

Union Calendar No. 464

103^D CONGRESS
2^D SESSION

H. R. 5116

[Report No. 103-835]

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To amend title 11 of the United States Code.

OCTOBER 4, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To amend title 11 of the United States Code.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1994

Mr. BROOKS (for himself, Mr. FISH, and Mr. SYNAR) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 4, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 28, 1994]

A BILL

To amend title 11 of the United States Code.

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

3 **SECTION 1. SHORT TITLE.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
5 *“Bankruptcy Amendments of 1994”.*

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

Sec. 1. Short title.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.

Sec. 102. Jurisdiction to review interlocutory orders increasing or reducing certain time periods for filing plan.

Sec. 103. Expedited procedure for reaffirmation of debts.

Sec. 104. Powers of bankruptcy courts.

Sec. 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.

Sec. 106. Definition relating to eligibility to serve on chapter 11 committees.

Sec. 107. Increased incentive compensation for trustees.

Sec. 108. Dollar adjustments.

Sec. 109. Premerger notification.

Sec. 110. Allowance of creditor committee expenses.

Sec. 111. Supplemental injunctions; settlement of claims and demands for payment.

Sec. 112. Authority of bankruptcy judges to conduct jury trials in civil proceedings.

Sec. 113. Sovereign immunity.

Sec. 114. Service of process in bankruptcy proceedings on an insured depository institution.

Sec. 115. Meetings of creditors and equity security holders.

Sec. 116. Tax assessment.

Sec. 117. Additional trustee compensation.

TITLE II—COMMERCIAL BANKRUPTCY ISSUES

Sec. 201. Aircraft equipment and vessels; rolling stock equipment.

Sec. 202. Limitation on liability of non-insider transferee for avoided transfer.

Sec. 203. Perfection of purchase-money security interest.

Sec. 204. Continued perfection.

Sec. 205. Rejection of unexpired leases of real property or timeshare interests.

Sec. 206. Contents of plan.

Sec. 207. Priority for independent sales representatives.

Sec. 208. Exclusion from the estate of interests in liquid and gaseous hydrocarbons transferred by the debtor pursuant to production payment agreements.

Sec. 209. Seller's right to reclaim goods.

Sec. 210. Investment of money of the estate.

Sec. 211. Election of trustee under chapter 11.

Sec. 212. Rights of partnership trustee against general partners.

Sec. 213. Exclusion from the estate of certain accounts and chattel paper.

Sec. 214. Impairment of claims and interests.

Sec. 215. Protection of security interest in post-petition rents.

Sec. 216. Amendment to definition of swap agreement.

Sec. 217. Limitation on avoiding powers.

Sec. 218. Small businesses.

Sec. 219. Single asset real estate.

Sec. 220. Leases of personal property.

Sec. 221. Exemption for small business investment companies.

- Sec. 222. Payment of taxes with borrowed funds.*
- Sec. 223. Return of goods.*
- Sec. 224. Proceeds of money order agreements.*
- Sec. 225. Airport leases.*
- Sec. 226. Trustee duties.*
- Sec. 227. Notices to creditors.*

TITLE III—CONSUMER BANKRUPTCY ISSUES

- Sec. 301. Period for curing default relating to principal residence.*
- Sec. 302. Nondischargeability of fine under chapter 13.*
- Sec. 303. Impairment of exemptions.*
- Sec. 304. Protection of child support and alimony.*
- Sec. 305. Interest on interest.*
- Sec. 306. Exception to discharge.*
- Sec. 307. Payments under chapter 13.*
- Sec. 308. Bankruptcy petition preparers.*
- Sec. 309. Fairness to condominium and cooperative owners.*
- Sec. 310. Nonavoidability of fixing of lien on tools and implements of trade, animals, and crops.*
- Sec. 311. Conversion of case under chapter 13.*
- Sec. 312. Bankruptcy fraud.*
- Sec. 313. Protection against discriminatory treatment of applications for student loans.*

TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

- Sec. 401. Exception from automatic stay for post-petition property taxes.*
- Sec. 402. Municipal bankruptcy.*

TITLE V—TECHNICAL CORRECTIONS

- Sec. 501. Amendments to bankruptcy definitions, necessitated by enactment of Public Law 101-647.*
- Sec. 502. Title 28 of the United States Code.*

TITLE VI—BANKRUPTCY REVIEW COMMISSION

- Sec. 601. Short title.*
- Sec. 602. Establishment.*
- Sec. 603. Duties of the commission.*
- Sec. 604. Membership.*
- Sec. 605. Compensation of the commission.*
- Sec. 606. Staff of commission; experts and consultants.*
- Sec. 607. Powers of the commission.*
- Sec. 608. Report.*
- Sec. 609. Termination.*
- Sec. 610. Authorization of appropriations.*

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

- Sec. 701. Severability.*
- Sec. 702. Effective date; application of amendments.*

1 **TITLE I—IMPROVED**
2 **BANKRUPTCY ADMINISTRATION**

3 **SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.**

4 *The last sentence of section 362(e) of title 11, United*
5 *States Code, is amended—*

6 (1) *by striking “commenced” and inserting “con-*
7 *cluded”, and*

8 (2) *by inserting before the period at the end the*
9 *following:*

10 *“, unless the 30-day period is extended with the consent of*
11 *the parties in interest or for a specific time which the court*
12 *finds is required by compelling circumstances”.*

13 **SEC. 102. JURISDICTION TO REVIEW INTERLOCUTORY OR-**
14 **DERS INCREASING OR REDUCING CERTAIN**
15 **TIME PERIODS FOR FILING PLAN.**

16 *Section 158(a) of title 28, United States Code, is*
17 *amended by striking “from” the first place it appears and*
18 *all that follows through “decrees,” and inserting the follow-*
19 *ing:*

20 “(1) *from final judgments, orders, and decrees;*

21 “(2) *from interlocutory orders and decrees issued*
22 *under section 1121(d) of title 11 increasing reducing*
23 *the time periods referred to in section 1121 of such*
24 *title; and*

1 “(3) with leave of the court, from other interlocu-
2 tory orders and decrees;”.

3 **SEC. 103. EXPEDITED PROCEDURE FOR REAFFIRMATION OF**
4 **DEBTS.**

5 (a) *REAFFIRMATION*.—Section 524(c) of title 11, Unit-
6 *ed States Code, is amended—*

7 (1) *in paragraph (2)—*

8 (A) *by inserting “(A)” after “(2)”*,

9 (B) *by adding “and” at the end, and*

10 (C) *by inserting after subparagraph (A), as*
11 *so designated, the following:*

12 “(B) *such agreement contains a clear and*
13 *conspicuous statement which advises the debtor*
14 *that such agreement is not required under this*
15 *title, under nonbankruptcy law, or under any*
16 *agreement not in accordance with the provisions*
17 *of this subsection;”*, and

18 (2) *in paragraph (3)—*

19 (A) *in the matter preceding subparagraph*

20 (A) *by striking “such agreement” the last place*
21 *it appears,*

22 (B) *in subparagraph (A)—*

23 (i) *by inserting “such agreement” after*

24 “(A)”, and

25 (ii) *by striking “and” at the end,*

1 (C) in subparagraph (B)—

2 (i) by inserting “such agreement” after

3 “(B)”, and

4 (ii) by adding “and” at the end, and

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

6 “(C) the attorney fully advised the debtor of

7 the legal effect and consequences of—

8 “(i) an agreement of the kind specified

9 in this subsection; and

10 “(ii) any default under such an agree-

11 ment;”.

12 (b) *EFFECT OF DISCHARGE.*—The third sentence of

13 section 524(d) of title 11, United States Code, is amended

14 in the matter preceding paragraph (1) by inserting “and

15 was not represented by an attorney during the course of

16 negotiating such agreement” after “this section”.

17 **SEC. 104. POWERS OF BANKRUPTCY COURTS.**

18 (a) *STATUS CONFERENCES.*—Section 105 of title 11,

19 United States Code, is amended by adding at the end the

20 following:

21 “(d) The court, on its own motion or on the request

22 of a party in interest, may—

23 “(1) hold a status conference regarding any case

24 or proceeding under this title after notice to the par-

25 ties in interest; and

1 “(2) unless inconsistent with another provision
2 of this title or with applicable Federal Rules of Bank-
3 ruptcy Procedure, issue an order at any such con-
4 ference prescribing such limitations and conditions as
5 the court deems appropriate to ensure that the case is
6 handled expeditiously and economically, including an
7 order that—

8 “(A) sets the date by which the trustee must
9 assume or reject an executory contract or
10 unexpired lease; or

11 “(B) in a case under chapter 11 of this
12 title—

13 “(i) sets a date by which the debtor, or
14 trustee if one has been appointed, shall file
15 a disclosure statement and plan;

16 “(ii) sets a date by which the debtor, or
17 trustee if one has been appointed, shall so-
18 licit acceptances of a plan;

19 “(iii) sets the date by which a party in
20 interest other than a debtor may file a plan;

21 “(iv) sets a date by which a proponent
22 of a plan, other than the debtor, shall solicit
23 acceptances of such plan;

1 “(v) fixes the scope and format of the
2 notice to be provided regarding the hearing
3 on approval of the disclosure statement; or

4 “(vi) provides that the hearing on ap-
5 proval of the disclosure statement may be
6 combined with the hearing on confirmation
7 of the plan.”.

8 (b) *ABSTENTION*.—Section 1334 of title 28, United
9 States Code, is amended—

10 (1) by redesignating subsection (d) as subsection
11 (e), and

12 (2) in the second sentence of subsection (c)(2)—

13 (A) by inserting “(other than a decision not
14 to abstain in a proceeding described in sub-
15 section (c)(2))” after “subsection”, and

16 (B) by striking “Any” and inserting the fol-
17 lowing:

18 “(d) Any”.

19 (c) *ESTABLISHMENT, OPERATION, AND TERMINATION*
20 *OF BANKRUPTCY APPELLATE PANEL SERVICE*.—Section
21 158(b) of title 28, United States Code, is amended—

22 (1) by striking paragraphs (3) and (4),

23 (2) by redesignating paragraph (2) as para-
24 graph (4),

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

3 “(1) The judicial council of a circuit shall establish
4 a bankruptcy appellate panel service composed of bank-
5 ruptcy judges of the districts in the circuit who are ap-
6 pointed by the judicial council in accordance with para-
7 graph (3), to hear and determine, with the consent of all
8 the parties, appeals under subsection (a) unless the judicial
9 council finds that—

10 “(A) there are insufficient judicial resources
11 available in the circuit; or

12 “(B) establishment of such service would result
13 in undue delay or increased cost to parties in cases
14 under title 11.

15 Not later than 90 days after making the finding, the judi-
16 cial council shall submit to the Judicial Conference of the
17 United States a report containing the factual basis of such
18 finding.

19 “(2)(A) A judicial council may reconsider, at any
20 time, the finding described in paragraph (1).

21 “(B) On the request of a majority of the district judges
22 in a circuit for which a bankruptcy appellate panel service
23 is established under paragraph (1), made after the expira-
24 tion of the 1-year period beginning on the date such service
25 is established, the judicial council of the circuit shall deter-

1 *mine whether a circumstance specified in subparagraph (A)*
2 *or (B) of such paragraph exists.*

3 *“(C) On its own motion, after the expiration of the*
4 *3-year period beginning on the date a bankruptcy appellate*
5 *panel service is established under paragraph (1), the judi-*
6 *cial council of the circuit may determine whether a cir-*
7 *cumstance specified in subparagraph (A) or (B) of such*
8 *paragraph exists.*

9 *“(D) If the judicial council finds that either of such*
10 *circumstances exists, the judicial council may provide for*
11 *the completion of the appeals then pending before such serv-*
12 *ice and the orderly termination of such service.*

13 *“(3) Bankruptcy judges appointed under paragraph*
14 *(1) shall be appointed and may be reappointed under such*
15 *paragraph.”, and*

16 *(4) by inserting after paragraph (4), as so redes-*
17 *ignated, the following:*

18 *“(5) An appeal to be heard under this subsection shall*
19 *be heard by a panel of 3 members of the bankruptcy appel-*
20 *late panel service, except that a member of such service may*
21 *not hear an appeal originating in the district for which*
22 *such member is appointed or designated under section 152*
23 *of this title.*

24 *“(6) Appeals may not be heard under this subsection*
25 *by a panel of the bankruptcy appellate panel service unless*

1 *the district judges for the district in which the appeals*
2 *occur, by majority vote, have authorized such service to hear*
3 *and determine appeals originating in such district.”.*

4 *(d) APPEALS TO BE HEARD BY BANKRUPTCY APPEL-*
5 *LATE PANEL SERVICE.—Section 158 of title 28, United*
6 *States Code, is amended—*

7 *(1) in subsection (c) by striking “(c)” and in-*
8 *serting “(2)”, and*

9 *(2) by inserting after subsection (b) the follow-*
10 *ing:*

11 *“(c)(1) Subject to subsection (b), each appeal under*
12 *subsection (a) shall be heard by a 3-judge panel of the bank-*
13 *ruptcy appellate panel service established under subsection*
14 *(b)(1) unless—*

15 *“(A) the appellant elects at the time of filing the*
16 *appeal; or*

17 *“(B) any other party elects, not later than 30*
18 *days after service of notice of the appeal;*

19 *to have such appeal heard by the district court.”.*

20 *(e) RULES OF PROCEDURE AND EVIDENCE; METHOD OF*
21 *PRESCRIBING.—Section 2073 of title 28, United States*
22 *Code, is amended—*

23 *(1) in subsection (a)(2) by striking “section*
24 *2072” and inserting “sections 2072 and 2075”, and*

1 (2) in subsections (d) and (e) by inserting “or
2 2075” after “2072” each place it appears.

3 (f) *EFFECTIVE DATE OF BANKRUPTCY RULES.*—Sec-
4 tion 2075 of title 28, United States Code, is amended by
5 striking “ninety days” and inserting “180 days”.

6 **SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINIS-**
7 **TRATOR AT MEETINGS OF CREDITORS AND**
8 **EQUITY SECURITY HOLDERS.**

9 (a) *PRESIDING OFFICER.*—A bankruptcy adminis-
10 trator appointed under section 302(d)(3)(I) of the Bank-
11 ruptcy Judges, United States Trustees, and Family Farmer
12 Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law
13 99–554; 100 Stat. 3123), as amended by section 317(a) of
14 the Federal Courts Study Committee Implementation Act
15 of 1990 (Public Law 101–650; 104 Stat. 5115), or the bank-
16 ruptcy administrator’s designee may preside at the meeting
17 of creditors convened under section 341(a) of title 11, Unit-
18 ed States Code. The bankruptcy administrator or the bank-
19 ruptcy administrator’s designee may preside at any meet-
20 ing of equity security holders convened under section 341(b)
21 of title 11, United States Code.

22 (b) *EXAMINATION OF THE DEBTOR.*—The bankruptcy
23 administrator or the bankruptcy administrator’s designee
24 may examine the debtor at the meeting of creditors and may

1 *administer the oath required under section 343 of title 11,*
2 *United States Code.*

3 **SEC. 106. DEFINITION RELATING TO ELIGIBILITY TO SERVE**
4 **ON CHAPTER 11 COMMITTEES.**

5 *Section 101(41) of title 11, United States Code, is*
6 *amended to read as follows:*

7 *“(41) ‘person’ includes individual, partnership,*
8 *and corporation, but does not include governmental*
9 *unit, except that a governmental unit that—*

10 *“(A) acquires an asset from a person—*

11 *“(i) as a result of the operation of a*
12 *loan guarantee agreement; or*

13 *“(ii) as receiver or liquidating agent of*
14 *a person;*

15 *“(B) is a guarantor of a pension benefit*
16 *payable by or on behalf of the debtor or an affili-*
17 *ate of the debtor; or*

18 *“(C) is the legal or beneficial owner of an*
19 *asset of—*

20 *“(i) an employee pension benefit plan*
21 *that is a governmental plan, as defined in*
22 *section 414(d) of the Internal Revenue Code*
23 *of 1986; or*

1 “(ii) an eligible deferred compensation
2 plan, as defined in section 457(b) of the In-
3 ternal Revenue Code of 1986;
4 shall be considered, for purposes of section 1102 of
5 this title, to be a person with respect to such asset or
6 such benefit;”.

7 **SEC. 107. INCREASED INCENTIVE COMPENSATION FOR**
8 **TRUSTEES.**

9 Section 326(a) of title 11, United States Code, is
10 amended by striking “fifteen” and all that follows through
11 “\$3,000” the last place it appears, and inserting the follow-
12 ing:

13 “25 percent on the first \$5,000 or less, 10 percent on any
14 amount in excess of \$5,000 but not in excess of \$50,000,
15 5 percent on any amount in excess of \$50,000 but not in
16 excess of \$1,000,000, and reasonable compensation not to
17 exceed 3 percent of such moneys in excess of \$1,000,000”.

18 **SEC. 108. DOLLAR ADJUSTMENTS.**

19 (a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—
20 Section 109(e) of title 11, United States Code, is amended—

21 (1) by striking “\$100,000” each place it appears
22 and inserting “\$250,000”, and

23 (2) by striking “\$350,000” each place it appears
24 and inserting “\$750,000”.

1 (b) *INVOLUNTARY CASES.*—Section 303(b) of title 11,
2 *United States Code*, is amended—

3 (1) in paragraph (1) by striking “\$5,000” and
4 inserting “\$10,000”, and

5 (2) in paragraph (2) by striking “\$5,000” and
6 inserting “\$10,000”.

7 (c) *PRIORITIES.*—Section 507(a) of title 11, *United*
8 *States Code*, is amended—

9 (1) in paragraph (4)(B)(i) by striking “\$2,000”
10 and inserting “\$4,000”,

11 (2) in paragraph (5) by striking “\$2,000” and
12 inserting “\$4,000”, and

13 (3) in paragraph (6) by striking “\$900” and in-
14 serting “\$1,800”.

15 (d) *EXEMPTIONS.*—Section 522(d) of title 11, *United*
16 *States Code*, is amended—

17 (1) in paragraph (1) by striking “\$7,500” and
18 inserting “\$15,000”,

19 (2) in paragraph (2) by striking “\$1,200” and
20 inserting “\$2,400”,

21 (3) in paragraph (3)—

22 (A) by striking “\$200” and inserting
23 “\$400”, and

24 (B) by striking “\$4,000” and inserting
25 “\$8,000”,

1 (4) in paragraph (4) by striking “\$500” and in-
2 serting “\$1,000”,

3 (5) in paragraph (5)—

4 (A) by striking “\$400” and inserting
5 “\$800”, and

6 (B) by striking “\$3,750” and inserting
7 “\$7,500”,

8 (6) in paragraph (6) by striking “\$750” and in-
9 serting “\$1,500”,

10 (7) in paragraph (8) by striking “\$4,000” and
11 inserting “\$8,000”, and

12 (8) in paragraph (11)(D) by striking “\$7,500”
13 and inserting “\$15,000”.

14 (e) *FUTURE ADJUSTMENTS.*—Section 104 of title 11,
15 *United States Code*, is amended—

16 (1) by inserting “(a)” before “The”, and

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

18 “(b)(1) On April 1, 1998, and at each 3-year interval
19 ending on April 1 thereafter, each dollar amount in effect
20 under sections 109(e), 303(b), 507(a), 522(d), and
21 523(a)(2)(C) immediately before such April 1 shall be ad-
22 justed—

23 “(A) to reflect the change in the Consumer Price
24 Index for All Urban Consumers, published by the De-
25 partment of Labor, for the most recent 3-year period

1 *ending immediately before January 1 preceding such*
2 *April 1, and*

3 *“(B) to round to the nearest \$25 the dollar*
4 *amount that represents such change.*

5 *“(2) Not later than March 1, 1998, and at each 3-year*
6 *interval ending on March 1 thereafter, the Judicial Con-*
7 *ference of the United States shall publish in the Federal*
8 *Register the dollar amounts that will become effective on*
9 *such April 1 under sections 109(e), 303(b), 507(a), 522(d),*
10 *and 523(a)(2)(C) of this title.*

11 *“(3) Adjustments made in accordance with paragraph*
12 *(1) shall not apply with respect to cases commenced before*
13 *the date of such adjustments.”.*

14 **SEC. 109. PREMERGER NOTIFICATION.**

15 *Subparagraphs (A) and (B) of section 363(b)(2) of*
16 *title 11, United States Code, are amended to read as follows:*

17 *“(A) notwithstanding subsection (a) of such*
18 *section, the notification required by such sub-*
19 *section to be given by the debtor shall be given*
20 *by the trustee; and*

21 *“(B) notwithstanding subsection (b) of such*
22 *section, the required waiting period shall end on*
23 *the 15th day after the date of the receipt, by the*
24 *Federal Trade Commission and the Assistant At-*
25 *torney General in charge of the Antitrust Divi-*

1 *sion of the Department of Justice, of the notifica-*
2 *tion required under such subsection (a), unless*
3 *such waiting period is extended—*

4 *“(i) pursuant to subsection (e)(2) of*
5 *such section, in the same manner as such*
6 *subsection (e)(2) applies to a cash tender*
7 *offer;*

8 *“(ii) pursuant to subsection (g)(2) of*
9 *such section; or*

10 *“(iii) by the court after notice and a*
11 *hearing.”.*

12 **SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EX-**
13 **PENSES.**

14 *Section 503(b)(3) of title 11, United States Code, is*
15 *amended—*

16 *(1) in subparagraph (D) by striking “or” at the*
17 *end,*

18 *(2) in subparagraph (E) by inserting “or” at the*
19 *end, and*

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

21 *“(F) a member of a committee appointed*
22 *under section 1102 of this title, if such expenses*
23 *are incurred in the performance of the duties of*
24 *such committee;”.*

1 **SEC. 111. SUPPLEMENTAL INJUNCTIONS; SETTLEMENT OF**
2 **CLAIMS AND DEMANDS FOR PAYMENT.**

3 (a) *SUPPLEMENTAL INJUNCTIONS.*—Section 524 of
4 title 11, United States Code, is amended by adding at the
5 end the following:

6 “(g)(1)(A) After notice and hearing, a court that enters
7 an order confirming a plan of reorganization under chapter
8 11 may issue an injunction to supplement the injunctive
9 effect of a discharge under this section.

10 “(B) An injunction may be issued under subparagraph
11 (A) to enjoin persons and governmental units from taking
12 legal action for the purpose of directly or indirectly collect-
13 ing, recovering, or receiving payment or recovery of, on, or
14 with respect to any claim or demand that, under a plan
15 of reorganization, is to be paid in whole or in part by a
16 trust described in paragraph (2)(B)(i), except such legal ac-
17 tions as are expressly allowed by the injunction, the con-
18 firmation order, or the plan of reorganization.

19 “(2)(A) If the requirements of subparagraph (B) are
20 met at any time, then, after entry of an injunction under
21 paragraph (1), any proceeding that involves the validity,
22 application, construction, or modification of the injunction
23 or of this subsection with respect to the injunction may be
24 commenced only in the district court in which the injunc-
25 tion was entered, and such court shall have exclusive juris-

1 *diction over any such proceeding without regard to the*
2 *amount in controversy.*

3 “(B) *The requirements of this subparagraph are*
4 *that—*

5 “(i) *the injunction is to be implemented in con-*
6 *nection with a trust that, pursuant to the plan of re-*
7 *organization—*

8 “(I) *is to assume the liabilities of a debtor*
9 *which at the time of entry of the order for relief*
10 *has been named as a defendant in personal in-*
11 *jury, wrongful death, or property-damage actions*
12 *seeking recovery for damages allegedly caused by*
13 *the presence of, or exposure to, asbestos or asbes-*
14 *tos-containing products;*

15 “(II) *is to be funded in whole or in part by*
16 *the securities of 1 or more debtors involved in the*
17 *plan of reorganization and by the obligation of*
18 *such debtor or debtors to make future payments,*
19 *including dividends;*

20 “(III) *is to own, or by the exercise of rights*
21 *granted under the plan could own, a majority of*
22 *the voting shares of—*

23 “(aa) *each such debtor;*

24 “(bb) *the parent corporation of each*
25 *such debtor; or*

1 “(cc) a subsidiary of each such debtor
2 that is also a debtor; and

3 “(IV) is to use its assets or income to pay
4 claims and demands; and

5 “(ii) the court, at any time pursuant to its au-
6 thority under the plan, over the trust, or otherwise,
7 determines that—

8 “(I) the debtor may be subject to substantial
9 future demands for payment arising out of the
10 same or similar conduct or events that gave rise
11 to the claims that are addressed by the injunc-
12 tion;

13 “(II) the actual amounts, numbers, and
14 timing of such future demands cannot be deter-
15 mined;

16 “(III) pursuit of such demands outside the
17 procedures prescribed by the plan may threaten
18 the plan’s purpose to deal equitably with claims
19 and future demands;

20 “(IV) as part of the process of seeking ap-
21 proval of the plan of reorganization—

22 “(aa) the terms of the injunction pro-
23 posed to be issued under paragraph (1)(A),
24 including any provisions barring actions
25 against third parties pursuant to para-

1 *graph (4)(A), shall be set out in the plan of*
2 *reorganization and in any disclosure state-*
3 *ment supporting the plan; and*

4 *“(bb) a separate class or classes of the*
5 *claimants whose claims are to be addressed*
6 *by a trust described in clause (i) is estab-*
7 *lished and votes, by at least 75 percent of*
8 *those voting, in favor of the plan; and*

9 *“(V) pursuant to court orders or otherwise,*
10 *the trust will operate through mechanisms such*
11 *as structured, periodic or supplemental pay-*
12 *ments, pro rata distributions, matrices, or peri-*
13 *odic review of estimates of the numbers and val-*
14 *ues of present claims and future demands or*
15 *other comparable alternates, that provide reason-*
16 *able assurance that the trust will value, and be*
17 *in a financial position to pay, present claims*
18 *and future demands that involve similar claims*
19 *in substantially the same manner, except that*
20 *with respect to a trust in existence on the date*
21 *of the enactment of the Bankruptcy Amendments*
22 *of 1994 that is subject to a court order staying*
23 *it from settling or paying further claims—*

1 “(aa) the requirements of this
2 subclause shall apply as of the date such
3 stay is lifted or otherwise dissolved; and

4 “(bb) such a trust that meets the re-
5 quirements of the subclause as of the date
6 such stay is lifted or dissolved, shall be
7 treated for all legal purposes as being in
8 compliance with this subsection from the
9 date of the enactment of such Act.

10 “(3)(A) If the requirements of paragraph (2)(B) are
11 met and the order approving the plan of reorganization was
12 issued or affirmed by the district court that has jurisdiction
13 over the reorganization case, then after the time for appeal
14 of the order that issues or affirms the plan of reorganiza-
15 tion—

16 “(i) the injunction shall be valid and enforceable
17 and may not be revoked or modified by any court ex-
18 cept through appeal in accordance with paragraph
19 (6);

20 “(ii) no entity that pursuant to the plan of reor-
21 ganization or thereafter becomes a direct or indirect
22 transferee of, or successor to any assets of, a debtor or
23 trust that is the subject of the injunction shall be lia-
24 ble with respect to any claim or demand made

1 *against it by reason of its becoming such a transferee*
2 *or successor; and*

3 *“(iii) no entity that pursuant to the plan of re-*
4 *organization or thereafter makes a loan to such a*
5 *debtor or trust or to such a successor or transferee*
6 *shall, by reason of making the loan, be liable with re-*
7 *spect to any claim or demand made against it, nor*
8 *shall any pledge of assets made in connection with*
9 *such a loan be upset or impaired for that reason;*

10 *“(B) Subparagraph (A) shall not be construed to—*

11 *“(i) imply that an entity described in subpara-*
12 *graph (A) (ii) or (iii) would, if this paragraph were*
13 *not applicable, have liability by reason of any of the*
14 *acts described in subparagraph (A);*

15 *“(ii) relieve any such entity of the duty to com-*
16 *ply with, or of liability under, any Federal or State*
17 *law regarding the making of a fraudulent conveyance*
18 *in a transaction described in subparagraph (A) (ii)*
19 *or (iii); or*

20 *“(iii) relieve a debtor of the debtor’s obligation to*
21 *comply with the terms of the plan of reorganization*
22 *or affect the power of the court to exercise its author-*
23 *ity under sections 1141 and 1142 to compel the debtor*
24 *to do so.*

1 “(4)(A)(i) Subject to subparagraph (B), an injunction
2 under paragraph (1) shall be valid and enforceable against
3 all persons and governmental units that it addresses.

4 “(ii) Notwithstanding the provisions of section 524(e),
5 such an injunction may bar any action directed against
6 a third party who is identifiable from the terms of the in-
7 junction (by name or as part of an identifiable group) and
8 is alleged to be directly or indirectly liable for the conduct
9 of, claims against, or demands on the debtor by reason of—

10 “(I) the party’s ownership of a financial interest
11 in the debtor, a past or present affiliate of the debtor,
12 or a predecessor in interest of the debtor;

13 “(II) the party’s involvement in the management
14 of the debtor or a predecessor in interest of the debtor,
15 or service as an officer, director or employee of the
16 debtor or a related party;

17 “(III) the party’s provision of insurance to the
18 debtor or a related party; or

19 “(IV) the party’s involvement in a transaction
20 affecting the corporate structure or financial condi-
21 tion of the debtor or a related party, including, but
22 not limited to—

23 “(aa) involvement in providing financing
24 (debt or equity), or advice to a person or entity
25 involved in such a transaction; or

1 “(bb) acquiring or selling a financial inter-
2 est in an entity as part of such a transaction.

3 “(iii) As used in this subparagraph, the term ‘related
4 party’ means—

5 “(I) a past or present affiliate of the debtor;

6 “(II) a predecessor in interest of the debtor; or

7 “(III) any person or entity that owned a finan-
8 cial interest in—

9 “(aa) the debtor;

10 “(bb) a past or present affiliate of the debt-
11 or; or

12 “(cc) a predecessor interest in the debtor.

13 “(B) With respect to a demand (including a demand
14 directed against a third party described in subparagraph
15 (A)(ii)) that is made subsequent to the confirmation of a
16 plan against any person or entity that is the subject of an
17 injunction issued under paragraph (1), the injunction shall
18 be valid and enforceable if, as part of the proceedings lead-
19 ing to its issuance, the court appointed a legal representa-
20 tive for the purpose of protecting the rights of persons that
21 might subsequently assert such a demand.

22 “(5) In this subsection, the term ‘demand’ means a de-
23 mand for payment, present or future, that—

1 “(A) was not a claim during the proceedings
2 leading to the confirmation of a plan of reorganiza-
3 tion;

4 “(B) arises out of the same or similar conduct
5 or events that gave rise to the claims addressed by the
6 injunction issued under paragraph (1); and

7 “(C) pursuant to the plan, is to be paid by a
8 trust described in paragraph (2)(B)(i).

9 “(6) Paragraph (3)(A)(i) does not bar an action taken
10 by or at the direction of an appellate court on appeal of
11 an injunction issued under paragraph (1) or of the order
12 of confirmation that relates to the injunction.

13 “(7) This subsection applies to any injunction of the
14 nature described in paragraph (1)(B) in effect, and any
15 trust of the nature described in paragraph (2)(B) in exist-
16 ence, on or after the date of enactment of this subsection.

17 “(8) This subsection does not affect the operation of
18 section 1144 or the power of the district court to refer a
19 proceeding under section 157 of title 28 or any reference
20 of a proceeding made prior to the date of enactment of this
21 subsection.

22 “(h) Nothing in subsection (g) shall affect the court’s
23 authority to issue an injunction (including an injunction
24 that requires claims and demands to be presented for pay-
25 ment solely to a trust or any other type of court approved

1 *settlement vehicle) which is entered pursuant to an order*
2 *approving a plan of reorganization.”.*

3 *(b) SETTLEMENT OF CLAIMS AND DEMANDS FOR PAY-*
4 *MENT.—Section 105 of title 11, United States Code, as*
5 *amended by section 104, is amended by adding at the end*
6 *the following:*

7 *“(e)(1) A court may issue an injunction that requires*
8 *claims and demands to be presented for payment solely to*
9 *a trust or other vehicle that is established for the purpose*
10 *of settling such claims and demands and is approved by*
11 *the court and entered into pursuant to an order approving*
12 *a plan of reorganization.*

13 *“(2) This subsection applies to any injunction of*
14 *the nature described in paragraph (1) in effect, and*
15 *any trust of the nature described in such paragraph*
16 *in existence, on or after the date of the enactment of*
17 *the Bankruptcy Amendments of 1994.”.*

18 **SEC. 112. AUTHORITY OF BANKRUPTCY JUDGES TO CON-**
19 **DUCT JURY TRIALS IN CIVIL PROCEEDINGS.**

20 *Section 157(c) of title 28, United States Code, is*
21 *amended by adding at the end the following:*

22 *“(3) If the right to a jury trial applies in a proceeding*
23 *that may be heard under paragraph (1) or (2) of this sub-*
24 *section by a bankruptcy judge, the bankruptcy judge may*
25 *conduct the jury trial if specially designated to exercise such*

1 *jurisdiction by the district and with the consent of all the*
2 *parties.”*

3 **SEC. 113. SOVEREIGN IMMUNITY.**

4 *Section 106 of title 11, United States Code, is amended*
5 *to read as follows:*

6 **“§ 106. Waiver of sovereign immunity**

7 *“(a) Notwithstanding an assertion of sovereign immu-*
8 *nity, except as provided in subsection (d)—*

9 *“(1) all provisions of this title shall apply to*
10 *governmental units;*

11 *“(2) the court may hear and determine any issue*
12 *arising with respect to the application of such provi-*
13 *sions to governmental units; and*

14 *“(3) the court may issue and enforce any order,*
15 *process, or judgment against a governmental unit, in-*
16 *cluding an order or judgment awarding a money re-*
17 *covery, to the same extent as against any other entity.*

18 *“(b) A governmental unit is deemed to have waived*
19 *sovereign immunity with respect to a claim against such*
20 *governmental unit that is property of the estate and that*
21 *arose out of the same transaction or occurrence out of which*
22 *the claim of such governmental unit arose.*

23 *“(c) Notwithstanding any assertion of sovereign im-*
24 *munity by a governmental unit, there shall be offset against*
25 *a claim or interest of a governmental unit any claim*

1 *against such governmental unit that is property of the es-*
2 *tate.*

3 “(d) *Except as provided in subsections (b) and (c) or*
4 *in applicable nonbankruptcy law, a governmental unit may*
5 *assert sovereign immunity with respect to a claim of the*
6 *estate against such governmental unit only if such claim—*

7 “(1) *is not a tax claim or related to a tax claim*
8 *subject to determination under section 505; and*

9 “(2)(A) *is a claim of the debtor against such gov-*
10 *ernmental unit that arose before the commencement of*
11 *the case and became property of the estate only under*
12 *paragraph (1) or (2) of section 541(a); or*

13 “(B) *arises under nonbankruptcy law after the*
14 *commencement of the case from the operation of the*
15 *business of the debtor.”.*

16 **SEC. 114. SERVICE OF PROCESS IN BANKRUPTCY PROCEED-**
17 **INGS ON AN INSURED DEPOSITORY INSTITU-**
18 **TION.**

19 *Rule 7004 of the Federal Rules of Bankruptcy Proce-*
20 *dure is amended—*

21 (1) *in subsection (b) by striking “In addition”*
22 *and inserting “Except as provided in subdivision (h),*
23 *in addition”; and*

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

1 “(h) *SERVICE OF PROCESS ON AN INSURED DEPOSI-*
2 *TORY INSTITUTION.*—*Service on an insured depository in-*
3 *stitution (as defined in section 3 of the Federal Deposit In-*
4 *surance Act (12 U.S.C. 1813)) in a contested matter or ad-*
5 *versary proceeding shall be made by certified mail ad-*
6 *dressed to an officer of the institution unless—*

7 “(1) *the institution has appeared by its attorney,*
8 *in which case the attorney shall be served by first*
9 *class mail;*

10 “(2) *the court orders otherwise after service upon*
11 *the institution by certified mail of notice of an appli-*
12 *cation to permit service on the institution by first*
13 *class mail sent to an officer of the institution des-*
14 *ignated by the institution; or*

15 “(3) *the institution has waived in writing its en-*
16 *titlement to service by certified mail by designating*
17 *an officer to receive service.”.*

18 **SEC. 115. MEETINGS OF CREDITORS AND EQUITY SECURITY**

19 **HOLDERS.**

20 *Section 341 of title 11, United States Code, is amended*
21 *by adding at the end the following:*

22 “(d) *Prior to the conclusion of the meeting of creditors*
23 *or equity security holders, the United States trustee shall*
24 *orally examine the debtor to ensure that the debtor is aware*
25 *of—*

1 “(1) the potential consequences of seeking a dis-
2 charge in bankruptcy, including the effects on credit
3 history;

4 “(2) the debtor’s ability to file a petition under
5 a different chapter of this title;

6 “(3) the effect of receiving a discharge of debts
7 under this title; and

8 “(4) the effect of reaffirming a debt, including
9 the debtor’s knowledge of the provisions of section
10 524(d).”.

11 **SEC. 116. TAX ASSESSMENT.**

12 Section 362(b)(9) of title 11, United States Code, is
13 amended to read as follows:

14 “(9) under subsection (a), of—

15 “(A) an audit by a governmental unit to
16 determine tax liability;

17 “(B) the issuance to the debtor by a govern-
18 mental unit of a notice of tax deficiency;

19 “(C) a demand for tax returns; or

20 “(D) the making of an assessment for any
21 tax and issuance of a notice and demand for
22 payment of such an assessment (but any tax lien
23 that would otherwise attach to property of the es-
24 tate by reason of such an assessment shall not
25 take effect unless such tax is a debt of the debtor

1 that will not be discharged in the case and such
2 property or its proceeds are transferred out of
3 the estate to, or otherwise revested in, the debt-
4 or).”.

5 **SEC. 117. ADDITIONAL TRUSTEE COMPENSATION.**

6 Section 330(b) of title 11, United States Code, is
7 amended—

8 (1) by inserting “(1)” after “(b)”; and

9 (2) by adding at the end thereof the following:

10 “(2) The Judicial Conference of the United States shall
11 prescribe additional fees of the same kind as prescribed
12 under section 1914(b) of title 28, to pay \$15 to the trustee
13 serving in such case after such trustee’s services are ren-
14 dered. Such \$15 shall be paid in addition to the amount
15 paid under paragraph (1).”.

16 **TITLE II—COMMERCIAL**
17 **BANKRUPTCY ISSUES**

18 **SEC. 201. AIRCRAFT EQUIPMENT AND VESSELS; ROLLING**

19 **STOCK EQUIPMENT.**

20 (a) AMENDMENT OF SECTION 1110.—Section 1110 of
21 title 11, United States Code, is amended to read as follows:

22 **“§ 1110. Aircraft equipment and vessels**

23 “(a)(1) The right of a secured party with a security
24 interest in equipment described in paragraph (2) or of a
25 lessor or conditional vendor of such equipment to take pos-

1 *session of such equipment in compliance with a security*
2 *agreement, lease, or conditional sale contract is not affected*
3 *by section 362, 363, or 1129 or by any power of the court*
4 *to enjoin the taking of possession unless—*

5 “(A) *before the date that is 60 days after the*
6 *date of the order for relief under this chapter, the*
7 *trustee, subject to the court’s approval, agrees to per-*
8 *form all obligations of the debtor that become due on*
9 *or after the date of the order under such security*
10 *agreement, lease, or conditional sale contract; and*

11 “(B) *any default, other than a default of a kind*
12 *specified in section 365(b)(2), under such security*
13 *agreement, lease, or conditional sale contract—*

14 “(i) *that occurs before the date of the order*
15 *is cured before the expiration of such 60-day pe-*
16 *riod; and*

17 “(ii) *that occurs after the date of the order*
18 *is cured before the later of—*

19 “(I) *the date that is 30 days after the*
20 *date of the default; or*

21 “(II) *the expiration of such 60-day pe-*
22 *riod.*

23 “(2) *Equipment is described in this paragraph if it*
24 *is—*

1 “(A) an aircraft, aircraft engine, propeller, ap-
2 pliance, or spare part (as defined in section 40102 of
3 title 49) that is subject to a security interest granted
4 by, leased to, or conditionally sold to a debtor that is
5 a citizen of the United States (as defined in 40102 of
6 title 49) holding an air carrier operating certificate
7 issued by the Secretary of Transportation pursuant to
8 chapter 447 of title 49 for aircraft capable of carrying
9 10 or more individuals or 6,000 pounds or more of
10 cargo; or

11 “(B) a documented vessel (as defined in section
12 30101(1) of title 46) that is subject to a security in-
13 terest granted by, leased to, or conditionally sold to
14 a debtor that is a water carrier that holds a certifi-
15 cate of public convenience and necessity or permit is-
16 sued by the Interstate Commerce Commission.

17 “(3) Paragraph (1) applies to a secured party, lessor,
18 or conditional vendor acting in its own behalf or acting
19 as trustee or otherwise in behalf of another party.

20 “(b) The trustee and the secured party, lessor, or condi-
21 tional vendor whose right to take possession is protected
22 under subsection (a) may agree, subject to the court’s ap-
23 proval, to extend the 60-day period specified in subsection
24 (a)(1).

1 “(c) With respect to equipment first placed in service
2 on or prior to the date of enactment of this subsection, for
3 purposes of this section—

4 “(1) the term ‘lease’ includes any written agree-
5 ment with respect to which the lessor and the debtor,
6 as lessee, have expressed in the agreement or in a sub-
7 stantially contemporaneous writing that the agree-
8 ment is to be treated as a lease for Federal income
9 tax purposes; and

10 “(2) the term ‘security interest’ means a pur-
11 chase-money equipment security interest.”.

12 (b) AMENDMENT OF SECTION 1168.—Section 1168 of
13 title 11, United States Code, is amended to read as follows:

14 **“§ 1168. Rolling stock equipment**

15 “(a)(1) The right of a secured party with a security
16 interest in or of a lessor or conditional vendor of equipment
17 described in paragraph (2) to take possession of such equip-
18 ment in compliance with an equipment security agreement,
19 lease, or conditional sale contract is not affected by section
20 362, 363, or 1129 or by any power of the court to enjoin
21 the taking of possession, unless—

22 “(A) before the date that is 60 days after the
23 date of commencement of a case under this chapter,
24 the trustee, subject to the court’s approval, agrees to
25 perform all obligations of the debtor that become due

1 *on or after the date of commencement of the case*
2 *under such security agreement, lease, or conditional*
3 *sale contract; and*

4 *“(B) any default, other than a default of a kind*
5 *described in section 365(b)(2), under such security*
6 *agreement, lease, or conditional sale contract—*

7 *“(i) that occurs before the date of com-*
8 *mencement of the case and is an event of default*
9 *therewith is cured before the expiration of such*
10 *60-day period; and*

11 *“(ii) that occurs or becomes an event of de-*
12 *fault after the date of commencement of the case*
13 *is cured before the later of—*

14 *“(I) the date that is 30 days after the*
15 *date of the default or event of default; or*

16 *“(II) the expiration of such 60-day pe-*
17 *riod.*

18 *“(2) Equipment is described in this paragraph if it*
19 *is rolling stock equipment or accessories used on such equip-*
20 *ment, including superstructures and racks, that is subject*
21 *to a security interest granted by, leased to, or conditionally*
22 *sold to the debtor.*

23 *“(3) Paragraph (1) applies to a secured party, lessor,*
24 *or conditional vendor acting in its own behalf or acting*
25 *as trustee or otherwise in behalf of another party.*

1 “(b) The trustee and the secured party, lessor, or condi-
2 tional vendor whose right to take possession is protected
3 under subsection (a) may agree, subject to the court’s ap-
4 proval, to extend the 60-day period specified in subsection
5 (a)(1).

6 “(c) With respect to equipment first placed in service
7 on or prior to the date of enactment of this subsection, for
8 purposes of this section—

9 “(1) the term ‘lease’ includes any written agree-
10 ment with respect to which the lessor and the debtor,
11 as lessee, have expressed in the agreement or in a sub-
12 stantially contemporaneous writing that the agree-
13 ment is to be treated as a lease for Federal income
14 tax purposes; and

15 “(2) the term ‘security interest’ means a pur-
16 chase-money equipment security interest.

17 “(d) With respect to equipment first placed in service
18 after the date of enactment of this subsection, for purposes
19 of this section, the term ‘rolling stock equipment’ includes
20 rolling stock equipment that is substantially rebuilt and ac-
21 cessories used on such equipment.”.

22 **SEC. 202. LIMITATION ON LIABILITY OF NON-INSIDER**
23 **TRANSFeree FOR AVOIDED TRANSFER.**

24 Section 550 of title 11, United States Code, is amend-
25 ed—

1 (1) by redesignating subsections (c), (d), and (e)
2 as subsections (d), (e), and (f), respectively, and

3 (2) by inserting after subsection (b) the follow-
4 ing:

5 “(c) If a transfer made between 90 days and one year
6 before the filing of the petition—

7 “(1) is avoided under section 547(b) of this title;
8 and

9 “(2) was made for the benefit of a creditor that
10 at the time of such transfer was an insider;
11 the trustee may not recover under subsection (a) from a
12 transferee that is not an insider.”.

13 **SEC. 203. PERFECTION OF PURCHASE-MONEY SECURITY IN-**
14 **TEREST.**

15 Section 547 of title 11, United States Code, is amend-
16 ed—

17 (1) in subsection (c)(3)(B) by striking “10” and
18 inserting “20”, and

19 (2) in subsection (e)(2)(A) by inserting “, except
20 as provided in subsection (c)(3)(B)” before the semi-
21 colon at the end.

22 **SEC. 204. CONTINUED PERFECTION.**

23 (a) *AUTOMATIC STAY*.—Section 362(b)(3) of title 11,
24 United States Code, is amended by inserting “, or to main-
25 tain or continue the perfection of,” after “to perfect”.

1 (b) *LIMITATIONS ON AVOIDING POWERS.*—Section
2 546(b) of title 11, United States Code, is amended to read
3 as follows:

4 “(b)(1) *The rights and powers of a trustee under sec-*
5 *tions 544, 545, and 549 of this title are subject to any gen-*
6 *erally applicable law that—*

7 “(A) *permits perfection of an interest in prop-*
8 *erty to be effective against an entity that acquires*
9 *rights in such property before the date of perfection;*
10 *or*

11 “(B) *provides for the maintenance or continu-*
12 *ation of perfection of an interest in property to be ef-*
13 *fective against an entity that acquires rights in such*
14 *property before the date on which action is taken to*
15 *effect such maintenance or continuation.*

16 “(2) *If—*

17 “(A) *a law described in paragraph (1) requires*
18 *seizure of such property or commencement of an ac-*
19 *tion to accomplish such perfection, or maintenance or*
20 *continuation of perfection of an interest in property;*
21 *and*

22 “(B) *such property has not been seized or such*
23 *an action has not been commenced before the date of*
24 *the filing of the petition;*

1 *such interest in such property shall be perfected, or perfec-*
2 *tion of such interest shall be maintained or continued, by*
3 *giving notice within the time fixed by such law for such*
4 *seizure or such commencement.”.*

5 **SEC. 205. REJECTION OF UNEXPIRED LEASES OF REAL**
6 **PROPERTY OR TIMESHARE INTERESTS.**

7 (a) *AMENDMENT TO SECTION 365.—Section 365(h) of*
8 *title 11, United States Code, is amended to read as follows:*

9 “(h)(1)(A) *If the trustee rejects an unexpired lease of*
10 *real property under which the debtor is the lessor and—*

11 “(i) *if the rejection by the trustee amounts to*
12 *such a breach as would entitle the lessee to treat such*
13 *lease as terminated by virtue of its terms, applicable*
14 *nonbankruptcy law, or any agreement made by the*
15 *lessee, then the lessee under such lease may treat such*
16 *lease as terminated by the rejection; or*

17 “(ii) *if the term of such lease has commenced, the*
18 *lessee may retain its rights under such lease (includ-*
19 *ing rights such as those relating to the amount and*
20 *timing of payment of rent and other amounts payable*
21 *by the lessee and any right of use, possession, quiet*
22 *enjoyment, subletting, assignment, or hypothecation)*
23 *that are in or appurtenant to the real property for*
24 *the balance of the term of such lease and for any re-*
25 *newal or extension of such rights to the extent that*

1 *such rights are enforceable under applicable*
2 *nonbankruptcy law.*

3 *“(B) If the lessee retains its rights under subparagraph*
4 *(A)(ii), the lessee may offset against the rent reserved under*
5 *such lease for the balance of the term after the date of the*
6 *rejection of such lease and for the term of any renewal or*
7 *extension of such lease, the value of any damage caused by*
8 *the nonperformance after the date of such rejection, of any*
9 *obligation of the debtor under such lease, but the lessee shall*
10 *not have any other right against the estate or the debtor*
11 *on account of any damage occurring after such date caused*
12 *by such nonperformance.*

13 *“(C) The rejection of a lease of real property in a shop-*
14 *ping center with respect to which the lessee elects to retain*
15 *its rights under subparagraph (A)(ii) does not affect the*
16 *enforceability under applicable nonbankruptcy law of any*
17 *provision in the lease pertaining to radius, location, use,*
18 *exclusivity, or tenant mix or balance.*

19 *“(D) In this paragraph, ‘lessee’ includes any successor,*
20 *assign, or mortgagee permitted under the terms of such*
21 *lease.*

22 *“(2)(A) If the trustee rejects a timeshare interest under*
23 *a timeshare plan under which the debtor is the timeshare*
24 *interest seller and—*

1 “(i) if the rejection amounts to such a breach as
2 would entitle the timeshare interest purchaser to treat
3 the timeshare plan as terminated under its terms, ap-
4 plicable nonbankruptcy law, or any agreement made
5 by timeshare interest purchaser, the timeshare interest
6 purchaser under the timeshare plan may treat the
7 timeshare plan as terminated by such rejection; or

8 “(ii) if the term of such timeshare interest has
9 commenced, then the timeshare interest purchaser
10 may retain its rights in such timeshare interest for
11 the balance of such term and for any term of renewal
12 or extension of such timeshare interest to the extent
13 that such rights are enforceable under applicable
14 nonbankruptcy law.

15 “(B) If the timeshare interest purchaser retains its
16 rights under subparagraph (A), such timeshare interest
17 purchaser may offset against the moneys due for such
18 timeshare interest for the balance of the term after the date
19 of the rejection of such timeshare interest, and the term of
20 any renewal or extension of such timeshare interest, the
21 value of any damage caused by the nonperformance after
22 the date of such rejection, of any obligation of the debtor
23 under such timeshare plan, but the timeshare interest pur-
24 chaser shall not have any right against the estate or the

1 *debtor on account of any damage occurring after such date*
2 *caused by such nonperformance.”.*

3 (b) *TECHNICAL AMENDMENT.*—Section 553(b)(1) of
4 *title 11, United States Code, is amended by striking*
5 *“365(h)(2)” and inserting “365(h)”.*

6 **SEC. 206. CONTENTS OF PLAN.**

7 *Section 1123(b) of title 11, United States Code, is*
8 *amended—*

9 (1) *in paragraph (4) by striking “and” at the*
10 *end,*

11 (2) *by redesignating paragraph (5) as para-*
12 *graph (6), and*

13 (3) *by inserting after paragraph (4) the follow-*
14 *ing:*

15 “(5) *modify the rights of holders of secured*
16 *claims, other than a claim secured only by a security*
17 *interest in real property that is the debtor’s principal*
18 *residence, or of holders of unsecured claims, or leave*
19 *unaffected the rights of holder of any class of claims;*
20 *and”.*

21 **SEC. 207. PRIORITY FOR INDEPENDENT SALES REPRESENT-**
22 **ATIVES.**

23 *Section 507(a)(3) of title 11, United States Code, is*
24 *amended to read as follows:*

1 “(3) Third, allowed unsecured claims, but only
2 to the extent of \$4,000 for each individual or corpora-
3 tion, as the case may be, earned within 90 days before
4 the date of the filing of the petition or the date of the
5 cessation of the debtor’s business, whichever occurs
6 first, for—

7 “(A) wages, salaries, or commissions, in-
8 cluding vacation, severance, and sick leave pay
9 earned by an individual; or

10 “(B) sales commissions earned by an indi-
11 vidual or by a corporation with only 1 employee,
12 acting as an independent contractor in the sale
13 of goods or services for the debtor in the ordinary
14 course of the debtor’s business if, and only if,
15 during the 12 months preceding that date, at
16 least 75 percent of the amount that the individ-
17 ual or corporation earned by acting as an inde-
18 pendent contractor in the sale of goods or serv-
19 ices was earned from the debtor;”.

1 **SEC. 208. EXCLUSION FROM THE ESTATE OF INTERESTS IN**
2 **LIQUID AND GASEOUS HYDROCARBONS**
3 **TRANSFERRED BY THE DEBTOR PURSUANT**
4 **TO PRODUCTION PAYMENT AGREEMENTS.**

5 (a) *DEFINITION.*—Section 101 of title 11, United
6 States Code, is amended by inserting after paragraph (42)
7 the following:

8 “(42A) ‘production payment’ means a payment
9 (in cash or in kind) that is—

10 “(A) contingent on the production of a liq-
11 uid or gaseous hydrocarbon from particular real
12 property; and

13 “(B) attributable to part of a specified vol-
14 ume, or part of a specified value, of the liquid
15 or gaseous hydrocarbon produced from such
16 property, and determined without regard to pro-
17 duction costs;”.

18 (b) *PROPERTY OF THE ESTATE.*—Section 541(b)(4) of
19 title 11, United States Code, is amended—

20 (1) in subparagraph (A) by striking “(A)” and
21 inserting “(A)(i)”,

22 (2) in subparagraph (B)—

23 (A) by striking “(B)” and inserting “(ii),

24 (B) by striking “such interest” and insert-
25 ing “the interest referred to in clause (i)”, and

1 (C) by striking the period at the end and
2 inserting “; or”, and

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

4 “(B)(i) the debtor has transferred or has
5 agreed to transfer such interest pursuant to a
6 written agreement to make production payments
7 to a person that does not participate in the pro-
8 duction of the liquid or gaseous hydrocarbon
9 with respect to which such payments are made;
10 and

11 “(ii) but for the operation of this para-
12 graph, the estate could include the interest re-
13 ferred to in clause (i) only by virtue of section
14 365 of this title;”.

15 **SEC. 209. SELLER’S RIGHT TO RECLAIM GOODS.**

16 Section 546(c)(1) of title 11, United States Code, is
17 amended by striking “ten” and inserting “20”.

18 **SEC. 210. INVESTMENT OF MONEY OF THE ESTATE.**

19 Section 345(b) of title 11, United States Code, is
20 amended—

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

23 (2) by adding “unless the court for cause orders
24 otherwise.” at the end of such subsection.

1 **SEC. 211. ELECTION OF TRUSTEE UNDER CHAPTER 11.**

2 (a) *ELECTION AUTHORIZED.*—Section 1104 of title 11
3 of the United States Code is amended—

4 (1) by redesignating subsections (b) and (c) as
5 subsections (c) and (d), respectively, and

6 (2) by inserting after subsection (a) the follow-
7 ing:

8 “(b) Except as provided in section 1163 of this title,
9 on the request of a party in interest made not later than
10 30 days after the court orders the appointment of a trustee
11 under subsection (a), the United States trustee shall convene
12 a meeting of creditors for the purpose of electing one disin-
13 terested person to serve as trustee in the case. The election
14 of a trustee shall be conducted in the manner provided in
15 subsections (a), (b), and (c) of section 702 of this title.”.

16 (b) *CONFORMING AMENDMENT.*—Section 1106(b) of
17 title 11, United States Code, is amended by striking
18 “1104(c)” and inserting “1104(d)”.

19 **SEC. 212. RIGHTS OF PARTNERSHIP TRUSTEE AGAINST**
20 **GENERAL PARTNERS.**

21 Section 723(a) of title 11, United States Code, is
22 amended by striking “for the full amount of the deficiency”
23 and inserting “to the extent that under applicable
24 nonbankruptcy law such general partner is personally lia-
25 ble for the debts of the partnership”.

1 **SEC. 213. EXCLUSION FROM THE ESTATE OF CERTAIN AC-**
2 **COUNTS AND CHATTEL PAPER.**

3 *Section 541 of title 11, United States Code, as amend-*
4 *ed by section 208, is amended—*

5 *(1) in subsection (b) by inserting after para-*
6 *graph (4) the following:*

7 *“(5) any interest of the debtor in any account or*
8 *chattel paper to the extent that—*

9 *“(A) such interest was actually sold under*
10 *applicable nonbankruptcy law by the debtor be-*
11 *fore the date of commencement of the case, but*
12 *without taking into consideration whether the*
13 *purchaser filed a financing statement before such*
14 *date; and*

15 *“(B) but for the operation of this para-*
16 *graph, the estate could include such interest only*
17 *by virtue of section 542 of this title; or”, and*

18 *(2) by adding at the end the following:*

19 *“(e) In this section—*

20 *“(1) ‘account’ means any right to payment for*
21 *goods sold or leased or for services rendered that is*
22 *not evidence by an instrument or chattel paper,*
23 *whether or not it has been earned by performance,*
24 *and includes all rights to payment earned or un-*
25 *earned under a charter or other contract involving the*

1 *use or hire of a vessel and all rights incident to such*
2 *charter or such contract; and*

3 “(2) ‘*chattel paper*’ means—

4 “(A) *a writing or writings that evidence*
5 *both a monetary obligation and a security inter-*
6 *est in or lease of specific goods (excluding a*
7 *charter or other contract involving the use or*
8 *hire of a vessel); or*

9 “(B) *if a transaction described in subpara-*
10 *graph (A) is evidenced both by such a security*
11 *agreement or a lease and by an instrument or a*
12 *series of instruments, the group of these writings*
13 *taken together.”.*

14 **SEC. 214. IMPAIRMENT OF CLAIMS AND INTERESTS.**

15 (a) *OBJECTION TO CLAIMS FILED UNTIMELY.*—Sec-
16 *tion 502(b) of title 11, United States Code, is amended—*

17 (1) *in paragraph (7) by striking “or” at the end,*

18 (2) *in paragraph (8) by striking the period at*
19 *the end and inserting “; or”, and*

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

21 “(9) *proof of such claim is not timely filed, ex-*
22 *cept to the extent tardily filed as permitted under*
23 *paragraph (2) or (3) of section 726(a).”.*

1 (b) *FILING OF REQUEST FOR ADMINISTRATIVE EX-*
2 *PENSES.*—Section 503(a) of title 11, United States Code,
3 *is amended—*

4 (1) *by inserting “timely” after “may”, and*

5 (2) *by inserting “; or may tardily file such request*
6 *if permitted by the court for cause” before the period at*
7 *the end.*

8 (c) *IMPAIRMENT OF CLAIMS OR INTERESTS.*—Section
9 *1124 of title 11, United States Code, is amended—*

10 (1) *in paragraph (1) by inserting “or” at the*
11 *end,*

12 (2) *in paragraph (2) by striking “; or” at the*
13 *end and inserting a period, and*

14 (3) *by striking paragraph (3).*

15 **SEC. 215. PROTECTION OF SECURITY INTEREST IN POST-PE-**
16 **TITION RENTS.**

17 (a) *Postpetition Effect of Security Interest.*—Section
18 *552(b) of title 11, United States Code, is amended—*

19 (1) *by inserting “(1)” after “(b)”,*

20 (2) *by striking “rents,” each place it appears,*
21 *and*

22 (2) *by adding at the end the following:*

23 “(2) *Except as provided in sections 363, 506(c), 522,*
24 *544, 545, 547, and 548 of this title, and notwithstanding*
25 *section 546(b) of this title, if the debtor and an entity en-*

1 *tered into a security agreement before the commencement*
2 *of the case and if the security interest created by such secu-*
3 *rity agreement extends to property of the debtor acquired*
4 *before the commencement of the case and to rents of such*
5 *property, then such security interest extends to such rents*
6 *acquired by the estate after the commencement of the case*
7 *to the extent provided in such security agreement, except*
8 *to any extent that the court, after notice and a hearing and*
9 *based on the equities of the case, orders otherwise.”.*

10 *(b) USE SALE, OR LEASE OF PROPERTY.—Section*
11 *363(a) of title 11, United States Code, is amended by insert-*
12 *ing: “and the net fees, charges, accounts or other payments*
13 *for the use or occupancy of rooms and other public facilities*
14 *in hotels, motels, or other lodging properties” after “prop-*
15 *erty”.*

16 **SEC. 216. AMENDMENT TO DEFINITION OF SWAP AGREE-**
17 **MENT.**

18 *Subparagraph (A) of the first paragraph (55) of sec-*
19 *tion 101 of title 11, United States Code, is amended by in-*
20 *serting “spot foreign exchange agreement,” after “forward*
21 *foreign exchange agreement,”.*

22 **SEC. 217. LIMITATION ON AVOIDING POWERS.**

23 *Section 546(a) of title 11, United States Code, is*
24 *amended—*

25 *(1) by striking “earlier” and inserting “later”, and*

1 (2) by amending paragraphs (1) and (2) to read as
2 follows:

3 “(1) 2 years after the entry of the order for relief;

4 or

5 “(2) 1 year after the appointment or election of
6 the first trustee under section 702, 1104, 1163, 1202,
7 or 1302 of this title if such appointment or such elec-
8 tion occurs before the expiration of the period speci-
9 fied in subparagraph (1).”.

10 **SEC. 218. SMALL BUSINESSES.**

11 (a) *DEFINITION.*—Section 101 of title 11, United
12 States Code, is amended by inserting after paragraph (51)
13 the following:

14 “(51C) ‘small business’ means a person engaged
15 in commercial or business activities (but does not in-
16 clude a person whose primary activity is the business
17 of owning or operating real property and activities
18 incidental thereto) whose aggregate noncontingent liq-
19 uidated secured and unsecured debts as of the date of
20 the petition do not exceed \$2,000,000;”.

21 (b) *CREDITORS’ COMMITTEES.*—Section 1102(a) of
22 title 11, United States Code, is amended—

23 (1) in paragraph (1) by striking “As” and in-
24 serting “Except as provided in paragraph (3), as”;
25 and

1 (2) *by adding at the end the following:*

2 “(3) *On request of a party in interest in a case in*
3 *which the debtor is a small business and for cause, the court*
4 *may order that a committee of creditors not be appointed.”.*

5 (c) *CONVERSION OR DISMISSAL.—Section 1112(b) of*
6 *title 11, United States Code, is amended by inserting “or*
7 *bankruptcy administrator” after “United States trustee”.*

8 (d) *WHO MAY FILE A PLAN.—Section 1121 of title 11,*
9 *United States Code, is amended by adding at the end the*
10 *following:*

11 “(e) *In a case in which the debtor elects to be consid-*
12 *ered a small business—*

13 “(1) *only the debtor may file a plan until after*
14 *100 days after the date of the order for relief under*
15 *this chapter;*

16 “(2) *all plans shall be filed within 160 days*
17 *after the date of the order for relief; and*

18 “(3) *on request of a party in interest made with-*
19 *in the respective periods specified in paragraphs (1)*
20 *and (2) and after notice and a hearing, the court*
21 *may—*

22 “(A) *reduce the 100-day period or the 160-*
23 *day period specified in paragraph (1) or (2) for*
24 *cause; and*

1 “(B) increase the 100-day period specified
2 in paragraph (1) if the debtor shows that the
3 need for an increase is caused by circumstances
4 for which the debtor should not be held account-
5 able.”.

6 (e) *POSTPETITION DISCLOSURE*.—Section 1125 of title
7 11, United States Code, is amended by adding at the end
8 the following:

9 “(f) Notwithstanding subsection (b), in a case in which
10 the debtor is a small business—

11 “(1) the court may conditionally approve a dis-
12 closure statement subject to final approval after notice
13 and a hearing;

14 “(2) acceptances and rejections of a plan may be
15 solicited based on a conditionally approved disclosure
16 statement so long as the debtor provides adequate in-
17 formation to each holder of a claim or interest that
18 is solicited, but a conditionally approved disclosure
19 statement shall be mailed at least 10 days prior to the
20 date of the hearing on confirmation of the plan; and

21 “(3) a hearing on the disclosure statement may
22 be combined with a hearing on confirmation of a
23 plan.”.

1 **SEC. 219. SINGLE ASSET REAL ESTATE.**

2 (a) *DEFINITION.*—Section 101 of title 11, United
3 States Code, is amended by inserting after paragraph (51)
4 the following:

5 “(51B) ‘single asset real estate’ means real prop-
6 erty constituting a single property or project, other
7 than residential real property with fewer than 4 resi-
8 dential units, which generates substantially all of the
9 gross income of a debtor and on which no substantial
10 business is being conducted by a debtor other than the
11 business of operating the real property and activities
12 incidental thereto having aggregate secured debts in
13 an amount no more than \$2,000,000;”.

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

16 (1) in subsection (d)—

17 (A) in paragraph (1) by striking “or” at
18 the end,

19 (B) in paragraph (2) by striking the period
20 at the end and inserting “; or”, and

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

22 “(3) with respect to a stay of an act against sin-
23 gle asset real estate under subsection (a), by a creditor
24 whose claim is secured by an interest in such real es-
25 tate, unless, not later than the date that is 90 days
26 after the entry of the order for relief (or such later

1 date as the court may determine for cause by order
2 entered within that 90-day period)—

3 “(A) the debtor has filed a plan of reorga-
4 nization that has a reasonable possibility of
5 being confirmed within a reasonable time; or

6 “(B) the debtor has commenced monthly
7 payments to each creditor whose claim is secured
8 by such real estate (other than a claim secured
9 by a judgment lien), which payments are in an
10 amount equal to interest at a current fair mar-
11 ket rate on the value of the creditor’s interest in
12 the real estate.”, and

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

14 “(i)(1) An order under this section with respect to sin-
15 gle asset real estate shall not issue before the date that is
16 30 days after the date of entry of the order for relief, but
17 thereafter shall issue promptly after such a request.

18 “(2) A hearing shall not be required for the granting
19 of relief under this section with respect to single asset real
20 estate unless the debtor files an objection to the request and
21 shows the court extraordinary circumstances requiring such
22 a hearing.”.

23 **SEC. 220. LEASES OF PERSONAL PROPERTY.**

24 (a) ASSUMPTION.—Section 365(b)(1) of title 11, Unit-
25 ed States Code is amended—

1 (1) in subparagraph (B) by striking “and” at
2 the end,

3 (2) in subparagraph (C) by striking the period
4 and inserting “; and”,

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

6 “(D) satisfy any penalty rate or provision relat-
7 ing to a default arising from any failure by the debt-
8 or to perform the obligations under the contract or ex-
9 ecutory lease after the order for relief.”.

10 (b) *PERFORMANCE*.—Section 365(d) of title 11, United
11 States Code is amended by adding at the end the following:

12 “(10) The trustee shall timely perform all of the
13 obligations of the debtor, except those specified in sec-
14 tion 365(b)(2), arising more than 60 days after the
15 order for relief in a case under chapter 11 of this title
16 under an unexpired lease of personal property (other
17 than personal property leased to an individual pri-
18 marily for personal, family, or household purposes),
19 unless the court, after notice and a hearing and based
20 on cause or the equities of the case, orders otherwise.”.

21 (c) *LIMITATION*.—Section 365(e) of title 11, United
22 States Code is amended by adding at the end the following:

23 “*This subsection shall apply to property that is subject to*
24 *any unexpired lease of personal property (to the exclusion*

1 *of such property being subject to an order to lift the stay*
2 *under section 362).”.*

3 **SEC. 221. EXEMPTION FOR SMALL BUSINESS INVESTMENT**
4 **COMPANIES.**

5 *Section 109 of title 11, United States Code, is amended*
6 *by adding at the end the following:*

7 *“(h) A small business investment company licensed by*
8 *the Small Business Administration under subsection (c) or*
9 *(d) of section the Small Business Investment Act of 1958*
10 *may not be a debtor under chapter 11 of this title.”.*

11 **SEC. 222. PAYMENT OF TAXES WITH BORROWED FUNDS.**

12 *Section 523(a) of title 11, United States Code is*
13 *amended—*

14 *(1) in paragraph (13) by striking the period at*
15 *the end and inserting a semicolon, and*

16 *(3) by adding at the end the following:*

17 *“(14) incurred to pay a tax to the United States*
18 *that would be nondischargeable pursuant to para-*
19 *graph (1);”.*

20 **SEC. 223. RETURN OF GOODS.**

21 *(a) LIMITATION ON AVOIDING POWERS.—Section 546*
22 *of title 11, United States Code, is amended by adding at*
23 *the end the following:*

24 *“(g) Notwithstanding the rights and powers of a trust-*
25 *ee under sections 544(a), 545, 547, 549, and 553, if the*

1 *court determines on a motion by the trustee made not later*
2 *than 120 days after the date of the order for relief in a*
3 *case under chapter 11 of this title and after notice and a*
4 *hearing, that a return is in the best interests of the estate,*
5 *the debtor, with the consent of a creditor, may return goods*
6 *shipped to the debtor by the creditor before the commence-*
7 *ment of the case, and the creditor may offset the purchase*
8 *price of such goods against any claim of the creditor against*
9 *the debtor that arose before the commencement of the case.”.*

10 (b) *SETOFF.*—*Section 553(b)(1) is amended by insert-*
11 *ing “546(h),” after “365(h)(2),”.*

12 **SEC. 224. PROCEEDS OF MONEY ORDER AGREEMENTS.**

13 *Section 541(b)(1) of title 11, United States Code, as*
14 *amended by section 213, is amended by inserting after*
15 *paragraph (5) the following:*

16 “(6) *any interest in cash or cash equivalents that*
17 *constitute proceeds of a sale by the debtor of a money*
18 *order that is made—*

19 “(A) *on or after the date that is 14 days*
20 *prior to the date on which the petition is filed;*
21 *and*

22 “(B) *under an agreement with a money*
23 *order issuer that prohibits the commingling of*
24 *such proceeds with property of the debtor (not-*
25 *withstanding that, contrary to the agreement, the*

1 *proceeds may have been commingled with prop-*
2 *erty of the debtor),*
3 *unless the money order issuer had not taken action,*
4 *prior to the filing of the petition, to require compli-*
5 *ance with the prohibition;”.*

6 **SEC. 225. AIRPORT LEASES.**

7 (a) *EXECUTORY CONTRACTS AND UNEXPIRED*
8 *LEASES.—Section 365(d) of title 11, United States Code,*
9 *as amended by section 220, is amended by adding at the*
10 *end the following:*

11 “(11) *Notwithstanding paragraphs (1), (2), and (4),*
12 *if the trustee in a case under any chapter of this title does*
13 *not assume or reject an unexpired lease or executory con-*
14 *tract with an airport operator under which the debtor has*
15 *a right to the use or possession of an airport terminal, air-*
16 *craft gate, or related facility within 270 days after the date*
17 *of the order for relief, or within such additional time as*
18 *the court sets during such 270-day period, such lease or ex-*
19 *ecutory contract is deemed rejected unless the court finds*
20 *in such period (including such additional time) that the*
21 *debtor’s failure to assume or reject such lease or such con-*
22 *tract in such period is attributable to circumstances for*
23 *which the debtor should not be held accountable.”.*

1 **SEC. 226. TRUSTEE DUTIES.**

2 *Section 586(a)(3)(A) of title 28, United States Code,*
3 *is amended to read as follows:*

4 *“(A)(i) reviewing, in accordance with proce-*
5 *dural guidelines adopted by the Executive Office*
6 *of the United States Trustee (which guidelines*
7 *shall be applied uniformly by the United States*
8 *trustee except when circumstances warrant dif-*
9 *ferent treatment), applications filed for com-*
10 *ensation and reimbursement under section 330*
11 *of title 11; and*

12 *“(ii) filing with the court comments with*
13 *respect to such application and, if the United*
14 *States Trustee considers it to be appropriate, ob-*
15 *jections to such application.”.*

16 **SEC. 227. NOTICES TO CREDITORS.**

17 *Section 342 of title 11, United States Code, is amended*
18 *by adding at the end the following:*

19 *“(c) If notice is required to be given by the debtor to*
20 *a creditor under this title, any rule, any applicable law,*
21 *or any order of the court, such notice shall contain the*
22 *name, address, and taxpayer identification number of the*
23 *debtor, but the failure of such notice to contain such infor-*
24 *mation shall not invalidate the legal effect of such notice.”.*

1 **TITLE III—CONSUMER**
2 **BANKRUPTCY ISSUES**

3 **SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO**
4 **PRINCIPAL RESIDENCE.**

5 *Section 1322 of title 11, United States Code, is amend-*
6 *ed—*

7 (1) by redesignating subsection (c) as subsection
8 (d), and

9 (2) by inserting after subsection (b) the follow-
10 ing:

11 “(c) Notwithstanding subsection (b)(2) and applicable
12 nonbankruptcy law—

13 “(1) a default with respect to, or that gave rise
14 to, a lien on the debtor’s principal residence may be
15 cured under paragraph (3) or (5) of subsection (b)
16 until such residence is sold at a foreclosure sale that
17 is conducted in accordance with applicable
18 nonbankruptcy law; and

19 “(2) in a case in which the last payment on the
20 original payment schedule for a claim secured only by
21 a security interest in real property that is the debtor’s
22 principal residence is due before the date on which the
23 final payment under the plan is due, the plan may
24 provide for the payment of the claim as modified pur-
25 suant to 1325(a)(5).”.

1 **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**
2 **TER 13.**

3 *Section 1328(a)(3) of title 11, United States Code, is*
4 *amended by inserting “, or a fine (other than a fine im-*
5 *posed under subchapter C of chapter 227 of title 18 of the*
6 *United States Code) to the extent such fine exceeds \$500,*
7 *” after “restitution”.*

8 **SEC. 303. IMPAIRMENT OF EXEMPTIONS.**

9 *Section 522(f) of title 11, United States Code, is*
10 *amended—*

11 *(1) in paragraph (2)—*

12 *(A) by redesignating subparagraphs (A),*
13 *(B), and (C) as clauses (i), (ii), and (iii), respec-*
14 *tively, and*

15 *(B) by striking “(2)” and inserting “(B),*

16 *(2) by redesignating paragraph (1) as subpara-*
17 *graph (A),*

18 *(3) by inserting “(1)” before “Notwithstanding”,*

19 *and*

20 *(4) by adding at the end the following:*

21 *“(2)(A) For the purposes of this subsection, a lien shall*
22 *be considered to impair an exemption to the extent that the*
23 *sum of—*

24 *“(i) the lien,*

25 *“(ii) all other liens on the property that are*
26 *equal or greater in seniority to the lien; and*

1 “(iii) the amount of the exemption that the debt-
2 or could claim if there were no liens on the property,
3 exceeds the value that the debtor’s interest in the
4 property would have in the absence of any liens.

5 “(B) In the case of a property subject to more than
6 1 lien, a lien that has been avoided shall not be considered
7 in making the calculation under subparagraph (A) with re-
8 spect to other liens.”.

9 **SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

10 (a) *DEFINITION.*—Section 101 of title 11, United
11 States Code, is amended by inserting after paragraph (12)
12 the following:

13 “(12A) ‘debt for child support’ means a debt of
14 a kind specified in section 523(a)(5) of this title for
15 maintenance or support of a child of the debtor;”.

16 (b) *RELIEF FROM AUTOMATIC STAY.*—Section
17 362(b)(2) of title 11, United States Code, is amended to
18 read as follows:

19 “(2) under subsection (a) of this section—

20 “(A) of the commencement or continuation
21 of an action or proceeding for—

22 “(i) the establishment of paternity; or

23 “(ii) the establishment or modification
24 of an order for alimony, maintenance, or
25 support; or

1 “(B) of the collection of alimony, mainte-
2 nance, or support from property that is not
3 property of the estate;”.

4 (c) *PRIORITY OF CLAIMS*.—Section 507(a) of title 11,
5 *United States Code*, is amended—

6 (1) in paragraph (8) by striking “(8) Eighth”
7 and inserting “(9) Ninth”,

8 (2) in paragraph (7) by striking “(7) Seventh”
9 and inserting “(8) Eighth”, and

10 (3) by inserting after paragraph (6) the follow-
11 ing:

12 “(7) Seventh, allowed claims for debts to a
13 spouse, former spouse, or child of the debtor, for ali-
14 mony to, maintenance for, or support of such spouse
15 or child, in connection with a separation agreement,
16 divorce decree or other order of a court of record, de-
17 termination made in accordance with State or terri-
18 torial law by a governmental unit, or property settle-
19 ment agreement, but not to the extent that such
20 debt—

21 “(A) is assigned to another entity, volun-
22 tarily, by operation of law, or otherwise; or

23 “(B) includes a liability designated as ali-
24 mony, maintenance, or support, unless such li-

1 *ability is actually in the nature of alimony,*
2 *maintenance or support; or*

3 (d) *PROTECTION OF LIENS.*—Section 522(f)(1)(A) of
4 *title 11, United States Code, as amended by section 303,*
5 *is amended by inserting after “lien” the following:*

6 “; other than a judicial a lien that secures a debt—

7 “(i) to a spouse, former spouse, or child of
8 the debtor, for alimony to, maintenance for, or
9 support of such spouse or child, in connection
10 with a separation agreement, divorce decree or
11 other order of a court of record, determination
12 made in accordance with State or territorial law
13 by a governmental unit, or property settlement
14 agreement; and

15 “(ii) to the extent that such debt—

16 “(I) is not assigned to another entity,
17 voluntarily, by operation of law, or other-
18 wise; and

19 “(II) includes a liability designated as
20 alimony, maintenance, or support, unless
21 such liability is actually in the nature of
22 alimony, maintenance or support.”.

23 (e) *EXCEPTION TO DISCHARGE.*—Section 523 of title
24 *11, United States Code, as amended by section 222, is*
25 *amended—*

1 (1) *in subsection (a) by adding at the end the*
2 *following:*

3 “(15) *incurred by the debtor in the course of a*
4 *divorce or separation or in connection with a separa-*
5 *tion agreement, divorce decree or other order of a*
6 *court of record, a determination made in accordance*
7 *with State or territorial law by a governmental unit*
8 *unless—*

9 “(A) *the debtor does not have the ability to*
10 *pay such debt from income or property of the*
11 *debtor not reasonably necessary to be expended*
12 *for the maintenance or support of the debtor or*
13 *a dependent of the debtor and, if the debtor is en-*
14 *gaged in a business, for the payment of expendi-*
15 *tures necessary for the continuation, preserva-*
16 *tion, and operation of such business; or*

17 “(B) *discharging such debt would result in*
18 *a benefit to the debtor that outweighs the det-*
19 *rimonial consequences to a spouse, former spouse,*
20 *or child of the debtor; or”*, and

21 (2) *in subsection (c)(1) by striking “or (6)” each*
22 *place it appears and inserting “(6), or (15)”*.

23 (f) *PROTECTION AGAINST TRUSTEE AVOIDANCE.—Sec-*
24 *tion 547(c) of title 11, United States Code, is amended—*

1 (1) in paragraph (6) by striking “or” at the
2 end,

3 (2) by redesignating paragraph (7) as para-
4 graph (8), and

5 (3) by inserting after paragraph (6) the fol-
6 lowing:

7 “(7) to the extent such transfer was a bona fide
8 payment of a debt to a spouse, former spouse, or child
9 of the debtor, for alimony to, maintenance for, or sup-
10 port of such spouse or child, in connection with a sep-
11 aration agreement, divorce decree or other order of a
12 court of record, determination made in accordance
13 with State or territorial law by a governmental unit,
14 or property settlement agreement, but not to the ex-
15 tent that such debt—

16 “(A) is assigned to another entity, volun-
17 tarily, by operation of law, or otherwise; or

18 “(B) includes a liability designated as ali-
19 mony, maintenance, or support, unless such li-
20 ability is actually in the nature of alimony,
21 maintenance or support.”.

22 (g) APPEARANCE BEFORE COURT.—Child support
23 creditors or their representatives shall be permitted to ap-
24 pear and intervene without charge, and without meeting
25 any special local court rule requirement for attorney ap-

1 *pearances, in any bankruptcy case or proceeding in any*
2 *bankruptcy court or district court of the United States if*
3 *such creditors or representatives file a form in such court*
4 *that contains information detailing the child support debt,*
5 *its status, and other characteristics.*

6 *(h) CONFORMING AMENDMENTS—Title 11 of the Unit-*
7 *ed States Code is amended—*

8 *(1) in section 502(i) by striking “507(a)(7)” and*
9 *inserting “507(a)(8)”,*

10 *(2) in section 503(b)(1)(B)(i) by striking*
11 *“507(a)(7)” and inserting “507(a)(8)”,*

12 *(3) in section 523(a)(1)(A) by striking*
13 *“507(a)(7)” and inserting “507(a)(8)”,*

14 *(4) in section 724(b)(2) by striking “or*
15 *507(a)(6)” and inserting “507(a)(6), or 507(a)(7)”,*

16 *(5) in section 726(b) by striking “or (7)” and*
17 *inserting “, (7), or (8)”,*

18 *(6) in section 1123(a)(1) by striking “507(a)(7)”*
19 *and inserting “507(a)(8)”,*

20 *(7) in section 1129(a)(9)—*

21 *(i) in subparagraph (B) by striking “or*
22 *507(a)(6)” and inserting “, 507(a)(6), or*
23 *507(a)(7)”, and*

24 *(ii) in subparagraph (C) by striking*
25 *“507(a)(7)” and inserting “507(a)(8)”.*

1 **SEC. 305. INTEREST ON INTEREST.**

2 (a) CHAPTER 11.—Section 1123 of title 11, United
3 States Code, is amended by adding at the end the following:

4 “(d) Notwithstanding subsection (a) of this section and
5 sections 506(b), 1129(a)(7), and 1129(b) of this title, if it
6 is proposed in a plan to cure a default, the amount nec-
7 essary to cure the default, shall be determined in accordance
8 with the underlying agreement and applicable
9 nonbankruptcy law.”.

10 (b) CHAPTER 12.—Section 1222 of title 11, United
11 States Code, is amended by adding at the end the following:

12 “(d) Notwithstanding subsection (b)(2) of this section
13 and sections 506(b) and 1225(a)(5) of this title, if it is pro-
14 posed in a plan to cure a default, the amount necessary
15 to cure the default, shall be determined in accordance with
16 the underlying agreement and applicable nonbankruptcy
17 law.”.

18 (c) CHAPTER 13.—Section 1322 of title 11, United
19 States Code, as amended by section 301, is amended by add-
20 ing at the end the following:

21 “(e) Notwithstanding subsection (b)(2) of this section
22 and sections 506(b) and 1325(a)(5) of this title, if it is pro-
23 posed in a plan to cure a default, the amount necessary
24 to cure the default, shall be determined in accordance with
25 the underlying agreement and applicable nonbankruptcy
26 law.”.

1 **SEC. 306. EXCEPTION TO DISCHARGE.**

2 *Section 523(a)(2)(C) of title 11, United States Code,*
3 *is amended—*

4 *(1) by striking “\$500” and inserting “\$1,500”,*

5 *(2) by striking “forty” and inserting “60”,*

6 *(3) by striking “\$1,000” and inserting “\$1,500”,*

7 *and*

8 *(4) by striking “twenty” and inserting “60”.*

9 **SEC. 307. PAYMENTS UNDER CHAPTER 13.**

10 *Section 1326(a)(2) of title 11, United States Code, is*
11 *amended in the second sentence by striking the period and*
12 *inserting “as soon as practicable.”.*

13 **SEC. 308. BANKRUPTCY PETITION PREPARERS.**

14 *(a) AMENDMENT OF CHAPTER 1.—Chapter 1 of title*
15 *11, United States Code, is amended by adding at the end*
16 *the following:*

17 **“§ 110. Penalty for persons who negligently or fraudu-**
18 **lently prepare bankruptcy petitions.**

19 *“(a) In this section—*

20 *“(1) ‘bankruptcy petition preparer’ means a per-*
21 *son, other than an attorney or an employee of an at-*
22 *torney, who prepares for compensation a document*
23 *for filing; and*

24 *“(2) ‘document for filing’ means a petition or*
25 *any other document prepared for filing by a debtor*
26 *in a United States bankruptcy court or a United*

1 *States district court in connection with a case under*
2 *this title.*

3 “(b)(1) *A bankruptcy petition preparer who prepares*
4 *a document for filing shall sign the document and print*
5 *on the document the preparer’s name and address.*

6 “(2) *A bankruptcy petition preparer who fails to com-*
7 *ply with paragraph (1) may be fined not more than \$500*
8 *for each such failure unless the failure is due to reasonable*
9 *cause.*

10 “(c)(1) *A bankruptcy petition preparer who prepares*
11 *a document for filing shall place on the document, after the*
12 *preparer’s signature, an identifying number that identifies*
13 *the individuals who prepared the document.*

14 “(2) *For purposes of this section, the identifying num-*
15 *ber of a bankruptcy petition preparer shall be the Social*
16 *Security account number of each individual who prepared*
17 *the document or assisted in its preparation.*

18 “(3) *A bankruptcy petition preparer who fails to com-*
19 *ply with paragraph (1) may be fined not more than \$500*
20 *for each such failure unless the failure is due to reasonable*
21 *cause.*

22 “(d)(1) *A bankruptcy petition preparer shall, not later*
23 *than the time at which a document for filing is presented*
24 *for the debtor’s signature, furnish to the debtor a copy of*
25 *the document.*

1 “(2) A bankruptcy petition preparer who fails to com-
2 ply with paragraph (1) may be fined not more than \$500
3 for each such failure unless the failure is due to reasonable
4 cause.

5 “(e)(1) A bankruptcy petition preparer shall not exe-
6 cute any document on behalf of a debtor.

7 “(2) A bankruptcy petition preparer may be fined not
8 more than \$500 for each document executed in violation
9 of paragraph (1).

10 “(f)(1) A bankruptcy petition preparer shall not use
11 the word ‘legal’ or any similar term in any advertisements,
12 or advertise under any category that includes the word
13 ‘legal’ or any similar term.

14 “(2) A bankruptcy petition preparer shall be fined not
15 more than \$500 for each violation of paragraph (1).

16 “(g)(1) A bankruptcy petition preparer shall not col-
17 lect or receive any payment from the debtor or on behalf
18 of the debtor for the court fees in connection with filing the
19 petition.

20 “(2) A bankruptcy petition preparer shall be fined not
21 more than \$500 for each violation of paragraph (1).

22 “(h)(1) Within 10 days after the date of the filing of
23 a petition, a bankruptcy petition preparer shall file a dec-
24 laration under penalty of perjury disclosing any fee re-
25 ceived from or on behalf of the debtor within 12 months

1 *immediately prior to the filing of the case, and any unpaid*
2 *fee charged to the debtor.*

3 “(2) *The court shall disallow and order the immediate*
4 *turnover to the bankruptcy trustee of any fee referred to*
5 *in paragraph (1) found to be in excess of the value of typing*
6 *services for the documents prepared. The debtor may exempt*
7 *any funds so recovered under section 522(b).*

8 “(3) *The debtor, the trustee, a creditor, or the United*
9 *States trustee may file a motion for an order under para-*
10 *graph (2).*

11 “(4) *A bankruptcy petition preparer shall be fined not*
12 *more than \$500 for each failure to comply with a court*
13 *order to turn over funds within 30 days of service of such*
14 *order.*

15 “(i)(1) *If a bankruptcy case or related proceeding is*
16 *dismissed because of the failure to file bankruptcy forms,*
17 *the negligence or intentional disregard of this title or the*
18 *Federal Rules of Bankruptcy Procedure by a bankruptcy*
19 *petition preparer, or if a bankruptcy petition preparer vio-*
20 *lates this section or commits any fraudulent, unfair, or de-*
21 *ceptive act, the bankruptcy court shall certify that fact to*
22 *the district court, and the district court, on motion of the*
23 *debtor, the trustee, or a creditor and after a hearing, shall*
24 *order the bankruptcy petition preparer to pay to the debt-*
25 *or—*

1 “(A) the debtor’s actual damages;

2 “(B) the greater of—

3 “(i) \$2,000; or

4 “(ii) twice the amount paid by the debtor to
5 the bankruptcy petition preparer for the prepar-
6 er’s services; and

7 “(C) reasonable attorneys’ fees and costs in mov-
8 ing for damages under this subsection.

9 “(2) If the trustee or creditor moves for damages on
10 behalf of the debtor under this subsection, the bankruptcy
11 petition preparer shall be ordered to pay the movant the
12 additional amount of \$1,000 plus reasonable attorneys’ fees
13 and costs incurred.

14 “(j)(1) A debtor for whom a bankruptcy petition pre-
15 parer has prepared a document for filing, the trustee, a
16 creditor, or the United States trustee in the district in
17 which the bankruptcy petition preparer resides, has con-
18 ducted business, or the United States trustee in any other
19 district in which the debtor resides may bring a civil action
20 to enjoin a bankruptcy petition preparer from engaging in
21 any conduct in violation of this section or from further act-
22 ing as a bankruptcy petition preparer.

23 “(2)(A) In an action under paragraph (1), if the court
24 finds that—

25 “(i) a bankruptcy petition preparer has—

1 “(I) engaged in conduct in violation of this
2 section or of any provision of this title a viola-
3 tion of which subjects a person to criminal pen-
4 alty;

5 “(II) misrepresented the preparer’s experi-
6 ence or education as a bankruptcy petition pre-
7 parer; or

8 “(III) engaged in any other fraudulent, un-
9 fair, or deceptive conduct; and

10 “(ii) injunctive relief is appropriate to prevent
11 the recurrence of such conduct,
12 the court may enjoin the bankruptcy petition preparer from
13 engaging in such conduct.

14 “(B) If the court finds that a bankruptcy petition pre-
15 parer has continually engaged in conduct described in
16 subclause (I), (II), or (III) of clause (i) and that an injunc-
17 tion prohibiting such conduct would not be sufficient to pre-
18 vent such person’s interference with the proper administra-
19 tion of this title, or has not paid a penalty imposed under
20 this section, the court may enjoin the person from acting
21 as a bankruptcy petition preparer.

22 “(3) The court shall award to a debtor, trustee, or cred-
23 itor that brings a successful action under this subsection
24 reasonable attorney’s fees and costs of the action, to be paid
25 by the bankruptcy petition preparer.

1 *but nothing in this paragraph shall except from dis-*
2 *charge the debt of a debtor for a membership associa-*
3 *tion fee for a period arising before entry of the order*
4 *for relief in a pending or subsequent bankruptcy pro-*
5 *ceeding.”.*

6 **SEC. 310. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS**
7 **AND IMPLEMENTS OF TRADE, ANIMALS, AND**
8 **CROPS.**

9 *Section 522(f) of title 11, United States Code, as*
10 *amended by sections 303 and 304, is amended—*

11 *(1) in paragraph (1) by inserting “but subject to*
12 *paragraph (3)” after “waiver of exemptions”, and*

13 *(2) by adding at the end the following:*

14 *“(3) In a case in which State law that is applicable*
15 *to the debtor—*

16 *“(A) permits a person to voluntarily waive a*
17 *right to claim exemptions under subsection (d) or*
18 *prohibits a debtor from claiming exemptions under*
19 *subsection (d); and*

20 *“(B) either permits the debtor to claim exemp-*
21 *tions under State law without limitation in amount,*
22 *except to the extent that the debtor has permitted the*
23 *fixing of a consensual lien on any property or pro-*
24 *hibits avoidance of a consensual lien on property*
25 *otherwise eligible to be claimed as exempt property;*

1 *the debtor may not avoid the fixing of a lien on an interest*
2 *of the debtor or a dependent of the debtor in property if*
3 *the lien is a nonpossessory, nonpurchase-money security in-*
4 *terest in implements, professional books, or tools of the trade*
5 *of the debtor or a dependent of the debtor or farm animals*
6 *or crops of the debtor or a dependent of the debtor to the*
7 *extent such lien exceeds \$5,000.”.*

8 **SEC. 311. CONVERSION OF CASE UNDER CHAPTER 13.**

9 *Section 348 of title 11, United States Code, is amended*
10 *by adding at the end the following:*

11 *“(f)(1) Notwithstanding any other provision of this*
12 *title, the debtor may not convert a case to a case under*
13 *chapter 13 in bad faith.*

14 *“(2) When a case under chapter 13 of this title is con-*
15 *verted to another chapter under this title—*

16 *“(A) property of the estate in the converted case*
17 *shall consist of property of the estate, as of the date*
18 *of filing of the petition, that remains in the possession*
19 *of or is under the control of the debtor on the date of*
20 *conversion; and*

21 *“(B) valuations of property and of allowed se-*
22 *cured claims in the chapter 13 case shall apply in the*
23 *converted case, with allowed secured claims reduced to*
24 *the extent that they have been paid in accordance*
25 *with the chapter 13 plan.”.*

1 **SEC. 312. BANKRUPTCY FRAUD.**

2 (a) *IN GENERAL.*—

3 (1) *OFFENSES.*—Chapter 9 of title 18, United
4 States Code, is amended—

5 (A) by amending sections 152, 153, and 154
6 to read as follows:

7 **“§ 152. Concealment of assets; false oaths and claims;
8 bribery**

9 “A person who—

10 “(1) knowingly and fraudulently conceals from a
11 custodian, trustee, marshal, or other officer of the
12 court charged with the control or custody of property,
13 or, in connection with a case under title 11, from
14 creditors or the United States Trustee, any property
15 belonging to the estate of a debtor;

16 “(2) knowingly and fraudulently makes a false
17 oath or account in or in relation to any case under
18 title 11;

19 “(3) knowingly and fraudulently makes a false
20 declaration, certificate, verification, or statement
21 under penalty of perjury as permitted under section
22 1746 of title 28, in or in relation to any case under
23 title 11;

24 “(4) knowingly and fraudulently presents any
25 false claim for proof against the estate of a debtor, or
26 uses any such claim in any case under title 11, in

1 *a personal capacity or as or through an agent, proxy,*
2 *or attorney;*

3 *“(5) knowingly and fraudulently receives any*
4 *material amount of property from a debtor after the*
5 *filing of a case under title 11, with intent to defeat*
6 *the provisions of title 11;*

7 *“(6) knowingly and fraudulently gives, offers, re-*
8 *ceives, or attempts to obtain any money or property,*
9 *remuneration, compensation, reward, advantage, or*
10 *promise thereof for acting or forbearing to act in any*
11 *case under title 11;*

12 *“(7) in a personal capacity or as an agent or of-*
13 *ficer of any person or corporation, in contemplation*
14 *of a case under title 11 by or against the person or*
15 *any other person or corporation, or with intent to de-*
16 *feat the provisions of title 11, knowingly and fraudu-*
17 *lently transfers or conceals any of his property or the*
18 *property of such other person or corporation;*

19 *“(8) after the filing of a case under title 11 or*
20 *in contemplation thereof, knowingly and fraudulently*
21 *conceals, destroys, mutilates, falsifies, or makes a false*
22 *entry in any recorded information (including books,*
23 *documents, records, and papers) relating to the prop-*
24 *erty or financial affairs of a debtor; or*

1 “(9) after the filing of a case under title 11,
2 knowingly and fraudulently withholds from a custo-
3 dian, trustee, marshal, or other officer of the court or
4 a United States Trustee entitled to its possession, any
5 recorded information (including books, documents,
6 records, and papers) relating to the property or fi-
7 nancial affairs of a debtor,
8 shall be fined not more than \$5,000, imprisoned not more
9 than 5 years, or both.

10 **“§ 153. Embezzlement against estate**

11 “(a) OFFENSE.—A person described in subsection (b)
12 who knowingly and fraudulently appropriates to the per-
13 son’s own use, embezzles, spends, or transfers any property
14 or secretes or destroys any document belonging to the estate
15 of a debtor shall be fined not more than \$5,000, imprisoned
16 not more than 5 years, or both.

17 “(b) PERSON TO WHOM SECTION APPLIES.—A person
18 described in this subsection is one who has access to prop-
19 erty or documents belonging to an estate by virtue of the
20 person’s participation in the administration of the estate
21 as a trustee, custodian, marshal, attorney, or other officer
22 of the court or as an agent, employee, or other person en-
23 gaged by such an officer to perform a service with respect
24 to the estate.

1 **“§ 154. Adverse interest and conduct of officers**

2 “A person who, being a custodian, trustee, marshal,
3 or other officer of the court—

4 “(1) knowingly purchases, directly or indirectly,
5 any property of the estate of which the person is such
6 an officer in a case under title 11;

7 “(2) knowingly refuses to permit a reasonable
8 opportunity for the inspection by parties in interest
9 of the documents and accounts relating to the affairs
10 of estates in the person’s charge by parties when di-
11 rected by the court to do so; or

12 “(3) knowingly refuses to permit a reasonable
13 opportunity for the inspection by the United States
14 Trustee of the documents and accounts relating to the
15 affairs of an estate in the person’s charge,

16 shall be fined not more than \$5,000 and shall forfeit the
17 person’s office, which shall thereupon become vacant.”; and

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

19 **“§ 156. Knowing disregard of bankruptcy law or rule**

20 “(a) DEFINITIONS.—In this section—

21 “‘bankruptcy petition preparer’ means a person,
22 other than the debtor’s attorney or an employee of
23 such an attorney, who prepares for compensation a
24 document for filing.

25 “‘document for filing’ means a petition or any
26 other document prepared for filing by a debtor in a

1 *United States bankruptcy court or a United States*
2 *district court in connection with a case under this*
3 *title.*

4 “(b) *OFFENSE.—If a bankruptcy case or related pro-*
5 *ceeding is dismissed because of a knowing attempt by a*
6 *bankruptcy petition preparer in any manner to disregard*
7 *the requirements of title 11, United States Code, or the Fed-*
8 *eral Rules of Bankruptcy Procedure, the bankruptcy peti-*
9 *tion preparer shall be fined under this title, imprisoned not*
10 *more than 1 year, or both.*

11 **“§ 157. Bankruptcy fraud**

12 “(a) *OFFENSE.—A person who, having devised or in-*
13 *tending to devise a scheme or artifice to defraud and for*
14 *the purpose of executing or concealing such a scheme or ar-*
15 *tifice or attempting to do so—*

16 “(1) *files a petition under title 11;*

17 “(2) *files a document in a proceeding under title*
18 *11; or*

19 “(3) *makes a false or fraudulent representation,*
20 *claim, or promise concerning or in relation to a pro-*
21 *ceeding under title 11, at any time before or after the*
22 *filing of the petition, or in relation to a proceeding*
23 *falsely asserted to be pending under such title,*
24 *shall be fined under this title, imprisoned not more than*
25 *5 years, or both.*

1 “(b) *REQUIREMENT OF INTENT.*—

2 “(1) *IN GENERAL.*—*The degree of intent required*
3 *to be shown in the case of an offense described in sub-*
4 *section (a) is that which is generally required to be*
5 *shown in cases of fraud.*

6 “(2) *VIOLATION NOT ESTABLISHED.*—*A violation*
7 *of subsection (a) is not established if the defendant*
8 *committed the act that is alleged to constitute fraud*
9 *for a lawful purpose.*

10 “(3) *VIOLATION ESTABLISHED.*—*A violation of*
11 *subsection (a) may be established if the defendant*
12 *committed the act that is alleged to constitute fraud*
13 *with a purpose of—*

14 “(A) *preventing the proper application of*
15 *title 11 in a particular case; or*

16 “(B) *using a proceeding under title 11 in a*
17 *manner that, while on its face may appear to be*
18 *legitimate, is in fact part of a scheme to de-*
19 *fraud.”.*

20 (2) *TECHNICAL AMENDMENTS.*—*The chapter*
21 *analysis for chapter 9 of title 18, United States Code,*
22 *is amended—*

23 (A) *by amending the item relating to sec-*
24 *tion 153 to read as follows:*

 “*Sec. 153. Embezzlement against estate.*”;

25 *and*

1 (B) by adding at the end the following new
2 item:

“Sec. 156. Knowing disregard of bankruptcy law or rule.
“Sec. 157. Bankruptcy fraud.”.

3 (b) RICO.—Section 1961(1)(D) of title 18, United
4 States Code, is amended by inserting “(except a case under
5 section 157 of that title)” after “title 11”.

6 **SEC. 313. PROTECTION AGAINST DISCRIMINATORY TREAT-**
7 **MENT OF APPLICATIONS FOR STUDENT**
8 **LOANS.**

9 Section 525 of title 11, United States Code, is amended
10 by adding at the end the following:

11 “(c)(1) A governmental unit that operates a student
12 grant or loan program and a person engaged in a business
13 that includes the making of loans guaranteed or insured
14 under a student loan program may not deny a grant, loan,
15 loan guarantee, or loan insurance to a person that is or
16 has been a debtor under this title or a bankrupt or debtor
17 under the Bankruptcy Act, or another person with whom
18 the debtor or bankrupt has been associated, because the debt-
19 or or bankrupt is or has been a debtor under this title or
20 a bankrupt or debtor under the Bankruptcy Act, has been
21 insolvent before the commencement of a case under this title
22 or during the pendency of the case but before the debtor is
23 granted or denied a discharge, or has not paid a debt that

1 *is dischargeable in the case under this title or that was dis-*
2 *charged under the Bankruptcy Act.*

3 “(2) In this section, ‘student loan program’ means the
4 program operated under part B, D, or E of title IV of the
5 Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or
6 a similar program operated under State or local law.”.

7 **TITLE IV—GOVERNMENTAL**
8 **BANKRUPTCY ISSUES**

9 **SEC. 401. EXCEPTION FROM AUTOMATIC STAY FOR POST-**
10 **PETITION PROPERTY TAXES.**

11 Section 362(b) of title 11, United States Code, is
12 amended by inserting after paragraph (16) the following:

13 “(18) under subsection (a) of the creation or per-
14 fection of a statutory lien for an ad valorem property
15 tax imposed by the District of Columbia, or a politi-
16 cal subdivision of a State, if such tax comes due after
17 the filing of the petition.”.

18 **SEC. 402. MUNICIPAL BANKRUPTCY.**

19 Section 109(c)(2) of title 11, United States Code, is
20 amended by striking “generally authorized” and inserting
21 “specifically authorized, in its capacity as a municipality
22 or by name,”.

1 **TITLE V—TECHNICAL**
2 **CORRECTIONS**

3 **SEC. 501. AMENDMENTS TO BANKRUPTCY DEFINITIONS, NE-**
4 **CESSITATED BY ENACTMENT OF PUBLIC LAW**
5 **101-647.**

6 (a) *ALPHABETIZING AND REDESIGNATING DEFINI-*
7 *TIONS.*—Section 101 of title 11 of the United States Code,
8 *as amended by sections 208, 218, 219, and 304 is amend-*
9 *ed—*

10 (1) *by redesignating paragraph (3) as para-*
11 *graph (21B) and transferring such paragraph so as*
12 *to insert it after paragraph (21A),*

13 (2) *by redesignating paragraph (39) as para-*
14 *graph (51A) and transferring such paragraph so as*
15 *to insert it after paragraph (51),*

16 (3) *by redesignating paragraphs (54) through*
17 *(57), as so redesignated by section 2522(e) of Public*
18 *Law 101-647, as paragraphs (53A) through (53D),*
19 *respectively,*

20 (4) *by redesignating paragraph (56) as in effect*
21 *immediately before the enactment of Public Law 101-*
22 *647, as paragraph (35A) and transferring such para-*
23 *graph so as to insert it after paragraph (35),*

24 (5) *by redesignating paragraph (57), as in effect*
25 *immediately before the enactment of Public Law 101-*

1 647, as paragraph (39) and transferring such para-
2 graph so as to insert it after paragraph (38),

3 (6) by redesignating paragraphs (54) and (55),
4 as in effect immediately before the enactment of Pub-
5 lic Law 101-647, as paragraphs (65) and (66), re-
6 spectively,

7 (7) by redesignating paragraphs (21A) through
8 (53D) as paragraphs (22) through (64), respectively,
9 and

10 (8) by redesignating paragraphs (4) through
11 (12A) as paragraphs (3) through (12), respectively.

12 (b) *CONFORMING AND RELATED AMENDMENTS TO*
13 *TITLE 11 OF THE UNITED STATES CODE, BASED ON RE-*
14 *DESIGNATED DEFINITIONS.*—(1) Section 101 of title 11 of
15 *the United States Code, as amended by subsection (a), is*
16 *amended—*

17 (A) in paragraph (5), as so redesignated, by
18 striking “section 761(9)” and inserting “section 761”,

19 (B) in paragraph (24), as so redesignated, by
20 striking “section 741(7)” and inserting “section 741”,

21 (C) in paragraph (37)(B), as so redesignated, by
22 striking “paragraphs (3) and (33)(A)” and inserting
23 “paragraphs (23) and (35)(A)”,

1 (D) in paragraph (53)(B)(ii), as so redesignated,
2 by striking “section 761(13)” and inserting “section
3 761”, and

4 (E) in paragraph (61)(A), as so redesignated, by
5 striking “section 741(2)” and inserting “section 741”.

6 (2) Section 362(b) of title 11, United States Code, is
7 amended—

8 (A) in paragraph (6)—

9 (i) by striking “section 761(4)” and insert-
10 ing “section 761”,

11 (ii) by striking “section 741(7)” and insert-
12 ing “section 741”,

13 (iii) by striking “section 101(34), 741(5), or
14 761(15)” and inserting “section 101, 741, or
15 761”, and

16 (iv) by striking “section 101(35) or 741(8)”
17 and inserting “section 101 or 741”, and

18 (B) in paragraph (7)—

19 (i) by striking “section 741(5) or 761(15)”
20 and inserting “section 741 or 761”, and

21 (ii) by striking “section 741(8)” and insert-
22 ing “section 741”.

23 (3) Section 507(a)(5) of title 11, United States Code,
24 is amended—

1 (A) by striking “section 557(b)(1)” and inserting
2 “section 557(b)”, and

3 (B) by striking “section 557(b)(2)” and inserting
4 “section 557(b)”.

5 (4) Section 546 of title 11, United States Code, is
6 amended—

7 (A) in subsection (e)—

8 (i) by striking “section 101(34), 741(5), or
9 761(15)” and inserting “section 101, 741, or
10 761”, and

11 (ii) by striking “section 101(35) or 741(8)”
12 and inserting “section 101 or 741”, and

13 (B) in subsection (f)—

14 (i) by striking “section 741(5) or 761(15)”
15 and inserting “section 741 or 761”, and

16 (ii) by striking “section 741(8)” and insert-
17 ing “section 741”.

18 (5) Section 548(d)(2) of title 11, United States Code,
19 is amended—

20 (A) in subparagraph (B)—

21 (i) by striking “section 101(34), 741(5) or
22 761(15)” and inserting “section 101, 741, or
23 761”, and

24 (ii) by striking “section 101(35) or 741(8)”
25 and inserting “section 101 or 741”, and

1 (B) in subparagraph (C)—

2 (i) by striking “section 741(5) or 761(15)”
3 and inserting “section 741 or 761”, and

4 (ii) by striking “section 741(8)” and insert-
5 ing “section 741”.

6 (6) Section 555 of title 11, United States Code, is
7 amended by striking “section 741(7)” and inserting “sec-
8 tion 741 of this title”.

9 (7) Section 556 of title 11, United States Code, is
10 amended by striking “section 761(4)” and inserting “sec-
11 tion 761 of this title”.

12 (c) CONFORMING AMENDMENTS TO OTHER LAWS
13 BASED ON REDESIGNATED DEFINITIONS.—(1) Section
14 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C.
15 1787(c)(8)(D)) is amended—

16 (A) in clause (ii)(I) by striking “section 741(7)”
17 and inserting “section 741”,

18 (B) in clause (iii) by striking “section 101(24)”
19 and inserting “section 101”,

20 (C) in clause (iv)(I) by striking “section
21 101(41)” and inserting “section 101”, and

22 (D) in clause (v) by striking “section 101(50)”
23 and inserting “section 101”.

24 (2) Section 11(e)(8)(D) of the Federal Deposit Insur-
25 ance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

1 (A) in clause (ii)(I) by striking “section 741(7)”
2 and inserting “section 741”,

3 (B) in clause (iii) by striking “section 761(4)”
4 and inserting “section 761”,

5 (C) in clause (iv) by striking “section 101(24)”
6 and inserting “section 101”,

7 (D) in clause (v)(I) by striking “section
8 101(41)” and inserting “section 101”, and

9 (E) in clause (viii) by striking “section 101(50)”
10 and inserting “section 101”.

11 (d) *OTHER TECHNICAL AMENDMENTS.*—Title 11 of the
12 *United States Code* is amended—

13 (1) in section 101, as amended by subsection
14 (a)—

15 (A) in paragraph (35), as so redesignated—

16 (i) in subparagraph (A) by striking
17 “(12 U.S.C. 1813(u))”, and

18 (ii) in subparagraph (B) by striking
19 “(12 U.S.C. 1786(r))”,

20 (B) in paragraph (36), as so redesignated,
21 by striking “(12 U.S.C. 1752(7))”,

22 (C) in paragraph (37)(A), as so redesi-
23 gnated, by striking “(12 U.S.C. 1813(c)(2))”,

24 (D) in paragraph (52), as so redesignated—

1 (i) by striking “(15 U.S.C. 78q-1)”,

2 and

3 (ii) by striking “(15 U.S.C. 78c(12))”,

4 (E) in paragraph (53), as so redesignated—

5 (i) in subparagraph (A)(xii)—

6 (I) by striking “(15 U.S.C. 77a et

7 seq.)”, and

8 (II) by striking “(15 U.S.C.

9 77c(b))”, and

10 (ii) in subparagraph (B)(vi) by strik-

11 ing “(15 U.S.C. 77c(b))”, and

12 (F) in paragraph (64), as so redesignated,

13 by striking the period at the end and inserting

14 a semicolon,

15 (2) in section 109(b)(2) by striking “(12 U.S.C.

16 1813(h))”,

17 (3) in section 322(a) by striking “1302, or 1202”

18 and inserting “1202, or 1302”,

19 (4) in section 346—

20 (A) in subsection (a) by striking “Internal

21 Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and

22 inserting “Internal Revenue Code of 1986”, and

23 (B) in subsection (g)(1)(C) by striking “In-

24 ternal Revenue Code of 1954 (26 U.S.C. 371)”

25 and inserting “Internal Revenue Code of 1986”,

1 (5) in section 348—

2 (A) in subsection (b) by striking “1301(a),
3 1305(a), 1201(a), 1221, and 1228(a)” and in-
4 serting “1201(a), 1221, 1228(a), 1301(a), and
5 1305(a)”, and

6 (B) in subsections (b), (c), (d), and (e) by
7 striking “1307, or 1208” each place it appears
8 and inserting “1208, or 1307”,

9 (6) in section 349(a) by striking “109(f)” and
10 inserting “109(g)”,

11 (7) in section 362—

12 (A) in subsection (a) by striking “(15
13 U.S.C. 78eee(a)(3))”, and

14 (B) in subsection (b)—

15 (i) by striking “(15 U.S.C.
16 78eee(a)(3))”,

17 (ii) in paragraph (10) by striking “or”
18 at the end,

19 (iii) in paragraph (12)—

20 (I) by striking “the Ship Mort-
21 gage Act, 1920 (46 App. U.S.C. 911 et
22 seq.)” and inserting “section 31325 of
23 title 46”, and

24 (II) by striking “(46 App. U.S.C.
25 1117 and 1271 et seq., respectively)”,

1 (iv) in paragraph (13)—

2 (I) by striking “the Ship Mort-
3 gage Act, 1920 (46 App. U.S.C. 911 et
4 seq.)” each place it appears and insert-
5 ing “section 31325 of title 46”,

6 (II) by striking “(46 App. U.S.C.
7 1117 and 1271 et seq., respectively)”,
8 and

9 (III) by striking “or” at the end,

10 (v) in paragraph (15), as added by
11 Public Law 101–508, by striking “or” at
12 the end,

13 (vi) in paragraph (16), as added by
14 Public Law 101–508—

15 (I) by striking “(20 U.S.C. 1001
16 et seq.)”, and

17 (II) by striking the period at the
18 end and inserting a semicolon, and

19 (vii) in paragraph (14), as added by
20 Public Law 101–311—

21 (I) by striking the period at the
22 end and inserting “; or”,

23 (II) by redesignating such para-
24 graph as paragraph (17), and

1 (III) by transferring such para-
2 graph so as to insert such paragraph
3 after paragraph (16),

4 (8) in section 363—

5 (A) in subsection (b)(2) by striking “(15
6 U.S.C. 18a)”, and

7 (B) in subsection (c)(1) by striking “1304,
8 1203, or 1204” and inserting “1203, 1204, or
9 1304”,

10 (9) in section 364—

11 (A) in subsection (a) by striking “1304,
12 1203, or 1204” and inserting “1203, 1204, or
13 1304”, and

14 (B) in subsection (f)—

15 (i) by striking “(15 U.S.C. 77e)”, and

16 (ii) by striking “(15 U.S.C. 77aaa et
17 seq.)”,

18 (10) in section 365—

19 (A) in subsection (d)(6)(C) by striking “the
20 Federal Aviation Act of 1958 (49 U.S.C. 1301)”
21 and inserting “section 40102 of title 49”,

22 (B) in subparagraphs (A) and (B) of sub-
23 section (g)(2) by striking “1307, or 1208” each
24 place it appears and inserting “1208, or 1307”,

1 (C) in subsection (n)(1)(B) by striking “to
2 to” and inserting “to”,

3 (D) in subsection (o) by striking “the Fed-
4 eral” the first place it appears and all that fol-
5 lows through “successors,” and inserting “a Fed-
6 eral depository institutions regulatory agency (or
7 predecessor to such agency)”, and

8 (E) by striking subsection (p),
9 (11) in section 507—

10 (A) in subsection (a)(9), as so redesignated
11 by section 304, by striking “the Federal” the
12 first place it appears and all that follows
13 through “successors,” and inserting “a Federal
14 depository institutions regulatory agency (or
15 predecessor to such agency)”, and

16 (B) in subsection (d) by striking “or (a)(6)”
17 and inserting “(a)(6), (a)(7), (a)(8), or (a)(9)”,
18 (12) in section 522(d)(10)(E)(iii)—

19 (A) by striking “408, or 409” the first place
20 it appears and inserting “or 408”, and

21 (B) by striking “Internal Revenue Code of
22 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or
23 409)” and inserting “Internal Revenue Code of
24 1986”,

25 (13) in section 523—

- 1 (A) in subsection (a)—
- 2 (i) by striking “1141,,” and inserting
- 3 “1141,,” and
- 4 (ii) in paragraph (2)(C) by striking
- 5 “(15 U.S.C. 1601 et seq.)”,
- 6 (B) in subsection (b)—
- 7 (i) by striking “(20 U.S.C. 1087-3)”,
- 8 and
- 9 (ii) by striking “(42 U.S.C. 294f)”,
- 10 and
- 11 (C) in subsection (e) by striking “depository
- 12 institution or insured credit union” and insert-
- 13 ing “insured depository institution”,
- 14 (14) in section 524—
- 15 (A) in subsection (a)(3) by striking “or
- 16 1328(c)(1)” and inserting “, 1228(a)(1), or
- 17 1328(a)(1)”,
- 18 (B) in subsection (c)(4) by striking
- 19 “recission” and inserting “rescission”, and
- 20 (C) in subsection (d)(1)(B)(ii) by adding
- 21 “and” at the end,
- 22 (15) in section 525(a)—
- 23 (A) by striking “(7 U.S.C. 499a-499s)”,
- 24 (B) by striking “(7 U.S.C. 181-229)”, and

1 (C) by striking “(57 Stat. 422; 7 U.S.C.
2 204)”;

3 (16) in section 542(e) by striking “to to” and in-
4 serting “to”;

5 (17) in section 543(d)(1) by striking “section,”
6 and inserting “section”;

7 (18) in section 549(b) inserting “the trustee may
8 not avoid under subsection (a) of this section” after
9 “involuntary case,”

10 (19) in section 553—

11 (A) in subsection (a)(1) by striking “other
12 than under section 502(b)(3) of this title”, and

13 (B) in subsection (b)(1) by striking
14 “362(b)(14),,” and inserting “362(b)(14),”;

15 (20) in section 555 by striking “(15 U.S.C.
16 78aaa et seq.)”;

17 (21) in section 559 by striking “(15 U.S.C.
18 78aaa et seq.)”;

19 (22) in section 706(a) by striking “1307, or
20 1208” and inserting “1208, or 1307”;

21 (23) in section 724(d) by striking “Internal Rev-
22 enue Code of 1954 (26 U.S.C. 6323)” and inserting
23 “Internal Revenue Code of 1986”;

24 (24) in section 726(b)—

1 (A) inserting a comma after “section 1112”,

2 and

3 (B) by inserting “1009,” after “chapter
4 under section”,

5 (25) in section 741(4)(A)(iii) by striking “(15
6 U.S.C. 78a et seq.)”,

7 (26) in section 742 by striking “(15 U.S.C.
8 78aaa et seq.)”,

9 (27) in section 743 by striking “342(a)” and in-
10 serting “342”,

11 (28) in section 745(c) by striking “Internal Rev-
12 enue Code of 1954 (26 U.S.C. 1 et seq.)” and insert-
13 ing “Internal Revenue Code of 1986”,

14 (29) in section 761—

15 (A) in paragraph (1) by striking “(7 U.S.C.
16 1 et seq.)”,

17 (B) in paragraph (5) by striking “(7 U.S.C.
18 6c(b))”, and

19 (C) in paragraph (13) by striking “(7
20 U.S.C. 23)”,

21 (30) in section 1104(d), as so redesignated by
22 section 211, inserting a comma after “interest”,

23 (31) in section 1123(a)(1) inserting a comma
24 after “title” the last place it appears,

25 (32) in section 1129—

- 1 (A) in subsection (a)—
- 2 (i) in paragraph (4) by striking the
- 3 semicolon at the end and inserting a period,
- 4 and
- 5 (ii) in paragraph (12) inserting “of
- 6 title 28” after “section 1930”, and
- 7 (B) in subsection (d) by striking “(15
- 8 U.S.C. 77e)”,
- 9 (33) in section 1145—
- 10 (A) in subsection (a)—
- 11 (i) by striking “does” and inserting
- 12 “do”,
- 13 (ii) by striking “(15 U.S.C. 77e)”, and
- 14 (iii) in paragraph (3)(B)(i) by strik-
- 15 ing “(15 U.S.C. 78m or 78o(d))”,
- 16 (B) in subsection (b)(1) by striking “(15
- 17 U.S.C. 77b(11))”, and
- 18 (C) in subsection (d) by striking “(15
- 19 U.S.C. 77aaa et seq.)”,
- 20 (34) in section 1166(2) by striking “(45 U.S.C.
- 21 791(b))”,
- 22 (35) in section 1167—
- 23 (A) by striking “(45 U.S.C. 151 et seq.)”,
- 24 and
- 25 (B) by striking “(45 U.S.C. 156)”,

1 (36) in section 1226(b)(2)—

2 (A) by striking “1202(d)” and inserting
3 “1202(c)”, and

4 (B) by striking “1202(e)” and inserting
5 “1202(d)”,

6 (37) in section 1302(b)(3) by striking “and” at
7 the end, and

8 (38) in section 1328(a)—

9 (A) in paragraph (2) by striking “(5) or
10 (8)” and inserting “(5), (8), or (9)”, and

11 (B) by striking the last paragraph (3), and

12 (39) in the table of chapters by striking the item
13 relating to chapter 15.

14 **SEC. 502. TITLE 28 OF THE UNITED STATES CODE.**

15 Section 586(a)(3) of title 28, United States Code, is
16 amended in the matter preceding subparagraph (A) by in-
17 serting “12,” after “11,”.

18 **TITLE VI—BANKRUPTCY REVIEW**
19 **COMMISSION**

20 **SEC. 601. SHORT TITLE.**

21 This title may be cited as the “National Bankruptcy
22 Review Commission Act”.

23 **SEC. 602. ESTABLISHMENT.**

24 There is established the National Bankruptcy Review
25 Commission (referred to as the “Commission”).

1 **SEC. 603. DUTIES OF THE COMMISSION.**

2 *The duties of the Commission are—*

3 *(1) to investigate and study issues and problems*
4 *relating to title 11, United States Code (commonly*
5 *known as the “Bankruptcy Code”);*

6 *(2) to evaluate the advisability of proposals and*
7 *current arrangements with respect to such issues and*
8 *problems;*

9 *(3) to prepare and submit to the Congress, the*
10 *Chief Justice, and the President a report in accord-*
11 *ance with section 608; and*

12 *(4) to solicit divergent views of all parties con-*
13 *cerned with the operation of the bankruptcy system.*

14 **SEC. 604. MEMBERSHIP.**

15 *(a) NUMBER AND APPOINTMENT.—The Commission*
16 *shall be composed of 9 members as follows:*

17 *(1) Three members appointed by the President, 1*
18 *of whom shall be designated as chairman by the*
19 *President.*

20 *(2) One member shall be appointed by the Presi-*
21 *dent pro tempore of the Senate.*

22 *(3) One member shall be appointed by the Mi-*
23 *nority Leader of the Senate.*

24 *(4) One member shall be appointed by the*
25 *Speaker of the House of Representatives.*

1 (5) *One member shall be appointed by the Mi-*
2 *nority Leader of the House of Representatives.*

3 (6) *Two members appointed by the Chief Justice.*
4 *Members of Congress shall be ineligible for appointment to*
5 *the Commission.*

6 (b) *TERM.—Members of the Commission shall be ap-*
7 *pointed for the life of the Commission.*

8 (c) *QUORUM.—Five members of the Commission shall*
9 *constitute a quorum, but a lesser number may conduct*
10 *meetings.*

11 (d) *APPOINTMENT DEADLINE.—The first appoint-*
12 *ments made under subsection (a) shall be made within 60*
13 *days after the date of enactment of this Act.*

14 (e) *FIRST MEETING.—The first meeting of the Com-*
15 *mission shall be called by the chairman and shall be held*
16 *within 210 days after the date of enactment of this Act.*

17 (f) *VACANCY.—A vacancy on the Commission resulting*
18 *from the death or resignation of a member shall not affect*
19 *its powers and shall be filled in the same manner in which*
20 *the original appointment was made.*

21 (g) *CONTINUATION OF MEMBERSHIP.—If any member*
22 *of the Commission who was appointed to the Commission*
23 *as a member of Congress or as an officer or employee of*
24 *a government leaves that office, or if any member of the*
25 *Commission who was not appointed in such a capacity be-*

1 *comes an officer or employee of a government, the member*
2 *may continue as a member of the Commission for not longer*
3 *than the 90-day period beginning on the date the member*
4 *leaves that office or becomes such an officer or employee,*
5 *as the case may be.*

6 *(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior*
7 *to the appointment of members of the Commission, the*
8 *President, the President pro tempore of the Senate, the*
9 *Speaker of the House of Representatives, and the Chief Jus-*
10 *tice shall consult with each other to ensure fair and equi-*
11 *table representation of various points of view in the Com-*
12 *mission and its staff.*

13 **SEC. 605. COMPENSATION OF THE COMMISSION.**

14 *(a) PAY.—*

15 *(1) NONGOVERNMENT EMPLOYEES.—Each mem-*
16 *ber of the Commission who is not otherwise employed*
17 *by the United States Government shall be entitled to*
18 *receive the daily equivalent of the annual rate of basic*
19 *pay payable for level IV of the Executive Schedule*
20 *under section 5315 of title 5, United States Code, for*
21 *each day (including travel time) during which he or*
22 *she is engaged in the actual performance of duties as*
23 *a member of the Commission.*

24 *(2) GOVERNMENT EMPLOYEES.—A member of the*
25 *Commission who is an officer or employee of the*

1 *United States Government shall serve without addi-*
2 *tional compensation.*

3 *(b) TRAVEL.—Members of the Commission shall be re-*
4 *imbursed for travel, subsistence, and other necessary ex-*
5 *penses incurred by them in the performance of their duties.*

6 **SEC. 606. STAFF OF COMMISSION; EXPERTS AND CONSULT-**
7 **ANTS.**

8 *(a) STAFF.—*

9 *(1) APPOINTMENT.—The chairman of the Com-*
10 *mission may, without regard to the civil service laws*
11 *and regulations, appoint, and terminate an executive*
12 *director and such other personnel as are necessary to*
13 *enable the Commission to perform its duties. The em-*
14 *ployment of an executive director shall be subject to*
15 *confirmation by the Commission.*

16 *(2) COMPENSATION.—The chairman of the Com-*
17 *mission may fix the compensation of the executive di-*
18 *rector and other personnel without regard to the pro-*
19 *visions of chapter 51 and subchapter II of chapter 53*
20 *of title 5, United States Code, relating to classifica-*
21 *tion of positions and General Schedule pay rates, ex-*
22 *cept that the rate of pay for the executive director and*
23 *other personnel may not exceed the rate payable for*
24 *level V of the Executive Schedule under section 5316*
25 *of that title.*

1 (b) *EXPERTS AND CONSULTANTS.*—*The Commission*
2 *may procure temporary and intermittent services of experts*
3 *and consultants under section 3109(b) of title 5, United*
4 *States Code.*

5 **SEC. 607. POWERS OF THE COMMISSION.**

6 (a) *HEARINGS AND MEETINGS.*—*The Commission or,*
7 *on authorization of the Commission, a member of the Com-*
8 *mission, may hold such hearings, sit and act at such time*
9 *and places, take such testimony, and receive such evidence,*
10 *as the Commission considers appropriate. The Commission*
11 *or a member of the Commission may administer oaths or*
12 *affirmations to witnesses appearing before it.*

13 (b) *OFFICIAL DATA.*—*The Commission may secure di-*
14 *rectly from any Federal department, agency, or court infor-*
15 *mation necessary to enable it to carry out this title. Upon*
16 *request of the chairman of the Commission, the head of a*
17 *Federal department or agency or chief judge of a Federal*
18 *court shall furnish such information, consistent with law,*
19 *to the Commission.*

20 (c) *FACILITIES AND SUPPORT SERVICES.*—*The Ad-*
21 *ministrator of General Services shall provide to the Com-*
22 *mission on a reimbursable basis such facilities and support*
23 *services as the Commission may request. Upon request of*
24 *the Commission, the head of a Federal department or agen-*
25 *cy may make any of the facilities or services of the agency*

1 *available to the Commission to assist the Commission in*
2 *carrying out its duties under this title.*

3 (d) *EXPENDITURES AND CONTRACTS.*—*The Commis-*
4 *sion or, on authorization of the Commission, a member of*
5 *the Commission may make expenditures and enter into con-*
6 *tracts for the procurement of such supplies, services, and*
7 *property as the Commission or member considers appro-*
8 *priate for the purposes of carrying out the duties of the*
9 *Commission. Such expenditures and contracts may be made*
10 *only to such extent or in such amounts as are provided in*
11 *appropriation Acts.*

12 (e) *MAILS.*—*The Commission may use the United*
13 *States mails in the same manner and under the same condi-*
14 *tions as other Federal departments and agencies of the*
15 *United States.*

16 (f) *GIFTS.*—*The Commission may accept, use, and dis-*
17 *pose of gifts or donations of services or property.*

18 **SEC. 608. REPORT.**

19 *The Commission shall submit to the Congress, the Chief*
20 *Justice, and the President a report not later than 2 years*
21 *after the date of its first meeting. The report shall contain*
22 *a detailed statement of the findings and conclusions of the*
23 *Commission, together with its recommendations for such*
24 *legislative or administrative action as it considers appro-*
25 *priate.*

1 **SEC. 609. TERMINATION.**

2 *The Commission shall cease to exist on the date that*
3 *is 30 days after the date on which it submits its report*
4 *under section 608.*

5 **SEC. 610. AUTHORIZATION OF APPROPRIATIONS.**

6 *There is authorized to be appropriated \$1,500,000 to*
7 *carry out this title.*

8 **TITLE VII—SEVERABILITY; EF-**
9 **FECTIVE DATE; APPLICATION**
10 **OF AMENDMENTS.**

11 **SEC. 701. SEVERABILITY.**

12 *If any provision of this Act or amendment made by*
13 *this Act or the application of such provision or amendment*
14 *to any person or circumstance is held to be unconstitu-*
15 *tional, the remaining provisions of and amendments made*
16 *by this Act and the application of such other provisions*
17 *and amendments to any person or circumstance shall not*
18 *be affected thereby.*

19 **SEC. 702. EFFECTIVE DATE; APPLICATION OF AMEND-**
20 **MENTS.**

21 *(a) EFFECTIVE DATE.—Except as provided in sub-*
22 *section (b), this Act shall take effect on the date of the enact-*
23 *ment of this Act.*

24 *(b) APPLICATION OF AMENDMENTS.—(1) Except as*
25 *provided in paragraph (2), the amendments made by this*
26 *Act shall not apply with respect to cases commenced under*

1 *title 11 of the United States Code before the date of the en-*
2 *actment of this Act, and shall not make appealable any de-*
3 *isions rendered in such cases.*

4 *(2)(A) Paragraph (1) shall not apply with respect to*
5 *the amendment made by section 111.*

6 *(B) The amendment made by section 113 shall apply*
7 *with respect to cases commenced under title 11 of the United*
8 *States Code before, on, and after the date of the enactment*
9 *of this Act.*

10 *(C) Section 1110 of title 11, United States Code, as*
11 *amended by section 201 of this Act, shall apply with respect*
12 *to any lease, as defined in such section 1110(c) as so amend-*
13 *ed, entered into in connection with a settlement of any pro-*
14 *ceeding in any case pending under title 11 of the United*
15 *States Code on the date of the enactment of this Act.*

16 *(D) The amendments made by section 306 shall apply*
17 *only to agreements entered into after the date of enactment*
18 *of this Act.*

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