Calendar No. 251

103D CONGRESS
1ST SESSION

S. 540

[Report No. 103–168]

A BILL

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

OCTOBER 28 (legislative day, OCTOBER 13), 1993

Reported with an amendment

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[Report No. 103–168]

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. HEFLIN (for himself, Mr. GRASSLEY, Mr. BRYAN, Mr. CAMPBELL, Mr. COCHRAN, Mr. CONRAD, Mr. DECONCINI, Mr. DURENBERGER, Mr. INOUYE, Mr. KOHL, Mr. ROTH, Mr. STEVENS, Mr. DASCHLE, Mr. SHELBY, Mr. REID, Mr. GORTON, Mr. PRESSLER, Mr. SIMPSON, Mr. GRAHAM, Mr. BURNS, Mr. PRYOR, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. CRAIG, Mr. BUMPERS, Mr. HATFIELD, Mr. BAUCUS, and Mr. LOTT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 28 (legislative day, OCTOBER 13), 1993

Reported by Mr. BIDEN, with an amendment

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

A BILL

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE IMPROVEMENT.—This Act may be cited as the ''Bankruptcy Amendments Act of 1993''.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.
Sec. 102. Expedited filing of plans under chapter 11.
Sec. 103. Expedited filing of plans under chapter 12.
Sec. 104. Expedited procedure for reaffirmation of debts.
Sec. 105. Powers of bankruptcy courts.
Sec. 106. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
Sec. 107. Definition relating to eligibility to serve on chapter 11 committees.
Sec. 108. Increased incentive compensation for trustees.
Sec. 109. Dollar adjustments.
Sec. 110. Premerger notification.
Sec. 111. Allowance of creditor committee expenses.
Sec. 112. Delay of repeal of chapter 12 (family farmers).
Sec. 113. Judicial conference report.
Sec. 114. Service of process.
Sec. 115. Pension plan contributions.
Sec. 116. Meetings of creditors and equity security holders.

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

Sec. 201. Small business chapter.
Sec. 202. Single asset real estate.
Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.
Sec. 204. Unexpired leases of personal property in chapter 11 cases.
Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.
Sec. 206. Protection of security interest in post-petition rents.
Sec. 207. Anti-alienation.
Sec. 208. Exemption.
Sec. 209. Indenture trustee compensation.
Sec. 210. Payment of Federal Internal Revenue taxes with borrowed funds.
Sec. 211. Return of goods.
Sec. 212. Exception to discharge.
Sec. 213. Proceeds of money order agreements.
Sec. 214. Limitation on liability of noninsider transferee for avoided transfer.
Sec. 215. Perfection of purchase-money security interest.
Sec. 216. Airport gate leases.

~~Sec. 217. Trustee duties.~~
~~Sec. 218. Payments.~~
~~Sec. 219. Seller's right to reclaim goods.~~
~~Sec. 220. Payment of insurance benefits to retired employees.~~

~~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. Protection of child support and alimony.~~
~~Sec. 304. Bankruptcy petition preparers.~~
~~Sec. 305. Conversion or dismissal.~~
~~Sec. 306. Contents of plan.~~
~~Sec. 307. Stay of action against codebtor.~~
~~Sec. 308. Exemption for household goods.~~
~~Sec. 309. Professional fees.~~

~~TITLE IV—BANKRUPTCY REVIEW COMMISSION~~

~~Sec. 401. Short title.~~
~~Sec. 402. Establishment.~~
~~Sec. 403. Duties of the commission.~~
~~Sec. 404. Membership.~~
~~Sec. 405. Compensation of the commission.~~
~~Sec. 406. Staff of commission; experts and consultants.~~
~~Sec. 407. Powers of the commission.~~
~~Sec. 408. Report.~~
~~Sec. 409. Termination.~~
~~Sec. 410. Authorization of appropriations.~~

~~TITLE V—TECHNICAL CORRECTIONS~~

~~Sec. 501. Title 11, United States Code.~~
~~Sec. 502. Title 28, United States Code.~~

~~TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS~~

~~Sec. 601. Severability.~~
~~Sec. 602. Effective date; application of amendments.~~

~~TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION~~

~~SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.~~

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

~~(1) by striking ''commenced'' and inserting ''concluded''; and~~

~~(2) by inserting ‘‘, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances’’ before the period at the end.~~

~~SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER 11.~~

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

~~(1) by striking ‘‘On’’ and inserting ‘‘(1) Subject to paragraph (2), on’’; and~~

~~(2) by adding at the end the following new paragraph:~~

~~‘‘(2) Under paragraph (1)—~~

~~‘‘(A) the 120-day period referred to in this section may not be increased beyond the 1-year period beginning on the date of the order for relief under this chapter; and~~

~~‘‘(B) the 180-day period referred to in this section may not be increased beyond the 425-day period beginning on the date of the order for relief under this chapter,~~

~~unless the need for such an increase is attributable to circumstances for which the debtor should not justly be held accountable.’’.~~

~~SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER 12.~~

~~Section 1221 of title 11, United States Code, is amended by striking ''an extension is substantially justified'' and inserting ''the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable''.~~

~~SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.~~

~~(a) REAFFIRMATION.—Section 524(c) of title 11, United States Code, is amended—~~

~~(1) in paragraph (2)—~~

~~(A) by inserting ''(A)'' after ''(2)'';~~

~~(B) by adding ''and'' at the end; and~~

~~(C) by inserting after subparagraph (A), as designated by subparagraph (A), the following new subparagraph:~~

~~''(B) such agreement contains a clear and conspicuous statement that advises the debtor that the agreement is not required under this title, under nonbankruptcy law, or under any agreement that is not in accordance with the provisions of this subsection;''; and~~

~~(2) in paragraph (3)—~~

(A) in the matter preceding subparagraph (A) by striking ''such agreement'' the last place it appears;

(B) in subparagraph (A)—

(i) by inserting ''such agreement'' after ''(A)''; and

(ii) by striking ''and'' at the end; and

(C) in subparagraph (B)—

(i) by inserting ''such agreement'' after ''(B)''; and

(ii) by adding ''and'' at the end; and

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

''(C) the attorney fully advised the debtor of the legal effect and consequences of—

''(i) an agreement of the kind described in this subsection; and

''(ii) any default under such an agreement;''.

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting ''and was not represented by an attorney during the course of negotiating the agreement'' after ''this section''.

~~SEC. 105. POWERS OF BANKRUPTCY COURTS.~~

~~(a) STATUS CONFERENCES.—Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:~~

~~''(d) The court, on its own motion or on the motion of any party in interest, may—~~

~~''(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and~~

~~''(2) unless it would be inconsistent with another provision of this title or with applicable Bankruptcy Rules, issue an order at any such conference prescribing such limitations and conditions as the court deems to be appropriate to ensure that the case is handled expeditiously and economically, including an order that—~~

~~''(A) sets the date by which the debtor must accept or reject an executory contract or unexpired lease; or~~

~~''(B) in a case under chapter 11—~~

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

~~''(ii) sets a date by which the debtor, or the trustee if one has been appointed, shall solicit acceptances of a plan;~~

~~''(iii) sets the date by which a party in interest other than a debtor may file a plan;~~

~~''(iv) fixes the notice to be provided regarding the hearing on approval of the disclosure statement;~~

~~''(v) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan; and~~

~~''(vi) directs the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court.''.~~

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

~~(1) by redesignating subsection (d) as subsection (e);~~

~~(2) in the second sentence of subsection (c)(2) by striking ''Any'' and inserting the following:~~

~~''(d) Any''; and~~

~~(3) in the first sentence of subsection (d), as designated by paragraph (2), by inserting ''(other than a decision not to abstain in a proceeding described in subsection (c)(2))'' after ''subsection''.~~

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

~~(1) by striking paragraphs (3) and (4);~~

~~(2) by redesignating paragraph (2) as paragraph (4);~~

~~(3) by striking paragraph (1) and inserting the following new paragraphs:~~

~~"(1)(A) Except as provided in subparagraph (B), the judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all parties to an appeal, appeals under subsection (a).~~

~~"(B)(i) The judicial council of a circuit need not establish a bankruptcy appellate panel service if the judicial council finds that—~~

~~"(I) there are insufficient judicial resources available in the circuit; or~~

~~"(II) establishment of such a service would result in undue delay or increased cost to parties in cases under title 11.~~

~~"(ii) Not later than 90 days after making a finding under clause (i), the judicial council shall submit to the Judicial Conference a report containing the factual basis of the finding.~~

~~"(2)(A) A judicial council may reconsider a finding described in paragraph (1)(B) at any time.~~

~~"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date on which the service is established, the judicial council of the circuit shall determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.~~

~~"(C) On its own motion, after the expiration of the 3-year period beginning on the date on which a bankruptcy appellate panel service is established under paragraph (1), the judicial council of a circuit may determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.~~

~~"(D) If the judicial council of a circuit finds that a circumstance described in paragraph (1)(B)(i) (I) or (II) exists, the judicial council may provide for the completion of the appeals then pending before a bankruptcy appellate panel service and the orderly termination of the service.~~

~~''(3) Bankruptcy judges appointed under paragraph (1) shall be appointed for a term of 2 years and may be reappointed under that paragraph.'';~~ ~~and~~

~~(4) by inserting after paragraph (4), as redesignated by paragraph (2), the following new paragraphs:~~

~~''(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of the service may not hear an appeal originating in the district for which the member is appointed or designated under section 152.~~

~~''(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized the service to hear and determine appeals originating in that district.''.~~

~~(d) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—~~

~~(1) in subsection (c) by striking ''(c) An appeal'' and inserting the following:~~

~~''(c)(1) Subject to subsection (b), an appeal under subsection (a) shall be heard by a 3-judge panel of the~~

~~bankruptcy appellate panel service established under subsection (b)(1) unless—~~

~~''(A) the appellant elects, at the time of filing the appeal; or~~

~~''(B) any other party elects, not later than 30 days after service of notice of the appeal,~~

~~to have the appeal heard by the district court.~~

~~''(2) An appeal''.~~

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

~~(1) in subsection (a)(2) by striking ''section 2072'' and inserting ''sections 2072 and 2075''; and~~

~~(2) in subsections (d) and (e) by inserting ''or 2075'' after ''2072'' each place it appears.~~

~~(f) EFFECTIVE DATE OF BANKRUPTCY RULES.—Section 2075 of title 28, United States Code, is amended by striking ''ninety days'' and inserting ''180 days''.~~

~~**SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.**~~

~~(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat.~~

~~3123), or the bankruptcy administrator's designee, may preside at—~~

~~(1) a meeting of creditors convened under section 341(a) of title 11, United States Code; and~~

~~(2) a meeting of equity security holders convened under section 341(b) of title 11, United States Code.~~

~~(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.~~

~~SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.~~

~~The definition of ''person'' in section 101 of title 11, United States Code, as amended by section 501(a), is amended to read as follows:~~

~~'' 'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that—~~

~~''(A) acquires an asset from a person—~~

~~''(i) as a result of the operation of a loan guarantee agreement; or~~

~~''(ii) as receiver or liquidating agent of a person;~~

~~''(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or~~

~~''(C) is the legal or beneficial owner of an asset of—~~

~~''(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or~~

~~''(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986,~~

~~shall be considered, for purposes of section 1102, to be a person with respect to such asset or such benefit.''.~~

~~SEC. 108. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.~~

~~Section 326(a) of title 11, United States Code, is amended by striking ''fifteen'' and all that follows through ''$3,000'' the last place it appears and inserting ''25 percent on the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, 5 percent on any amount in excess of $50,000 but not in excess of $1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of $1,000,000''.~~

~~SEC. 109. DOLLAR ADJUSTMENTS.~~

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

~~(1) by striking ''unsecured debts of less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000'' and inserting ''debts of less than $1,000,000''; and~~

~~(2) by striking ''unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000'' and inserting ''debts in the aggregate of less than $1,000,000''.~~

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

~~(1) in paragraph (1) by striking ''$5,000'' and inserting ''$10,000''; and~~

~~(2) in paragraph (2) by striking ''$5,000'' and inserting ''$10,000''.~~

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

~~(1) in paragraph (3)(B) by striking ''$2,000'' and inserting ''$4,000'';~~

~~(2) in paragraph (4)(B)(i) by striking ''$2,000'' and inserting ''$4,000'';~~

~~(3) in paragraph (5) by striking ''$2,000'' and inserting ''$4,000''; and~~

~~(4) in paragraph (6) by striking ''$900'' and inserting ''$1,800''.~~

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

~~(1) in paragraph (1) by striking ''$7,500'' and inserting ''$15,000'';~~

~~(2) in paragraph (2) by striking ''$1,200'' and inserting ''$2,400'';~~

~~(3) in paragraph (3)—~~

~~(A) by striking ''$200'' and inserting ''$400''; and~~

~~(B) by striking ''$4,000'' and inserting ''$8,000'';~~

~~(4) in paragraph (4) by striking ''$500'' and inserting ''$1,000'';~~

~~(5) in paragraph (5)—~~

~~(A) by striking ''$400'' and inserting ''$800''; and~~

~~(B) by striking ''$3,750'' and inserting ''$7,500'';~~

~~(6) in paragraph (6) by striking ''$750'' and inserting ''$1,500'';~~

~~(7) in paragraph (8) by striking ''$4,000'' and inserting ''$8,000''; and~~

~~(8) in paragraph (11)(D) by striking ''$7,500'' and inserting ''$15,000''.~~

~~(e) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking ''$5,000,000'' and inserting ''$10,000,000''.~~

~~SEC. 110. PREMERGER NOTIFICATION.~~

~~Section 363(b)(2) (A) and (B) of title 11, United States Code, are amended to read as follows:~~

~~''(A) notwithstanding subsection (a) of that section, the notification required to be given by the debtor shall be given by the trustee; and~~

~~''(B) notwithstanding subsection (b) of that section, the required waiting period shall end on the 10th day after the date of receipt of the notification, unless the waiting period is extended—~~

~~''(i) pursuant to subsection (e)(2) or (g)(2) of that section; or~~

~~''(ii) by the court, after notice and a hearing.''.~~

~~SEC. 111. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.~~

~~Section 503(b) of title 11, United States Code, is amended—~~

~~(1) by striking ''and'' at the end of paragraph (5);~~

~~(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and~~

~~(3) by adding at the end the following new paragraph:~~

~~''(7) the actual, necessary expenses incurred by a member of a committee appointed under section 1102 in the performance of the duties of the committee, other than claims for compensation for services rendered as a member of the committee.''.~~

~~SEC. 112. DELAY OF REPEAL OF CHAPTER 12 (FAMILY FARMERS).~~

~~Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended by striking ''October 1, 1993'' and inserting ''October 1, 1998''.~~

~~SEC. 113. JUDICIAL CONFERENCE REPORT.~~

~~Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States~~

~~shall produce and submit to the appropriate committees of Congress a report containing a description of—~~

~~(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;~~

~~(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;~~

~~(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and~~

~~(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.~~

~~SEC. 114. SERVICE OF PROCESS.~~

~~Rule 7004(b)(3) of the Bankruptcy Rules is amended—~~

~~(1) by inserting ‘‘, by certified or registered mail,’’ after ‘‘complaint’’; and~~

~~(2) by inserting ‘‘, by certified or registered mail,’’ after ‘‘copy’’.~~

~~SEC. 115. PENSION PLAN CONTRIBUTIONS.~~

~~(a) TREATMENT AS ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by section 405, is amended—~~

~~(1) by striking ''and'' at the end of paragraph (6);~~

~~(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and~~

~~(3) by adding at the end the following new paragraph:~~

~~''(8) minimum funding contributions to an employee pension benefit plan for which the debtor is liable, which accrue on or after the date of commencement of the case (regardless of the time such contribution comes due), under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).''.~~

~~(b) PAYMENT OR POSTPONEMENT OF MINIMUM FUNDING CONTRIBUTIONS DUE PENSION PLANS.—~~

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

~~"§ 1115. Contributions to certain employee pension benefit plans~~

~~"(a) TIMELY PAYMENT OF CONTRIBUTIONS.—Except as provided in subsection (b), the debtor in possession, or the trustee if one has been appointed, shall make any minimum funding contributions for which the debtor is liable, which accrue on or after the date of commencement of the case (regardless of the time such contribution comes due), under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).~~

~~"(b) POSTPONEMENT OF CONTRIBUTIONS.—(1)(A) Subject to paragraph (2), the court may, on motion of any party and after notice and hearing, determine that the making of all or part of a minimum funding contribution required to be made by a debtor to a pension plan may be postponed until a date that is not later than—~~

~~"(i) the effective date of a plan of reorganization confirmed under section 1129; or~~

~~"(ii) if the case is converted to a case under chapter 7, the date on which a distribution of property is made under section 726.~~

~~"(B) In making a determination under subparagraph (A), the court shall take into account the requirements of the estate.~~

~~"(C) Interest shall accrue on the amount of a contribution that is postponed from the date on which the contribution became due to the date of payment at the rate specified in section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)).~~

~~"(2)(A) Before permitting payment of all or part of a contribution to be postponed, the court shall grant security to the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, for the amount of a contribution that is postponed, affording adequate protection in accordance with section 364(d)(1)(B).~~

~~"(B) If the debtor in possession or trustee fails to make a postponed contribution on the date on which it is to be made under an order issued under paragraph (1), the pension plan shall be permitted to foreclose on the security provided under subparagraph (A).~~

~~"(c) NOTICE.—The administrator of the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, shall be given notice of and may participate in any~~

~~hearing seeking postponement of a contribution or foreclosure under this section.''.~~

~~(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 11 of title 11, United States Code, is amended by inserting after the item for section 1114 the following new item:~~

~~''1115. Contributions to certain employee pension benefit plans.''.~~

~~(c) CLARIFICATION OF EXISTING LAW.—~~

~~(1) APPLICATION OF AMENDMENT.—The amendment of section 550 of title 11, United States Code, made by section 214 shall apply with respect to a transfer to a pension plan that is subject to the minimum funding requirements of section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082) only if the transfer is the subject of a motion or proceeding seeking avoidance of the transfer that is filed on or after the date of passage of this Act in the Senate.~~

~~(2) PURPOSE TO CLARIFY.—(A) In making the amendments made by subsections (a) and (b), it is the purpose of Congress to clarify the meaning of the provisions that are amended as they existed prior to the date of enactment of this Act.~~

~~(B) The amendments made by subsections (a) and (b) shall not be applied so as to supersede or~~

alter any agreement or understanding (or modifications thereto before or after enactment) regarding a debtor's minimum funding contributions entered into among a debtor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation prior to the date of enactment of this Act. If any agreement or understanding referenced in the preceding sentence is set aside or not implemented because of the act or omission of the Pension Benefit Guaranty Corporation, the law applicable to all matters in that proceeding shall be determined without regard to subsections (a) or (b).

SEC. 116. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

''(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

~~''(2) the debtor's ability to file a petition under a different chapter of this title;~~

~~''(3) the effect of receiving a discharge of debts under this title;~~

~~''(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);~~

~~''(5) the debtor's duties under section 521; and~~

~~''(6) the potential penalties and fines for committing fraud or other abuses of this title.''.~~

~~TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY~~

~~SEC. 201. SMALL BUSINESS CHAPTER.~~

~~(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:~~

~~'' 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.''.~~

(b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—Section 109 is amended by adding at the end the following new subsection:

''(h) Only a small business may be a debtor under chapter 10.''.

(c) TEMPORARY CHAPTER APPLICABLE TO SMALL BUSINESSES.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

''CHAPTER 10—SMALL BUSINESSES

''SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

''Sec.
''1001. Definitions for this chapter.
''1002. Commencement of case.
''1003. Trustee.
''1004. Rights and powers of debtor.
''1005. Removal of debtor as debtor-in-possession.
''1006. Property of the estate.
''1007. Conversion or dismissal.

''SUBCHAPTER II—THE PLAN

''1021. Filing of plan.
''1022. Contents of plan.
''1023. Postpetition disclosure and solicitation.
''1024. Modification of plan before confirmation.
''1025. Confirmation hearing.
''1026. Confirmation of plan.
''1027. Payments.
''1028. Effect of confirmation.
''1029. Modification of plan after confirmation.
''1030. Revocation of order of confirmation.

''Subchapter I—Officers, Administration, and the Estate

''§ 1001. Definitions for this chapter

''In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures

~~necessary for the continuation, preservation, and operation of the debtor's business.~~

~~"§ 1002. Commencement of case~~

~~"(a) ELECTION BY DEBTOR.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.~~

~~"(b) CONVERSION.—~~

~~"(1) THIS CHAPTER TO CHAPTER 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.~~

~~"(2) COMPENSATION OF TRUSTEE.—Prior to the court's conversion of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.~~

~~"§ 1003. Trustee~~

~~"(a) PERSON TO SERVE.—If the United States trustee has appointed a person under section 586(b) of title~~

~~28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.~~

~~''(b) DUTIES.—The trustee shall—~~

~~''(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);~~

~~''(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;~~

~~''(3) appear and be heard at any hearing that concerns—~~

~~''(A) the value of property subject to a lien;~~

~~''(B) the operation of the business activity of the person by the debtor;~~

~~''(C) the filing of a plan and the approval of a disclosure statement;~~

~~''(D) confirmation of a plan;~~

~~''(E) modification of a plan after confirmation; or~~

~~"(F) the sale of property of the estate;~~

~~"(4) ensure that the debtor timely files a plan and disclosure statement;~~

~~"(5) ensure that the debtor commences making timely payments required by a confirmed plan;~~

~~"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7);~~

~~"(7) investigate the financial affairs of the debtor including, but not limited to, the proper use of disposable income;~~

~~"(8) file and serve the report required by section 1029(d); and~~

~~"(9) file such motions as are appropriate under section 1029.~~

~~"§ 1004. Rights and powers of debtor~~

~~"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under chapter 11, including operating the debtor's business activities.~~

“§ 1005. Removal of debtor as debtor-in-possession

“(a) ORDER FOR CAUSE.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

“(b) REINSTATEMENT.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

“§ 1006. Property of the estate

“(a) PROPERTY INCLUDED.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

“(b) POSSESSION.—Except as provided in section 1005 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

“§ 1007. Conversion or dismissal

“(a) CONVERSION BY DEBTOR.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that

~~chapter. Any waiver of the right to convert under this subsection is unenforceable.~~

~~"(b) DISMISSAL BY DEBTOR.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court may dismiss a case under this chapter.~~

~~"(c) CONVERSION OR DISMISSAL AT REQUEST OF PARTY IN INTEREST.—~~

~~"(1) IN GENERAL.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.~~

~~"(2) CAUSE.—For purposes of paragraph (1), cause includes—~~

~~"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;~~

~~"(B) nonpayment of any fees and charges required under chapter 123 of title 28;~~

~~"(C) failure to file a plan timely under section 1021;~~

~~"(D) failure to file a disclosure statement timely under section 1023;~~

~~"(E) failure to commence making timely payments required by a confirmed plan;~~

~~"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;~~

~~"(G) material default by a debtor with respect to a term of a confirmed plan;~~

~~"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;~~

~~"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and~~

~~"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.~~

~~"(d) COMPENSATION OF TRUSTEE.—Prior to the court's conversion or dismissal of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.~~

~~"Subchapter II—The Plan~~

~~"§ 1021. Filing of plan~~

~~''The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.~~

~~"§ 1022. Contents of plan~~

~~''(a) REQUIRED CONTENTS.—The plan shall—~~

~~''(1) provide for the submission of all or such portion future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and~~

~~''(2) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.~~

~~''(b) ADDITIONAL CONTENTS.—Subject to subsections (a) and (c), the plan may—~~

~~''(1) designate a class or classes of unsecured claims, as provided in section 1122, but may not discriminate unfairly against any class so designated; however, the plan may treat claims for a consumer~~

~~debt differently from other unsecured claims if another individual is liable on the consumer debt with the debtor;~~

~~"(2) modify the rights of holders of secured claims or holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;~~

~~"(3) provide for the curing or waiving of any default;~~

~~"(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;~~

~~"(5) notwithstanding paragraph (2), provide for the curing of any default within a reasonable time and maintenance of payments while the case is~~

~~pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;~~

~~"(6) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or expired lease of the debtor not previously rejected under that section;~~

~~"(7) provide for the payment of all or part of a claim against the debtor from the property of the estate or property of the debtor;~~

~~"(8) provide for the sale of all or any part of the property of the estate among those having an interest in such property;~~

~~"(9) provide for payment of allowed secured claims, consistent with section 1026(a)(5), over a period exceeding the period permitted under section 1022(c);~~

~~"(10) provide for the vesting of property of the estate on confirmation of the plan or at a later time, in the debtor of any other entity; and~~

~~"(11) include any other appropriate provision not inconsistent with this title.~~

~~"(c) LIMITATION.—Except as provided in subsection (b)(5) and (9), the plan may not provide for payments over a period that is longer than 3 years unless the court~~

for cause approves a longer period, but the court may not approve a period that is longer than 5 years.

"§ 1023. Postpetition disclosure and solicitation

"(a) PLAN AND DISCLOSURE STATEMENT.—In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

"(b) FORM.—The court may require that the summary of the plan and the disclosure statement employ a standard form approved by the court.

"§ 1024. Modification of plan before confirmation

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted

~~or rejected, as the case may be, the plan as modified, unless—~~

~~"(1) the modification provides for a change in the rights of the holder under the plan before modification; and~~

~~"(2) the holder changes the holder's previous acceptance or rejection.~~

~~"§ 1025. Confirmation hearing~~

~~"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.~~

~~"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.~~

~~"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.~~

~~"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.~~

~~"§ 1026. Confirmation of plan~~

~~"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—~~

~~"(1) the plan complies with all applicable provisions of this title;~~

~~"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;~~

~~"(3) the plan has been proposed in good faith and not by any means forbidden by law;~~

~~"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;~~

~~"(5) with respect to each allowed secured claim provided for by the plan—~~

~~"(A) the holder of the claim has accepted the plan;~~

~~"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and~~

~~"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or~~

~~"(C) the debtor surrenders the property securing the claim to the holder;~~

~~"(6) the debtor will be able to make all payments under the plan and to comply with the plan;~~

~~"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—~~

~~"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;~~

~~"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and~~

~~"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period ending on the later of—~~

~~"(i) the date of termination of the plan; or~~

~~"(ii) the date that is 6 years after the date of assessment of the claim,~~

of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, the court may not approve the plan unless, as of the effective date of the plan—

"(1) the value of the property to be distributed under the plan on account of the claim is not less than the amount of the claim; or

"(2) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such longer period as the court may approve under section 1022(c), beginning on the date on which the first payment is due under the plan, will be applied to make payments under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the

~~trustee until confirmation or denial of confirmation of a plan.~~

~~"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).~~

~~"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—~~

~~"(1) any unpaid claim allowed under section 503(b); and~~

~~"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.~~

~~"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—~~

~~"(1) any unpaid claim of a kind described in section 507(a)(1); and~~

~~"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.~~

~~"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the~~

~~plan, the trustee shall make payments to creditors under the plan.~~

~~"§ 1028. Effect of confirmation~~

~~"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.~~

~~"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.~~

~~"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.~~

~~"(d) DISCHARGE OF DEBTOR.—~~

~~"(1) ON COMPLETION OF PAYMENTS.—As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1022(b) (5) or (9), unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 or disallowed under section 502, except any debt—~~

~~"(A) provided for under section 1022(b) (5) or (9); or~~

~~"(B) of the kind specified in section 523(a).~~

~~"(2) WHEN PAYMENTS ARE NOT COMPLETED.—At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan if—~~

~~"(A) the debtor's failure to complete such payments is due to circumstances for which the debtor should not be justly held accountable;~~

~~"(B) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed secured~~

claim is not less than the amount that would have been paid on the claim if the estate of the debtor had been liquidated under chapter 7 on that date; and

"(C) modification of the plan under section 1029 is not practicable.

"(3) EFFECT.—A discharge granted under paragraph (2) discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b)(5) or (9); or

"(B) of a kind specified in section 523(a).

"(4) REVOCATION.—On request of a party in interest made before the date that is 1 year after the date on which a discharge under this section is granted, and after notice and hearing, the court may revoke the discharge if—

"(A) the discharge was obtained by the debtor through fraud; and

"(B) the requesting party did not know of the fraud until after the discharge was granted.

"(e) TERMINATION OF SERVICES OF TRUSTEE.—After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

~~"§ 1029. Modification of plan after confirmation~~

~~"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—~~

~~"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;~~

~~"(2) extend or reduce the time for such payments; or~~

~~"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.~~

~~"(b) APPLICABILITY OF REQUIREMENTS.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).~~

~~"(c) LIMITATION.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.~~

1 ~~''(d) REPORT.—Not later than 60 days after each an-~~
2 ~~niversary of the confirmation of the plan, the trustee shall~~
3 ~~file a report with the court, and serve a copy on all credi-~~
4 ~~tors requesting service of a copy of the report, setting~~
5 ~~forth—~~
6 ~~''(1) the amount of distributions made to credi-~~
7 ~~tors during the preceding year;~~
8 ~~''(2) a description of the debtor's compliance~~
9 ~~with the provisions of the plan during the preceding~~
10 ~~year;~~
11 ~~''(3) a description of the debtor's disposable in-~~
12 ~~come in relation to the continued ability to comply~~
13 ~~with the terms of the confirmed plan; and~~
14 ~~''(4) any modifications to the plan that are nec-~~
15 ~~essary to ensure the reorganization of the debtor~~
16 ~~and the payment to creditors of all disposal income.~~
17 ~~''~~**§ 1030. Revocation of order of confirmation**
18 ~~''(a) REVOCATION FOR FRAUD.—On request of a~~
19 ~~party in interest at any time within 180 days after the~~
20 ~~date of the entry of an order of confirmation under section~~
21 ~~1028, and after notice and a hearing, the court may re-~~
22 ~~voke the order if the order was procured by fraud.~~
23 ~~''(b) DISPOSITION OF CASE AFTER REVOCATION.—~~
24 ~~If the court revokes an order of confirmation under sub-~~
25 ~~section (a), the court shall dispose of the case under sec-~~

~~tion 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.''.~~

~~(d) TECHNICAL AMENDMENTS.—~~

~~(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:~~

~~''10. Small Businesses ..... 1001''.~~

~~(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—~~

~~(A) in section 321(a) by inserting ''10,'' after ''7,'' each place it appears;~~

~~(B) in section 322(a) by inserting ''1005'' after ''703,'';~~

~~(C) in section 326(b)—~~

~~(i) by striking ''12 or 13'' and inserting ''10, 12, or 13''; and~~

~~(ii) by striking ''1202(a) or 1302(a)'' and inserting ''1005, 1202(a), or 1302(a)'';~~

~~(D) in section 327—~~

~~(i) in subsection (b) by inserting ''1005,'' after ''721,''; and~~

~~(ii) in subsection (c) by inserting ''10,'' after ''7,'';~~

~~(E) in section 329(b)(1)(B) by inserting ''10,'' after ''chapter'';~~

~~(F) in section 330(c) by striking ''12 or 13'' and inserting ''10, 12, or 13'';~~

~~(G) in section 346—~~

~~(i) in subsection (b) by inserting ''10,'' after ''7,'';~~

~~(ii) in subsection (g)(1)(C) by striking ''11 or 12'' and inserting ''10, 11, or 12''; and~~

~~(iii) in subsection (i)(1) by inserting ''10,'' after ''7,'';~~

~~(H) in section 347—~~

~~(i) in subsection (a)—~~

~~(I) by inserting ''1027,'' after ''726,''; and~~

~~(II) by inserting ''10,'' after ''7,''; and~~

~~(ii) in subsection (b)—~~

~~(I) by inserting ''10,'' after ''9,''; and~~

~~(II) by inserting ''1026,'' after ''943(b),'';~~

~~(I) in section 348—~~

~~(i) in subsections (b), (c), and (e) by inserting ''1009,'' after ''706,'' each place it appears; and~~

~~(ii) in subsection (d) by inserting ''1009,'' after ''section'';~~

~~(J) in section 362(c)(2)(C) by inserting ''10,'' after ''9,'';~~

~~(K) in section 363—~~

~~(i) in subsection (c)(1) by inserting ''1006,'' after ''721,''; and~~

~~(ii) in subsection (l) by inserting ''10,'' after ''chapter'';~~

~~(L) in section 364(a) by inserting ''1006, 1007,'' after ''721,'';~~

~~(M) in section 365—~~

~~(i) in subsections (d)(2) and (g) (1) and (2) by inserting ''10,'' after ''9,'' each place it appears; and~~

~~(ii) in subsection (g)(2) (A) and (B) by inserting ''1009,'' after ''section'' each place it appears;~~

~~(N) in section 502(g) by inserting ''10,'' after ''9,'';~~

~~(O) in section 523(a) by inserting ''1028(d),'' after ''727,'';~~

~~(P) in section 524—~~

~~(i) in subsections (a)(1), (c)(1), and (d) by inserting ''1028(d),'' after ''727,'' each place it appears; and~~

~~(ii) in subsection (a)(3) by inserting ''1028(d),'' after ''523,'';~~

~~(Q) in section 546(a)(1) by inserting ''1005,'' after ''702,'';~~

~~(R) in section 557(d)(3) by inserting ''1005,'' after ''703,'';~~

~~(S) in section 706—~~

~~(i) in subsection (a)—~~

~~(I) by inserting ''10,'' before ''11,''; and~~

~~(II) by inserting ''1009,'' after ''section''; and~~

~~(ii) in subsection (c) by striking ''12 or 13'' and inserting ''10, 12, or 13'';~~

~~(T) in section 726(b) by inserting ''1009,'' after ''chapter under section'';~~

~~(U) in section 1106(a)(5) by inserting ''10,'' after ''7,'';~~

~~(V) in section 1306(a) (1) and (2) by inserting ''10,'' after ''7,'' each place it appears; and~~

~~(W) in section 1307—~~

~~(i) in subsection (b) by inserting ''1009,'' after ''706,'';~~

~~(ii) in subsection (d) by striking ''11 or 12'' and inserting ''10, 11, or 12''; and~~

~~(iii) in subsection (e) by inserting ''10,'' after ''7,''.~~

~~(3) BANKRUPTCY RULES.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.~~

~~(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—~~

~~(A) in section 157(b)(2)(B) by inserting ''10,'' after ''chapter'';~~

~~(B) in section 586—~~

~~(i) in subsection (a)—~~

~~(I) in paragraph (1)(C)—~~

~~(aa) by striking ''12 and 13'' and inserting ''10, 12, and 13''; and~~

~~(bb) by inserting ''1025, 1029,'' after ''sections''; and~~

~~(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting ''10,'' after ''7,'';~~

~~(C) in subsections (b), (d), and (e) by striking ''12 or 13'' each place it appears and inserting ''10, 12, or 13''; and~~

~~(D) in section 1930(a)—~~

~~(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and~~

~~(ii) by inserting after paragraph (2) the following new paragraph:~~

~~''(3) For a case commenced under chapter 10 of title 11, $600.''.~~

~~(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat.~~

~~3119) is amended in subsections (d) and (e) by inserting ''10,'' after ''7,'' each place it appears.~~

~~(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—~~

~~(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—~~

~~(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and~~

~~(B) identify those districts by notice in the Federal Register.~~

~~(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.~~

~~(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the~~

chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 202. SINGLE ASSET REAL ESTATE.

(a) DEFINITION. Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

''‘single asset real estate’ means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto.’’.

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

~~(1) in subsection (d)—~~

~~(A) in paragraph (1) by striking ''or'' at the end;~~

~~(B) in paragraph (2) by striking the period at the end and inserting ''; or''; and~~

~~(C) by adding at the end the following new paragraph:~~

~~''(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—~~

~~''(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or~~

~~''(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate.''; and~~

~~(2) by adding at the end the following new subsection:~~

~~"(i)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.~~

~~"(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.~~

~~"(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court extraordinary circumstances requiring such a hearing.".~~

~~SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING STOCK EQUIPMENT.~~

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

~~"§ 1110. Aircraft equipment and vessels~~

~~"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession unless—~~

~~"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and~~

~~"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—~~

~~"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and~~

~~"(ii) that occurs after the date of the order is cured before the later of—~~

~~"(I) the date that is 30 days after the date of the default; or~~

~~"(II) the expiration of such 60-day period.~~

~~"(2) Equipment is described in this paragraph if it is—~~

~~"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)); or~~

~~"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.~~

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

~~"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the~~

court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

''(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

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

~~"§ 1168. Rolling stock equipment~~

~~"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession, unless—~~

~~"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and~~

~~"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—~~

~~"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and~~

~~"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—~~

~~"(I) the date that is 30 days after the date of the default or event of default; or~~

~~"(II) the expiration of such 60-day period.~~

~~"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.~~

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

~~"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).~~

~~"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement,~~

~~lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).~~

~~''(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—~~

~~''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and~~

~~''(2) the term 'security interest' means a purchase-money equipment security interest.''.~~

~~(c) APPLICATION OF AMENDMENTS.—~~

~~(1) IN GENERAL.—The amendment of sections 1110(a) and 1168(a) of title 11, United States Code, made by subsections (a) and (b) shall not apply to cases commenced under title 11, United States Code, prior to the date of enactment of this Act.~~

~~(2) PLACEMENT IN SERVICE.—The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock~~

equipment that is substantially rebuilt after that date and accessories used on such equipment.

SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365 of title 11, United States Code, is amended in the first sentence by inserting after ''real property'' the following: ''and, in a case under chapter 11, under an unexpired lease of personal property''.

SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.''.

~~SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS.~~

~~POSTPETITION EFFECT OF SECURITY INTEREST.—Section 552(b) of title 11, United States Code, is amended—~~

~~(1) by inserting ''(1)'' after ''(b)'';~~

~~(2) by striking ''rents,'' each place it appears; and~~

~~(3) by adding at the end the following new paragraph:~~

~~''(2)(A) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548, if—~~

~~''(i) the debtor and an entity entered into a security agreement that was duly recorded in the public records before the commencement of the case; and~~

~~''(ii) the security interest created by the security agreement extends to property of the debtor acquired before the commencement of the case and to rents or fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels or other lodging properties of such property and has been duly recorded in the public record,~~

~~the security interest extends to the rents or fees, charges, accounts, or other payments acquired by the estate after~~

~~the commencement of the case to the extent provided in the security agreement, whether or not the security interest in such rents, fees, charges, accounts or other payments is perfected under applicable nonbankruptcy law, except to the extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.''.~~

~~''(B) If a security interest extends under subparagraph (A) to rents acquired by the estate after the commencement of the case, the security interest in such rents shall be deemed to be perfected for the purpose of section 544(a).''.~~

~~(b) USE SALE, OR LEASE OF PROPERTY.—Section 363(a) of title 11, United States Code, is amended by inserting: ''and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties'' after ''property''.~~

~~SEC. 207. ANTI-ALIENATION.~~

~~(a) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 501(a), is amended—~~

~~(1) by striking ''or'' at the end of paragraph (16);~~

~~(2) by adding "or" at the end of paragraph (17); and~~

~~(3) by adding at the end the following new paragraph:~~

~~"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or 457 or a governmental plan under 414(d) of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or, in the case of a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".~~

~~(b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a) of title 11, United States Code, is amended—~~

~~(1) by striking ''or'' at the end of paragraph (11);~~

~~(2) by striking the period at the end of paragraph (12) and inserting ''; or''; and~~

~~(3) by adding at the end the following new paragraph:~~

~~''(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.''.~~

~~(c) PROPERTY OF THE ESTATE.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:~~

~~''(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or a governmental plan under~~

~~414(d), or 457 of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.~~

~~''(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.''.~~

~~(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:~~

~~''(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).''.~~

~~(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—~~

~~(1) in subsection (b)(2) by striking ''debtor and'' and inserting ''debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and''; and~~

~~(2) in subsection (c) by striking ''income to'' and inserting ''income (except income that is withheld from a debtor's wages for the purposes stated~~

~~in section 362(b)(18) after confirmation of a plan) to''.~~

~~SEC. 208. EXEMPTION.~~

~~Section 109(b)(2) of title 11, United States Code, is amended by inserting after ''homestead association'' the following: ''a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),''.~~

~~SEC. 209. INDENTURE TRUSTEE COMPENSATION.~~

~~Section 503(b) of title 11, United States Code, is amended—~~

~~(1) in paragraph (3)—~~

~~(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;~~

~~(B) by inserting after subparagraph (C) the following new subparagraph;~~

~~''(D) an indenture trustee;''; and~~

~~(C) in subparagraph (E), as redesignated by subparagraph (A), by striking ''an indenture trustee,''; and~~

~~(2) in paragraph (5) by striking ''for services rendered by an indenture trustee in making a sub-~~

stantial contribution in a case under chapter 9 or 11 of this title'' and inserting ''for necessary services''.

SEC. 210. PAYMENT OF FEDERAL INTERNAL REVENUE TAXES WITH BORROWED FUNDS.

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

(1) by striking ''or'' at the end of paragraph (11);

(2) by adding ''or'' at the end of paragraph (12); and

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

''(13) incurred to obtain funds with which to pay a tax imposed under the Internal Revenue Code of 1986.''.

SEC. 211. RETURN OF GOODS.

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

''(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement

of the case, and the creditor may offset the value of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.''.

(b) SETOFF.—Section 553(b)(1) is amended by inserting ''546(h),'' after ''365(h)(2),''.

SEC. 212. EXCEPTION TO DISCHARGE.

Section 523(a)(2) of title 11, United States Code, is amended by striking ''forty'' and inserting ''60''.

SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (2);

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

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

''(4) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

''(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

''(B) under an agreement with a money order issuer that prohibits the commingling of

~~such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),~~

~~unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.''.~~

~~SEC. 214. LIMITATION ON LIABILITY OF NONINSIDER TRANSFEREE FOR AVOIDED TRANSFER.~~

~~Section 550 of title 11, United States Code, is amended—~~

~~(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and~~

~~(2) by inserting after subsection (a) the following new subsection:~~

~~''(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—~~

~~''(1) all the elements of section 547(b) are satisfied as to the first transferee; and~~

~~''(2) the exceptions in section 547(c) do not protect the first transferee.''.~~

~~SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.~~

~~Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''10'' and inserting ''20''.~~

~~SEC. 216. AIRPORT GATE LEASES.~~

~~Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:~~

~~''(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 60 days after the date of the order for relief, or within such additional time (not to exceed 120 additional days) as the court sets during such 60-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.~~

~~''(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause~~

~~substantial harm to the airport operator or to airline passengers.~~

~~''(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—~~

~~''(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;~~

~~''(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;~~

~~''(III) the size and complexity of the case; and~~

~~''(IV) air carrier competition at the airport.~~

~~''(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.~~

~~''(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.''.~~

~~SEC. 217. TRUSTEE DUTIES.~~

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

~~''(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by~~

the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

''(ii) filing with the court comments with respect to each such an application and, if the United States Trustee considers it to be appropriate, objections to such application.

SEC. 218. PAYMENTS.

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

SEC. 219. SELLER'S RIGHT TO RECLAIM GOODS.

Section 546(c)(1) of title 11, United States Code, is amended by striking ''ten'' and inserting ''30''.

SEC. 220. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

''(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered

assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment.''.

TITLE III—CONSUMER BANKRUPTCY ISSUES

SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

Section 1322 of title 11, United States Code, as amended by section 207(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

''(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

''(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

~~''(2) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).''.~~

~~SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.~~

~~Section 1328(a)(3) of title 11, United States Code, is amended by inserting '', or a fine to the extent such fine exceeds $500, '' after ''restitution''.~~

~~SEC. 303. PROTECTION OF CHILD SUPPORT AND ALIMONY.~~

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

~~''(2) under subsection (a) of this section—~~

~~''(A) of the commencement or continuation of an action or proceeding for—~~

~~''(i) the establishment of paternity; or~~

~~''(ii) the establishment or modification of an order for alimony, maintenance, or support; or~~

~~''(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;''.~~

~~(b) PRIORITY OF CLAIMS.—~~

~~(1) ALIMONY OR SUPPORT.—Section 507(a) of title 11, United States Code, is amended—~~

~~(A) in paragraph (8) by striking ''(8) Eighth'' and inserting ''(9) Ninth'';~~

~~(B) in paragraph (7) by striking ''(7) Seventh'' and inserting ''(8) Eighth''; and~~

~~(C) by inserting after paragraph (6) the following new paragraph:~~

~~''(7) Eighth, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—~~

~~''(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or~~

~~''(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.''.~~

~~(2) TECHNICAL AMENDMENTS.—Title 11, United States Code, is amended—~~

~~(A) in section 502(i) by striking ''507(a)(7)'' and inserting ''507(a)(8)'';~~

~~(B) in section 503(b)(1)(B)(i) by striking ''507(a)(7)'' and inserting ''507(a)(8)'';~~

~~(C) in section 523(a)(1)(A) by striking ''507(a)(7)'' and inserting ''507(a)(8)'';~~

~~(D) in section 724(b)(2) by striking ''or 507(a)(6)'' and inserting ''507(a)(6), or 507(a)(7)'';~~

~~(E) in section 726(b) by striking ''or (7)'' and inserting '', (7), or (8)'';~~

~~(F) in section 1123(a)(1) by striking ''507(a)(7)'' and inserting ''507(a)(8)''; and~~

~~(G) in section 1129(a)(9)—~~

~~(i) in subparagraph (B) by striking ''or 507(a)(6)'' and inserting '', 507(a)(6), or 507(a)(7)''; and~~

~~(ii) in subparagraph (C) by striking ''507(a)(7)'' and inserting ''507(a)(8)''.~~

~~(c) PROTECTION OF LIENS.—Section 522(f)(1) of title 11, United States Code, is amended to read as follows:~~

~~''(1) a judicial lien (other than a judicial lien that secures a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for,~~

or support of the spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, to the extent that the debt—

"(A) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support).".

(d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Section 547(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) to the extent that the transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection

with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or".

(e) APPEARANCE BEFORE COURT.—A child support creditor or its representative shall be permitted to appear and intervene without charge and without meeting any special local court rule requirement for attorney appearances in any bankruptcy proceeding in any bankruptcy court or district court of the United States if the creditor or representative files with the court a statement describing in detail the child support debt, its status, and other characteristics.

SEC. 304. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

~~"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.~~

~~"(a) DEFINITION.—In this section—~~

~~"'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.~~

~~"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.~~

~~"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.~~

~~"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.~~

~~"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.~~

~~"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.~~

~~"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.~~

~~"(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.~~

~~"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.~~

~~"(e) AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor unless—~~

~~"(A) the debtor has first given the preparer written authorization to execute the document; and~~

~~"(B) the preparer is otherwise authorized by law to execute the document.~~

~~"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).~~

~~"(f) DAMAGES.—If a bankruptcy case or related proceeding is dismissed because of the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—~~

~~"(1) the debtor's actual damages;~~

~~"(2) the greater of—~~

~~"(A) $2,000; or~~

~~"(B) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and~~

~~"(3) reasonable attorneys' fees and costs in moving for damages under this subsection.~~

~~"(g) INJUNCTIVE RELIEF.—~~

~~"(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared as document for filing, the United States trustee in the district in which the bankruptcy petition preparer resides or~~

~~has a principal place of business, or the United States trustee in the district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.~~

~~''(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—~~

~~''(i) a bankruptcy petition preparer has—~~

~~''(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;~~

~~''(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or~~

~~''(III) engaged in any other fraudulent, unfair, or deceptive conduct; and~~

~~''(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,~~

~~the court may enjoin the bankruptcy petition preparer from engaging in such conduct.~~

~~''(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an~~

~~injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.~~

~~''(3) ATTORNEY'S FEE.—The court shall award to a debtor who brings a successful action under this subsection reasonable attorney's fees and costs of the action.~~

~~''(h) UNAUTHORIZED PRACTICE OF LAW.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.''.~~

~~(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 11, United states Code, is amended by adding at the end the following new item:~~

~~''110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.''.~~

~~(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—~~

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

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

~~"§ 152. Concealment of assets; false oaths and claims; bribery~~

~~''A person who—~~

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

~~''(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;~~

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

~~''(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;~~

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

~~"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;~~

~~"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;~~

~~"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or~~

~~"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, docu-~~

~~ments, records, and papers) relating to the property or financial affairs of a debtor,~~

~~shall be fined not more than $5,000, imprisoned not more than 5 years, or both.~~

~~"§ 153. Embezzlement against estate~~

~~''(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.~~

~~''(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.~~

~~"§ 154. Adverse interest and conduct of officers~~

~~''A person who, being a custodian, trustee, marshal, or other officer of the court—~~

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

1 ~~''(2) knowingly refuses to permit a reasonable~~
2 ~~opportunity for the inspection by parties in interest~~
3 ~~of the documents and accounts relating to the af-~~
4 ~~fairs of estates in the person's charge by parties~~
5 ~~when directed by the court to do so; or~~
6 ~~''(3) knowingly refuses to permit a reasonable~~
7 ~~opportunity for the inspection by the United States~~
8 ~~Trustee of the documents and accounts relating to~~
9 ~~the affairs of states in the person's charge,~~
10 ~~shall be fined not more than $5000 and shall forfeit the~~
11 ~~person's office, which shall thereupon become vacant.'';~~
12 ~~and~~
13 ~~(B) by adding at the end the following new~~
14 ~~section:~~
15 ~~**''§ 156. Willful disregard of bankruptcy law or rule**~~
16 ~~''(a) DEFINITIONS.—In this section—~~
17 ~~''bankruptcy petition preparer' means a per-~~
18 ~~son, other than an attorney or an employee of an at-~~
19 ~~torney, who prepares for compensation a document~~
20 ~~for filing.~~
21 ~~''document for filing' means a petition or any~~
22 ~~other document prepared for filing by a debtor in a~~
23 ~~United States bankruptcy court or a United States~~
24 ~~district court in connection with a case under this~~
25 ~~title.~~

1 ~~''(b) OFFENSE.—If a bankruptcy case or related pro-~~
2 ~~ceeding is dismissed because of a willful attempt by a~~
3 ~~bankruptcy petition preparer in any manner to disregard~~
4 ~~the requirements of title 11, United States Code, or the~~
5 ~~Bankruptcy Rules, the bankruptcy petition preparer shall~~
6 ~~be fined $5,000.''.~~
7 ~~(2) TECHNICAL AMENDMENTS.—The chapter~~
8 ~~analysis for chapter 9 of title 18, United States~~
9 ~~Code, is amended—~~
10 ~~(A) by amending the item relating to sec-~~
11 ~~tion 153 to read as follows:~~

~~''Sec. 153. Embezzlement against estate.'';~~

12 ~~and~~
13 ~~(B) by adding at the end the following new~~
14 ~~item:~~

~~''Sec. 156. Willful disregard of bankruptcy law or rule.''.~~

15 ~~**SEC. 305. CONVERSION OR DISMISSAL.**~~
16 ~~Section 1307 of title 11, United States Code, is~~
17 ~~amended by adding at the end the following new sub-~~
18 ~~section:~~
19 ~~''(g) The clerk of the court shall give notice to all~~
20 ~~creditors not later than 30 days after the entry of an order~~
21 ~~of conversion or dismissal.''.~~
22 ~~**SEC. 306. CONTENTS OF PLAN.**~~
23 ~~Section 1322(b)(2) of title 11, United States Code,~~
24 ~~is amended by striking ''claims;'' and inserting ''claims,~~

~~but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;''.~~

~~SEC. 307. STAY OF ACTION AGAINST CODEBTOR.~~

~~Section 1301 of title 11, United States Code, is amended—~~

~~(1) in subsection (c)—~~

~~(A) by striking ''or'' at the end of paragraph (2);~~

~~(B) by striking the period at the end of paragraph (3) and inserting ''; or''; and~~

~~(C) by adding at the end the following new paragraph:~~

~~''(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has dem-~~

onstrated an inability to pay such claim or a substantial portion of such claim.''; and

(2) by adding at the end the following new subsection:

''(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.''.

SEC. 308. EXEMPTION FOR HOUSEHOLD GOODS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

''(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including

~~such an item that has been repaired or renovated without changing its original form or character;'';~~

~~(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and~~

~~(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:~~

~~''(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—~~

~~''(A) works of art;~~

~~''(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);~~

~~''(C) antiques; and~~

~~''(D) jewelry other than wedding rings.''.~~

~~SEC. 309. PROFESSIONAL FEES.~~

~~Section 330(a) of title 11, United States Code, is amended to read as follows:~~

~~''(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee,~~

~~an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney, after considering comments and objections submitted by the United States Trustee in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(a)(3)(A) of title 28—~~

~~''(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and~~

~~''(B) reimbursement for actual, necessary expenses.~~

~~''(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—~~

~~''(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and~~

~~''(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—~~

~~''(I) the time spent on such services;~~

~~''(II) the rates charged for such services;~~

~~"(III) whether the services were necessary in the administration of or beneficial toward the completion of a case under this title; and~~

~~"(IV) the total value of the estate and the amount of funds or other property available for distribution to all creditors both secured and unsecured.~~

~~"(B) In calculating compensation for services for the purpose of subparagraph (A)(ii), the court shall consider—~~

~~"(i) whether tasks were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed; and~~

~~"(ii) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in nonbankruptcy cases.~~

~~"(3) The court shall not allow compensation for duplication of services or for services that are not either reasonably likely to benefit the debtor's estate or necessary in the administration of the case.~~

~~"(4)(A) The court shall take into account the amount and timing of interim compensation, if any awarded and paid, in awarding final compensation.~~

~~''(B) If interim compensation was awarded and paid in an amount that exceeds the amount the court awards as final compensation the court may order the return of the excess to the trustee or other entity that paid it.~~

~~''(5) In determining the amount to be awarded for the preparation of fee applications, the court shall recognize the difference between the cost of professional services and services for the preparation of fee applications. The costs awarded for the preparation of fee applications shall be reasonable and based on the level of skill required.''.~~

~~TITLE IV—BANKRUPTCY REVIEW COMMISSION~~

~~SEC. 401. SHORT TITLE.~~

~~This title may be cited as the ''National Bankruptcy Review Commission Act''.~~

~~SEC. 402. ESTABLISHMENT.~~

~~There is established the National Bankruptcy Review Commission (referred to as the ''Commission'').~~

~~SEC. 403. DUTIES OF THE COMMISSION.~~

~~The duties of the Commission are—~~

~~(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the ''Bankruptcy Code'');~~

~~(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;~~

~~(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 408; and~~

~~(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.~~

~~SEC. 404. MEMBERSHIP.~~

~~(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:~~

~~(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.~~

~~(2) One member shall be appointed by the President pro tempore of the Senate.~~

~~(3) One member shall be appointed by the Minority Leader of the Senate.~~

~~(4) One member shall be appointed by the Speaker of the House of Representatives.~~

~~(5) One member shall be appointed by the Minority Leader of the House of Representatives.~~

~~(6) Two members appointed by the Chief Justice.~~

~~(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.~~

~~(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.~~

~~(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.~~

~~(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.~~

~~(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.~~

~~(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.~~

~~(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.~~

~~SEC. 405. COMPENSATION OF THE COMMISSION.~~

~~(a) PAY.—~~

~~(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.~~

~~(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.~~

~~(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary ex-~~

~~penses incurred by them in the performance of their duties.~~

~~SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.~~

~~(a) STAFF.—~~

~~(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.~~

~~(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.~~

~~(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of ex-~~

~~perts and consultants under section 3109(b) of title 5, United States Code.~~

~~SEC. 407. POWERS OF THE COMMISSION.~~

~~(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.~~

~~(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.~~

~~(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the~~

~~agency available to the Commission to assist the Commission in carrying out its duties under this title.~~

~~(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.~~

~~(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.~~

~~(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.~~

~~SEC. 408. REPORT.~~

~~The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.~~

SEC. 409. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 408.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

(a) ALPHABETIZATION AND ELIMINATION OF PARAGRAPH DESIGNATIONS.—Section 101 of title 11, United States Code, is amended to read as follows:

"§ 101. Definitions

''In this title—

'' 'accountant' means an accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

'' 'affiliate' means—

''(A) an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

~~"(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or~~

~~"(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;~~

~~"(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—~~

~~"(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or~~

~~"(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;~~

~~"(C) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property~~

~~is operated under an operating agreement with the debtor; or~~

~~''(D) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.~~

~~'' 'attorney' means an attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.~~

~~'' 'claim' means—~~

~~''(A) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or~~

~~''(B) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.~~

~~'' 'commodity broker' means a futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer (as defined~~

~~in section 761) with respect to which there is a customer (as defined in section 761).~~

~~"'community claim' means a claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) is liable, whether or not there is any such property at the time of the commencement of the case.~~

~~"'consumer debt' means debt incurred by an individual primarily for a personal, family, or household purpose.~~

~~"'corporation'—~~

~~"(A) includes—~~

~~"(i) an association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;~~

~~"(ii) a partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;~~

~~"(iii) a joint-stock company;~~

~~"(iv) an unincorporated company or association; or~~

~~"(v) a business trust; but~~

~~"(B) does not include a limited partnership.~~

~~" 'creditor' means—~~

~~"(A) an entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;~~

~~"(B) an entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h), or 502(i); or~~

~~"(C) an entity that has a community claim.~~

~~" 'custodian' means—~~

~~"(A) a receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;~~

~~"(B) an assignee under a general assignment for the benefit of the debtor's creditors; or~~

~~"(C) a trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors.~~

~~" 'debt' means liability on a claim.~~

~~"'debtor' means a person or municipality concerning which a case under this title has been commenced.~~

~~"'disinterested person means a person that—~~

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

~~"(B) is not and was not an investment banker for any outstanding security of the debtor;~~

~~"(C) has not been, within 3 years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;~~

~~"(D) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C); and~~

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

~~investment banker specified in subparagraph (B) or (C), or for any other reason.~~

~~''`entity' includes a person, estate, trust, governmental unit, and United States trustee.~~

~~''`equity security' means—~~

~~''(A) a share in a corporation, whether or not transferable or denominated `stock', or similar security;~~

~~''(B) an interest of a limited partner in a limited partnership; or~~

~~''(C) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B).~~

~~''`equity security holder' means a holder of an equity security of the debtor.~~

~~''`family farmer' means—~~

~~''(A) an individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the~~

~~date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such farming operation more than 50 percent of such individual's or such individual and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or~~

~~''(B) a corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation—~~

~~''(i) more than 80 percent of the value of its assets consists of assets related to the farming operation;~~

~~''(ii) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or~~

partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or operated by such corporation or such partnership; and

"(iii) if such corporation issues stock, such stock is not publicly traded.

" 'family farmer with regular annual income' means a family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12.

" 'farmer' means (except when such term appears in the term 'family farmer') a person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person.

" 'farming operation' includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production

of poultry or livestock products in an unmanufactured state.

"'Federal depository institutions regulatory agency' means—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of that Act);

"(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

"(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed con-

~~servator or receiver, the Federal Deposit Insurance Corporation.~~

~~"'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741(a)), the customer.~~

~~"'foreign proceeding' means a proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization.~~

~~"'foreign representative' means a duly selected trustee, administrator, or other representative of an estate in a foreign proceeding.~~

~~"'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, as defined in section 761, or any similar good, article, service, right, or~~

~~interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any combination thereof or option thereon.~~

~~"'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.~~

~~"'governmental unit' means—~~

~~"(A) the United States, a State, Commonwealth, or Territory, the District of Columbia, a municipality, and a foreign state;~~

~~"(B) a department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, Commonwealth,~~

~~or Territory, the District of Columbia, a municipality, a foreign state; or~~

~~''(C) any other foreign or domestic government.~~

~~''`indenture' means a mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor.~~

~~''`indenture trustee' means a trustee under an indenture.~~

~~''`individual with regular income' means an individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13, other than a stockbroker or a commodity broker.~~

~~''`insider' includes—~~

~~''(A) if the debtor is an individual—~~

~~''(i) a relative of the debtor or of a general partner of the debtor;~~

~~''(ii) a partnership in which the debtor is a general partner;~~

~~''(iii) a general partner of the debtor; or~~

~~''(iv) a corporation of which the debtor is a director, officer, or person in control;~~

~~''(B) if the debtor is a corporation—~~

~~''(i) a director of the debtor;~~

~~''(ii) an officer of the debtor;~~

~~''(iii) a person in control of the debtor;~~

~~''(iv) a partnership in which the debtor is a general partner;~~

~~''(v) a general partner of the debtor; or~~

~~''(vi) a relative of a general partner, director, officer, or person in control of the debtor;~~

~~''(C) if the debtor is a partnership—~~

~~''(i) a general partner in the debtor;~~

~~''(ii) a relative of a general partner in, general partner of, or person in control of the debtor;~~

~~''(iii) a partnership in which the debtor is a general partner;~~

~~''(iv) a general partner of the debtor; or~~

~~''(v) a person in control of the debtor;~~

~~"(D) if the debtor is a municipality, an elected official of the debtor or relative of an elected official of the debtor;~~

~~"(E) an affiliate, or insider of an affiliate as if such affiliate were the debtor; and~~

~~"(F) a managing agent of the debtor.~~

~~" 'insolvent' means—~~

~~"(A) with reference to an entity other than a partnership and a municipality, being in a financial condition such that the sum of the entity's debts is greater than all of the entity's property, at a fair valuation, exclusive of—~~

~~"(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and~~

~~"(ii) property that may be exempted from property of the estate under section 522;~~

~~"(B) with reference to a partnership, being in a financial condition such that the sum of the partnership's debts is greater than the aggregate of, at a fair valuation—~~

~~"(i) all of the partnership's property, exclusive of property of the kind specified in subparagraph (A)(i); and~~

~~''(B) the sum of the excess of the value of each general partner's nonpartnership property, exclusive of property of the kind specified in subparagraph (A), over such partner's nonpartnership debts; and~~

~~''(C) with reference to a municipality, being in a financial condition such that the municipality is—~~

~~''(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; and~~

~~''(ii) unable to pay its debts as they become due.~~

~~'' 'institution-affiliated party'—~~

~~''(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) (12 U.S.C. 1813(c)(2)), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and~~

~~''(2) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).~~

~~"'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).~~

~~"'insured depository institution'—~~

~~"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and~~

~~"(B) includes an insured credit union (except as provided in the definition of 'Federal depository institutions regulatory agency' and in subparagraph (B) of the definition of 'institution-affiliated party').~~

~~"'intellectual property' means—~~

~~"(A) a trade secret;~~

~~"(B) an invention, process, design, or plant protected under title 35;~~

~~"(C) a patent application;~~

~~"(D) a plant variety;~~

~~"(E) a work of authorship protected under title 17; and~~

~~"(F) a mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law.~~

~~"'judicial lien' means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.~~

~~"'lien' means a charge against or interest in property to secure payment of a debt or performance of an obligation.~~

~~"'margin payment', as used in sections 362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C), 556, 741(5), 761(15), 764(b), 766(a), and any other provision of this title in relation to forward contracts, means a payment or deposit of cash, a security, or other property that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including market-to-market payments or variation payments.~~

~~"'mask work' has the meaning given it in section 901(a)(2) of title 17.~~

~~"'municipality' means a political subdivision or public agency or instrumentality of a State.~~

~~"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver~~

~~or liquidating agent of a person, shall be considered to be a person for purposes of section 1102.~~

~~"'petition' means a petition filed under section 301, 302, 303, or 304 commencing a case under this title.~~

~~"'purchaser' means a transferee of a voluntary transfer, and includes an immediate or mediate transferee of such a transferee.~~

~~"'railroad' means a common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common carrier.~~

~~"'relative' means an individual related by affinity or consanguinity within the third degree as determined by the common law and an individual in a step or adoptive relationship within such third degree.~~

~~"'repo participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of a petition, has an outstanding repurchase agreement with the debtor.~~

~~"'repurchase agreement' and 'reverse repurchase agreement' mean an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or~~

~~securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds.~~

~~" 'security'—~~

~~"(A) includes—~~

~~"(i) a note;~~

~~"(ii) stock;~~

~~"(iii) treasury stock;~~

~~"(iv) a bond;~~

~~"(v) a debenture;~~

~~"(vi) a collateral trust certificate;~~

~~"(vii) a preorganization certificate or subscription;~~

~~"(viii) a transferable share;~~

~~"(ix) a voting-trust certificate;~~

~~"(x) a certificate of deposit;~~

~~''(xi) a certificate of deposit for security;~~

~~''(xii) an investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is required to be the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of that Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;~~

~~''(xiii) an interest of a limited partner in a limited partnership;~~

~~''(xiv) another claim or interest commonly known as a 'security'; and~~

~~''(xv) a certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but~~

~~''(B) does not include—~~

~~"(i) currency or a check, draft, bill of exchange, or bank letter of credit;~~

~~"(ii) a leverage transaction (as defined in section 761);~~

~~"(iii) a commodity futures contract or forward contract;~~

~~"(iv) an option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;~~

~~"(v) an option to purchase or sell a commodity;~~

~~"(vi) a contract or certificate of a kind specified in subparagraph (A)(xii) that is not required to be the subject of a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or~~

~~"(vii) debt or an evidence of indebtedness for goods sold and delivered or services rendered.~~

~~" 'security agreement' means an agreement that creates or provides for a security interest.~~

~~"'securities clearing agency' means a person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities (as defined in section 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the purposes of that section 17A.~~

~~"'security interest' means a lien created by an agreement.~~

~~"'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, partial settlement payment, interim settlement payment, settlement payment on account, final settlement payment, net settlement payment, or any other similar payment commonly used in the forward contract trade.~~

~~"'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9.~~

~~"'statutory lien' means a lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include a security interest or judicial lien, whether or not such interest or lien is~~

~~provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.~~

~~"'stockbroker' means a person—~~

~~"(A) with respect to which there is a customer (as defined in section 741); and~~

~~"(B) that is engaged in the business of effecting transactions in securities—~~

~~"(i) for the account of others; or~~

~~"(ii) with members of the general public, from or for such person's own account.~~

~~"'swap agreement' means—~~

~~"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, or any other similar agreement (including any option to enter into any of the foregoing);~~

~~"(2) any combination of the foregoing; or~~

~~"(3) a master agreement for any of the foregoing together with all supplements.~~

~~" 'swap participant' means an entity that, at any time before the filing of a petition, has an outstanding swap agreement with the debtor.~~

~~" 'timeshare interest' means an interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.~~

~~" 'timeshare plan' means an interest in any arrangement, plan, scheme, or similar device (but not including an exchange program), whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser of the interest, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than 3 years.~~

~~" 'transfer' means a mode, direct or indirect, absolute or conditional, voluntary or involuntary, of~~

~~disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption.~~

~~''United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.~~

~~(b) REFERENCES TO DEFINITIONS IN TITLE XI.—~~

~~(1) SECTION 362.—Section 362(b) of title 11, United States Code, is amended—~~

~~(A) in paragraph (6)—~~

~~(i) by striking ''section 761(4)'' and inserting ''section 761'';~~

~~(ii) by striking ''section 741(7)'' and inserting ''section 741'';~~

~~(iii) by striking ''section 101(34), 741(5), or 761(15)'' and inserting ''section 101, 741, or 761''; and~~

~~(iv) by striking ''section 101(35) or 741(8)'' and inserting ''section 101 or 741''; and~~

~~(B) in paragraph (7)—~~

~~(i) by striking ''section 741(5) or 761(15)'' and inserting ''section 741 or 761''; and~~

~~(ii) by striking ''section 741(8)'' and inserting ''section 741''.~~

~~(2) SECTION 507. Section 507(a)(5) of title 11, United States Code, is amended—~~

~~(A) by striking ''section 557(b)(1)'' and inserting ''section 557(b)''; and~~

~~(B) by striking ''section 557(b)(2)'' and inserting ''section 557(b)''.~~

~~(3) Section 546 of title 11, United States Code, is amended—~~

~~(A) in subsection (e)—~~

~~(i) by striking ''section 101(34), 741(5), or 761(15)'' and inserting ''section 101, 741, or 761''; and~~

~~(ii) by striking ''section 101(35) or 741(8)'' and inserting ''section 101 or 741''; and~~

~~(B) in subsection (f)—~~

~~(i) by striking ''section 741(5) or 761(15)'' and inserting ''section 741 or 761''; and~~

~~(ii) by striking ''section 741(8)'' and inserting ''section 741''.~~

~~(4) SECTION 548. Section 548(d)(2) of title 11, United States Code, is amended—~~

~~(A) in subparagraph (B)—~~

~~(i) by striking ''section 101(34), 741(5) or 761(15)'' and inserting ''section 101, 741, or 761''; and~~

~~(ii) by striking ''section 101(35) or 741(8)'' and inserting ''section 101 or 741''; and~~

~~(B) in subparagraph (C)—~~

~~(i) by striking ''section 741(5) or 761(15)'' and inserting ''section 741 or 761''; and~~

~~(ii) by striking ''section 741(8)'' and inserting ''section 741''.~~

~~(5) SECTION 555. Section 555 of title 11, United States Code, is amended by striking ''section 741(7)'' and inserting ''section 741''.~~

~~(6) SECTION 556. Section 556 of title 11, United States Code, is amended by striking ''section 761(4)'' and inserting ''section 761''.~~

~~(c) REFERENCES TO DEFINITIONS IN OTHER LAWS.—~~

~~(1) FEDERAL CREDIT UNION ACT.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—~~

~~(A) in clause (ii)(I) by striking ''section 741(7)'' and inserting ''section 741'';~~

~~(B) in clause (iii) by striking ''section 101(24)'' and inserting ''section 101'';~~

~~(C) in clause (iv)(I) by striking ''section 101(41)'' and inserting ''section 101''; and~~

~~(D) in clause (v) by striking ''section 101(50)'' and inserting ''section 101''.~~

~~(2) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—~~

~~(A) in clause (ii)(I) by striking ''section 741(7)'' and inserting ''section 741'';~~

~~(B) in clause (iii) by striking ''section 761(4)'' and inserting ''section 761'';~~

~~(C) in clause (iv) by striking ''section 101(24)'' and inserting ''section 101'';~~

~~(D) in clause (v)(I) by striking ''section 101(41)'' and inserting ''section 101''; and~~

~~(E) in clause (viii) by striking ''section 101(50)'' and inserting ''section 101''.~~

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

~~(1) in section 322(a) by striking ''1302, or 1202'' and inserting ''1202, or 1302'',~~

~~(2) in section 346—~~

~~(A) in subsection (a) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)'' and inserting ''Internal Revenue Code of 1986''; and~~

~~(B) in subsection (g)(1)(C) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 371)'' and inserting ''Internal Revenue Code of 1986'';~~

~~(3) in section 348—~~

~~(A) in subsection (b) by striking ''728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)'' and inserting ''728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)''; and~~

~~(B) in subsections (b), (c), (d), and (e) by striking ''1307, or 1208'' each place it appears and inserting ''1208, or 1307'';~~

~~(4) in section 349(a) by striking ''109(f)'' and inserting ''109(g)'';~~

~~(5) in section 362(b)—~~

~~(A) by striking ''or'' at the end of paragraph (10);~~

~~(B) in paragraph (12) by striking ''the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)'' and inserting ''section 31325 of title 46, United States Code'';~~

~~(C) in paragraph (13)—~~

~~(i) by striking ''the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)'' and inserting ''section 31325 of title 46, United States Code''; and~~

~~(ii) by striking ''or'' at the end;~~

~~(D) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and~~

~~(E) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as para-~~

~~graphs (15), (16), and (17), striking ''or'' at the end of paragraph (16), as redesignated by this subparagraph, and adding ''or'' at the end of paragraph (17), as redesignated by this subparagraph;~~

~~(6) in section 363(c)(1) by striking ''1304, 1203, or 1204'' and inserting ''1203, 1204, or 1304'';~~

~~(7) in section 364(a) by striking ''1304, 1203, or 1204'' and inserting ''1203, 1204, or 1304'';~~

~~(8) in section 365—~~

~~(A) in subsection (g)(2) (A) and (B) by striking ''1307, or 1208'' each place it appears and inserting ''1208, or 1307'';~~

~~(B) in subsection (n)(1)(B) by striking ''to to'' and inserting ''to''; and~~

~~(C) in subsection (o) by striking ''the Federal'' the first place it appears and all that follows through ''successors,'' and inserting ''a Federal depository institutions regulatory agency (or predecessor to such an agency)'';~~

~~(9) in section 507—~~

~~(A) in subsection (a)(8) by striking ''the Federal'' the first place it appears and all that follows through ''successors,'' and inserting ''a~~

~~Federal depository institutions regulatory agency (or predecessor to such an agency)''; and~~

~~(B) in subsection (d) by striking ''(a)(3), (a)(4), (a)(5), or (a)(6)'' and inserting ''(a) (3), (4), (6), or (7)'';~~

~~(10) in section 522(d)(10)(E)(iii) by striking ''401(a), 401(b), 403(a), 403(b), 408, or 409 Internal Revenue Code of 1954 (26 U.S.C. 401(a), 401(b), 403(a), 403(b), 408, or 409)'' and inserting ''section 401 (a) or (b), 403 (a) or (b), 408, or 409 of the Internal Revenue Code of 1986'';~~

~~(11) in section 523(a) —~~

~~(A) in subsection (a)—~~

~~(i) by striking ''1141,, 1228(a), 1228(b),'' and inserting ''1141, 1228 (a) or (b),'';~~ ~~and~~

~~(ii) in paragraph (12) by striking the semicolon at the end and inserting a period;~~ ~~and~~

~~(B) in subsection (e) by striking ''depository institution or insured credit union'' and inserting ''insured depository institution'';~~

~~(12) in section 524—~~

~~(A) in subsection (a)(3) by striking ''or 1328(c)(1)'' and inserting '', 1228(a)(1), or 1328(a)(1)'';~~

~~(B) in subsection (c)(4) by striking ''recission'' and inserting ''rescission''; and~~

~~(C) in subsection (d)(1)(B)(ii) by adding ''and'' at the end;~~

~~(12) in section 542(e) by striking ''to to'' and inserting ''to'';~~

~~(13) in section 543(d)(1) by striking ''of equity'' and inserting ''if equity'';~~

~~(14) in section 546(a)(1) by striking ''1302, or 1202'' and inserting ''1202, or 1302'';~~

~~(15) in section 549(b) by inserting ''the trustee may not avoid under subsection (a) of this section'' after ''involuntary case,'';~~

~~(16) in section 553—~~

~~(A) in subsection (a)(1) by striking ''other than under section 502(b)(3) of this title''; and~~

~~(B) in subsection (b)(1) by striking ''362(b)(14),,'' and inserting ''362(b)(14),'';~~

~~(17) in section 706(a) by striking ''1307, or 1208'' and inserting ''1208, or 1307'';~~

~~(18) in section 724(d) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 6323)'' and inserting ''Internal Revenue Code of 1986'';~~

~~(19) in section 726(b)—~~

~~(A) by inserting a comma after ''section 1112'';~~ ~~and~~

~~(B) by inserting ''1009,'' after ''chapter under section'';~~

~~(20) in section 743 by striking ''342(a)'' and inserting ''342'';~~

~~(21) in section 745(c) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)'' and inserting ''Internal Revenue Code of 1986'';~~

~~(22) in section 1104(c) inserting a comma after ''interest'';~~

~~(23) in section 1123(a)(1) inserting a comma after ''title'' the last place it appears;~~

~~(24) in section 1129(a)—~~

~~(A) in paragraph (4) by striking the semicolon at the end and inserting a period;~~ ~~and~~

~~(B) in paragraph (12) inserting ''of title 28'' after ''section 1930'';~~

~~(25) in section 1145(a) by striking ''does'' and inserting ''do'';~~

~~(26) in section 1226(b)(2)—~~

(A) by striking ''1202(d) of this title'' and inserting ''1202(c)''; and

(B) by striking ''1202(e) of this title'' and inserting ''1202(d)'';

(27) in section 1302(b)(3) by striking ''and'' at the end;

(28) in section 1328(a)—

(A) in paragraph (2) by striking ''(5) or (8)'' and inserting ''(5), (8), or (9)''; and

(B) by striking paragraph (3), as added by section 3103 of Public Law 101–64 (104 Stat. 4916)''; and

(29) in the table of chapters by striking the item relating to chapter 15.

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting ''12,'' after ''11,''.

TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitu-

~~tional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.~~

~~SEC. 602. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.~~

~~(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.~~

~~(b) APPLICATION OF AMENDMENTS.—~~

~~(1) IN GENERAL.—Except as provided in section 115(c) and in paragraph (2) of this subsection, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the date of enactment of this Act.~~

~~(2) SECTION 1110 OF TITLE 11.—Section 1110 of title 11, United States Code, as amended by section 203, shall apply with respect to any lease (as defined in section 1110(c)), entered into in connection with a settlement of any litigation in any case pending under title 11, United States Code, on the date of enactment of this Act.~~

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 *(a) SHORT TITLE IMPROVEMENT.—This Act may be*
3 *cited as the ''Bankruptcy Amendments Act of 1993''.*

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.
Sec. 102. Expedited filing of plans under chapter 11.
Sec. 103. Expedited filing of plans under chapter 12.
Sec. 104. Expedited procedure for reaffirmation of debts.
Sec. 105. Powers of bankruptcy courts.
Sec. 106. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
Sec. 107. Definition relating to eligibility to serve on chapter 11 committees.
Sec. 108. Increased incentive compensation for trustees.
Sec. 109. Dollar adjustments.
Sec. 110. Premerger notification.
Sec. 111. Allowance of creditor committee expenses.
Sec. 112. Judicial conference report.
Sec. 113. Service of process.
Sec. 114. Meetings of creditors and equity security holders.
Sec. 115. Tax assessment.

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

Sec. 201. Small business chapter.
Sec. 202. Single asset real estate.
Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.
Sec. 204. Unexpired leases of personal property in chapter 11 cases.
Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.
Sec. 206. Protection of security interest in post-petition rents.
Sec. 207. Anti-alienation.
Sec. 208. Exemption.
Sec. 209. Indenture trustee compensation.
Sec. 210. Payment of taxes with borrowed funds.
Sec. 211. Return of goods.
Sec. 212. Exception to discharge.
Sec. 213. Proceeds of money order agreements.
Sec. 214. Limitation on liability of noninsider transferee for avoided transfer.
Sec. 215. Perfection of purchase-money security interest.
Sec. 216. Airport gate leases.
Sec. 217. Trustee duties.
Sec. 218. Payments.
Sec. 219. Continued perfection.
Sec. 220. Payment of insurance benefits to retired employees.
Sec. 221. 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. Protection of child support and alimony.
Sec. 304. Bankruptcy petition preparers.
Sec. 305. Conversion or dismissal.
Sec. 306. Contents of plan.
Sec. 307. Stay of action against codebtor.
Sec. 308. Exemption for household goods.
Sec. 309. Professional fees.
Sec. 310. Interest on interest.

TITLE IV—BANKRUPTCY REVIEW COMMISSION

Sec. 401. Short title.
Sec. 402. Establishment.
Sec. 403. Duties of the commission.
Sec. 404. Membership.
Sec. 405. Compensation of the commission.
Sec. 406. Staff of commission; experts and consultants.
Sec. 407. Powers of the commission.
Sec. 408. Report.
Sec. 409. Termination.
Sec. 410. Authorization of appropriations.

TITLE V—TECHNICAL CORRECTIONS

Sec. 501. Title 11, United States Code.
Sec. 502. Title 28, United States Code.

TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 601. Severability.
Sec. 602. Effective date; application of amendments.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

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

(1) by striking ''commenced'' and inserting ''concluded''; and

(2) by inserting '', unless the 30-day period is extended with the consent of the parties in interest or

for a specific time which the court finds is required by compelling circumstances'' before the period at the end.

SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER 11.

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

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

(2) by adding at the end the following new paragraph:

''(2) Under paragraph (1)—

''(A) the 120-day period referred to in this section may not be increased beyond the 1-year period beginning on the date of the order for relief under this chapter; and

''(B) the 180-day period referred to in this section may not be increased beyond the 425-day period beginning on the date of the order for relief under this chapter,

unless the need for such an increase is attributable to circumstances for which the debtor should not justly be held accountable.''.

SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER 12.

Section 1221 of title 11, United States Code, is amended by striking ''an extension is substantially justified'' and inserting ''the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable''.

SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

(a) REAFFIRMATION.—Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting ''(A)'' after ''(2)'';

(B) by adding ''and'' at the end; and

(C) by inserting after subparagraph (A), as designated by subparagraph (A), the following new subparagraph:

''(B) such agreement contains a clear and conspicuous statement that advises the debtor that the agreement is not required under this title, under nonbankruptcy law, or under any agreement that is not in accordance with the provisions of this subsection;''; and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking ''such agreement'' the last place it appears;

(B) in subparagraph (A)—

(i) by inserting ''such agreement'' after ''(A)''; and

(ii) by striking ''and'' at the end; and

(C) in subparagraph (B)—

(i) by inserting ''such agreement'' after ''(B)''; and

(ii) by adding ''and'' at the end; and

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

''(C) the attorney fully advised the debtor of the legal effect and consequences of—

''(i) an agreement of the kind described in this subsection; and

''(ii) any default under such an agreement;''.

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting ''and was not represented by an attorney during the course of negotiating the agreement'' after ''this section''.

SEC. 105. POWERS OF BANKRUPTCY COURTS.

(a) STATUS CONFERENCES.—Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(d) The court, on its own motion or on the motion of any party in interest, may—

''(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and

''(2) unless it would be inconsistent with another provision of this title or with applicable Bankruptcy Rules, issue an order at any such conference prescribing such limitations and conditions as the court deems to be appropriate to ensure that the case is handled expeditiously and economically, including an order that—

''(A) sets the date by which the debtor must accept or reject an executory contract or unexpired lease; or

''(B) in a case under chapter 11—

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

''(ii) sets a date by which the debtor, or the trustee if one has been appointed, shall solicit acceptances of a plan;

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

''(iv) fixes the notice to be provided regarding the hearing on approval of the disclosure statement;

''(v) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan; and

''(vi) directs the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court.''.

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

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (2) as paragraph (4);

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

''(1)(A) Except as provided in subparagraph (B), the judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and de-

termine, with the consent of all parties to an appeal, appeals under subsection (a).

"(B)(i) The judicial council of a circuit need not establish a bankruptcy appellate panel service if the judicial council finds that—

"(I) there are insufficient judicial resources available in the circuit; or

"(II) establishment of such a service would result in undue delay or increased cost to parties in cases under title 11.

"(ii) Not later than 90 days after making a finding under clause (i), the judicial council shall submit to the Judicial Conference a report containing the factual basis of the finding.

"(2)(A) A judicial council may reconsider a finding described in paragraph (1)(B) at any time.

"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date on which the service is established, the judicial council of the circuit shall determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.

"(C) On its own motion, after the expiration of the 3-year period beginning on the date on which a bankruptcy

appellate panel service is established under paragraph (1), the judicial council of a circuit may determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.

''(D) If the judicial council of a circuit finds that a circumstance described in paragraph (1)(B)(i) (I) or (II) exists, the judicial council may provide for the completion of the appeals then pending before a bankruptcy appellate panel service and the orderly termination of the service.

''(3) Bankruptcy judges appointed under paragraph (1) shall be appointed for a term of 2 years and may be reappointed under that paragraph.''; and

(4) by inserting after paragraph (4), as redesignated by paragraph (2), the following new paragraphs:

''(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of the service may not hear an appeal originating in the district for which the member is appointed or designated under section 152.

''(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized the service to hear and determine appeals originating in that district.''.

(c) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking ''(c) An appeal'' and inserting the following:

''(c)(1) Subject to subsection (b), an appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless—

''(A) the appellant elects, at the time of filing the appeal; or

''(B) any other party elects, not later than 30 days after service of notice of the appeal,

to have the appeal heard by the district court.

''(2) An appeal''.

(d) RULES OF PROCEDURE AND EVIDENCE; METHOD OF PRESCRIBING.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2) by striking ''section 2072'' and inserting ''sections 2072 and 2075''; and

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

(f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The third undesignated paragraph of section 2075 of title 28, United States Code, is amended to read as follows:

''The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.''.

SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat. 3123), or the bankruptcy administrator's designee, may preside at—

(1) a meeting of creditors convened under section 341(a) of title 11, United States Code; and

(2) a meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.

The definition of ''person'' in section 101 of title 11, United States Code, as amended by section 501(a), is amended to read as follows:

''''person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that—

''(A) acquires an asset from a person—

''(i) as a result of the operation of a loan guarantee agreement; or

''(ii) as receiver or liquidating agent of a person;

''(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

''(C) is the legal or beneficial owner of an asset of—

''(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

''(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986,

shall be considered, for purposes of section 1102, to be a person with respect to such asset or such benefit.''.

SEC. 108. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.

Section 326(a) of title 11, United States Code, is amended to read as follows:

''(a)(1) In a case under chapter 7 or 11, the court may allow reasonable compensation of the trustee under section 330 for the trustee's services, payable after the trustee renders such services, in an amount that does not exceed—

''(A) the value of the funds and other property disbursed or turned over by the trustee to parties in interest in the case (excluding the debtor but including holders of secured claims), multiplied by

''(B) the applicable percentage stated in paragraph (2).

''(2) The applicable percentage stated in this paragraph is the following percentage of the value of the funds and other property disbursed or turned over by the trustee:

''(A) 25 percent of any amount up to $4,999.

''(B) 10 percent of any amount between $5,000 and $49,999 inclusive.

''(C) 5 percent of any amount between $50,000 and $999,999 inclusive.

''(D) A reasonable percentage, not to exceed 3 percent, of any amount greater than $999,999.''.

SEC. 109. DOLLAR ADJUSTMENTS.

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

(1) by striking ''unsecured debts of less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000'' and inserting ''debts of less than $1,000,000''; and

(2) by striking ''unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000'' and inserting ''debts in the aggregate of less than $1,000,000''.

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

(1) in paragraph (1) by striking ''$5,000'' and inserting ''$10,000''; and

(2) in paragraph (2) by striking ''$5,000'' and inserting ''$10,000''.

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

(1) in paragraph (3)(B) by striking ''$2,000'' and inserting ''$4,000'';

(2) in paragraph (4)(B)(i) by striking ''$2,000'' and inserting ''$4,000'';

(3) in paragraph (5) by striking ''$2,000'' and inserting ''$4,000''; and

(4) in paragraph (6)—

(A) by striking '', to the extent of $900 for each such individual,''; and

(B) by inserting '', to the extent of $1,800 for each such individual or, in the case of a deposit made jointly by 2 or more individuals with respect to the same purchase, lease, or rental, for each such group of individuals'' before the period.

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

(1) in paragraph (1) by striking ''$7,500'' and inserting ''$15,000'';

(2) in paragraph (2) by striking ''$1,200'' and inserting ''$2,400'';

(3) in paragraph (3)—

(A) by striking ''$200'' and inserting ''$400''; and

(B) by striking ''$4,000'' and inserting ''$8,000'';

(4) in paragraph (4) by striking ''$500'' and inserting ''$1,000'';

(5) in paragraph (5)—

(A) by striking ''$400'' and inserting ''$800''; and

(B) by striking ''$3,750'' and inserting ''$7,500'';

(6) in paragraph (6) by striking ''$750'' and inserting ''$1,500'';

(7) in paragraph (8) by striking ''$4,000'' and inserting ''$8,000''; and

(8) in paragraph (11)(D) by striking ''$7,500'' and inserting ''$15,000''.

(e) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking ''$5,000,000'' and inserting ''$10,000,000''.

SEC. 110. PREMERGER NOTIFICATION.

Sections 363(b)(2) (A) and (B) of title 11, United States Code, are amended to read as follows:

''(A) notwithstanding subsection (a) of that section, the notification required to be given by the debtor shall be given by the trustee; and

''(B) notwithstanding subsection (b) of that section, the required waiting period shall end on the 10th day after the date of receipt of the notification, unless the waiting period is extended—

''(i) pursuant to subsection (e)(2) or (g)(2) of that section; or

''(ii) by the court, after notice and a hearing.''.

SEC. 111. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

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

''(7) the actual, necessary expenses incurred by a member of a committee appointed under section 1102 in the performance of the duties of the committee (including fees of an attorney or accountant for professional services rendered for the member to the extent allowable under paragraph (4)), other than claims for compensation for services rendered as a member of the committee.''.

SEC. 112. JUDICIAL CONFERENCE REPORT.

Not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall

produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

SEC. 113. SERVICE OF PROCESS.

Rule 7004(b)(3) of the Bankruptcy Rules is amended—

(1) by inserting ‘‘, by certified or registered mail,’’ after ‘‘complaint’’; and

(2) by inserting ‘‘, by certified or registered mail,’’ after ‘‘copy’’.

SEC. 114. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

''(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

''(2) the debtor's ability to file a petition under a different chapter of this title;

''(3) the effect of receiving a discharge of debts under this title;

''(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

''(5) the debtor's duties under section 521; and

''(6) the potential penalties and fines for committing fraud or other abuses of this title.''.

SEC. 115. TAX ASSESSMENT.

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

''(9) under subsection (a), of an audit by a governmental unit to determine tax liability, of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;''.

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

SEC. 201. SMALL BUSINESS CHAPTER.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

''`small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.''.

(b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—Section 109 is amended by adding at the end the following new subsection:

''(h) Only a small business may be a debtor under chapter 10.''.

(c) TEMPORARY CHAPTER APPLICABLE TO SMALL BUSINESSES.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—SMALL BUSINESSES

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.
"1001. Definitions for this chapter.
"1002. Commencement of case.
"1003. Trustee.
"1004. Rights and powers of debtor.
"1005. Removal of debtor as debtor-in-possession.
"1006. Property of the estate.
"1007. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1021. Filing of plan.
"1022. Contents of plan.
"1023. Postpetition disclosure and solicitation.
"1024. Modification of plan before confirmation.
"1025. Confirmation hearing.
"1026. Confirmation of plan.
"1027. Payments.
"1028. Effect of confirmation.
"1029. Modification of plan after confirmation.
"1030. Revocation of order of confirmation.

"Subchapter I—Officers, Administration, and the Estate

"§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"§ 1002. Commencement of case

"(a) ELECTION BY DEBTOR.—A person that is eligible to be a small business debtor may commence a case under

this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) CONVERSION.—

"(1) THIS CHAPTER TO CHAPTER 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.

"(2) COMPENSATION OF TRUSTEE.—Prior to the court's conversion of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"§ 1003. Trustee

"(a) PERSON TO SERVE.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve

as trustee in the case or the United States trustee may serve as trustee in the case.

''(b) DUTIES.—The trustee shall—

''(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

''(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;

''(3) appear and be heard at any hearing that concerns—

''(A) the value of property subject to a lien;

''(B) the operation of the business activity of the person by the debtor;

''(C) the filing of a plan and the approval of a disclosure statement;

''(D) confirmation of a plan;

''(E) modification of a plan after confirmation; or

''(F) the sale of property of the estate;

''(4) ensure that the debtor timely files a plan and disclosure statement;

''(5) ensure that the debtor commences making timely payments required by a confirmed plan;

"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7);

"(7) investigate the financial affairs of the debtor including, but not limited to, the proper use of disposable income;

"(8) file and serve the report required by section 1029(d); and

"(9) file such motions as are appropriate under section 1029.

"§ 1004. Rights and powers of debtor

"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under chapter 11, including operating the debtor's business activities.

"§ 1005. Removal of debtor as debtor-in-possession

"(a) ORDER FOR CAUSE.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

"(b) REINSTATEMENT.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

"§ 1006. Property of the estate

"(a) PROPERTY INCLUDED.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

"(b) POSSESSION.—Except as provided in section 1005 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

"§ 1007. Conversion or dismissal

"(a) CONVERSION BY DEBTOR.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

"(b) DISMISSAL BY DEBTOR.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court may dismiss a case under this chapter.

"(c) CONVERSION OR DISMISSAL AT REQUEST OF PARTY IN INTEREST.—

"(1) IN GENERAL.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

"(2) CAUSE.—For purposes of paragraph (1), cause includes—

"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

"(B) nonpayment of any fees and charges required under chapter 123 of title 28;

"(C) failure to file a plan timely under section 1021;

"(D) failure to file a disclosure statement timely under section 1023;

"(E) failure to commence making timely payments required by a confirmed plan;

"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

"(G) material default by a debtor with respect to a term of a confirmed plan;

"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"(d) COMPENSATION OF TRUSTEE.—Prior to the court's conversion or dismissal of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"Subchapter II—The Plan

"§ 1021. Filing of plan

"The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

"§ 1022. Contents of plan

"(a) REQUIRED CONTENTS.—The plan shall—

"(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and

"(2) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.

"(b) ADDITIONAL CONTENTS.—Subject to subsections (a) and (c), the plan may—

"(1) designate a class or classes of unsecured claims, as provided in section 1122, but may not discriminate unfairly against any class so designated; however, the plan may treat claims for a consumer debt differently from other unsecured claims if another individual is liable on the consumer debt with the debtor;

"(2) modify the rights of holders of secured claims or holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or junior security interest in real property or a manufactured home (as

defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;

''(3) provide for the curing or waiving of any default;

''(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

''(5) notwithstanding paragraph (2), provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

''(6) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or expired lease of the debtor not previously rejected under that section;

"(7) provide for the payment of all or part of a claim against the debtor from the property of the estate or property of the debtor;

"(8) provide for the sale of all or any part of the property of the estate among those having an interest in such property;

"(9) provide for payment of allowed secured claims, consistent with section 1026(a)(5), over a period exceeding the period permitted under section 1022(c);

"(10) provide for the vesting of property of the estate on confirmation of the plan or at a later time, in the debtor of any other entity; and

"(11) include any other appropriate provision not inconsistent with this title.

"(c) LIMITATION.—Except as provided in subsection (b) (5) and (9), the plan may not provide for payments over a period that is longer than 3 years unless the court for cause approves a longer period, but the court may not approve a period that is longer than 5 years.

"§ 1023. Postpetition disclosure and solicitation

"(a) PLAN AND DISCLOSURE STATEMENT.—In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim

or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

''(b) FORM.—The court may require that the summary of the plan and the disclosure statement employ a standard form approved by the court.

''§ 1024. Modification of plan before confirmation

''(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

''(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

''(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

''(1) the modification provides for a change in the rights of the holder under the plan before modification; and

''(2) the holder changes the holder's previous acceptance or rejection.

"§ 1025. Confirmation hearing

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

"§ 1026. Confirmation of plan

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount

that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will

receive on account of the claim cash equal to the allowed amount of the claim;

''(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and

''(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period ending on the later of—

''(i) the date of termination of the plan; or

''(ii) the date that is 6 years after the date of assessment of the claim,

of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

''(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, the court may not approve the plan unless, as of the effective date of the plan—

"(1) the value of the property to be distributed under the plan on account of the claim is not less than the amount of the claim; or

"(2) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such longer period as the court may approve under section 1022(c), beginning on the date on which the first payment is due under the plan, will be applied to make payments under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any pay-

ments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

"§ 1028. Effect of confirmation

"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security

holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) DISCHARGE OF DEBTOR.—

"(1) ON COMPLETION OF PAYMENTS.—As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1022(b) (5) or (9), unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of the kind specified in section 523(a).

"(2) WHEN PAYMENTS ARE NOT COMPLETED.—At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan if—

"(A) the debtor's failure to complete such payments is due to circumstances for which the debtor should not be justly held accountable;

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

"(C) modification of the plan under section 1029 is not practicable.

"(3) EFFECT.—A discharge granted under paragraph (2) discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of a kind specified in section 523(a).

"(4) REVOCATION.—On request of a party in interest made before the date that is 1 year after the date on which a discharge under this section is granted, and after notice and hearing, the court may revoke the discharge if—

"(A) the discharge was obtained by the debtor through fraud; and

"(B) the requesting party did not know of the fraud until after the discharge was granted.

"(e) TERMINATION OF SERVICES OF TRUSTEE.—After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

"§ 1029. Modification of plan after confirmation

"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) APPLICABILITY OF REQUIREMENTS.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) LIMITATION.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"(d) REPORT.—Not later than 60 days after each anniversary of the confirmation of the plan, the trustee shall file a report with the court, and serve a copy on all creditors requesting service of a copy of the report, setting forth—

"(1) the amount of distributions made to creditors during the preceding year;

"(2) a description of the debtor's compliance with the provisions of the plan during the preceding year;

"(3) a description of the debtor's disposable income in relation to the continued ability to comply with the terms of the confirmed plan; and

"(4) any modifications to the plan that are necessary to ensure the reorganization of the debtor and the payment to creditors of all disposal income.

"§ 1030. Revocation of order of confirmation

"(a) REVOCATION FOR FRAUD.—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) DISPOSITION OF CASE AFTER REVOCATION.—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.".

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

"10. Small Businesses ..... 1001".

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting ''10,'' after ''7,'' each place it appears;

(B) in section 322(a) by inserting ''1005'' after ''703,'';

(C) in section 326(b)—

(i) by striking ''12 or 13'' and inserting ''10, 12, or 13''; and

(ii) by striking ''1202(a) or 1302(a)'' and inserting ''1005, 1202(a), or 1302(a)'';

(D) in section 327—

(i) in subsection (b) by inserting ''1005,'' after ''721,''; and

(ii) in subsection (c) by inserting ''10,'' after ''7,'';

(E) in section 329(b)(1)(B) by inserting ''10,'' after ''chapter'';

(F) in section 330(c) by striking ''12 or 13'' and inserting ''10, 12, or 13'';

(G) in section 346—

(i) in subsection (b) by inserting ''10,'' after ''7,'';

(ii) in subsection (g)(1)(C) by striking ''11 or 12'' and inserting ''10, 11, or 12''; and

(iii) in subsection (i)(1) by inserting ''10,'' after ''7,'';

(H) in section 347—

(i) in subsection (a)—

(I) by inserting ''1027,'' after ''726,''; and

(II) by inserting ''10,'' after ''7,''; and

(ii) in subsection (b)—

(I) by inserting ''10,'' after ''9,''; and

(II) by inserting ''1026,'' after ''943(b),'';

(I) in section 348—

(i) in subsections (b), (c), and (e) by inserting ''1009,'' after ''706,'' each place it appears; and

(ii) in subsection (d) by inserting ''1009,'' after ''section'';

(J) in section 362(c)(2)(C) by inserting ''10,'' after ''9,'';

(K) in section 363—

(i) in subsection (c)(1) by inserting ''1006,'' after ''721,''; and

(ii) in subsection (l) by inserting ''10,'' after ''chapter'';

(L) in section 364(a) by inserting ''1006, 1007,'' after ''721,'';

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting ''10,'' after ''9,'' each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting ''1009,'' after ''section'' each place it appears;

(N) in section 502(g) by inserting ''10,'' after ''9,'';

(O) in section 523(a) by inserting ''1028(d),'' after ''727,'';

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting ''1028(d),'' after ''727,'' each place it appears; and

(ii) in subsection (a)(3) by inserting ''1028(d),'' after ''523,'';

(Q) in section 546(a)(1) by inserting ''1005,'' after ''702,'';

(R) in section 557(d)(3) by inserting ''1005,'' after ''703,'';

(S) in section 706—

(i) in subsection (a)—

(I) by inserting ''10,'' before ''11,''; and

(II) by inserting ''1009,'' after ''section''; and

(ii) in subsection (c) by striking ''12 or 13'' and inserting ''10, 12, or 13'';

(T) in section 726(b) by inserting ''1009,'' after ''chapter under section'';

(U) in section 1106(a)(5) by inserting ''10,'' after ''7,'';

(V) in section 1306(a) (1) and (2) by inserting ''10,'' after ''7,'' each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting ''1009,'' after ''706,'';

(ii) in subsection (d) by striking ''11 or 12'' and inserting ''10, 11, or 12''; and

(iii) in subsection (e) by inserting ''10,'' after ''7,''.

(3) BANKRUPTCY RULES.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting ''10,'' after ''chapter'';

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking ''12 and 13'' and inserting ''10, 12, and 13''; and

(bb) by inserting ''1025, 1029,'' after ''sections''; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting ''10,'' after ''7,'';

(C) in subsections (b), (d), and (e) by striking ''12 or 13'' each place it appears and inserting ''10, 12, or 13''; and

(D) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

''(3) For a case commenced under chapter 10 of title 11, $600.''.

(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3119) is amended in subsections (d) and (e) by inserting ''10,'' after ''7,'' each place it appears.

(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 202. SINGLE ASSET REAL ESTATE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

" 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto.".

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

(1) in subsection (d)—

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

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

(C) by adding at the end the following new paragraph:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later

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

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate."; and

(2) by adding at the end the following new subsection:

"(i)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.

"(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.

''(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court extraordinary circumstances requiring such a hearing.''.

SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING STOCK EQUIPMENT.

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

''§ 1110. Aircraft equipment and vessels

''(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession unless—

''(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

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

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in that section, except that for the purposes of this section the term also includes an air carrier in intrastate commerce); or

"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and ne-

cessity or permit issued by the Interstate Commerce Commission.

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

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a sub-

stantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

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

''§ 1168. Rolling stock equipment

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

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

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

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

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

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

''(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

(c) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendment of sections 1110 and 1168 of title 11, United States Code, made by subsections (a) and (b) shall not apply to cases

commenced under title 11, United States Code, prior to the date of enactment of this Act.

(2) PLACEMENT IN SERVICE.—The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after ''real property'' the following: ''and, in a case under chapter 11, under an unexpired lease of personal property''.

SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment

in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.''.

SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS.

POSTPETITION EFFECT OF SECURITY INTEREST.—Section 552(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by striking ''rents,'' each place it appears; and

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

''(2)(A) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548, if—

''(i) the debtor and an entity entered into a security agreement that was duly recorded in the public records before the commencement of the case; and

''(ii) the security interest created by the security agreement extends to—

''(I) property of the debtor acquired before the commencement of the case; and

''(II)(aa) to amounts paid as rents of such property; or

''(bb) to amounts paid for the use or occupancy of such property (including fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in a property such as a hotel, motel, or other lodging), the security interest extends to such amounts paid to the estate as rents or as fees, charges, accounts, or other payments after the commencement of the case to the extent provided in the security agreement, whether or not the security interest in such rents or such fees, charges, accounts, or other payments is perfected under applicable nonbankruptcy law, except to the extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

''(B) If a security interest extends under subparagraph (A) to rents acquired by the estate after the commencement of the case, the security interest in such rents shall be deemed to be perfected for the purpose of section 544(a).''.

(b) USE SALE, OR LEASE OF PROPERTY.—Section 363(a) of title 11, United States Code, is amended by inserting: ''and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties'' after ''property''.

SEC. 207. ANTI-ALIENATION.

(a) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 501(a), is amended—

(1) by striking ''or'' at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting ''; or''; and

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

''(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401 (a) or (b), 403(b), or of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 408(b)(1) or of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or section 4975(d)(1) of the Internal Revenue Code of 1986 or, in the case of a loan from the Thrift Savings Plan described in sub-

chapter III of chapter 84 of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.''.

(b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting ''; or''; and

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

''(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403 (a) or (b), or 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or section 4975(d)(1) of the Internal Revenue Code 1986 or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.''.

(c) PROPERTY OF THE ESTATE.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

''(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k) of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

''(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).''.

(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking ''debtor and'' and inserting ''debtor (not including income that is

withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and''; and

(2) in subsection (c) by striking ''income to'' and inserting ''income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to''.

SEC. 208. EXEMPTION.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after ''homestead association,'' the following: ''a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),''.

SEC. 209. INDENTURE TRUSTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting after subparagraph (C) the following new subparagraph;

''(D) an indenture trustee;''; and

(C) in subparagraph (E), as redesignated by subparagraph (A), by striking ''an indenture trustee,''; and

(2) in paragraph (5) by striking ''for services rendered by an indenture trustee in making a substantial contribution'' and inserting ''for reasonable and necessary services rendered by an indenture trustee''.

SEC. 210. PAYMENT OF TAXES WITH BORROWED FUNDS.

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

(1) by striking ''or'' at the end of paragraph (11);

(2) by adding ''or'' at the end of paragraph (12); and

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

''(13) incurred to pay a tax or customs duty that would be nondischargeable pursuant to paragraph (1).''.

SEC. 211. RETURN OF GOODS.

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

''(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.''.

(b) SETOFF.—Section 553(b)(1) is amended by inserting ''546(h),'' after ''365(h)(2),''.

SEC. 212. EXCEPTION TO DISCHARGE.

Section 523(a)(2) of title 11, United States Code, is amended by striking ''forty'' and inserting ''60''.

SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (2);

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

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

''(4) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.".

SEC. 214. LIMITATION ON LIABILITY OF NONINSIDER TRANSFEREE FOR AVOIDED TRANSFER.

Section 550 of title 11, United States Code, is amended—

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

(2) by inserting after subsection (a) the following new subsection:

"(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—

''(1) all the elements of section 547(b) are satisfied as to the first transferee; and

''(2) the exceptions in section 547(c) do not protect the first transferee.''.

SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.

Section 547 of title 11, United States Code, is amended in subsection (c)(3)(B) and subsection (e)(2) by striking ''10'' and inserting ''20''.

SEC. 216. AIRPORT GATE LEASES.

Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 60 days after the date of the order for relief, or within such additional time (not to exceed 120 additional days) as the court sets during such 60-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

''(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers.

''(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—

''(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;

''(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;

''(III) the size and complexity of the case; and

''(IV) air carrier competition at the airport.

''(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.

''(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.''.

SEC. 217. TRUSTEE DUTIES.

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

''(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

''(ii) filing with the court comments with respect to each such an application and, if the United States Trustee considers it to be appropriate, objections to such application.''.

SEC. 218. PAYMENTS.

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

SEC. 219. CONTINUED PERFECTION.

(a) AUTOMATIC STAY.—Section 362(b)(3) of title 11, United States Code, is amended by inserting '', or to maintain or continue the perfection of,'' after ''to perfect''.

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

''(b)(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that—

''(A) permits perfection of an interest in property to be effective against an entity that acquires rights in the property before the date of perfection; or

''(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquires rights in the property before the date on which action is taken to effect such maintenance or continuation.

''(2) If—

''(A) a law described in paragraph (1) requires seizure of property that is subject to a perfected interest or commencement of an action to accomplish perfection or maintenance or continuation of an interest in property; and

''(B) the property has not been seized or an action has not been commenced before the date of the filing of the petition,

the interest in such property shall be perfected, or perfection of such interest shall be maintained or continued, by notice within the time fixed by that law for the seizure of property or commencement of an action.''.

SEC. 220. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

''(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment.''.

SEC. 221. NOTICES TO CREDITORS.

Section 342 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(c) If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name and address of the debtor and the account number, if any, of the debt owed to the creditor if the account number is known to or reasonably ascertainable by the debtor.''.

TITLE III—CONSUMER BANKRUPTCY ISSUES

SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

Section 1322 of title 11, United States Code, as amended by section 207(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

''(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

''(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

''(2) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).''.

SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.

Section 1328(a)(3) of title 11, United States Code, is amended by inserting ‘‘, or a fine to the extent such fine exceeds $500, ’’ after ‘‘restitution’’.

SEC. 303. PROTECTION OF CHILD SUPPORT AND ALIMONY.

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

‘‘(2) under subsection (a) of this section—

‘‘(A) of the commencement or continuation of an action or proceeding for—

‘‘(i) the establishment of paternity; or

‘‘(ii) the establishment or modification of an order for alimony, maintenance, or support; or

‘‘(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;’’.

(b) PRIORITY OF CLAIMS.—

(1) ALIMONY OR SUPPORT.—Section 507(a) of title 11, United States Code, is amended—

(A) in paragraph (8) by striking ‘‘(8) Eighth’’ and inserting ‘‘(9) Ninth’’;

(B) in paragraph (7) by striking ‘‘(7) Seventh’’ and inserting ‘‘(8) Eighth’’; and

(C) by inserting after paragraph (6) the following new paragraph:

''(7) Eighth, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

''(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

''(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.''.

(2) TECHNICAL AMENDMENTS.—Title 11, United States Code, is amended—

(A) in section 502(i) by striking ''507(a)(7)'' and inserting ''507(a)(8)'';

(B) in section 503(b)(1)(B)(i) by striking ''507(a)(7)'' and inserting ''507(a)(8)'';

(C) in section 523(a)(1)(A) by striking ''507(a)(7)'' and inserting ''507(a)(8)'';

(D) in section 724(b)(2) by striking ''or 507(a)(6)'' and inserting ''507(a)(6), or 507(a)(7)'';

(E) in section 726(b) by striking ''or (7)'' and inserting '', (7), or (8)'';

(F) in section 1123(a)(1) by striking ''507(a)(7)'' and inserting ''507(a)(8)''; and

(G) in section 1129(a)(9)—

(i) in subparagraph (B) by striking ''or 507(a)(6)'' and inserting '', 507(a)(6), or 507(a)(7)''; and

(ii) in subparagraph (C) by striking ''507(a)(7)'' and inserting ''507(a)(8)''.

(c) PROTECTION OF LIENS.—Section 522(f)(1) of title 11, United States Code, is amended to read as follows:

''(1) a judicial lien (other than a judicial lien that secures a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of the spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, to the extent that the debt—

''(A) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

''(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support).''.

(d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Section 547(c) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

''(7) to the extent that the transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

''(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or".

(e) APPEARANCE BEFORE COURT.—A child support creditor or its representative shall be permitted to appear and intervene without charge and without meeting any special local court rule requirement for attorney appearances in any bankruptcy proceeding in any bankruptcy court or district court of the United States if the creditor or representative files with the court a statement describing in detail the child support debt, its status, and other characteristics.

SEC. 304. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

"(a) DEFINITION.—In this section—

" 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500

for each such failure unless the failure is due to reasonable cause.

''(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

''(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

''(e) NO AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

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

''(f) ADVERTISING.—(1) A bankruptcy petition preparer shall not use the word ''legal'' or any similar term in any advertisements, or advertise under any category that includes the word ''legal'' or any similar term.

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

''(g) COURT FEES.—(1) A bankruptcy petition preparer shall not collect or receive any payment from the debt-

or or on behalf of the debtor for the court fees in connection with filing the petition.

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

"(h) FEES FOR SERVICES.—(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

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

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

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

"(i) DAMAGES.—(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy forms, the negligence or intentional disregard of this

title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

''(A) the debtor's actual damages;

''(B) the greater of—

''(i) $2,000; or

''(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

''(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

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

''(j) INJUNCTIVE RELIEF.—

''(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared a document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy peti-

tion preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an in-

junction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

''(3) ATTORNEY'S FEE.—The court shall award to a debtor, trustee, or creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

''(k) UNAUTHORIZED PRACTICE OF LAW.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.''.

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following new item:

''110.Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.''.

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

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

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

"§ 152. Concealment of assets; false oaths and claims; bribery

''A person who—

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

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

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

''(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

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

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

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

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

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest

of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

''(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of states in the person's charge,

shall be fined not more than $5000 and shall forfeit the person's office, which shall thereupon become vacant.''; and

(B) by adding at the end the following new section:

''§ 156. Willful disregard of bankruptcy law or rule

''(a) DEFINITIONS.—In this section—

'' 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

'' 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

''(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bank-

ruptcy Rules, the bankruptcy petition preparer shall be fined $5,000.''.

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

(A) by amending the item relating to section 153 to read as follows:

''Sec. 153. Embezzlement against estate.'';

and

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

''Sec. 156. Willful disregard of bankruptcy law or rule.''.

SEC. 305. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.''.

SEC. 306. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking ''claims;'' and inserting ''claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.

5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;''.

SEC. 307. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''or'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim.''; and

(2) by adding at the end the following new subsection:

''(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by

subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.''.

SEC. 308. EXEMPTION FOR HOUSEHOLD GOODS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

''(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;'';

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings; and

SEC. 309. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney, after considering comments and objections submitted by the United States Trustee in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(a)(3)(A) of title 28—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, pro-

fessional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—

"(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and

"(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(I) the time spent on such services;

"(II) the rates charged for such services;

"(III) whether the services were necessary in the administration of or beneficial toward the completion of a case under this title; and

"(IV) the total value of the estate and the amount of funds or other property available for distribution to all creditors both secured and unsecured.

"(B) In calculating compensation for services for the purpose of subparagraph (A)(ii), the court shall consider—

"(i) whether tasks were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed; and

"(ii) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in nonbankruptcy cases.

"(3)(A) Subject to subparagraph (B), the court shall not allow compensation for duplication of services or for services that are not either reasonably likely to benefit the debtor's estate or necessary in the administration of the case.

"(B) In a case in which the debtor is an individual, the court shall allow reasonable compensation for services by the debtor's attorney representing the interests of the debtor without regard to the benefit of such services to the estate.

"(4)(A) The court shall take into account the amount and timing of interim compensation, if any awarded and paid, in awarding final compensation.

"(B) If interim compensation was awarded and paid in an amount that exceeds the amount the court awards as final compensation the court may order the return of the excess to the trustee or other entity that paid it.

''(5) In determining the amount to be awarded for the preparation of fee applications, the court shall recognize the difference between the cost of professional services and services for the preparation of fee applications. The costs awarded for the preparation of fee applications shall be reasonable and based on the level of skill required.''.

SEC. 310. INTEREST ON INTEREST.

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

''(d) Notwithstanding subsection (a) of this section and sections 506(b), 1129(a)(7), and 1129(b) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.''.

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

''(d) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1225(a)(5) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.''.

(c) CHAPTER 13.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(f) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1325(a)(5) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements described in sections 1123(d), 1222(d), and 1322(f) of title 11, United States Code, as added by this section, that are entered into after the date of enactment of this Act.

TITLE IV—BANKRUPTCY REVIEW COMMISSION

SEC. 401. SHORT TITLE.

This title may be cited as the ''National Bankruptcy Review Commission Act''.

SEC. 402. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the ''Commission'').

SEC. 403. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the ''Bankruptcy Code'');

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 408; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 404. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) One member shall be appointed by the President pro tempore of the Senate.

(3) One member shall be appointed by the Minority Leader of the Senate.

(4) One member shall be appointed by the Speaker of the House of Representatives.

(5) One member shall be appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member

leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 405. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts

and consultants under section 3109(b) of title 5, United States Code.

SEC. 407. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 408. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 409. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 408.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

(a) ALPHABETIZATION AND ELIMINATION OF PARAGRAPH DESIGNATIONS.—Section 101 of title 11, United States Code, is amended to read as follows:

"§ 101. Definitions

''In this title—

'' 'accountant' means an accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

'' 'affiliate' means—

''(A) an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

"(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

"(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

"(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

"(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

"(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

"(C) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

"(D) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

" 'attorney' means an attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.

" 'claim' means—

"(A) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

"(B) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

" 'commodity broker' means a futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer (as defined in section 761) with respect to which there is a customer (as defined in section 761).

"'community claim' means a claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) is liable, whether or not there is any such property at the time of the commencement of the case.

"'consumer debt' means debt incurred by an individual primarily for a personal, family, or household purpose.

"'corporation'—

"(A) includes—

"(i) an association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

"(ii) a partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

"(iii) a joint-stock company;

"(iv) an unincorporated company or association; or

"(v) a business trust; but

"(B) does not include a limited partnership.

"'creditor' means—

"(A) an entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

"(B) an entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h), or 502(i); or

"(C) an entity that has a community claim.

" 'custodian' means—

"(A) a receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

"(B) an assignee under a general assignment for the benefit of the debtor's creditors; or

"(C) a trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors.

" 'debt' means liability on a claim.

" 'debtor' means a person or municipality concerning which a case under this title has been commenced.

" 'disinterested person' means a person that—

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

"(B) is not and was not an investment banker for any outstanding security of the debtor;

"(C) has not been, within 3 years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;

"(D) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C); and

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

" 'entity' includes a person, estate, trust, governmental unit, and United States trustee.

"'equity security' means—

"(A) a share in a corporation, whether or not transferable or denominated 'stock', or similar security;

"(B) an interest of a limited partner in a limited partnership; or

"(C) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B).

"'equity security holder' means a holder of an equity security of the debtor.

"'family farmer' means—

"(A) an individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such

farming operation more than 50 percent of such individual's or such individual and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation—

''(i) more than 80 percent of the value of its assets consists of assets related to the farming operation;

''(ii) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or oper-

ated by such corporation or such partnership; and

"(iii) if such corporation issues stock, such stock is not publicly traded.

" 'family farmer with regular annual income' means a family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12.

" 'farmer' means (except when such term appears in the term 'family farmer') a person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person.

" 'farming operation' includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state.

" 'Federal depository institutions regulatory agency' means—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the

Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of that Act);

"(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

"(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation.

" 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian

for a customer in connection with a securities contract (as defined in section 741(a)), the customer.

"'foreign proceeding' means a proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization.

"'foreign representative' means a duly selected trustee, administrator, or other representative of an estate in a foreign proceeding.

"'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, as defined in section 761, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allo-

cated transaction, unallocated transaction, or any combination thereof or option thereon.

"'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.

"'governmental unit' means—

"(A) the United States, a State, Commonwealth, or Territory, the District of Columbia, a municipality, and a foreign state;

"(B) a department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, Commonwealth, or Territory, the District of Columbia, a municipality, a foreign state; or

"(C) any other foreign or domestic government.

"'indenture' means a mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien

on any of the debtor's property, or an equity security of the debtor.

"'indenture trustee' means a trustee under an indenture.

"'individual with regular income' means an individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13, other than a stockbroker or a commodity broker.

"'insider' includes—

"(A) if the debtor is an individual—

"(i) a relative of the debtor or of a general partner of the debtor;

"(ii) a partnership in which the debtor is a general partner;

"(iii) a general partner of the debtor; or

"(iv) a corporation of which the debtor is a director, officer, or person in control;

"(B) if the debtor is a corporation—

"(i) a director of the debtor;

"(ii) an officer of the debtor;

"(iii) a person in control of the debtor;

"(iv) a partnership in which the debtor is a general partner;

''(v) a general partner of the debtor; or

''(vi) a relative of a general partner, director, officer, or person in control of the debtor;

''(C) if the debtor is a partnership—

''(i) a general partner in the debtor;

''(ii) a relative of a general partner in, general partner of, or person in control of the debtor;

''(iii) a partnership in which the debtor is a general partner;

''(iv) a general partner of the debtor; or

''(v) a person in control of the debtor;

''(D) if the debtor is a municipality, an elected official of the debtor or relative of an elected official of the debtor;

''(E) an affiliate, or insider of an affiliate as if such affiliate were the debtor; and

''(F) a managing agent of the debtor.

'' 'insolvent' means—

''(A) with reference to an entity other than a partnership and a municipality, being in a financial condition such that the sum of the enti-

ty's debts is greater than all of the entity's property, at a fair valuation, exclusive of—

"(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

"(ii) property that may be exempted from property of the estate under section 522;

"(B) with reference to a partnership, being in a financial condition such that the sum of the partnership's debts is greater than the aggregate of, at a fair valuation—

"(i) all of the partnership's property, exclusive of property of the kind specified in subparagraph (A)(i); and

"(B) the sum of the excess of the value of each general partner's nonpartnership property, exclusive of property of the kind specified in subparagraph (A), over such partner's nonpartnership debts; and

"(C) with reference to a municipality, being in a financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; and

"(ii) unable to pay its debts as they become due.

" 'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) (12 U.S.C. 1813(c)(2)), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(2) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).

" 'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).

" 'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except as provided in the definition of 'Federal de-

pository institutions regulatory agency' and in subparagraph (B) of the definition of 'institution-affiliated party').

" 'intellectual property' means—

"(A) a trade secret;

"(B) an invention, process, design, or plant protected under title 35;

"(C) a patent application;

"(D) a plant variety;

"(E) a work of authorship protected under title 17; and

"(F) a mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law.

" 'judicial lien' means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

" 'lien' means a charge against or interest in property to secure payment of a debt or performance of an obligation.

" 'margin payment', as used in sections 362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C), 556, 741(5), 761(15), 764(b), 766(a), and any other provision of this title in relation to forward contracts, means a payment or deposit of cash, a security, or

other property that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including market-to-market payments or variation payments.

"'mask work' has the meaning given it in section 901(a)(2) of title 17.

"'municipality' means a political subdivision or public agency or instrumentality of a State.

"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, shall be considered to be a person for purposes of section 1102.

"'petition' means a petition filed under section 301, 302, 303, or 304 commencing a case under this title.

"'purchaser' means a transferee of a voluntary transfer, and includes an immediate or mediate transferee of such a transferee.

"'railroad' means a common carrier by railroad engaged in the transportation of individuals or prop-

erty or owner of trackage facilities leased by such a common carrier.

"'relative' means an individual related by affinity or consanguinity within the third degree as determined by the common law and an individual in a step or adoptive relationship within such third degree.

"'repo participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of a petition, has an outstanding repurchase agreement with the debtor.

"'repurchase agreement' and 'reverse repurchase agreement' mean an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds.

" 'security'—

"(A) includes—

"(i) a note;

"(ii) stock;

"(iii) treasury stock;

"(iv) a bond;

"(v) a debenture;

"(vi) a collateral trust certificate;

"(vii) a preorganization certificate or subscription;

"(viii) a transferable share;

"(ix) a voting-trust certificate;

"(x) a certificate of deposit;

"(xi) a certificate of deposit for security;

"(xii) an investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is required to be the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of that Act (15 U.S.C. 77c(b))

from the requirement to file such a statement;

''(xiii) an interest of a limited partner in a limited partnership;

''(xiv) another claim or interest commonly known as a 'security'; and

''(xv) a certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but

''(B) does not include—

''(i) currency or a check, draft, bill of exchange, or bank letter of credit;

''(ii) a leverage transaction (as defined in section 761);

''(iii) a commodity futures contract or forward contract;

''(iv) an option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

''(v) an option to purchase or sell a commodity;

''(vi) a contract or certificate of a kind specified in subparagraph (A)(xii) that is

not required to be the subject of a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or

''(vii) debt or an evidence of indebtedness for goods sold and delivered or services rendered.

'' 'security agreement' means an agreement that creates or provides for a security interest.

'' 'securities clearing agency' means a person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities (as defined in section 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the purposes of that section 17A.

'' 'security interest' means a lien created by an agreement.

'' 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, partial settlement payment, interim settlement payment, settlement payment on

account, final settlement payment, net settlement payment, or any other similar payment commonly used in the forward contract trade.

"'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9.

"'statutory lien' means a lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include a security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

"'stockbroker' means a person—

"(A) with respect to which there is a customer (as defined in section 741); and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account.

"'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein)

which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, or any other similar agreement (including any option to enter into any of the foregoing);

''(2) any combination of the foregoing; or

''(3) a master agreement for any of the foregoing together with all supplements.

'' 'swap participant' means an entity that, at any time before the filing of a petition, has an outstanding swap agreement with the debtor.

'' 'timeshare interest' means an interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.

'' 'timeshare plan' means an interest in any arrangement, plan, scheme, or similar device (but not including an exchange program), whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or

by any other means, whereby a purchaser of the interest, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than 3 years.

''transfer' means a mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption.

''United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.

(b) REFERENCES TO DEFINITIONS IN TITLE XI.—

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

(A) in paragraph (6)—

(i) by striking ''section 761(4)'' and inserting ''section 761'';

(ii) by striking ''section 741(7)'' and inserting ''section 741'';

(iii) by striking ''section 101(34), 741(5), or 761(15)'' and inserting ''section 101, 741, or 761''; and

(iv) by striking ''section 101(35) or 741(8)'' and inserting ''section 101 or 741''; and

(B) in paragraph (7)—

(i) by striking ''section 741(5) or 761(15)'' and inserting ''section 741 or 761''; and

(ii) by striking ''section 741(8)'' and inserting ''section 741''.

(2) SECTION 507.—Section 507(a)(5) of title 11, United States Code, is amended—

(A) by striking ''section 557(b)(1)'' and inserting ''section 557(b)''; and

(B) by striking ''section 557(b)(2)'' and inserting ''section 557(b)''.

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

(A) in subsection (e)—

(i) by striking ''section 101(34), 741(5), or 761(15)'' and inserting ''section 101, 741, or 761''; and

(ii) by striking ''section 101(35) or 741(8)'' and inserting ''section 101 or 741''; and

(B) in subsection (f)—

(i) by striking ''section 741(5) or 761(15)'' and inserting ''section 741 or 761''; and

(ii) by striking ''section 741(8)'' and inserting ''section 741''.

(4) SECTION 548.—Section 548(d)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking ''section 101(34), 741(5) or 761(15)'' and inserting ''section 101, 741, or 761''; and

(ii) by striking ''section 101(35) or 741(8)'' and inserting ''section 101 or 741''; and

(B) in subparagraph (C)—

(i) by striking ''section 741(5) or 761(15)'' and inserting ''section 741 or 761''; and

(ii) by striking ''section 741(8)'' and inserting ''section 741''.

(5) SECTION 555.—Section 555 of title 11, United States Code, is amended by striking ''section 741(7)'' and inserting ''section 741''.

(6) SECTION 556.—Section 556 of title 11, United States Code, is amended by striking ''section 761(4)'' and inserting ''section 761''.

(c) REFERENCES TO DEFINITIONS IN OTHER LAWS.—

(1) FEDERAL CREDIT UNION ACT.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) in clause (ii)(I) by striking ''section 741(7)'' and inserting ''section 741'';

(B) in clause (iii) by striking ''section 101(24)'' and inserting ''section 101'';

(C) in clause (iv)(I) by striking ''section 101(41)'' and inserting ''section 101''; and

(D) in clause (v) by striking ''section 101(50)'' and inserting ''section 101''.

(2) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking ''section 741(7)'' and inserting ''section 741'';

(B) in clause (iii) by striking ''section 761(4)'' and inserting ''section 761'';

(C) in clause (iv) by striking ''section 101(24)'' and inserting ''section 101'';

(D) in clause (v)(I) by striking ''section 101(41)'' and inserting ''section 101''; and

(E) in clause (viii) by striking ''section 101(50)'' and inserting ''section 101''.

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

(1) in section 322(a) by striking ''1302, or 1202'' and inserting ''1202, or 1302'',

(2) in section 346—

(A) in subsection (a) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)'' and inserting ''Internal Revenue Code of 1986''; and

(B) in subsection (g)(1)(C) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 371)'' and inserting ''Internal Revenue Code of 1986'';

(3) in section 348—

(A) in subsection (b) by striking ''728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)'' and inserting ''728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b),

1201(a), 1221, 1228(a), 1301(a), and 1305(a)''; and

(B) in subsections (b), (c), (d), and (e) by striking ''1307, or 1208'' each place it appears and inserting ''1208, or 1307'';

(4) in section 349(a) by striking ''109(f)'' and inserting ''109(g)'';

(5) in section 362(b)—

(A) by striking ''or'' at the end of paragraph (10);

(B) in paragraph (12) by striking ''the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)'' and inserting ''section 31325 of title 46, United States Code'';

(C) in paragraph (13)—

(i) by striking ''the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)'' and inserting ''section 31325 of title 46, United States Code''; and

(ii) by striking ''or'' at the end;

(D) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after para-

graph (13), and striking the period at the end and inserting a semicolon; and

(E) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as paragraphs (15), (16), and (17);

(6) in section 363(c)(1) by striking ''1304, 1203, or 1204'' and inserting ''1203, 1204, or 1304'';

(7) in section 364(a) by striking ''1304, 1203, or 1204'' and inserting ''1203, 1204, or 1304'';

(8) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking ''1307, or 1208'' each place it appears and inserting ''1208, or 1307'';

(B) in subsection (n)(1)(B) by striking ''to to'' and inserting ''to''; and

(C) in subsection (o) by striking ''the Federal'' the first place it appears and all that follows through ''successors,'' and inserting ''a Federal depository institutions regulatory agency (or predecessor to such an agency)'';

(9) in section 507—

(A) in subsection (a)(8) by striking ''the Federal'' the first place it appears and all that

follows through ''successors,'' and inserting ''a Federal depository institutions regulatory agency (or predecessor to such an agency)''; and

(B) in subsection (d) by striking ''(a)(3), (a)(4), (a)(5), or (a)(6)'' and inserting ''(a) (3), (4), (6), or (7)'';

(10) in section 522(d)(10)(E)(iii) by striking ''401(a), 403(a), 403(b), 408, or 409 Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)'' and inserting ''section 401(a), 403 (a) or (b), 408, or 409 of the Internal Revenue Code of 1986'';

(11) in section 523(a) —

(A) in subsection (a)—

(i) by striking ''1141,, 1228(a), 1228(b),'' and inserting ''1141, 1228 (a) or (b),''; and

(ii) in paragraph (12) by striking the semicolon at the end and inserting a period; and

(B) in subsection (e) by striking ''depository institution or insured credit union'' and inserting ''insured depository institution'';

(12) in section 524—

(A) in subsection (a)(3) by striking ''or 1328(c)(1)'' and inserting ''1228(a)(1), or 1328(a)(1)'';

(B) in subsection (c)(4) by striking ''recission'' and inserting ''rescission''; and

(C) in subsection (d)(1)(B)(ii) by adding ''and'' at the end;

(12) in section 541(b)(3) by striking the period at the end of paragraph (3) and inserting ''; or'';

(13) in section 542(e) by striking ''to to'' and inserting ''to'';

(14) in section 543(d)(1) by striking ''of equity'' and inserting ''if equity'';

(15) in section 546(a)(1) by striking ''1302, or 1202'' and inserting ''1202, or 1302'';

(16) in section 549(b) by inserting ''the trustee may not avoid under subsection (a) of this section'' after ''involuntary case,'';

(17) in section 553—

(A) in subsection (a)(1) by striking ''other than under section 502(b)(3) of this title''; and

(B) in subsection (b)(1) by striking ''362(b)(14),'' and inserting ''362(b)(14),'';

(18) in section 706(a) by striking ''1307, or 1208'' and inserting ''1208, or 1307'';

(19) in section 724(d) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 6323)'' and inserting ''Internal Revenue Code of 1986'';

(20) in section 726(b) by inserting a comma after ''section 1112'';

(21) in section 743 by striking ''342(a)'' and inserting ''342'';

(22) in section 745(c) by striking ''Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)'' and inserting ''Internal Revenue Code of 1986'';

(23) in section 1104(c) inserting a comma after ''interest'';

(24) in section 1123(a)(1) inserting a comma after ''title'' the last place it appears;

(25) in section 1129(a)—

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

(B) in paragraph (12) inserting ''of title 28'' after ''section 1930'';

(26) in section 1145(a) by striking ''does'' and inserting ''do'';

(27) in section 1226(b)(2)—

(A) by striking ''1202(d) of this title'' and inserting ''1202(c)''; and

(B) by striking ''1202(e) of this title'' and inserting ''1202(d)'';

(28) in section 1302(b)(3) by striking ''and'' at the end;

(29) in section 1328(a)(2) by striking ''(5) or (8)'' and inserting ''(5), (8), or (9)''; and

(30) in the table of chapters by striking the item relating to chapter 15.

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting ''12,'' after ''11,''.

TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 602. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in section 115(c) and in paragraph (2) of this subsection, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the date of enactment of this Act.

(2) SECTION 1110 OF TITLE 11.—Section 1110 of title 11, United States Code, as amended by section 203, shall apply with respect to any lease (as defined in section 1110(c)), entered into in connection with a settlement of any litigation in any case pending under title 11, United States Code, on the date of enactment of this Act.