (i);”;

and

(2) in subparagraph (E), by striking clause (1) and inserting the following:

“(1) any right under any security agreement, arrangement, or other credit enhancement related to one or more qualified financial contracts described in clause (i);”.

I. AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section 5232 of the Revised Statutes of the United States (12 U.S.C. 91) or any other Federal or State law relating to fraudulent transfers,” before “or fraudulent transfers,” before “the Corporation.”

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking “other than paragraph (12) of this subsection, subsection (d)(9)” and inserting “other than subsections (d)(9) and (e)(10)”;

(2) by adding at the end of this subsection the following:

“(F) Clarification.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

(G) Walkaway clause does not expire.—(1) In general.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

(2) Walkaway clause defined.—For purposes of this paragraph, the term ‘walkaway clause’ means a provision in a qualified financial contract that, after calculation of a value of a party’s position or an amount due to or from 1 of the parties in accordance with its terms, upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party’s status as a nondefaulting party.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting “involuntary or the exercise of rights or powers by” after “the appointment of”.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

“(9) Transfer of qualified financial contracts.—

(A) In general.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

(1) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise subject to a conservatorship or insolvency proceeding, any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection, and

(2) in subparagraph (E), by striking clause (1) and inserting the following:

“(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;”.

an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

(i) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed);—

(ii) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A); and

(iii) CONSERVATION.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

(iii) Notice.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such a depository institution only when the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

(c) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—

(1) by redesignating subparagraph (B) as subparagraph (B) and inserting before the semicolon “, or is exempt from such registration by order of the Securities and Exchange Commission”; and

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) AN INSURED NATIONAL BANK OR AN INSURED STATE BANK—(1) in paragraph (11), by inserting before the semicolon “, or is exempt from such registration by order of the Securities and Exchange Commission”;

and

(C) by inserting after subparagraph (C) (as redesignated) to read as follows:

“(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 11(b)(7) of the Interagency Banking Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed) for such institution and the Corporation as receiver for such institution; or

(2) in paragraph (6)—

(A) by redesigning subparagraphs (B) through (D) as subparagraphs (A) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) AN INSURED NATIONAL BANK OR AN INSURED STATE BANK—that has been granted an exemption from such registration by order of the Securities and Exchange Commission.”

(3) in paragraph (7), by inserting after the period “, that has been granted an exemption from such registration by order of the Securities and Exchange Commission”;

and

(D) by including at the end of section 11(e)(8)(D)(vii) the following new paragraph:

“(7) SAVINGS CLAUSE.—The meaning of terms used in this subsection (e) only, and which shall not be construed or applied so as to challenge or affect the characterization, definition, treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as the case may be) is defined in section 3(a)(47) of the Securities Exchange Act of 1934, and the Commodity Exchange Act.”.

SEC. 903. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

“(D) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (D) (as a qualified financial contract), if a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.”


(a) DEFINITIONS.—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon “: ”, or is exempt from such registration by order of the Securities and Exchange Commission”;

and

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) AN INSURED NATIONAL BANK OR AN INSURED STATE BANK—(1) in paragraph (11), by inserting before the semicolon “, or is exempt from such registration by order of the Securities and Exchange Commission”;

and

(C) by inserting after subparagraph (C) (as redesignated) to read as follows:

“(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 11(b)(7) of the Interagency Banking Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed) for such institution and the Corporation as receiver for such institution; or

(2) in paragraph (6)—

(A) by redesigning subparagraphs (B) through (D) as subparagraphs (A) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) AN INSURED NATIONAL BANK OR AN INSURED STATE BANK—that has been granted an exemption from such registration by order of the Securities and Exchange Commission.”

(3) in paragraph (7), by inserting after the period “, that has been granted an exemption from such registration by order of the Securities and Exchange Commission”;

and

(D) by including at the end of section 11(e)(8)(D)(vii) the following new paragraph:

“(7) SAVINGS CLAUSE.—The meaning of terms used in this subsection (e) only, and which shall not be construed or applied so as to challenge or affect the characterization, definition, treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as the case may be) is defined in section 3(a)(47) of the Securities Exchange Act of 1934, and the Commodity Exchange Act.”.

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(1) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or settlement values relating to such obligations or entitlements) among the parties to the agreement; and; and

(5) by adding at the end the following new paragraph:

“(15) PAYMENT.—The term ‘payment’ means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmetted obligation.”

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4463) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 5(b)(2) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).’’; and

(2) by adding at the end the following new subsection:

“(c) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code) and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 5(b)(2) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970).’’.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION AGREEMENTS.—Section 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4463) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Reserve Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System may each ensure that their regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

(3) DEFINITIONS.—For purposes of this section, the terms ‘Federal branch’, ‘Federal agency’, and ‘foreign bank’ have the same meanings as in section 409 of the international Banking Act of 1978.”

SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) section 101—

(A) in paragraph (25)—

(i) by striking ‘‘means a contract’’ and inserting ‘‘means’’;

(ii) by striking ‘‘a contract’’;

(iii) by striking ‘‘or, any combination thereof or option thereon’’; and inserting ‘‘or any other similar agreement’’;

(iv) by striking ‘‘(A) a master agreement that provides for an agreement or transaction referred to in subparagraph (A) or (B);’’

(v) by striking ‘‘or (B)’’;

(vi) by striking ‘‘other agreement or transaction referred to in subparagraph (A) or (B);’’

(vii) by striking ‘‘A guarantee or reimbursement obligation referred to in subparagraph (A), (B), (C), or (D) including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;’’

(B) in paragraph (46), by striking ‘‘on any day during the period beginning 90 days before the date of’’ and inserting ‘‘at any time before’’;

(C) by amending paragraph (47) to read as follows:

‘‘(47) ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)’’;

(2) section 407A; and

(3) any reference to an ‘insured depository institution or in subparagraph (A), (B), (C), or (D);’’;

(A) a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank; and

(B) any agreement or transaction referred to in subparagraph (A) or (C);’’;

(4) section 408; and

(5) section 409.
or precious metals agreement; swap, and basis swap; such agreement, which is—

mortgage loan;’’; and

section 562; and

not to exceed the damages in connection with any agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction referred to in clause (i), (ii), (iii), (iv); or

v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), (iv) including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;’’

(D) in paragraph (4B), by inserting ‘‘ or, except from such registration under such section pursuant to an order of the Securities and Exchange Commission,’’ after ‘‘1934’’; and

(E) by amending paragraph (53B) to read as follows:

‘‘(53B) ‘swap agreement’—

(A) means—

(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, collar, rate-carry, rate swap, and basis swap;

(II) a spot, same-day, tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals transaction referred to in this subparagraph only with respect to each agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), or (vi), together with all supplements to any such master agreement, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction referred to in clause (i), (ii), (iii), (iv), or (v); or

(IV) any agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph including any guarantee or reimbursement obligation by or to a financial participant or financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

(B) is applicable for purposes of this title except that the master agreement provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), or (v) including terms and conditions incorporated by reference therein; and

(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial consequence; and

(iii) any combination of agreements or transactions referred to in this subparagraph;

(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), or (v) including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

(3) in section 761(4)—

(A) by striking ‘‘ or’’ at the end of subparagraph (D); and

(B) by adding at the end the following:

‘‘(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;’’

(G) any combination of the agreements or transactions referred to in this paragraph;

(H) any option to enter into an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

(IX) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph including any guarantee or reimbursement obligation by or to a financial participant or financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;’’; and

(3) in section 761(4)—

(A) by striking ‘‘ or’’ at the end of subparagraph (D); and

(B) by adding at the end the following:

‘‘(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;’’

(G) any combination of the agreements or transactions referred to in this paragraph;

(H) any option to enter into an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

(VI) a total return, credit spread or credit derivative, option, future, or forward agreement; and

(VII) a commodity index or a commodity swaps, options, forwards, futures, or similar agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

(VIII) a weather swap, weather derivative, or weather option;’’

(2) in section 741(7), by striking paragraph (7) and inserting the following:

‘‘(7) ‘security contract’—

(A) means—

(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;”
"(J) any security agreement or arrangement related to any agreement or transaction referred to in this paragraph including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any such agreement or transaction, measured in accordance with section 561(c).

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) ‘financial institution’ means—

(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when such any Federal reserve bank, receiver, conservator or entity is acting as agent for a customer, a customer in a transaction with a securities contract, as defined in section 741, such customer; or

(B) in connection with a securities contract, a contract, or forward contract, a contract entered into by a commodity broker or financial participant in connection with any payment due to the debtor from such master netting agreement or any contract or agreement subject to such agreements or transactions with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in any month or any actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated with all other commodity broker or financial participant positions of not less than $100,000,000) in any security agreements or transactions or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraphs (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated with all other commodity broker or financial participant positions of not less than $100,000,000) in any security agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

(C) a clearing organization (as that term is defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991); and

(2) by inserting after paragraph (22) the following:

"(22A) ‘financial participant’ means—

(A) an entity that, at the time it enters into a securities contract, commodity contract, forward agreement, repurchase agreement, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraph (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in any month or any actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated with all other commodity broker or financial participant positions of not less than $100,000,000) in any security agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

(B) a clearing organization (as that term is defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991); and

(3) by striking paragraph (26) and inserting the following:

"(26) ‘forward contract merchant’ means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity, as defined in section 741 or, any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;"

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (26A) the following new paragraphs:

"(38A) ‘master netting agreement’—

(A) means an agreement providing for the exercise of rights, including rights of netting, guarantee, reimbursement, termination, acceleration, closeout, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the agreement is designed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a); and

(38B) ‘master netting agreement participant’ means an entity that, at any time before, during, or after a bankruptcy proceeding, is a party to an outstanding master netting agreement with the debtor;"

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) in General.—Section 362(b) of title 11, United States Code, as amended by this Act, is amended—

(A) in paragraph (6), by inserting “pledged to and under the control of,” after held by; and

(B) in paragraph (7), by inserting “pledged to and under the control of,” after held by.

(2) by adding at the end the following:

"(k) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby except to the extent that the trustee could otherwise avoid such a transfer made under or in connection with any swap agreement covered by such master netting agreement.”

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “;”;

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

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.”

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract; and"

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration;”;

(h) TERMINATION OR ACCELERATION OF COMMODITIES CONTRACTS OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract; and"

(2) in the first sentence, by striking “liquidation,” and inserting “liquidation, termination, or acceleration;” and

(3) in the second sentence, by striking “As used and all that follows through right,” and inserting “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act) or a derivatives clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991).”
Act of 1991, a national securities exchange, a national association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right.

(1) TERMINATION OR ACCELERATION OF PURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(a) In general.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

(1) securities contracts, as defined in section 7a(2);

(2) commodity contracts, as defined in section 761(4);

(3) forward contracts;

(4) repo agreements;

(5) swap agreements; or

(6) master netting agreements, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, a contract market designated under the Commodity Exchange Act against any claim arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under subsection (c).

(b) Another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under subsection (c).

(c) Construction.—No provision of sub-paragraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

(1) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 7(c)(2) of the Commodity Exchange Act and has been found to be ineffective by the Commodity Futures Trading Commission; or

(2) any other netting agreement between a clearing organization, as defined in section 761, and another entity that has been approved by the Commodity Futures Trading Commission.

(d) Definition.—As used in this section, the term ‘‘contractual right’’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right.

(2) LIQUIDATION TERMINATION OR ACCELERATION OF NETTING AGREEMENTS AND ACROSS CONTRACTS.—Section 560 of title 11, United States Code, is amended—

(a) In general.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

(1) securities contracts, as defined in section 7a(2);

(2) commodity contracts, as defined in section 761(4);

(3) forward contracts;

(4) repo agreements;

(5) swap agreements; or

(6) master netting agreements, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, a contract market designated under the Commodity Exchange Act against any claim arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under subsection (c).

(b) Another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under subsection (c).
(b) SECURITIES CONTRACTS, COMMODOITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 548(a)(1)(A), by striking ‘‘financial institutions, each place such term appears and inserting ‘‘financial institution, financial participant, financial institution, financial participant,’’ after ‘‘commodity broker’’;

(2) in subsection (b)(1), by striking ‘‘362(b)(14),’’ and inserting ‘‘362(b)(17),’’

(3) in section 548(e), by inserting ‘‘financing participant’’ after ‘‘financial institution, financial participant,’’

(4) in section 548(d)(2)(B), by inserting ‘‘financial participant, financial participant’’ after ‘‘financial institution,’’

(5) in section 548(d)(2)(C), by inserting ‘‘financial participant’’ after ‘‘financial participant’’;

(6) in section 548(d)(2)(D), by inserting ‘‘financial participant’’ after ‘‘swap participant’’;

(7) in section 555—

(A) by inserting ‘‘financial participant’’ after ‘‘financial institution, financial institution,’’ and

(B) by striking the second sentence and inserting the following: ‘‘As used in this section, the term ‘financial participant’ includes a financial participant after a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Futures Trading Commission Act of 1974), a derivatives clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under common law, or by any other means.’’;

(8) in section 556, by inserting ‘‘commodity participant,’’ after ‘‘commodity participant’’;

(9) in section 559, by inserting ‘‘financial participant’’ after ‘‘financial participant’’;

(10) in section 560, by inserting ‘‘financial participant’’ after ‘‘swap participant’’.

SEC. 907A. SECURITIES BROKER/COMMODOITY BROKER LIQUIDATION.

The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to, under what circumstances, to which securities products will be treated as commodity contracts or securities in a liquidation of a person that is both a securities broker and a commodity broker, and with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following:

‘‘(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may by regulation require more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including master netting agreements and such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to 12 U.S.C. 13311);’’.

SEC. 909. SECURITIES BROKER/COMMODOITY BROKER LIQUIDATION EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

‘‘(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond; and

(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code.

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D), shall not be deemed invalid pursuant to paragraph (1)(B) solely because such an agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such an agreement.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as 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

‘‘(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract, merchant, stockbroker, financial institution, securities clearing agency, financial participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

‘‘(1) the date of such rejection; or

‘‘(2) the date of such liquidation, termination, or acceleration;’’; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561, as 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.’’.

(b) CLAIMS ARISING FROM REJECTION.—Section 562(g) of title 11, United States Code, is amended—

(1) by inserting ‘‘(1)’’ after ‘‘(g);’’ and

(2) by adding at the end the following:

‘‘(2) A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a), (b), (c), or (d), or disallowed under subsection (d) or (e), as if filed before the date of the filing of the petition.’’

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Corporation Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

‘‘(C) EXCEPTION FROM STAY.—An application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

(a) As used in this subparagraph, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, right set forth in a bylaw of a clearing organization or contract market or in a resolution of
the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.'"

SEC. 912. ASSET-BACKED SECURITIZATIONS.
Section 541 of title 11, United States Code, is amended—
(1) in subsection (b), by inserting after paragraph (7), as added by this Act, the following:

"(8) any eligible asset (or proceeds there- of), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be re-ceived, and warranted that eligible assets were sold, or, under a written agreement, represented that eligible assets would be sold to an eligible entity engaged exclusively in the business of acquiring and holding eligible assets, issuing and warrants of such eligible assets to an eligible entity and taking actions ancillary thereto;"

(2) by adding at the end the following new subsection:

"(f) For purposes of this section—

"(1) the term ‘asset-backed securitization’ means a loan or loan contract in which eligible assets transferred to an eligible entity are used as the source of payment on securities, including, without limitation, all securities issued by governmental units, at least one class or tranche of which was rated investment grade by one or more nationally recognized securi- ties rating organizations, when the securi- ties were initially issued by an issuer;"

"(2) the term ‘eligible asset’ means—

"(A) financial assets (including interests therein and proceeds thereof), either fixed or revolv- ing, whether or not the same are in ex- istence as of the date of the transfer, includ- ing residential and commercial mortgage loans, consumer receivables, trade receiv- ables, revolving credit facilities, or governmental units, includ- ing payment obligations relating to taxes, receipts, fines, tickets, and other sources of revenue, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets de- signed to assure the servicing or timely dis- tribution of proceeds to security holders;"

"(B) cash; and"

"(C) securities, including without limitation, all securities issued by governmental units;

"(3) the term ‘eligible entity’ means—

"(A) any issuer; or"

"(B) a trust, corporation, partnership, gov- ernmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclu- sively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto;"

"(4) the term ‘issuer’ means a trust, cor- poration, partnership, governmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto; and"

"(5) the term ‘transferred’ means the debt- or, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(8) whether or not reference is made to this title or any section hereof), irrespective and without limitation of—

"(A) whether the debtor directly or indi- rectly held an interest in the issuer or in any securities issued by the issuer;"

"(B) whether the debtor had an obligation to repay or to service or supervise the servicing of all or any portion of such eligi- ble assets; or"

"(C) the characterization of such sale, con- tribution, or other conveyance for tax, ac- counting, regulatory reporting, or other pur- poses.”;

SEC. 913. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.
(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply to the first case commenced on or after the date of enactment of this Act, and the amendments made under any Federal or State law on or after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

SEC. 914. SAVINGS CLAUSE.
The meanings of terms used in this title are applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, def- inition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the Securities and Exchange Act of 1934, and the Commodity Ex- change Act.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAP- TER 12.
(a) REENACTMENT.—

(1) In general.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277, 112 Stat. 2681–610), and amended by this Act, is reen- acted.

(2) EFFECTIVE DATE.—Subsection (a) shall be deemed to have taken effect on July 1, 2000.


SEC. 1002. DEBT LIMIT INCREASE.
(a) IN GENERAL.—Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

"(4) The dollar amount in section 101(b)(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection.”;

(b) EFFECTIVE DATE.—The first adjustment required by section 104(b)(4) of title 11, United States Code, as added by subsection (a) of this section, shall occur on the later of:

(1) April 1, 2001; or

(2) 60 days after the date of enactment of this Act.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERN- MENTAL UNITS.
(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in de- fered cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a govern- mental unit that arises as a result of the sale, transfer, or other disposition of any farm asset used in the debtor’s farm- ing operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or"

"(B) the holder of a particular claim agrees to a different treatment of that claim.”;

SEC. 1004. DEFINITION OF FAMILY FARMER.
Section 101(18) of title 11, United States Code, is amended—
(1) in subparagraph (A)—

"(A) by striking "$1,500,000” and inserting "$3,000,000”; and"

"(B) by striking “80” and inserting “50”; and"

(2) in subparagraph (B)(ii)—

"(A) by striking "$1,500,000” and inserting "$3,000,000”; and"

"(B) by striking “80” and inserting “50”.

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RE- CEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.
Section 101(18)(A) of title 11, United States Code, is amended by striking the taxable year preceding the taxable year and insert- ing “at least 1 of the 3 calendar years pre- ceding the year”.

SEC. 1006. PROHIBITION OF RETROACTIVE AS- SEMENT OF DISPOSABLE INCOME.
(a) IN GENERAL.—Section 1225(b)(11) of title 11, United States Code, is amended by adding at the end the following:

"(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan;"

"(2) A modification of the plan under this section to increase payments based on an increase in the debtor’s disposable income may not require payments to unsecured creditors in any particular month greater than the debtor’s disposable income for that month, unless the debtor proposes such a modifica- tion."

(b) MODIFICATION.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(1) a modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan;

"(2) a modification of the plan under this section to increase payments based on an in- crease in the debtor’s disposable income may not require payments to unsecured creditors in any particular month greater than the debtor’s disposable income for that month, unless the debtor proposes such a modification.”;

SEC. 1007. FAMILY FISHERMEN.
(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—
(1) by inserting after paragraph (7) the fol- lowing:

"(7A) ‘commercial fishing operation’ in- cludes—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of rais- ing for market any species or product de- scribed in subparagraph (A); and"

"(C) the transporting by vessel of a pas- senger for hire (as defined in section 20101 of
(19B) ‘commercial fishing vessel’ means a vessel used by a fisherman to carry out a commercial fishing operation;

(2) by inserting after paragraph (19) the following:

(19A) ‘fisherman’ means—

(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12)—

(i) whose aggregate debts do not exceed $1,500,000 and less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

(ii) who receive from such commercial fishing operation more than 50 percent of such individual’s or such individual’s and spouse’s income, including income from other sources, for the taxable year in the case of such individual or such individual and spouse;

(3) by inserting after paragraph (19A) the following:

(19B) ‘family fisherman with regular and spouse’—

(i) in which more than 50 percent of the outstanding stock or equity is held by—

(1) 1 family that conducts the commercial fishing operation; or

(2) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

(ii) (1) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

(2) Rule 313 of title 46. 

(ii) (1) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation) on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

(3) by inserting after paragraph (19A) the following:

(19B) ‘familial fisherman’—

(1) the trustee shall—

(2) by inserting after paragraph (19) the following:

(19A) ‘family fisherman’—

(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

(1) the diagnosis or treatment of injury, deformity, or disease; and

(ii) surgical, drug treatment, psychiatric, or obstetric care; and

(B) includes—

(i) any—

(1) general or specialized hospital;

(2) nursing or domiciliary care facility; emergency, or surgical treatment facility;

(II) hospice;

(III) home health agency; and

(IV) home for the aged;

(2) domiciliary care facility; and

(VI) health care institution that is related to a facility referred to in subclauses (I), (II), (IV), or (V); if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

(40A) ‘patient’ means any person who obtains or receives services from a health care business;

(40B) ‘patient records’ means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;

(c) Rule of Construction.—The amendments made by section (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1192. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 11, United States Code, is amended by adding at the end the following:

(351) Disposal of patient records

If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

(1) the trustee shall—

(A) promptly publish notice, in 3 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient whose name is on the patient records and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claim or disposing of patient records.

(2) by providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from

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that agency to deposit the patient records with that agency. In the event that no Federal agency is required to accept patient records under this paragraph.

“(3) If, following the 365-day period described in paragraph (2) and after providing the notice described in paragraph (1), patient records are not claimed by a patient or an insurance provider, or request is not granted by a State or political subdivision thereof, including those arising from or related to a State Long-Term Care Ombudsman of the name and address of the individual who is appointed.

“(B) Duties.—An ombudsman appointed under subsection (a) shall—

(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;

(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business.

“(3) If the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court of the determination.

“(c) Confidentiality.—An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. The ombudsman may not review confidential patient records, unless the court provides prior approval, with restrictions on the ombudsman to protect the confidentiality of patient records. If the individual appointed as ombudsman is a person who is also serving as a State Long-Term Care Ombudsman appointed under title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.), that person shall have access to patient records, consistent with authority spelled out in the Older Americans Act and State laws governing the State Long-Term Care Ombudsman program.

“(2) Clerical Amendment.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 330 the following:

‘‘331. Disposal of patient records.’’.

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 332(a)(1) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

“(A) in disposing of patient records in accordance with section 502; or

“(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business;

“(9) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, including those arising from or related to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or date of actual turnover of the property, and

“(10) the actual, necessary costs of storing or delivering or parting with—

“(i) property; or

“(ii) an interest in property.’’.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) In General.—

(1) Appointment of ombudsman.—Subchapter II of chapter 3 of title 11, United States Code, is amended byinserting after section 331 the following:

‘‘332. Appointment of ombudsman

‘‘(a) In General.—

“(1) AUTHORITY TO APPOINT.—Not later than 30 days after a case is commenced by a voluntary proceeding under chapter 7, 9, or 11, the court shall order the appointment of an ombudsman to monitor the quality of patient care to represent the interests of the patients of the health care business, unless the court finds that the appointment of the ombudsman is not necessary for the protection of patients under the specific facts of the case.

“(2) Qualifications.—If the court orders the appointment of an ombudsman, the United States trustee shall appoint 1 disinterested ombudsman other than the United States trustee, to serve as an ombudsman. If the health care business is a long-term care facility, the trustee may appoint a person who is an ombudsman appointed under title III or title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.). In the event that the trustee does not appoint an ombudsman, the court shall order the appointment of a Long-Term Care Ombudsman to monitor the quality of patient care in a long-term care facility, the court shall notify the State Long-Term Care Ombudsman of the name and address of the individual who is appointed.

“(b) Duties.—An ombudsman appointed under subsection (a) shall—

(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;

(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business;

“(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court of the determination.

“(c) Confidentiality.—An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. The ombudsman may not review confidential patient records, unless the court provides prior approval, with restrictions on the ombudsman to protect the confidentiality of patient records. If the individual appointed as ombudsman is a person who is also serving as a State Long-Term Care Ombudsman appointed under title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.), that person shall have access to patient records, consistent with authority spelled out in the Older Americans Act and State laws governing the State Long-Term Care Ombudsman program.

“(2) Clerical Amendment.—The table of sections for chapter 3 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 331 the following:

‘‘332. Appointment of ombudsman.’’.

(b) Compensation of ombudsman.—Section 330(b)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ‘‘an ombudsman appointed under section 331, or before ‘‘a professional person’’; and

(2) in subparagraph (A), by inserting ‘‘ombudsman,’’ before ‘‘professional person’’;

SEC. 1105. DEBTOR IN POSSESSION: DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) In General.—

Section 704(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(11) use all reasonable and good faith efforts to transfer the health care business that is in the process of being closed to an appropriate health care business that—

“(A) is in the vicinity of the health care business;

“(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

“(C) maintains a reasonable quality of care.’’.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as added by this Act, the following:

“(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medical program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7(f)) pursuant to title XI of such Act (42 U.S.C. 1301 et seq.) or title XVIII of such Act (42 U.S.C. 1395 et seq.).’’.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by striking ‘‘In this title—’’ and inserting ‘‘In this title, the following definitions shall apply:’’;

(2) in each paragraph, by inserting ‘‘The term’’ after the paragraph designation;

(3) in paragraph (3)(B), by striking ‘‘paragraphs (21B) and (33)(A)’’ and inserting ‘‘paragraphs (23) and (35)’’;

(4) in each of paragraphs (35A) and (3B), by striking ‘‘; and’’ at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ‘‘who is not a family farmer’’ after ‘‘debtor’’ the first place it appears; and

(B) by striking ‘‘thereto having aggregate’’ and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

“(54) The term ‘transfer’ means—

“(A) the creation of a lien;

“(B) the retention of title as a security interest;

“(C) the foreclosure of a debtor’s equity of redemption; or

“(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

“(i) property; or

“(ii) an interest in property;’’;

and

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, as amended by section 308 of this Act, is amended by inserting ‘‘$22,120’’, after ‘‘$22,000’’, each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(h)(2) of title 11, United States Code, as amended by striking ‘‘$22,000’’ and all that follows through ‘‘or’’ and inserting ‘‘$22,120, 201’’,.

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(h)(2), by striking ‘‘subsection (c) or (d)’’; and

(2) in section 110(c), by striking ‘‘product’’ each place it appears and inserting ‘‘products’’.

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SEC. 1205. PENALTY FOR PERSONS WHO NEGLECT OR FRAUDULENTLY PRE¬
PARE BANKRUPTCY PETITIONS.
Section 110(c)(4) of title 11, United States
Code, as so designated by this Act, is amend¬
ed by striking “attorneys” and inserting “attorneys’”.

SEC. 1206. LIMITATION ON COMPENSATION OFcka of
title 11, United States
Code, is amended by inserting “of the es¬
tate” after “property” the first place it ap¬
pears.

SEC. 1207. ALLOWANCE OF ADMINISTRATIVE EX¬
PENSES.
Section 503(b)(4) of title 11, United States
Code, is amended by inserting “subparagraph (A), (B), (C), (D), or (E) of” before “paragraph (3)”.

SEC. 1209. EXCEPTIONS TO DISCHARGE.
Section 523 of title 11, United States
Code, as so amended, is amended—
(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after section 525; and
(2) in subsection (a)(9), by striking “motor vehicle” and inserting “motor vehicle, ves¬
sel, or aircraft”; and
(3) in subsection (e), by striking “a in¬
sured” and inserting “an insured”.

SEC. 1210. EFFECT OF DISCHARGE.
Section 524(a)(3) of title 11, United States
Code, as so designated by this Act, is amend¬
ed by striking paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), and inserting “of the es¬
tate” after “property” the first place it ap¬
pears.

SEC. 1211. PROTECTION AGAINST DISCRIMINA¬TORY TREATMENT.
Section 525(c) of title 11, United States
Code, as amended by this Act, is amended—
(1) in paragraph (1), by striking “student” before “grant” the second place it appears; and
(2) in paragraph (2), by striking “the pro¬
gram operated under part B, D, or E of” and inserting “any program operated under”.

SEC. 1212. PROPERTY OF THE ESTATE.
Section 361(b)(4)(B)(ii) of title 11, United States
Code, is amended, by inserting “section 363 or” before “under”,

SEC. 1213. DISPOSITION OF PROPERTY OF THE ESTATE.
Section 362(b) of title 11, United States
Code, is amended by striking “1009.”.

SEC. 1214. GENERAL PROVISIONS.
Section 363(a)(1) of title 11, United States
Code, as amended by this Act, is amended by inserting “only—” before “bankruptcy” and “(c)” before “document”.

SEC. 1215. TRANSFERS MADE BY NONPROFIT CORPORATION.
(a) SALE OF PROPERTY OF ESTATE.—Section
363(d) of title 11, United States Code, is amended by striking “only” and all that fol¬
lows through the end of the subsection and inserting “only—”.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after that date of enactment of this Act.

SEC. 1216. POSTPETITION TRANSACTIONS.
Section 549(c) of title 11, United States
Code, is amended—
(1) by inserting “an interested in” after “transfer of” each place it appears;
(2) by striking “such property” and inserting “such property”; and
(3) by striking “the interest” and inserting “such interest”.

except that the court shall not confirm a plan under chapter 11 of title 11, United States
Code, without considering whether this section would substantially affect the rights of a party in interest who first ac¬
quired rights with respect to the debtor after the date of the petition for bankruptcy in which the debtor is in¬
corporated, was formed, or does business.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.
Section 1110(b)(6) of title 11, United States
Code, is amended by striking “section 11347” and inserting “section 11347(b)”.

SEC. 1218. CONTENTS OF PLAN.
Section 1334(d)(3) of title 11, United States
Code, is amended by striking “section 11347” and inserting “section 11347(a)”.

SEC. 1219. BANKRUPTCY CASES AND PROCE¬
EDURES.
Section 333(d)(4) of title 28, United States
Code, as amended by this Act, is amended by inserting “in accordance with applicable non¬
bankruptcy law that governs the transfer of title on or after that date of enactment, and
(2) by striking the second place it appears.

SEC. 1220. KNOWING DISREGARD OF BANK¬RUPTCY LAW OR RULE.
Section 156(a) of title 18, United States
Code, as amended by this Act, is amended—
(1) in the first undesignated paragraph—
(A) by inserting “(1) the term” before “bankruptcy” and (“(2)” before “bankruptcy”); and
(B) by striking “of the estate” and inserting “of the estate”;

SEC. 1221. TRANSFERS MADE BY NONPROFIT CORPORATION.
(a) SALE OF PROPERTY OF ESTATE.—Section
363(d) of title 11, United States Code, is amended by striking “only” and all that fol¬
lows through the end of the subsection and inserting “only—”.

(1) IN GENERAL.—Section 361(d) of title 11, United States Code, is amended by striking “in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a company, business, or commercial corporation or trust; and
(2) to the extent not inconsistent with any applicable provision of nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a company, business, or commercial corporation or trust; and
(3) by striking “or” and inserting “or”.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after that date of enactment of this Act.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.
Section 549(c)(3)(B) of title 11, United States
Code, is amended by striking “20” and inserting “30”.

SEC. 1223. BANKRUPTCY JUDGESHIPS.
(a) SHORT TITLE.—This section may be cited as the “Bankruptcy Judgeship Act of 2001”.

(b) TEMPORARY JUDGESHIPS.—(1) APPOINTMENTS.—Subject to approval of any other court for the transfer
ship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a) of such title:
(A) One additional bankruptcy judgeship for the eastern district of California.
(B) Four additional bankruptcy judgeships for the central district of California.
(C) One additional bankruptcy judgeship for the district of Delaware.
(D) Two additional bankruptcy judgeships for the southern district of Florida.
(E) One additional bankruptcy judgeship for the southern district of Georgia.
(F) Three additional bankruptcy judgeships for the district of Maryland.
(G) One additional bankruptcy judgeship for the eastern district of Michigan.
(H) One additional bankruptcy judgeship for the southern district of Mississippi.
(I) One additional bankruptcy judgeship for the district of New Jersey.
(J) One additional bankruptcy judgeship for the eastern district of New York.
(K) One additional bankruptcy judgeship for the northern district of New York.
(L) One additional bankruptcy judgeship for the southern district of New York.
(M) One additional bankruptcy judgeship for the eastern district of North Carolina.
(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.
(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.
(P) One additional bankruptcy judgeship for the district of Puerto Rico.
(Q) One additional bankruptcy judgeship for the western district of Tennessee.
(R) One additional bankruptcy judgeship for the eastern district of Virginia.
(S) One additional bankruptcy judgeship for the district of South Carolina.
(T) One additional bankruptcy judgeship for the district of Nevada, and one for the district of Delaware.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vaca
cy results from the death, retirement, resigna
tion, or removal of a bankruptcy judge; and
(b) occurs 5 years or more after the appointment of a bankruptcy judge appointed under paragraph (1). 

(c) **EXTENSIONS.**

(1) **IN GENERAL.**—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 11 years or more after November 8, 1993, with respect to the northern district of Alabama; 

(B) 13 years or more after October 28, 1993, with respect to the district of Delaware; 

(C) 11 years or more after August 29, 1994, with respect to the district of Puerto Rico; and 

(D) 11 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) **APPLICABILITY OF OTHER PROVISIONS.**—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to temporary judgeship positions extended to in this subsection.

(d) **TECHNICAL AMENDMENTS.**—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: “Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located:”; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking “2” and inserting “3”; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking “Middle and Southern . . . . . 1”; and

(e) **REPEALS.**—The amendments made by this section shall take effect on the date of enactment of this Act.

**SEC. 1224. COMPENSATING TRUSTEES.**

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “and”; and

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

(C) by adding at the end the following:

“(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismission of the debtor’s prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refilled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

(A) by prorating such amount over the remaining duration of the plan; and

(B) by monthly payments not to exceed the greater of—

(i) 20 percent of the compensation referred to in subsection (b)(3) payable and may be collected by the trustee under that paragraph, even if such amount has not been paid in a prior proceeding under this title; and

(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.”; and

(2) by adding at the end the following:

(d) **Notwithstanding any other provision of this title, (A) compensation referred to in subsection (b)(3) is payable and may be collected by the

trustee under that paragraph, even if such amount has not been paid in a prior proceeding under this title; and

(3) such compensation is payable in a case under this chapter only to the extent permitted by any applicable provision or section of title 11, United States Code.

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

**Section 362(b)(18) of title 11, United States Code, is amended—**

“(b) **UNDER SUBSECTION (A) OF SECTION 362 OF TITLE 11, UNITED STATES CODE.**

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

“(c)(1) Except as provided in subsection (d) of this section and subsection (c) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 548 of title 11, United States Code, with respect to a seller of goods that has sold goods to the debtor, in the ordinary course of such seller’s business, to reclaim such goods if the debtor has received such goods while insolvent, not later than 45 days prior to the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

“(A) not later than 45 days after the date of receipt of such goods by the debtor; or

“(B) not later than the date of commencement of the case, if the 45-day period expires after the commencement of the case.

“(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller may assert the rights contained in section 506(b)(7).”.

(b) **ADMINISTRATIVE EXPENSES.**—Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(10) the value of any goods received by the debtor not later than 20 days prior to the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.”.

SEC. 1228. **PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.**

(a) **CHAPTER 7 CASES.**—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) **CHAPTER 11 AND CHAPTER 13 CASES.**—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) **DOCUMENTS REQUIRED.**—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the destruction of such requested tax documents.

SEC. 1229. **ENCOURAGING CREDITWORTHINESS.**

(a) **SENSE OF THE CONGRESS.**—It is the sense of the Congress—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) **STUDY REQUIRED.**—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the “Board”) shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately; and

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) **REPORT AND REGULATIONS.**—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. **PROPERTY NO LONGER SUBJECT TO REDEMPTION.**

Section 510(b) of title 11, United States Code, is amended by inserting after paragraph (8), as added by this Act, the following:

“(b) **SUBJECT TO CHAPTER 11 OF TITLE 11, UNITED STATES CODE.**

(8) property that the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

(A) the tangible personal property is in the possession of the pledgee or transferee;

(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

(C) the debtor or the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 101(b) of this title; or

SEC. 1231. **TRUSTEES.**

(a) **SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.**—Section 306(d) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(d)”; and

(2) by adding at the end the following:

“(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to a case under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the

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United States district court for the district for which the panel to which the trustee is appointed under subsection (a) (1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, first exhausting all available administrative remedies, which, if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the appeal is filed to the initial final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.

(b) EXPENSES OF STANDING TRUSTEES.—Section 388(e) of title 28, United States Code, is amended by adding at the end the following: "(3) By striking all after "(b)" and inserting "an administrative hearing on the record." under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following: "The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of this title and may provide general rules on the content of such statement.".

SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY ORDERS OR DECREES.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) TEMPORARY APPLICATION.—A provision of this section shall apply to an order or decree entered under section 158(d)(2) of title 28, United States Code, as added by subsection (a) of this section, until a rule of practice and procedure relating to such provision and appeal is promulgated or amended under chapter 151 of such title.

(2) CERTIFICATION.—A district court, bankruptcy court, or bankruptcy appellate panel may enter a certification as described in section 158(d)(2) of title 28, United States Code, during proceedings pending before that court or panel.

(3) PROCEDURE.—Subject to the other provisions of this subsection, an appeal by permission under section 158(d)(2) of title 28, United States Code, shall be taken in the manner prescribed in rule 5 of the Federal Rules of Appellate Procedure.

(4) FILING PETITION.—When permission to appeal is requested on the basis of a certification of the parties, a district court, bankruptcy court, or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(5) ATTACHMENT.—When permission to appeal is requested on the basis of a certification of a district court, bankruptcy court, or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(b) APPEALS TO COURTS OF APPEALS.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1607(b)) is amended by adding at the end the following: "(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: (the blank space to be filled in by the creditor).'

(B) An appeal under this paragraph does not stay proceedings in the court from which the order or decree originated, unless the order or decree originated from a court of appeals or a district court unless it is unreasonable and without cause based on the administrative record before the agency.

(c) PROCEDURAL RULES.—

1. A temporary application for permission to appeal shall be granted if there is a substantial question of law involved, and if the movant has given the oppo
(F)(i) The toll-free telephone number disclosed for the purposes of this paragraph shall be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which they may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

(ii) The Board shall establish and maintain a toll-free number for the purpose of providing customers with the actual number of months that it will take to repay the customer’s outstanding balance. The requirements of this paragraph do not apply to any charge card arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty; (B) minimum periodic payments features offered in connection with open end credit plans may impact consumer default rates; (C) consumers make only the required minimum payment under open end credit plans; (D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and (E) the availability of low minimum payment options will reduce the cost and repayment period of credit plans.

(3) REPORT TO CONGRESS.—FINDINGS.—The Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

1. CREDIT APPLICATIONS.—

Section 127(a)(1) of the Truth in Lending Act (15 U.S.C. 1619(a)(1)) is amended—

(A) by striking “CONSULTATION OF TAX ADVISER.”—A statement that the “;” and inserting the following: “TAX DEDUCTIBILITY.—A statement that“; and

(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.

(2) CREDIT ADVERTISEMENTS.—

Section 127(b)(1) of the Truth in Lending Act (15 U.S.C. 1619(b)) is amended—

(A) by striking “If any” and inserting the following: “If any”; and

(B) by adding at the end the following:

“CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit in excess of fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

(1) IN GENERAL.—If any”; and

(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.”;

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

“IN THE CASE OF A CONSUMER CREDIT TRANSACTION THAT IS SECURED BY THE PRINCIPAL DWELLING OF THE CONSUMER, IN WHICH THE EXTENSION OF CREDIT MAY EXCEED THE FAIR MARKET VALUE OF THE DWELLING, A CLEAR AND CONSPICUOUS STATEMENT THAT—

(A) THE INTEREST ON THE PORTION OF THE CREDIT EXTENSION THAT IS GREATER THAN THE FAIR MARKET VALUE OF THE DWELLING IS NOT TAX DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES; AND

(B) THE CONSUMER SHOULD CONSULT A TAX ADVISER FOR FURTHER INFORMATION REGARDING THE DEDUCTIBILITY OF INTEREST AND CHARGES.”;

(ii) a table with a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance of credit

if a consumer pays only the required minimum monthly payment under opening end credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty:

(B) minimum periodic payments features offered in connection with open end credit plans may impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options will reduce the cost and repayment period of credit plans.
SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) Introductory Rate Disclosures.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1677c(c)) is amended by adding at the end the following:

"(d) Definitions.—In this paragraph:

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by a user, through or over the Internet and such systems operated or serviced by libraries or educational institutions.

(b) Regulatory Implementation.—

(1) in general.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) Effective Date.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) Disclosures Related to Late Payment Deadlines and Penalties.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1677c(b)) is amended by adding at the end the following:

"(c) Internet-Based Applications and Solicitations.—Section 127(c) of the Truth in Lending Act is amended by adding at the end the following:

"(7) Internet-based applications and solicitations.

"(A) in general.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1) and

"(ii) the information described in paragraph (6).

"(B) Form of disclosure.—The disclosures required by subparagraph (A) may be readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(C) Internet-based application to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(D) Definitions.—For purposes of this paragraph:

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by a user, through or over the Internet, as opposed to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or serviced by libraries or educational institutions.

(b) Regulatory Implementation.—

(1) in general.—The Board shall promulgate regulations implementing the requirements of section 127(b) of the Truth in Lending Act, as added by this section.

(2) Effective Date.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENTS.

(a) Disclosures Related to Late Payments.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1677c(c)) is amended by adding at the end the following:

"(b) in general.—In any solicitation to open an account, which term shall appear clearly and conspicuously on the billing statement:

"(i) the terms 'annual percentage rate for interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation;

"(ii) the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate;

"(iii) if the annual percentage rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation, is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(A) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(B) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate is a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; and

"(D) the conditions under which a temporary annual percentage rate may exceed the fair market value of the dwelling, and which advertise-
credit of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.

(b) REGULATORY IMPLEMENTATION.—
(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.
(2) EXTENSION OF CREDIT.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—
(A) 12 months after the date of enactment of this Act; or
(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.
(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protection concerns under existing law to limit the liability of a creditor for unauthorized use of a debit card or similar access device.
(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—
(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693), as in effect at the time of the report, and any regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;
(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and
(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.
(a) STUDY.—
(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.
(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—
(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and
(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.
(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.
(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board shall promulgate regulations, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the National Credit Union Share Insurance Fund, regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (i) and (ii) of section 127(c)(6)(A) of the Truth in Lending Act.
(b) EXAMPLES.—Regulations promulgated under paragraph (1) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).
(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

SEC. 1401. SHORT TITLE.
This title may be cited as the ‘‘Energy Emergency Response Act of 2001’’.

SEC. 1402. FINDINGS AND PURPOSES.
(a) FINDINGS.—The Congress finds that—
(1) high energy costs are causing hardship for families;
(2) restructured energy markets have increased the need for a higher and more consistent level of funding for low-income energy assistance programs;
(3) conservation programs implemented by the States and the low-income weatherization program reduce costs and need for additional energy supplies;
(4) energy conservation is a cornerstone of national energy security policy;
(5) the Federal Government is the largest consumer of energy in the economy of the United States; and
(6) many opportunities exist for significant energy cost savings within the Federal Government.

(b) PURPOSES.—The purposes of this title are to provide assistance to individuals most affected by high energy prices and to promote and accelerate energy conservation investments in public and Federal facilities.

SEC. 1403. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION AND STATE ENERGY GRANTS.

SEC. 1404. FEDERAL ENERGY MANAGEMENT PERFORMANCE CONTRACT SUNSET.

SEC. 1405. COST SAVINGS FROM REPLACEMENT OF FEDERAL FACILITIES.

Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8271(a)) is amended by adding at the end the following:

SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.
“(3) The terms ‘energy savings contract’ and ‘water conservation contract’ mean a contract which provides for—

   ‘‘(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair ofstatedidentifiedenergy,water
conservation,orwastewater treatment measure or series of measures at one or more
locations; or
   ‘‘(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, or to add a
series of measures at one or more buildings or facilities to replace one or more existing
buildings or facilities.’’.

(c) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy
Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

   ‘‘(4) The term ‘energy or water conservation measure’ means—

   ‘‘(A) an energy conservation measure, as defined in section 553 of title 5, United States Code;
   ‘‘(B) a water conservation measure that improves the efficiency of water use, is life
cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiency, retrofit activities or other related
activities, not affecting the power generating operations at a federally owned hydro-
electric dam.’’.

SEC. 1408. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the date of enactment of this title.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments
made by this Act shall take effect upon the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. REIMBURSEMENT OF RESEARCH, DEVELOPMENT, AND MAINTENANCE COSTS.

(a) IN GENERAL.—Not later August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 522(b)), without regard to—

   (1) the notice and comment provisions of section 553 of title 5, United States Code;
   (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and
   (3) chapter 35 of title 41, United States Code (commonly known as the ‘‘Paperwork Reduction Act’’).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Corporation shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—The final regulations promulgated under subsection (a) shall take effect on the date of the final publication of the regulations.

SA 976. Mrs. BOXER (for Mr. BYRD) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 16. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106-15 U.S.C. 1841 note) is amended as follows:

   (1) REQUIREMENTS FOR LOAN GUARANTEES.—

   ‘‘(A) In general.—Subsection (g) is amended by adding paragraph (1), by striking ‘‘a private bank or investment company’’ and inserting ‘‘an institution’’.
   ‘‘(B) CONFORMING AMENDMENT.—Subsection (f)(1) is amended by striking ‘‘private bank
and investment’’.

   (2) TERMS AND CONDITIONS.—Subsection (h) is amended—

   (A) in paragraph (1), by striking ‘‘2005’’ and inserting ‘‘2015’’; and
   ‘‘(B) by amending paragraph (4) to read as follows:

   ‘‘(4) GUARANTEE LEVEL.—

   ‘‘(A) In general.—Except as provided in subparagraph (B), any loan guarantee provided
under this section shall not exceed 85 percent of the amount of principal of the loan.
   ‘‘(B) INCREASED LEVEL.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

   ‘‘(i) the aggregate amount of loans guaran-
teed at such percentage and outstanding under this section at any one time does not exceed $500,000,000; and
   ‘‘(ii) the aggregate amount of loans guaran-
teed at such percentage under this section with respect to loan guarantees provided under this section shall be consistent with cus-
tomary practices in the commercial banking industry. Minor or inadvertent reporting vio-
lations shall not cause termination of any guarantee provided under this section.’’.

   (3) REPORTS TO CONGRESS.—Subsection (i) is amended by striking ‘‘of fiscal years 1996 and 2000, and annually thereafter’’, and inserting ‘‘fiscal year’’.

   (4) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (k) is amended by striking ‘‘June’’ and inserting ‘‘March’’.

   (5) MONITORING, REPORTING, AND FORE-

   closure PROCEDURES.—Subsection (l) is amended by adding at the end the following:

   ‘‘All monitoring, reporting, and foreclosure
procedures (and other matters addressed in
the guarantee agreement) established with
respect to loan guarantees provided under this
section shall be consistent with cus-
tomary practices in the commercial banking
industry. Minor or inadvertent reporting vio-
lations shall not cause termination of any
guarantee provided under this section.’’.

   (6) DEFINITION OF STEEL COMPANIES.—

   ‘‘Subsection (c)(3)(B) is amended to read as follows:

   ‘‘(B) is engaged in—

   ‘‘(i) the production or manufacture of a product identified by the American Iron and
Steel Institute as a basic steel mill product, including ingots, slab and billets, plates,
flat-rolled steel, sections and structural products, bars, rail type products, pipe and
tube; and
   ‘‘(ii) the production or manufacture of coke used in the production of steel; or
   ‘‘(iii) the mining of iron ore; and.’’.

(b) CONFORMING AMENDMENT.—Subsection 101 of the Emergency Steel Loan Guarantee Act of 1999 is further amended by striking subsection (m).

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

SA 976. Mr. BYRD (for himself and Mr. BURNS) submitted an amendment intending to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 198, line 3, strike ‘‘Act’’ and insert ‘‘of which $4,000,000 shall be for the Tumbledown-Mount Blue conservation project, Maine, and of which $4,000,000 shall be for the purchase of a conservation easement on the Connecticut Tract, located in northern New Hampshire and owned by International Paper Co., and of which $500,000 shall be for the purchase of a conservation easement on the Range Creek Headwaters tract in Utah.’’.

At the end of Title I, add the following:

   ‘‘SEC. 24. (a) The National Park Service shall make further evaluations of national significance, suitability and feasibility for the Glenwood locality and each of the twelve Special Landscape Areas (including combina-
tions thereof) to place them under the Na-
tional Park Service in the course of under-
taking the Special Resource Study of the Loess Hills Landform Region of Western Iowa.

   ‘‘(b) The National Park Service shall pro-
vide the results of these evaluations no later
than January 15, 2002, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on En-
ergy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.’’

At the end of Title I, insert the following new General Provision:

   ‘‘From within funds available to the National Park Service shall conduct an En-
vironmental Impact Statement on vessel en-
tries into such park taking into account pos-
sible impacts on whale populations; Pro-
vided, That none of the funds available under this Act shall be used to reduce or increase the number of permits and vessel entries into the Park below the levels est-
ablished by the National Park Service effec-
tive for the 2001 season until the Environ-
mental Impact Statement required by law is completed and no subsequently approved provi-
sion of law; Provided further, That nothing in this section shall preclude the Secretary from adjusting the number of permits or ves-
sel entries if the Secretary determines that it is necessary to protect park resources.

On page 183, line 1, after ‘‘offshore’’, insert ‘‘preleasing’’.

On page 232, line 5, after 2005 insert ‘‘of which, $244,000 is to be provided for the design of historic office renovations of the Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming, and

On page 145, line 9, before the period at the end, insert the following: ‘‘of which $500,000 shall be available to acquire land for the Don Edgeworth National Wildlife Refuge, Califor-

On page 194, strike all text appearing between the ‘‘;’’ on line 4 and the ‘‘;’’ on line 13 and insert the following in lieu thereof:

   ‘‘(A) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and, (B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: Provided further, That the amounts appor-
tioned under this paragraph shall be apportioned equitably so that no State shall be appor-
tioned a sum which is less than 1 percent of

   ‘‘(A) the performance of services for the de-

   ‘‘(B) a water conservation measure that

   ‘‘(C) the aggregate amount of loans guaran-
teed at such percentage under this section with respect to loan guarantees provided under this section shall be consistent with cus-
tomary practices in the commercial banking
industry. Minor or inadvertent reporting vio-
lations shall not cause termination of any
guarantee provided under this section.’’.

   ‘‘(D) the production or manufacture of a product identified by the American Iron and
Steel Institute as a basic steel mill product, including ingots, slab and billets, plates,
flat-rolled steel, sections and structural products, bars, rail type products, pipe and
tube; and
   ‘‘(E) the production or manufacture of coke
used in the production of steel; or
   ‘‘(F) the mining of iron ore; and.’’.

   ‘‘SUBSECTION (m) IS AMENDED BY STRIKING
SUBSECTION (m).

   ‘‘SEC. 25. APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.’’
the amount available for apportionment under this program for any fiscal year or more than 5 percent of such amount".

On page 132, line 8, immediately following the word "expended," insert "of which $700,000 shall be used for management activities in the Rio Puerco watershed, New Mexico, and"

"Provided further, that the Forest Service under the State and Private Forestry Appropriation, up to $15,000,000 may be used on adjacent non-federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: Provided further, That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fuels reduct

On page 197, line 19 immediately following the word "federal:

"SEC. 1. SENSE OF CONGRESS CONCERNING COASTAL IMPACT ASSISTANCE.

(a) FINDINGS.—Congress finds that—

(1) the United States continues to be reliant on fossil fuels (including crude oil and natural gas) as a source of most of the energy consumed in the United States; the development of Federal crude oil and natural gas resources is accompanied by adverse effects on the infrastructure and natural gas resources, such as onshore and offshore Alaska, certain onshore areas in the western United States, and the central Gulf of Mexico; offshore Louisiana, Alabama, and Mississippi do not lessen the energy needs of the United States; and

(2) this reliance is likely to continue for the foreseeable future;

(b) DECLARATION OF LAND HELD IN TRUST.—Notwithstanding any other provision of law, the land held in fee by the Pechanga Band of Luiseño Mission Indians, as described in Document No. 21185 of the Riverside, California, Office of the Recorder and recorded on May 15, 2001, located within the boundaries of the county of Riverside within the State of California, is hereby declared to be held by the United States in trust for the benefit of the Pechanga Band of Luiseño Mission Indians and shall be part of the Pechanga Band of Luiseño Mission Indians Reservation.

"Provided further, That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fuels reduct

On page 145, line 9, before the period, insert the following:—of which not more than $500,000 shall be used for acquisition of 1,750 acres for the Red River National Wildlife Refuge, and of which $5,000 shall be for emergencies and hardships, and of which $1,500 shall be for inholdings.

On page 194, between lines 9 and 10, insert the following:

(Sec. 13) At the end of title I, add the following:

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (30 U.S.C. 1331 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, provides, outside the budget and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the amount of the direct revenues received from the Federal Government for those revenues; and

(14) the development of Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a portion of the annual revenues generated from Federal offshore crude oil and natural gas resources with adjacent coastal States that—

(A) serve as the platform for that development; and

(B) suffer adverse effects on the environment and infrastructure of the States.

"Provided further, That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fuels reduct

On page 225, line 15, insert before the period the following:—"Provided further, That $2,333,000 shall be made available for the Sisseton Sioux Tribe Indian Health Services clinic in Sisseton, South Dakota, and $9,167,000 shall be made available for the small ambulatory facilities program.

On page 143, line 7, after "herein," insert "of which $140,000 shall be made available for the preparation of, and not later than July 1, 2001, a report on a feasibility study and situational appraisal of the Hackensack Meadows, New Jersey, to identify management objectives and addresses strategies for preservation ef

On page 153, line 22, delete—"$65,886,000," and insert—"$66,287,000, of which $300,000 in membership funds are for the Erie Canal Way National Heritage Corridor:"

On page 153, line 22, insert the following before the period:—"and of which $101,000 in stipends for the Brown Foundation for Educational Equity":

On page 153, line 22, insert the following before the period:—"and of which $250,000 is for a cultural program grant to the Underground Railroad Coalition of Delaware":

At the end of Title I, add the following:

"Sec. 13. The amounts provided in this Act shall be used to approve the transfer of lands on South Fox Island, Michigan until Congress has authorized such transfer.

Provided further, That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fuels reduct

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