

106TH CONGRESS
1ST SESSION

H. R. 833

AN ACT

To amend title 11 of the United States Code, and
for other purposes.

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To amend title 11 of the United States Code, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Bankruptcy Reform Act of 1999”.

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

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs based bankruptcy

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.

Subtitle B—Consumer Bankruptcy Protections

Sec. 105. Definitions.
Sec. 106. Enforcement.
Sec. 107. Sense of the Congress.
Sec. 108. Discouraging abusive reaffirmation practices.
Sec. 109. Promotion of alternative dispute resolution.
Sec. 110. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 111. Dual use debit card.
Sec. 112. Enhanced disclosures under an open-end credit plan.
Sec. 113. Protection of savings earmarked for the postsecondary education of
children.
Sec. 114. Effect of discharge.
Sec. 115. Limiting trustee liability.
Sec. 116. Reinforce the fresh start.
Sec. 117. Discouraging bad faith repeat filings.
Sec. 118. Curbing abusive filings.
Sec. 119. Debtor retention of personal property security.
Sec. 120. Relief from the automatic stay when the debtor does not complete in-
tended surrender of consumer debt collateral.
Sec. 121. Giving secured creditors fair treatment in chapter 13.
Sec. 122. Restraining abusive purchases on secured credit.
Sec. 123. Fair valuation of collateral.
Sec. 124. Domiciliary requirements for exemptions.
Sec. 125. Restrictions on certain exempt property obtained through fraud.
Sec. 126. Rolling stock equipment.
Sec. 127. Discharge under chapter 13.
Sec. 128. Bankruptcy judgeships.
Sec. 129. Additional amendments to title 11, United States Code.
Sec. 130. Amendment to section 1325 of title 11, United States Code.
Sec. 131. Application of the codebtor stay only when the stay protects the debt-
or.
Sec. 132. Adequate protection for investors.
Sec. 133. Limitation on luxury goods.
Sec. 134. Allowing a debtor to retain leased personal property by assumption.

- Sec. 135. Adequate protection of lessors and purchase money secured creditors.
- Sec. 136. Automatic stay.
- Sec. 137. Extend period between bankruptcy discharges.
- Sec. 138. Definition of domestic support obligation.
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- Sec. 140. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
- Sec. 141. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 142. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 143. Continued liability of property.
- Sec. 144. Protection of domestic support claims against preferential transfer motions.
- Sec. 145. Clarification of meaning of household goods.
- Sec. 146. Nondischargeable debts.
- Sec. 147. Monetary limitation on certain exempt property.
- Sec. 148. Bankruptcy fees.
- Sec. 149. Collection of child support.
- Sec. 150. Excluding employee benefit plan participant contributions and other property from the estate.
- Sec. 151. Clarification of postpetition wages and benefits.
- Sec. 152. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 153. Automatic stay inapplicable to certain proceedings against the debtor.
- Sec. 154. Disclosures.
- Sec. 155. Debtor's bill of rights.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 201. Reenactment of chapter 12.
- Sec. 202. Meetings of creditors and equity security holders.
- Sec. 203. Protection of retirement savings in bankruptcy.
- Sec. 204. Protection of refinance of security interest.
- Sec. 205. Executory contracts and unexpired leases.
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- Sec. 207. Amendment to section 546 of title 11, United States Code.
- Sec. 208. Limitation.
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- Sec. 411. Scheduling conferences.
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- Sec. 413. Expanded grounds for dismissal or conversion and appointment of trustee or examiner.
- Sec. 414. Study of operation of title 11, United States Code, with respect to small businesses.
- Sec. 415. Payment of interest.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 501. Petition and proceedings related to petition.
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TITLE VII—BANKRUPTCY DATA

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- Sec. 806. Priority property taxes incurred.
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- Sec. 808. Chapter 11 discharge of fraudulent taxes.
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- Sec. 811. Avoidance of statutory tax liens prohibited.
- Sec. 812. Payment of taxes in the conduct of business.
- Sec. 813. Tardily filed priority tax claims.
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- Sec. 815. Discharge of the estate's liability for unpaid taxes.
- Sec. 816. Requirement to file tax returns to confirm chapter 13 plans.
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- Sec. 901. Amendment to add chapter 15 to title 11, United States Code.
- Sec. 902. Other amendments to titles 11 and 28, United States Code.

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- Sec. 1109. Allowance of administrative expenses.
- Sec. 1110. Priorities.
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- Sec. 1112. Exceptions to discharge.
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 Sec. 1126. Transfers made by nonprofit charitable corporations.
 Sec. 1127. Prohibition on certain actions for failure to incur finance charges.
 Sec. 1128. Protection of valid purchase money security interests.
 Sec. 1129. Trustees.

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1201. Effective date; application of amendments.

1 **TITLE I—CONSUMER** 2 **BANKRUPTCY PROVISIONS** 3 **Subtitle A—Needs based** 4 **bankruptcy**

5 **SEC. 101. CONVERSION.**

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

8 **SEC. 102. DISMISSAL OR CONVERSION.**

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

11 (1) by striking the section heading and insert-
 12 ing the following:

13 **“§ 707. Dismissal of a case or conversion to a case**
 14 **under chapter 13”;**

15 and

16 (2) in subsection (b)—

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

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

4 (i) in the first sentence—

5 (I) by striking “but not at the re-
6 quest or suggestion of” and inserting
7 “the trustee, or”;

8 (II) by inserting “, or, with the
9 debtor’s consent, convert such a case
10 to a case under chapter 13 of this
11 title,” after “consumer debts”; and

12 (III) by striking “substantial
13 abuse” and inserting “abuse”; and

14 (ii) by striking the second and third
15 sentences and inserting the following:

16 “(2)(A)(i) In considering under paragraph (1) wheth-
17 er the granting of relief would be an abuse of the provi-
18 sions of this chapter, the court shall presume abuse exists
19 if the debtor’s current monthly income less estimated ad-
20 ministrative expenses and reasonable attorneys’ fees, and
21 amounts set forth in clauses (ii) for monthly expenses
22 (which shall include, if applicable, the continuation of ac-
23 tual expenses of a dependent child under the age of 18
24 for tuition, books, and required fees at a private elemen-
25 tary or secondary school, not exceeding \$10,000 per year,

1 which amount shall be adjusted pursuant to section
2 104(b)), (iii) for monthly payments on account of secured
3 debts, and (iv) for monthly unsecured priority debt pay-
4 ments, and multiplied by 60 months is not less than
5 \$6,000.

6 “(ii) The debtor’s monthly expenses shall be the debt-
7 or’s applicable monthly expense amounts specified under
8 the National Standards and Local Standards, and the
9 debtor’s actual monthly expenses for the categories speci-
10 fied as Other Necessary Expenses issued by the Internal
11 Revenue Service for the area in which the debtor resides,
12 as in effect on the date of the entry of the order for relief,
13 for the debtor, the dependents of the debtor, and the
14 spouse of the debtor in a joint case, if the spouse is not
15 otherwise a dependent. In addition, if it is demonstrated
16 that it is reasonable and necessary, the debtor may also
17 subtract an allowance of up to 5% of the food and clothing
18 categories as specified by the National Standards issued
19 by the Internal Revenue Service. Notwithstanding any
20 other provision of this clause, the debtor’s monthly ex-
21 penses shall not include any payments for debts.

22 “(iii) The debtor’s average monthly payments on ac-
23 count of secured debts shall be calculated as the total of
24 all amounts scheduled as contractually due to secured

1 creditors in each month of the 60 months following the
2 date of the petition, and dividing that total by 60 months.

3 “(iv) The debtor’s monthly unsecured priority debt
4 payments (including payments for priority child support
5 and alimony claims) shall be calculated as the total
6 amount of unsecured debts entitled to priority, and divid-
7 ing the total by 60 months.

8 “(v) For the purposes of this subsection, a family or
9 household shall consist of the debtor, the debtor’s spouse,
10 and the debtor’s dependents, but not a legally separated
11 spouse unless the spouse files a joint case with the debtor.

12 “(B) In any motion filed under this subsection, the
13 presumption of abuse may be rebutted only by dem-
14 onstrating extraordinary circumstances that require addi-
15 tional expenses or adjustment of current monthly income.
16 In order to establish extraordinary circumstances, the
17 debtor must itemize each additional expense or adjustment
18 of income and provide documentation for such expenses
19 or adjustment of income and a detailed explanation of the
20 extraordinary circumstances which make such expenses or
21 adjustment of income necessary and reasonable. The debt-
22 or shall attest under oath to the accuracy of any informa-
23 tion provided to demonstrate that additional expenses or
24 adjustment to income are required. The presumption of
25 abuse may be rebutted only if such additional expenses

1 or adjustments to income cause the debtor's current
2 monthly income less estimated administrative expenses
3 and reasonable attorneys' fees, and the amounts set forth
4 in clauses (ii), (iii), and (iv) of subparagraph (A) when
5 multiplied by 60 to be less than \$6,000.

6 “(C) No judge, United States trustee, panel trustee,
7 bankruptcy administrator or other party in interest shall
8 bring a motion under this paragraph if the debtor and
9 the debtor's spouse combined, as of the date of the order
10 for relief, have current monthly total income equal to or
11 less than the regional median household monthly income
12 calculated on a semiannual basis for a household of equal
13 size. However, for a household of more than four individ-
14 uals, the median income shall be that of a household of
15 four individuals plus \$583 for each additional member of
16 that household.

17 “(3) In considering under paragraph (1) whether the
18 granting of relief would be an abuse of the provisions of
19 this chapter in a case in which the presumption in para-
20 graph (2)(A)(i) does not apply or has been rebutted, the
21 court shall consider—

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

24 “(B) the totality of the circumstances (includ-
25 ing whether the debtor seeks to reject a personal

1 services contract and the financial need for such re-
2 jection as sought by the debtor) of the debtor's fi-
3 nancial situation demonstrates abuse.

4 “(4)(A) If a panel trustee appointed under section
5 586(a)(1) of title 28 or bankruptcy administrator brings
6 a motion for dismissal or conversion under this subsection
7 and the court grants that motion and finds that the action
8 of the counsel for the debtor in filing under this chapter
9 violated Rule 9011, the court shall assess damages which
10 may include ordering:

11 “(i) the counsel for the debtor to reimburse the
12 trustee for all reasonable costs, including reasonable
13 attorneys' fees.

14 “(ii) the assessment of an appropriate civil pen-
15 alty against the counsel for the debtor; and

16 “(iii) the payment of the civil penalty to the
17 panel trustee, bankruptcy administrator or the
18 United States trustee.

19 “(B) In the case of a petition filed under sections
20 301, 302, or 303 of this title and supporting lists, sched-
21 ules and documents filed under section 521(a)(1) of this
22 title, the signature of an attorney on the petition shall con-
23 stitute a certificate that the attorney has—

24 “(i) performed a reasonable investigation into
25 the circumstances that gave rise to the petition; and

1 “(ii) determined that the petition, lists, sched-
2 ules, and documents—

3 “(I) are well grounded in fact; and

4 “(II) are warranted by existing law or a
5 good faith argument for the extension, modi-
6 fication, or reversal of existing law and do not
7 constitute an abuse under paragraph (1) of this
8 subsection.

9 “(5) The court may award a debtor all reasonable
10 costs in contesting a motion filed by a party in interest
11 (not including a trustee or the United States trustee)
12 under this subsection (including reasonable attorneys’
13 fees) if—

14 “(A) the court does not grant the motion; and

15 “(B) the court finds that—

16 “(i) the position of the party that brought
17 the motion was not substantially justified; or

18 “(ii) the party brought the motion solely
19 for the purpose of coercing a debtor into
20 waiving a right guaranteed to the debtor under
21 this title.

22 “(6) However, only the court, the United States
23 trustee, or the trustee may file a motion to dismiss or con-
24 vert a case under this subsection if the current monthly
25 income of the debtor and the debtor’s spouse combined,

1 as of the date of the order for relief, when multiplied by
2 12, is less than the highest national median family income
3 last reported by the Bureau of the Census for a family
4 of equal or lesser size, or in the case of a household of
5 one person, the national median household income for one
6 earner. Notwithstanding the foregoing, the national me-
7 dian family income for a family of more than four individ-
8 uals shall be the national median family income last re-
9 ported by the Bureau of the Census for a family of four
10 individuals plus \$583 for each additional member of the
11 family.

12 “(7) In making a determination whether to dismiss
13 a case under this section, the court may not take into con-
14 sideration whether a debtor has made, or continues to
15 make, charitable contributions (that meet the definition
16 of ‘charitable contribution’ under section 548(d)(3)) to
17 any qualified religious or charitable entity or organization
18 (as that term is defined in section 548(d)(4)).

19 “(8) Not later than 3 years after the date of the en-
20 actment of the Bankruptcy Reform Act of 1999, the Di-
21 rector of the Executive Office for United States Trustees
22 shall submit a report, to the Committee on the Judiciary
23 of the House of Representatives and the Committee on
24 the Judiciary of the Senate, containing its findings regard-
25 ing the utilization of the Internal Revenue Service stand-

ards for determining the current monthly expenses under section 707(b)(1)(A)(ii) of title 11, United States Code, of debtors and the impact that the application of such standards has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such title, consistent with the Director's findings."

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

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

“(10A) ‘current monthly income’ means the average monthly income from all sources derived which the debtor, or in a joint case, the debtor and the debtor’s spouse, receive without regard to whether it is taxable income, in the 180 days preceding the date of determination, and includes any amount paid by anyone other than the debtor or, in a joint case, the debtor and the debtor’s spouse, on a regular basis to the household expenses of the debtor or the debtor’s dependents and, in a joint case, the debtor’s spouse if not otherwise a dependent, but excludes payments to victims of war crimes or crimes against humanity and benefits received under the Social Security Act;”;

1 (2) by inserting after paragraph (17) the fol-
2 lowing:

3 “(17A) ‘estimated administrative expenses and
4 reasonable attorneys’ fees’ means 10 percent of pro-
5 jected payments under a chapter 13 plan;”.

6 (c) ADMINISTRATIVE PROVISIONS.—Section 704 of
7 title 11, United States Code, is amended—

8 (1) in paragraph (8) by striking “and” at the
9 end;

10 (2) in paragraph (9) by striking the period at
11 the end and inserting “; and”; and

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

13 “(10)(A) With respect to an individual debtor,
14 the trustee shall review all materials filed by the
15 debtor, consider all information presented at the
16 first meeting of creditors, and within 10 days after
17 the first meeting of creditors file with the court a
18 statement as to whether or not the debtor’s case
19 should be presumed to be an abuse under section
20 707(b) of this title. The court shall provide a copy
21 of such statement to all creditors within 5 days after
22 such statement is filed. If, based on the filing of
23 such statement with the court, the trustee deter-
24 mines that the debtor’s case should be presumed to
25 be an abuse under section 707(b) of this title and

1 if the current monthly income of the debtor and the
2 debtor's spouse combined, as of the date of the order
3 for relief, when multiplied by 12, is not less than the
4 highest national median family income reported for
5 a family of equal or lesser size, or in the case of a
6 household of one person, the national median house-
7 hold income for one earner, then the trustee shall
8 within 30 days of the filing of such statement,
9 either—

10 “(i) file a motion to dismiss or convert
11 under section 707(b) of this title; or

12 “(ii) file a statement setting forth the rea-
13 sons the trustee or bankruptcy administrator
14 does not believe that such a motion would be
15 appropriate.

16 “(B) Notwithstanding subparagraph (A), for
17 purposes of this paragraph the national family in-
18 come for a family of more than four individuals shall
19 be the national median family income last reported
20 by the Bureau of the Census for a family of four in-
21 dividuals plus \$583 for each additional member of
22 the family.”.

23 (d) DEBTOR'S DUTIES.—Section 521(a)(1)(B) of
24 title 11, United States Code, as amended by section 603,
25 is amended—

1 (1) in clause (v) by striking “and” at the end;

2 (2) in clause (vi) by adding “and” at the end;

3 and

4 (3) by inserting the following after clause (vi):

5 “(vii) a statement of the debtor’s cur-
6 rent monthly income, and the calculations
7 which determine whether a presumption
8 arises under section 707(b)(2)(A)(i), show-
9 ing how each amount is calculated.”.

10 (e) BANKRUPTCY FORMS.—Section 2075 of title 28,
11 United States Code, is amended by adding the following
12 at the end of the first paragraph:

13 “The bankruptcy rules promulgated under this section
14 shall prescribe a form for the statement referred to in sec-
15 tion 521(a)(1)(B)(vii) of title 11, United States Code, and
16 may provide general rules on the content of such state-
17 ment.”.

18 (f) CHAPTER 13.—Section 1325(a) of title 11, United
19 States Code, is amended—

20 (1) in paragraph (5) by striking “and” at the
21 end;

22 (2) in paragraph (6) by striking the period and
23 inserting “; and”; and

24 (3) by inserting the following after paragraph
25 (6):

1 “(7) the action of the debtor in filing the peti-
2 tion under this chapter was in good faith.”.

3 (g) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 7 of title 11, United States
5 Code, is amended by striking the item relating to section
6 707 and inserting the following:

“707. Dismissal of a case or conversion to a case under chapter 13.”.

7 **SEC. 103. NOTICE OF ALTERNATIVES.**

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

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

14 “(1) a brief description of—

15 “(A) chapters 7, 11, 12, and 13 and the
16 general purpose, benefits, and costs of pro-
17 ceeding under each of those chapters; and

18 “(B) the types of services available from
19 credit counseling agencies; and

20 “(2) statements specifying that—

21 “(A) a person who knowingly and fraudu-
22 lently conceals assets or makes a false oath or
23 statement under penalty of perjury in connec-
24 tion with a bankruptcy case shall be subject to
25 fine, imprisonment, or both; and

1 “(B) all information supplied by a debtor
2 in connection with a bankruptcy case is subject
3 to examination by the Attorney General.”.

4 **SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING**
5 **TEST PROGRAM.**

6 (a) DEVELOPMENT OF FINANCIAL MANAGEMENT
7 AND TRAINING CURRICULUM AND MATERIALS.—The Di-
8 rector of the Executive Office for United States Trustees
9 (in this section referred to as the “Director”) shall consult
10 with a wide range of individuals who are experts in the
11 field of debtor education, including trustees who are ap-
12 pointed under chapter 13 of title 11, United States Code,
13 and who operate financial management education pro-
14 grams for debtors, and shall develop a financial manage-
15 ment training curriculum and materials that can be used
16 to educate individual debtors on how to better manage
17 their finances.

18 (b) TEST—(1) The Director shall select 6 judicial dis-
19 tricts of the United States in which to test the effective-
20 ness of the financial management training curriculum and
21 materials developed under subsection (a).

22 (2) For a 18-month period beginning not later than
23 270 days after the date of the enactment of this Act, such
24 curriculum and materials shall be, for the 6 judicial dis-
25 tricts selected under paragraph (1), used as the instruc-

1 tional course concerning personal financial management
2 for purposes of section 111 of title 11, United States
3 Code.

4 (c) EVALUATION.—(1) During the 1-year period re-
5 ferred to in subsection (b), the Director shall evaluate the
6 effectiveness of—

7 (A) the financial management training cur-
8 riculum and materials developed under subsection
9 (a); and

10 (B) a sample of existing consumer education
11 programs such as those described in the Report of
12 the National Bankruptcy Review Commission (Octo-
13 ber 20, 1997) that are representative of consumer
14 education programs carried out by the credit indus-
15 try, by trustees serving under chapter 13 of title 11,
16 United States Code, and by consumer counselling
17 groups.

18 (2) Not later than 3 months after concluding such
19 evaluation, the Director shall submit a report to the
20 Speaker of the House of Representatives and the Presi-
21 dent pro tempore of the Senate, for referral to the appro-
22 priate committees of the Congress, containing the findings
23 of the Director regarding the effectiveness of such cur-
24 riculum, such materials, and such programs and their
25 costs.

1 **Subtitle B—Consumer Bankruptcy**
2 **Protections**

3 **SEC. 105. DEFINITIONS.**

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

6 (1) by inserting after paragraph (2) the fol-
7 lowing:

8 “(3) ‘assisted person’ means any person whose
9 debts consist primarily of consumer debts and whose
10 non-exempt assets are less than \$150,000;”;

11 (2) by inserting after paragraph (4) the fol-
12 lowing:

13 “(4A) ‘bankruptcy assistance’ means any goods
14 or services sold or otherwise provided to an assisted
15 person with the express or implied purpose of pro-
16 viding information, advice, counsel, document prepa-
17 ration or filing, or attendance at a creditors’ meeting
18 or appearing in a proceeding on behalf of another or
19 providing legal representation with respect to a pro-
20 ceeding under this title;”;

21 (3) by inserting after paragraph (12A) the fol-
22 lowing:

23 “(12B) ‘debt relief agency’ means any person
24 who provides any bankruptcy assistance to an as-
25 sisted person in return for the payment of money or

1 other valuable consideration, or who is a bankruptcy
 2 petition preparer pursuant to section 110 of this
 3 title, but does not include any person that is any of
 4 the following or an officer, director, employee or
 5 agent thereof—

6 “(A) any nonprofit organization which is
 7 exempt from taxation under section 501(c)(3)
 8 of the Internal Revenue Code of 1986;

9 “(B) any creditor of the person to the ex-
 10 tent the creditor is assisting the person to re-
 11 structure any debt owed by the person to the
 12 creditor; or

13 “(C) any depository institution (as defined
 14 in section 3 of the Federal Deposit Insurance
 15 Act) or any Federal credit union or State credit
 16 union (as those terms are defined in section
 17 101 of the Federal Credit Union Act), or any
 18 affiliate or subsidiary of such a depository insti-
 19 tution or credit union;”.

20 (b) CONFORMING AMENDMENT.—In section
 21 104(b)(1) by inserting “101(3),” after “sections”.

22 **SEC. 106. ENFORCEMENT.**

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

1 **“§ 526. Debt relief agency enforcement**

2 “(a) A debt relief agency shall not—

3 “(1) fail to perform any service which the debt
4 relief agency has told the assisted person or prospec-
5 tive assisted person the agency would provide that
6 person in connection with the preparation for or ac-
7 tivities during a case or proceeding under this title;

8 “(2) make any statement, or counsel or advise
9 any assisted person to make any statement in any
10 document filed in a case or proceeding under this
11 title, which is untrue and misleading or which upon
12 the exercise of reasonable care, should be known by
13 the debt relief agency to be untrue or misleading;

14 “(3) misrepresent to any assisted person or pro-
15 spective assisted person, directly or indirectly, af-
16 firmatively or by material omission, what services
17 the debt relief agency can reasonably expect to pro-
18 vide that person, or the benefits an assisted person
19 may obtain or the difficulties the person may experi-
20 ence if the person seeks relief in a proceeding pursu-
21 ant to this title; or

22 “(4) advise an assisted person or prospective
23 assisted person to incur more debt in contemplation
24 of that person filing a case under this title or in
25 order to pay an attorney or bankruptcy petition pre-
26 parer fee or charge for services performed as part of

1 preparing for or representing a debtor in a case
2 under this title.”.

3 “(b) ASSISTED PERSON WAIVERS INVALID.—Any
4 waiver by any assisted person of any protection or right
5 provided by or under this section shall not be enforceable
6 against the debtor by any Federal or State court or any
7 other person, but may be enforced against a debt relief
8 agency.

9 “(c) NONCOMPLIANCE.—

10 “(1) Any contract between a debt relief agency
11 and an assisted person for bankruptcy assistance
12 which does not comply with the material require-
13 ments of this section shall be treated as void and
14 may not be enforced by any Federal or State court
15 or by any other person.

16 “(2) Any debt relief agency shall be liable to an
17 assisted person in the amount of any fees or charges
18 in connection with providing bankruptcy assistance
19 to such person which the debt relief agency has re-
20 ceived, for actual damages, and for reasonable attor-
21 neys’ fees and costs if the debt relief agency is
22 found, after notice and hearing, to have—

23 “(A) intentionally or negligently failed to
24 comply with any provision of this section with

1 respect to a bankruptcy case or related pro-
2 ceeding of the assisted person;

3 “(B) provided bankruptcy assistance to an
4 assisted person in a case or related proceeding
5 which is dismissed or converted because of the
6 debt relief agency’s intentional or negligent fail-
7 ure to file bankruptcy papers, including papers
8 specified in section 521 of this title; or

9 “(C) intentionally or negligently dis-
10 regarded the material requirements of this title
11 or the Federal Rules of Bankruptcy Procedure
12 applicable to such debt relief agency.

13 “(3) In addition to such other remedies as are
14 provided under State law, whenever the chief law en-
15 forcement officer of a State, or an official or agency
16 designated by a State, has reason to believe that any
17 person has violated or is violating this section, the
18 State—

19 “(A) may bring an action to enjoin such
20 violation;

21 “(B) may bring an action on behalf of its
22 residents to recover the actual damages of as-
23 sisted persons arising from such violation, in-
24 cluding any liability under paragraph (2); and

1 “(C) in the case of any successful action
2 under subparagraph (A) or (B), shall be award-
3 ed the costs of the action and reasonable attor-
4 ney fees as determined by the court.

5 “(4) The United States District Court for any
6 district located in the State shall have concurrent ju-
7 risdiction of any action under subparagraph (A) or
8 (B) of paragraph (3).

9 “(5) Notwithstanding any other provision of
10 Federal law and in addition to any other remedy
11 provided under Federal or State law, if the court, on
12 its own motion or on the motion of the United
13 States trustee or the debtor, finds that a person in-
14 tentionally violated this section, or engaged in a
15 clear and consistent pattern or practice of violating
16 this section, the court may—

17 “(A) enjoin the violation of such section; or

18 “(B) impose an appropriate civil penalty
19 against such person.

20 “(c) RELATION TO STATE LAW.—This section shall
21 not annul, alter, affect or exempt any person subject to
22 those sections from complying with any law of any State
23 except to the extent that such law is inconsistent with
24 those sections, and then only to the extent of the inconsis-
25 tency.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tions for chapter 5 of title 11, United States Code, is
 3 amended by inserting after the item relating to section
 4 527, the following:

“526. Debt relief agency enforcement.”.

5 **SEC. 107. SENSE OF THE CONGRESS.**

6 It is the sense of the Congress that States should de-
 7 velop curricula relating to the subject of personal finance,
 8 designed for use in elementary and secondary schools.

9 **SEC. 108. DISCOURAGING ABUSIVE REAFFIRMATION PRAC-**
 10 **TICES.**

11 Section 524 of title 11, United States Code, is
 12 amended—

13 (1) in subsection (c)—

14 (A) in paragraph (2)—

15 (i) in subparagraph (A) by striking
 16 “and” at the end;

17 (ii) in subparagraph (B) by adding
 18 “and” at the end; and

19 (iii) by adding at the end the fol-
 20 lowing:

21 “(C) if the consideration for such agreement is
 22 based on a wholly unsecured consumer debt (except
 23 for debts owed to creditors defined in section
 24 461(b)(1)(A)(iv) of title 12, United States Code),

1 such agreement contains a clear and conspicuous
2 statement which advises the debtor—

3 “(i) that the debtor is entitled to a hearing
4 before the court at which the debtor shall ap-
5 pear in person and at which the court will de-
6 cide whether the agreement is an undue hard-
7 ship, not in the debtor’s best interest, and not
8 the result of a threat by the creditor to take
9 any action that cannot be legally taken or that
10 is not intended to be taken; and

11 “(ii) that if the debtor is represented by
12 counsel, the debtor may waive the debtor’s right
13 to such a hearing by signing a statement
14 waiving the hearing, stating that the debtor is
15 represented by counsel, and identifying such
16 counsel;”; and

17 (B) in paragraph (6)(A)—

18 (i) by striking “and” at the end of
19 clause (i);

20 (ii) by striking the period at the end
21 of clause (ii) and inserting “; and”; and

22 (iii) by adding at the end thereof the
23 following:

24 “(iii) not entered into by the debtor as the
25 result of a threat by the creditor to take any

1 action that cannot be legally taken or that is
2 not intended to be taken.”; and

3 (2) in the third sentence of subsection (d)—

4 (A) by striking “of this section” and in-
5 serting a comma; and

6 (B) by inserting after “such agreement”
7 the following:

8 “or if the consideration for such agreement is based on
9 a wholly unsecured consumer debt (except for debts owed
10 to creditors defined in section 461(b)(1)(A)(iv) of title 12,
11 United States Code) and the debtor has not waived the
12 debtor’s right to a hearing on the agreement in accordance
13 with subsection (c)(2)(C) of this section”.

14 **SEC. 109. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**
15 **TION.**

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

19 “(k)(1) The court, on the motion of the debtor and
20 after a hearing, may reduce a claim filed under this sec-
21 tion based wholly on unsecured consumer debts by not
22 more than 20 percent, if the debtor can prove by clear
23 and convincing evidence that the claim was filed by a cred-
24 itor who unreasonably refused to negotiate a reasonable
25 alternative repayment schedule proposed by an approved

1 credit counseling agency acting on behalf of the debtor,
2 and if—

3 “(A) such offer was made within the period be-
4 ginning 60 days before the filing of the petition;

5 “(B) such offer provided for payment of at least
6 60 percent of the amount of the debt over a period
7 not to exceed the repayment period of the loan, or
8 a reasonable extension thereof; and

9 “(C) no part of the debt under the alternative
10 repayment schedule is nondischargeable, is entitled
11 to priority under section 507 of this title, or would
12 be paid a greater percentage in a chapter 13 pro-
13 ceeding than offered by the debtor.

14 “(2) The debtor shall have the burden of proving that
15 the proposed alternative repayment schedule was made in
16 the 60-day period specified in subparagraph (A) and that
17 the creditor unreasonably refused to consider the debtor’s
18 proposal.”.

19 (b) LIMITATION ON AVOIDABILITY.—Section 547 of
20 title 11, United States Code, is amended by adding at the
21 end the following:

22 “(h) The trustee may not avoid a transfer if such
23 transfer was made as a part of an alternative repayment
24 plan between the debtor and any creditor of the debtor
25 created by an approved credit counseling agency.”.

1 **SEC. 110. ENHANCED DISCLOSURE FOR CREDIT EXTEN-**
2 **SIONS SECURED BY A DWELLING.**

3 (a) STUDY REQUIRED.—During the period beginning
4 180 days after the date of the enactment of this Act and
5 ending 18 months after the date of the enactment, the
6 Board of Governors of the Federal Reserve System (in this
7 section referred to as the “Board”) shall conduct a study
8 and submit to Congress a report (including recommenda-
9 tions for any appropriate legislation) regarding—

10 (1) whether a consumer engaging in an open-
11 end credit transaction (as defined pursuant to sec-
12 tion 103 of the Truth in Lending Act) secured by the
13 consumer’s principal dwelling is provided adequate
14 information under Federal law, including under sec-
15 tion 127A of the Truth in Lending Act, regarding
16 the tax deductibility of interest paid on such trans-
17 action; and

18 (2) whether a consumer engaging in a closed-
19 end credit transaction (as defined pursuant to sec-
20 tion 103 of the Truth in Lending Act) secured by
21 the consumer’s principal dwelling is provided ade-
22 quate information regarding the tax deductibility of
23 interest paid on such transaction.

24 In conducting such study, the Board shall specifically con-
25 sider whether additional disclosures are necessary with re-
26 spect to such open-end or closed-end credit transactions

1 in which the amount of the credit extended exceeds the
2 fair market value of the dwelling.

3 (b) REGULATIONS.—If the Board determines that ad-
4 ditional disclosures are necessary in connection with trans-
5 actions described in subsection (a), the Board, pursuant
6 to its authority under the Truth in Lending Act, may pro-
7 mulgate regulations that would require such additional
8 disclosures. Any such regulations promulgated by the
9 Board under this section shall not take effect before the
10 end of the 36-month period after the date of the enact-
11 ment of this Act.

12 **SEC. 111. DUAL USE DEBIT CARD.**

13 (a) STUDY REQUIRED.—The Board of Governors of
14 the Federal Reserve System (in this section referred to
15 as the “Board”) shall conduct a study of existing protec-
16 tions provided to consumers to limit their liability for un-
17 authorized use of a debit card or similar access device.

18 (b) SPECIFIC CONSIDERATIONS.—In conducting the
19 study required by subsection (a), the Board shall specifi-
20 cally consider the following—

21 (1) the extent to which existing provisions of
22 section 909 of the Electronic Fund Transfer Act and
23 the Board’s implementing regulations provide ade-
24 quate unauthorized use liability protection for con-
25 sumers;

1 (2) the extent to which any voluntary industry
2 rules have enhanced the level of protection afforded
3 consumers in connection with such unauthorized use
4 liability; and

5 (3) whether amendments to the Electronic
6 Funds Transfer Act or the Board's implementing
7 regulations thereto are necessary to provide ade-
8 quate protection for consumers in this area.

9 (c) REPORT AND REGULATIONS.—Not later than 2
10 years after the date of the enactment of this Act, the
11 Board shall make public a report on its findings with re-
12 spect to the adequacy of existing protections afforded con-
13 sumers with respect to unauthorized-use liability for debit
14 cards and similar access devices. If the Board determines
15 that such protections are inadequate, the Board, pursuant
16 to its authority under the Electronic Funds Transfer Act,
17 may issue regulations to address such inadequacy. Any
18 regulations issued by the Board shall not be effective be-
19 fore 36 months after the date of the enactment of this
20 Act.

21 **SEC. 112. ENHANCED DISCLOSURES UNDER AN OPEN-END**
22 **CREDIT PLAN.**

23 (a) INITIAL AND ANNUAL MINIMUM PAYMENT DIS-
24 CLOSURE.—Section 127(a) of the Truth in Lending Act

1 (15 U.S.C. 1637(a)) is amended by adding at the end the
2 following:

3 “(9) In the case of any credit or charge card
4 account under an open-end consumer credit plan on
5 which a minimum monthly or periodic payment will
6 be required, other than an account described in
7 paragraph (8)—

8 “(A) the following statement: ‘The min-
9 imum payment amount shown on your billing
10 statement is the smallest payment which you
11 can make in order to keep the account in good
12 standing. This payment option is offered as a
13 convenience and you may make larger payments
14 at any time. Making only the minimum pay-
15 ment each month will increase the amount of
16 interest you pay and the length of time it takes
17 to repay your outstanding balance.’;

18 “(B) if the plan provides that the con-
19 sumer will be permitted to forgo making a min-
20 imum payment during a specified billing cycle,
21 a statement, if applicable, that if the consumer
22 chooses to forgo making the minimum payment,
23 finance charges will continue to accrue; and

24 “(C) the following examples:

1 “(i) if the average account balance
2 under a creditor’s open-end consumer cred-
3 it plan, taken as an average of the account
4 balances for all consumer accounts under
5 that open-end consumer credit plan, is
6 \$1,000 or less, two examples, based on an
7 annual percentage rate and method for de-
8 termining minimum periodic payments re-
9 cently in effect for that creditor, and based
10 on outstanding balances of \$250 and \$500,
11 showing the estimated minimum periodic
12 payments, and the estimated period of time
13 it would take to repay those outstanding
14 balances of \$250 and \$500, if the con-
15 sumer paid only the minimum periodic
16 payment on each monthly or periodic state-
17 ment and obtained no additional extensions
18 of credit; or

19 “(ii) if the average account balance
20 under a creditor’s open-end consumer cred-
21 it plan, taken as an average of the account
22 balances for all consumer accounts under
23 that open-end consumer credit plan, is
24 more than \$1,000, three examples, based
25 on an annual percentage rate and method

1 for determining minimum periodic pay-
2 ments recently in effect for that creditor,
3 and outstanding balances of \$1,000,
4 \$1,500 and \$2,000, showing the estimated
5 minimum periodic payments, and the esti-
6 mated period of time it would take to
7 repay those outstanding balances of
8 \$1,000, \$1,500 and \$2,000 if the con-
9 sumer paid only the minimum periodic
10 payment on each monthly or periodic state-
11 ment and obtained no additional extensions
12 of credit.

13 “(10) With respect to one billing cycle per cal-
14 endar year, the creditor shall transmit to each con-
15 sumer to whom the creditor is required to transmit
16 a statement pursuant to subsection (b) for such bill-
17 ing cycle the following information:

18 “(A) the following statement: ‘The min-
19 imum payment amount shown on your billing
20 statement is the smallest payment which you
21 can make in order to keep the account in good
22 standing. This payment option is offered as a
23 convenience and you may make larger payments
24 at any time. Making only the minimum pay-
25 ment each month will increase the amount of

1 interest you pay and the length of time it takes
2 to repay your outstanding balance.’;

3 “(B) if the plan provides that the con-
4 sumer will be permitted to forgo making a min-
5 imum payment during a specified billing cycle,
6 a statement, if applicable, that if the consumer
7 chooses to forgo making the minimum payment,
8 finance charges will continue to accrue;

9 “(C) an example, based on an annual per-
10 centage rate and method for determining min-
11 imum periodic payments recently in effect for
12 that creditor, and a \$500 outstanding balance,
13 showing the estimated minimum periodic pay-
14 ment, and the estimated period of time it would
15 take to repay the \$500 outstanding balance if
16 the consumer paid only the minimum periodic
17 payment on each monthly or periodic statement
18 and obtained no additional extensions of credit;
19 and

20 “(D) a worksheet prescribed by the Board
21 to assist the consumer in determining the con-
22 sumer’s household income and debt obliga-
23 tions.”.

1 (b) PERIODIC MINIMUM PAYMENT DISCLOSURES.—

2 Section 127(b) of the Truth in Lending Act (15 U.S.C.
3 1637(b)) is amended by adding at the end the following:

4 “(11) The following statement: ‘The minimum
5 payment amount shown on your billing statement is
6 the smallest payment which you can make in order
7 to keep the account in good standing. This payment
8 option is offered as a convenience and you may
9 make larger payments at any time. Making only the
10 minimum payment each month will increase the
11 amount of interest you pay and the length of time
12 it takes to repay your outstanding balance.’.

13 “(12) the required minimum payment amount
14 represented as a dollar figure.

15 “(13) the date by which or the period within
16 which the required minimum payment must be
17 made.”.

18 (c) DISCLOSURES RELATED TO INTRODUCTORY
19 RATES.—Section 127(c)(1)(A)(i) of the Truth in Lending
20 Act (15 U.S.C. 1637(c)(1)(A)(i)) is amended by inserting
21 the following at the end of subclause (III):

22 “(IV) Where the initial rate is tem-
23 porary and will expire within a period of
24 less than 1 year, and is lower than the rate

1 that will apply after the temporary rate
2 expires—

3 “(A) the time period during
4 which the initial rate will remain in
5 effect; and

6 “(B) the annual percentage rate
7 that will apply to the account after
8 the temporary rate expires, or if that
9 rate is a variable rate, the fact that
10 the rate is variable, the rate at the
11 time of mailing, and how the rate is
12 determined.

13 “(V)(A) Subject to subclauses (C) and
14 (D), where the initial rate may increase
15 upon the occurrence of one or more spe-
16 cific events, the following information:

17 “(i) the initial rate and the in-
18 creased rate that may apply;

19 “(ii) if the increased rate is a
20 variable rate, the fact that the in-
21 creased rate is variable, the rate at
22 the time of mailing, and how the rate
23 is determined; and

1 “(iii) the specific event or events
2 that may result in imposing the in-
3 creased rate.

4 “(B) At the creditor’s option, the
5 creditor may disclose the period for which
6 the increased rate will remain in effect.

7 “(C) If the increased rate cannot be
8 determined at the time disclosures are
9 given, an explanation of the specific event
10 or events that may result in an increased
11 rate must be disclosed.

12 “(D) A creditor is not required to dis-
13 close an increased rate that is imposed
14 when credit privileges are permanently ter-
15 minated.”.

16 (d) INTERNET-BASED CREDIT CARD SOLICITA-
17 TIONS.—(1)Section 127(c) of the Truth in Lending Act
18 (15 U.S.C. 1637(c)) is amended by inserting after para-
19 graph (5) the following:

20 “(6)(A) Any application to open a credit card
21 account for any person under an open-end consumer
22 credit plan, and any solicitation to open such an ac-
23 count without requiring an application, that is made
24 available through the Internet or an interactive com-
25 puter service, shall disclose the following:

1 “(i) the information.—

2 “(I) described in paragraph (1)(A) in
3 the form required under section 122(c) of
4 this chapter, subject to subsection (e); and

5 “(II) described in paragraph (1)(B) in
6 a clear and conspicuous form, subject to
7 subsections (e) and (f);

8 “(ii) a statement, in a conspicuous and
9 prominent location on or with the application or
10 solicitation, that—

11 “(I) the information is accurate as of
12 the date the application or solicitation was
13 posted;

14 “(II) the information contained in the
15 application or solicitation is subject to
16 change after such date;

17 “(III) the applicant should contact the
18 creditor for information on any change in
19 the information presented on or with the
20 application or solicitation since it was post-
21 ed;

22 “(iii) a clear and conspicuous disclosure of
23 the date the application or solicitation was post-
24 ed and how frequently the information de-
25 scribed in subclause (i) is updated; and

1 “(iv) a disclosure, in a conspicuous and
2 prominent location on or with the application or
3 solicitation, of a toll-free telephone number or
4 e-mail address at which the applicant may con-
5 tact the creditor to obtain any change in the in-
6 formation provided on or with the application or
7 solicitation since it was posted.

8 “(B) The disclosures required under subparagraph
9 (A) may be contained either:

10 “(i) on the webpage which contains the applica-
11 tion or solicitation; or

12 “(ii) on a separate webpage which can be di-
13 rectly accessed using a hypertext link which is con-
14 tained on the webpage which contains the applica-
15 tion or solicitation.

16 “(C) Upon receipt of a request for any of the infor-
17 mation referred to in subparagraph (A), the creditor or
18 its agent shall promptly disclose any change in the infor-
19 mation required to be disclosed under subparagraph (A).

20 “(D) For purposes of this paragraph (6)—

21 “(i) the term ‘Internet’ means the international
22 computer network of both Federal and non-Federal
23 interoperable packets switched data networks; and

24 “(ii) the term ‘interactive computer service’
25 means any information service system, or access

1 software provider that provides or enables computer
2 access by multiple users to a computer server, in-
3 cluding specifically a service or system that provides
4 access to the Internet and such systems operated or
5 services offered by libraries or educational institu-
6 tions.”.

7 (2) Section 122(c)(1) of the Truth in Lending Act
8 (15 U.S.C. 1632(c)(1)) is amended by striking “and
9 (4)(C)(i)(I)” and inserting “, (4)(C)(i)(I) and
10 (6)(A)(i)(I)”.

11 (e) ENFORCEMENT.—Section 127 of the Truth in
12 Lending Act (15 U.S.C. 1637) is amended by adding at
13 the end the following:

14 “(h) In promulgating regulations to implement the
15 disclosure of an example required under subsection
16 (a)(9)(C) and (a)(10), the Board shall set forth a model
17 disclosure to accompany the example stating that the cred-
18 it features shown are only an example which does not obli-
19 gate the creditor, but is intended to illustrate the approxi-
20 mate length of time it could take to repay using the as-
21 sumptions set forth in subsection (a)(9)(C) without regard
22 to any other factors that could impact an approximate re-
23 payment period, including other credit features or the con-
24 sumer’s payment or other behavior with respect to the ac-
25 count. Compliance with the disclosures required under

1 subsection (a)(9)(C) and (a)(10) shall be enforced exclu-
2 sively by the Federal agencies set forth in section 108.”.

3 (f) REGULATORY IMPLEMENTATION.—The Board of
4 Governors of the Federal Reserve System (in this section
5 referred to as the “Board”) shall promulgate regulations
6 implementing the amendments made by subsections (a)
7 and (b). Such regulations shall take effect no earlier than
8 the end of the 36-month period beginning on the date of
9 the enactment of this Act.

10 (g) STUDY REQUIRED.—The Board shall conduct a
11 study to determine whether consumers have adequate in-
12 formation about borrowing activities which may result in
13 financial problems. In studying this issue, the Board shall
14 consider the extent to which—

15 (1) consumers, in establishing new credit ar-
16 rangements, are aware of their existing payment ob-
17 ligations, the need to consider those obligations in
18 deciding to take on new credit, and how taking on
19 excessive credit can result in financial difficulty;

20 (2) minimum periodic payment features offered
21 in connection with open-end credit plans impact con-
22 sumer default rates;

23 (3) consumers always make only the minimum
24 payment throughout the life of the plan;

1 (4) consumers are aware that making only min-
2 imum payments will increase the cost and repayment
3 period of an open-end loan; and

4 (5) the availability of low minimum payment
5 options is a cause of consumers experiencing finan-
6 cial difficulty.

7 (h) REPORT TO CONGRESS.—Before the end of the
8 2-year period beginning on the date of the enactment of
9 this Act, the Board shall submit to Congress a report con-
10 taining the findings of the Board in connection with the
11 study required under subsection (g).

12 (i) REGULATIONS.—The Board shall, by regulation
13 promulgated pursuant to its authority under the Truth in
14 Lending Act, require additional disclosures to consumers
15 regarding minimum payment features, including periodic
16 statement disclosures, if the Board determines that such
17 disclosures are necessary based on its findings. Any such
18 regulations promulgated by the Board shall not take effect
19 earlier than January 1, 2002.

20 **SEC. 113. PROTECTION OF SAVINGS EARMARKED FOR THE**
21 **POSTSECONDARY EDUCATION OF CHILDREN.**

22 Section 522 of title 11, United States Code, is
23 amended—

24 (1) in subsection (b)(2)—

1 (A) in subparagraph (A) by striking “and”
2 at the end;

3 (B) in subparagraph (B) by striking the
4 period at the end and inserting “; and”; and

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

6 “(C) except as provided in paragraph (n), funds
7 placed in an education individual retirement account
8 (as defined in section 530(b)(1) of the Internal Rev-
9 enue Code of 1986) not less than 365 days before
10 the date of entry of the order of relief but only to
11 the extent such funds—

12 “(i) are not pledged or promised to any en-
13 tity in connection with any extension of credit;
14 and

15 “(ii) are not excess contributions (as de-
16 scribed in section 4973(e) of the Internal Rev-
17 enue Code of 1986).”; and

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

19 “(n) For purposes of subsection (b)(3)(C), funds
20 placed in an education individual retirement account shall
21 not be exempt under this subsection—

22 “(1) unless the designated beneficiary of such
23 account was a dependent child of the debtor for the
24 taxable year for which the funds were placed in such
25 account; and

1 “(2) to the extent such funds exceed—

2 “(A) \$50,000 in the aggregate in all such
3 accounts having the same designated bene-
4 ficiary; or

5 “(B) \$100,000 in the aggregate in all such
6 accounts attributable to all such dependent chil-
7 dren of the debtor.”.

8 **SEC. 114. EFFECT OF DISCHARGE.**

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

11 “(i) The willful failure of a creditor to credit pay-
12 ments received under a plan confirmed under this title (in-
13 cluding a plan of reorganization confirmed under chapter
14 11 of this title) in the manner required by the plan (in-
15 cluding crediting the amounts required under the plan)
16 shall constitute a violation of any injunction under sub-
17 section (a)(2) which has arisen at the time of the failure.

18 “(j)(1) An individual who is injured by the willful fail-
19 ure of a creditor to comply with the requirements for a
20 reaffirmation agreement under subsections (c) and (d), or
21 by any willful violation of the injunction under subsection
22 (a)(2), shall be entitled to recover—

23 “(A) the greater of—

24 “(i) the amount of actual damages; or

25 “(ii) \$1,000; and

1 “(B) costs and attorneys’ fees.

2 “(2) An action to recover for a violation specified in
3 paragraph (1) may not be brought as a class action.”.

4 **SEC. 115. LIMITING TRUSTEE LIABILITY.**

5 (a) QUALIFICATION OF TRUSTEE.—Section 322 of
6 title 11, United States Code, is amended—

7 (1) in subsection (a) by adding at the end the
8 following:

9 “The trustee in a case under this title is not liable
10 personally or on such trustee’s bond for acts taken
11 within the scope of the trustee’s duties or authority
12 as delineated by other sections of this title or by
13 order of the court, except to the extent that the
14 trustee acted with gross negligence. Gross negligence
15 shall be defined as reckless indifference or deliberate
16 disregard of the trustee’s fiduciary duty.”; and

17 (2) in subsection (c) by inserting “for any acts
18 within the scope of the trustee’s authority defined in
19 subsection (a)” before the period at the end.

20 (b) ROLE AND CAPACITY OF TRUSTEE.—Section 323
21 of title 11, United States Code, is amended—

22 (1) in subsection (b) by inserting at the end the
23 following: “in the trustee’s official capacity as rep-
24 resentative of the estate” before the period at the
25 end; and

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

2 “(c) The trustee in a case under this title may not
3 be sued, either personally, in a representative capacity, or
4 against the trustee’s bond in favor of the United States—

5 “(1) for acts taken in furtherance of the trust-
6 ee’s duties or authority in a case in which the debtor
7 is subsequently determined to be ineligible for relief
8 under the chapter in which the trustee was ap-
9 pointed; or

10 “(2) for the dissemination of statistics and
11 other information regarding a case or cases, unless
12 the trustee has actual knowledge that the informa-
13 tion is false.

14 “(d) The trustee in a case under this title may not
15 be sued in a personal capacity without leave of the bank-
16 ruptcy court in which the case is pending.”.

17 **SEC. 116. REINFORCE THE FRESH START.**

18 (a) RESTORATION OF AN EFFECTIVE DISCHARGE.—
19 Section 523(a)(17) of title 11, United States Code, is
20 amended—

21 (1) by striking “by a court” and inserting “by
22 any court”;

23 (2) by striking “section 1915(b) or (f)” and in-
24 serting “subsection (b) or (f)(2) of section 1915”;
25 and

1 (3) by inserting “(or a similar non-Federal
2 law)” after “title 28” each place it appears.

3 **SEC. 117. DISCOURAGING BAD FAITH REPEAT FILINGS.**

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

6 (1) in paragraph (1) by striking “and” at the
7 end;

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

10 (3) by adding at the end the following new
11 paragraphs:

12 “(3) If a single or joint case is filed by or
13 against an individual debtor under chapter 7, 11, or
14 13 (other than a case refiled under a chapter other
15 than chapter 7 after dismissal under section 707(b)
16 of this title), and if a single or joint case of the debt-
17 or was pending within the previous 1-year period but
18 was dismissed, the stay under subsection (a) with re-
19 spect to any action taken with respect to a debt or
20 property securing such debt or with respect to any
21 lease will terminate with respect to the debtor on the
22 30th day after the filing of the later case. Upon mo-
23 tion by a party in interest for continuation of the
24 automatic stay and upon notice and a hearing, the
25 court may extend the stay in particular cases as to

1 any or all creditors (subject to such conditions or
2 limitations as the court may then impose) after no-
3 tice and a hearing completed before the expiration of
4 the 30-day period only if the party in interest dem-
5 onstrates that the filing of the later case is in good
6 faith as to the creditors to be stayed. A case is pre-
7 sumptively filed not in good faith (but such pre-
8 sumption may be rebutted by clear and convincing
9 evidence to the contrary)—

10 “(A) as to all creditors if—

11 “(i) more than one previous case
12 under any of chapter 7, 11, or 13 in which
13 the individual was a debtor was pending
14 within such 1-year period;

15 “(ii) a previous case under any of
16 chapters 7, 11, or 13 in which the indi-
17 vidual was a debtor was dismissed within
18 such 1-year period, after the debtor failed
19 to file or amend the petition or other docu-
20 ments as required by this title or the court
21 without substantial excuse (but mere inad-
22 vertence or negligence shall not be sub-
23 stantial excuse unless the dismissal was
24 caused by the negligence of the debtor’s at-
25 torney), failed to provide adequate protec-

tion as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

“(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or there is not any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

“(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor.

“(4) If a single or joint case is filed by or against an individual debtor under this title (other than a case refiled under a chapter other than chapter 7 after a dismissal under section 707(b) of this title), and if two or more single or joint cases of the

1 debtor were pending within the previous year but
2 were dismissed, the stay under subsection (a) will
3 not go into effect upon the filing of the later case.
4 On request of a party in interest, the court shall
5 promptly enter an order confirming that no stay is
6 in effect. If a party in interest requests within 30
7 days of the filing of the later case, the court may
8 order the stay to take effect in the case as to any
9 or all creditors (subject to such conditions or limita-
10 tions as the court may impose), after notice and
11 hearing, only if the party in interest demonstrates
12 that the filing of the later case is in good faith as
13 to the creditors to be stayed. A stay imposed pursu-
14 ant to the preceding sentence will be effective on the
15 date of entry of the order allowing the stay to go
16 into effect. A case is presumptively not filed in good
17 faith (but such presumption may be rebutted by
18 clear and convincing evidence to the contrary)—

19 “(A) as to all creditors if—

20 “(i) two or more previous cases under
21 this title in which the individual was a
22 debtor were pending within the 1-year pe-
23 riod;

24 “(ii) a previous case under this title in
25 which the individual was a debtor was dis-

missed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

“(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or there is not any other reason to conclude that the later case will be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

“(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of

1 the date of dismissal of such case, such action
2 was still pending or had been resolved by termi-
3 nating, conditioning, or limiting the stay as to
4 action of such creditor.”.

5 **SEC. 118. CURBING ABUSIVE FILINGS.**

6 (a) IN GENERAL.—Section 362(d) of title 11, United
7 States Code, is amended—

8 (1) in paragraph (2), by striking “or” at the
9 end;

10 (2) in paragraph (3), by striking the period at
11 the end and inserting “; or”; and

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

13 “(4) with respect to a stay of an act against
14 real property under subsection (a), by a creditor
15 whose claim is secured by an interest in such real
16 estate, if the court finds that the filing of the bank-
17 ruptcy petition was part of a scheme to delay,
18 hinder, and defraud creditors that involved either—

19 “(A) transfer of all or part ownership of,
20 or other interest in, the real property without
21 the consent of the secured creditor or court ap-
22 proval; or

23 “(B) multiple bankruptcy filings affecting
24 the real property.

1 If recorded in compliance with applicable State laws gov-
2 erning notices of interests or liens in real property, an
3 order entered pursuant to this subsection shall be binding
4 in any other case under this title purporting to affect the
5 real property filed not later than 2 years after that record-
6 ing, except that a debtor in a subsequent case may move
7 for relief from such order based upon changed cir-
8 cumstances or for good cause shown, after notice and a
9 hearing. Any Federal, State, or local governmental unit
10 which accepts notices of interests or liens in real property
11 shall accept any certified copy of an order described in
12 this subsection for indexing and recording.”.

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

15 (1) in paragraph (17), by striking “or” at the
16 end;

17 (2) in paragraph (18) by striking the period at
18 the end and inserting a semicolon; and

19 (3) by inserting after paragraph (18) the fol-
20 lowing:

21 “(19) under subsection (a), of any act to en-
22 force any lien against or security interest in real
23 property following the entry of an order under sec-
24 tion 362(d)(4) of this title as to that property in any
25 prior bankruptcy case for a period of 2 years after

entry of such an order. The debtor in a subsequent case, however, may move the court for relief from such order based upon changed circumstances or for other good cause shown (consistent with the standards for good faith in subsection (c)), after notice and a hearing; or

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

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

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

SEC. 119. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

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

(B) in paragraph (5) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

1 “(6) in an individual case under chapter 7 of
2 this title, not retain possession of personal property
3 as to which a creditor has an allowed claim for the
4 purchase price secured in whole or in part by an in-
5 terest in that personal property unless, in the case
6 of an individual debtor, the debtor takes one of the
7 following actions within 45 days after the first meet-
8 ing of creditors under section 341(a)—

9 “(A) enters into an agreement with the
10 creditor pursuant to section 524(c) of this title
11 with respect to the claim secured by such prop-
12 erty; or

13 “(B) redeems such property from the secu-
14 rity interest pursuant to section 722 of this
15 title.

16 “If the debtor fails to so act within the 45-day pe-
17 riod, the stay under section 362(a) of this title is
18 terminated with respect to the personal property of
19 the estate or of the debtor which is affected, such
20 property shall no longer be property of the estate,
21 and the creditor may take whatever action as to
22 such property as is permitted by applicable nonbank-
23 ruptcy law, unless the court determines on the mo-
24 tion of the trustee brought before the expiration of
25 such 45-day period, and after notice and a hearing,

1 that such property is of consequential value or ben-
 2 efit to the estate, orders appropriate adequate pro-
 3 tection of the creditor’s interest, and orders the
 4 debtor to deliver any collateral in the debtor’s pos-
 5 session to the trustee.”; and

6 (2) in section 722 by inserting “in full at the
 7 time of redemption” before the period at the end.

8 **SEC. 120. RELIEF FROM THE AUTOMATIC STAY WHEN THE**
 9 **DEBTOR DOES NOT COMPLETE INTENDED**
 10 **SURRENDER OF CONSUMER DEBT COLLAT-**
 11 **ERAL.**

12 Title 11, United States Code, is amended as
 13 follows—

14 (1) in section 362—

15 (A) by striking “(e), and (f)” in subsection
 16 (c) and inserting in lieu thereof “(e), (f), and
 17 (h)”; and

18 (B) by redesignating subsection (h) as sub-
 19 section (i) and by inserting after subsection (g)
 20 the following:

21 “(h) In an individual case pursuant to chapter 7, 11,
 22 or 13 the stay provided by subsection (a) is terminated
 23 with respect to personal property of the estate or of the
 24 debtor securing in whole or in part a claim, or subject
 25 to an unexpired lease, and such personal property shall

1 no longer be property of the estate if the debtor fails with-
2 in the applicable time set by section 521(a)(2) of this
3 title—

4 “(1) to file timely any statement of intention
5 required under section 521(a)(2) of this title with
6 respect to that property or to indicate therein that
7 the debtor will either surrender the property or re-
8 tain it and, if retaining it, either redeem the prop-
9 erty pursuant to section 722 of this title, reaffirm
10 the debt it secures pursuant to section 524(c) of this
11 title, or assume the unexpired lease pursuant to sec-
12 tion 365(p) of this title if the trustee does not do
13 so, as applicable; or

14 “(2) to take timely the action specified in that
15 statement of intention, as it may be amended before
16 expiration of the period for taking action, unless the
17 statement of intention specifies reaffirmation and
18 the creditor refuses to reaffirm on the original con-
19 tract terms;

20 unless the court determines on the motion of the trustee
21 filed before the expiration of the applicable time set by
22 section 521(a)(2), and after notice and a hearing, that
23 such property is of consequential value or benefit to the
24 estate, orders appropriate adequate protection of the
25 creditor’s interest, and orders the debtor to deliver any

1 collateral in the debtor’s possession to the trustee. If the
2 court does not so determine an order, the stay shall termi-
3 nate upon the conclusion of the proceeding on the mo-
4 tion.”; and

5 (2) in section 521, as amended by sections 603
6 and 604—

7 (A) in paragraph (2) by striking “con-
8 sumer”;

9 (B) in paragraph (2)(B)—

10 (i) by striking “forty-five days after
11 the filing of a notice of intent under this
12 section” and inserting “30 days after the
13 first date set for the meeting of creditors
14 under section 341(a) of this title”; and

15 (ii) by striking “forty-five day” the
16 second place it appears and inserting “30-
17 day”;

18 (C) in paragraph (2)(C) by inserting “ex-
19 cept as provided in section 362(h) of this title”
20 before the semicolon; and

21 (D) by inserting after subsection (b) the
22 following:

23 “(c) If the debtor fails timely to take the action speci-
24 fied in subsection (a)(6) of this section, or in paragraphs
25 (1) and (2) of section 362(h) of this title, with respect

1 to property which a lessor or bailor owns and has leased,
 2 rented, or bailed to the debtor or as to which a creditor
 3 holds a security interest not otherwise voidable under sec-
 4 tion 522(f), 544, 545, 547, 548, or 549 of this title, noth-
 5 ing in this title shall prevent or limit the operation of a
 6 provision in the underlying lease or agreement which has
 7 the effect of placing the debtor in default under such lease
 8 or agreement by reason of the occurrence, pendency, or
 9 existence of a proceeding under this title or the insolvency
 10 of the debtor. Nothing in this subsection shall be deemed
 11 to justify limiting such a provision in any other cir-
 12 cumstance.”.

13 **SEC. 121. GIVING SECURED CREDITORS FAIR TREATMENT**
 14 **IN CHAPTER 13.**

15 Section 1325(a)(5)(B)(i) of title 11, United States
 16 Code, is amended to read as follows:

17 “(i) the plan provides that the holder of
 18 such claim retain the lien securing such claim
 19 until the earlier of payment of the underlying
 20 debt determined under nonbankruptcy law or
 21 discharge under section 1328 of this title, and
 22 that if the case under this chapter is dismissed
 23 or converted without completion of the plan,
 24 such lien shall also be retained by such holder

1 to the extent recognized by applicable nonbank-
2 ruptcy law; and”.

3 **SEC. 122. RESTRAINING ABUSIVE PURCHASES ON SECURED**
4 **CREDIT.**

5 Section 506 of title 11, United States Code, is
6 amended by adding at the end the following:

7 “(e) In an individual case under chapter 7, 11, 12,
8 or 13—

9 “(1) subsection (a) shall not apply to an al-
10 lowed claim to the extent attributable in whole or in
11 part to the purchase price of personal property ac-
12 quired by the debtor within 5 years of the filing of
13 the petition, except for the purpose of applying para-
14 graph (3) of this subsection;

15 “(2) if such allowed claim attributable to the
16 purchase price is secured only by the personal prop-
17 erty so acquired, the value of the personal property
18 and the amount of the allowed secured claim shall
19 be the sum of the unpaid principal balance of the
20 purchase price and accrued and unpaid interest and
21 charges at the contract rate;

22 “(3) if such allowed claim attributable to the
23 purchase price is secured by the personal property so
24 acquired and other property, the value of the secu-
25 rity may be determined under subsection (a), but the

1 value of the security and the amount of the allowed
2 secured claim shall be not less than the unpaid prin-
3 cipal balance of the purchase price of the personal
4 property acquired and unpaid interest and charges
5 at the contract rate; and

6 “(4) in any subsequent case under this title
7 that is filed by or against the debtor in the 2-year
8 period beginning on the date the petition is filed in
9 the original case, the value of the personal property
10 and the amount of the allowed secured claim shall
11 be deemed to be not less than the amount provided
12 under paragraphs (2) and (3) less any payments ac-
13 tually received.”.

14 **SEC. 123. FAIR VALUATION OF COLLATERAL.**

15 Section 506(a) of title 11, United States Code, is
16 amended by adding at the end the following:

17 “In the case of an individual debtor under chapters 7 and
18 13, such value with respect to personal property securing
19 an allowed claim shall be determined based on the replace-
20 ment value of such property as of the date of filing the
21 petition without deduction for costs of sale or marketing.
22 With respect to property acquired for personal, family, or
23 household purpose, replacement value shall mean the price
24 a retail merchant would charge for property of that kind

1 considering the age and condition of the property at the
2 time value is determined.”.

3 **SEC. 124. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.**

4 Section 522(b)(2)(A) of title 11, United States Code,
5 is amended—

6 (1) by striking “180” and inserting “730”; and

7 (2) by striking “, or for a longer portion of
8 such 180-day period than in any other place” and
9 inserting “or if the debtor’s domicile has not been
10 located at a single State for such 730-day period,
11 the place in which the debtor’s domicile was located
12 for 180 days immediately preceding the 730-day pe-
13 riod or for a longer portion of such 180-day period
14 than in any other place”.

15 **SEC. 125. RESTRICTIONS ON CERTAIN EXEMPT PROPERTY**
16 **OBTAINED THROUGH FRAUD.**

17 Section 522 of title 11, United States Code, as
18 amended by section 113, is amended—

19 (1) in subsection (b)(2)(A) by inserting “sub-
20 ject to subsection (o),” before “any property”; and

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

22 “(o) For purposes of subsection (b)(3)(A) and not-
23 withstanding subsection (a), the value of an interest in—

24 “(1) real or personal property that the debtor
25 or a dependent of the debtor uses as a residence;

1 “(2) a cooperative that owns property that the
2 debtor or a dependent of the debtor uses as a resi-
3 dence; or

4 “(3) a burial plot for the debtor or a dependent
5 of the debtor,

6 shall be reduced to the extent such value is attributable
7 to any portion of any property that the debtor disposed
8 of in the 730-day period ending of the date of the filing
9 of the petition, with the intent to hinder, delay, or defraud
10 a creditor and that the debtor could not exempt, or that
11 portion that the debtor could not exempt, under subsection
12 (b) if on such date the debtor had held the property so
13 disposed of.”.

14 **SEC. 126. ROLLING STOCK EQUIPMENT.**

15 (a) IN GENERAL.—Section 1168 of title 11, United
16 States Code, is amended to read as follows:

17 **“§ 1168. Rolling stock equipment**

18 “(a)(1) The right of a secured party with a security
19 interest in or of a lessor or conditional vendor of equip-
20 ment described in paragraph (2) to take possession of such
21 equipment in compliance with an equipment security
22 agreement, lease, or conditional sale contract, and to en-
23 force any of its other rights or remedies under such secu-
24 rity agreement, lease, or conditional sale contract, to sell,
25 lease, or otherwise retain or dispose of such equipment,

1 is not limited or otherwise affected by any other provision
2 of this title or by any power of the court, except that the
3 right to take possession and enforce those other rights and
4 remedies shall be subject to section 362 of this title, if—

5 “(A) before the date that is 60 days after the
6 date of commencement of a case under this chapter,
7 the trustee, subject to the court’s approval, agrees to
8 perform all obligations of the debtor under such se-
9 curity agreement, lease, or conditional sale contract;
10 and

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

15 “(i) that occurs before the date of com-
16 mencement of the case and is an event of de-
17 fault therewith is cured before the expiration of
18 such 60-day period;

19 “(ii) that occurs or becomes an event of
20 default after the date of commencement of the
21 case and before the expiration of such 60-day
22 period is cured before the later of—

23 “(I) the date that is 30 days after the
24 date of the default or event of the default;
25 or

1 “(II) the expiration of such 60-day
2 period; and

3 “(iii) that occurs on or after the expiration
4 of such 60-day period is cured in accordance
5 with the terms of such security agreement,
6 lease, or conditional sale contract, if cure is per-
7 mitted under that agreement, lease, or condi-
8 tional sale contract.

9 “(2) The equipment described in this paragraph—

10 “(A) is rolling stock equipment or accessories
11 used on rolling stock equipment, including super-
12 structures or racks, that is subject to a security in-
13 terest granted by, leased to, or conditionally sold to
14 a debtor; and

15 “(B) includes all records and documents relat-
16 ing to such equipment that are required, under the
17 terms of the security agreement, lease, or conditional
18 sale contract, that is to be surrendered or returned
19 by the debtor in connection with the surrender or re-
20 turn of such equipment.

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

24 “(b) The trustee and the secured party, lessor, or
25 conditional vendor whose right to take possession is pro-

1 tected under subsection (a) may agree, subject to the
2 court's approval, to extend the 60-day period specified in
3 subsection (a)(1).

4 “(c)(1) In any case under this chapter, the trustee
5 shall immediately surrender and return to a secured party,
6 lessor, or conditional vendor, described in subsection
7 (a)(1), equipment described in subsection (a)(2), if at any
8 time after the date of commencement of the case under
9 this chapter such secured party, lessor, or conditional ven-
10 dor is entitled pursuant to subsection (a)(1) to take pos-
11 session of such equipment and makes a written demand
12 for such possession of the trustee.

13 “(2) At such time as the trustee is required under
14 paragraph (1) to surrender and return equipment de-
15 scribed in subsection (a)(2), any lease of such equipment,
16 and any security agreement or conditional sale contract
17 relating to such equipment, if such security agreement or
18 conditional sale contract is an executory contract, shall be
19 deemed rejected.

20 “(d) With respect to equipment first placed in service
21 on or prior to October 22, 1994, for purposes of this
22 section—

23 “(1) the term ‘lease’ includes any written agree-
24 ment with respect to which the lessor and the debt-
25 or, as lessee, have expressed in the agreement or in

1 a substantially contemporaneous writing that the
2 agreement is to be treated as a lease for Federal in-
3 come tax purposes; and

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

6 “(e) With respect to equipment first placed in service
7 after October 22, 1994, for purposes of this section, the
8 term ‘rolling stock equipment’ includes rolling stock equip-
9 ment that is substantially rebuilt and accessories used on
10 such equipment.”.

11 (b) AIRCRAFT EQUIPMENT AND VESSELS.—Section
12 1110 of title 11, United States Code, is amended to read
13 as follows:

14 **“§ 1110. Aircraft equipment and vessels**

15 “(a)(1) Except as provided in paragraph (2) and sub-
16 ject to subsection (b), the right of a secured party with
17 a security interest in equipment described in paragraph
18 (3), or of a lessor or conditional vendor of such equipment,
19 to take possession of such equipment in compliance with
20 a security agreement, lease, or conditional sale contract,
21 and to enforce any of its other rights or remedies, under
22 such security agreement, lease, or conditional sale con-
23 tract, to sell, lease, or otherwise retain or dispose of such
24 equipment, is not limited or otherwise affected by any
25 other provision of this title or by any power of the court.

1 “(2) The right to take possession and to enforce the
2 other rights and remedies described in paragraph (1) shall
3 be subject to section 362 of this title if—

4 “(A) before the date that is 60 days after the
5 date of the order for relief under this chapter, the
6 trustee, subject to the approval of the court, agrees
7 to perform all obligations of the debtor under such
8 security agreement, lease, or conditional sale con-
9 tract; and

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

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

17 “(ii) that occurs after the date of the order
18 and before the expiration of such 60-day period
19 is cured before the later of—

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

22 “(II) the expiration of such 60-day
23 period; and

24 “(iii) that occurs on or after the expiration
25 of such 60-day period is cured in compliance

1 with the terms of such security agreement,
2 lease, or conditional sale contract, if a cure is
3 permitted under that agreement, lease, or con-
4 tract.

5 “(3) The equipment described in this paragraph—

6 “(A) is—

7 “(i) an aircraft, aircraft engine, propeller,
8 appliance, or spare part (as defined in section
9 40102 of title 49) that is subject to a security
10 interest granted by, leased to, or conditionally
11 sold to a debtor that, at the time such trans-
12 action is entered into, holds an air carrier oper-
13 ating certificate issued pursuant to chapter 447
14 of title 49 for aircraft capable of carrying 10 or
15 more individuals or 6,000 pounds or more of
16 cargo; or

17 “(ii) a documented vessel (as defined in
18 section 30101(1) of title 46) that is subject to
19 a security interest granted by, leased to, or con-
20 ditionally sold to a debtor that is a water car-
21 rier that, at the time such transaction is en-
22 tered into, holds a certificate of public conven-
23 ience and necessity or permit issued by the De-
24 partment of Transportation; and

1 “(B) includes all records and documents relat-
2 ing to such equipment that are required, under the
3 terms of the security agreement, lease, or conditional
4 sale contract, to be surrendered or returned by the
5 debtor in connection with the surrender or return of
6 such equipment.

7 “(4) Paragraph (1) applies to a secured party, lessor,
8 or conditional vendor acting in its own behalf or acting
9 as trustee or otherwise in behalf of another party.

10 “(b) The trustee and the secured party, lessor, or
11 conditional vendor whose right to take possession is pro-
12 tected under subsection (a) may agree, subject to the ap-
13 proval of the court, to extend the 60-day period specified
14 in subsection (a)(1).

15 “(c)(1) In any case under this chapter, the trustee
16 shall immediately surrender and return to a secured party,
17 lessor, or conditional vendor, described in subsection
18 (a)(1), equipment described in subsection (a)(3), if at any
19 time after the date of the order for relief under this chap-
20 ter such secured party, lessor, or conditional vendor is en-
21 titled pursuant to subsection (a)(1) to take possession of
22 such equipment and makes a written demand for such pos-
23 session to the trustee.

24 “(2) At such time as the trustee is required under
25 paragraph (1) to surrender and return equipment de-

1 scribed in subsection (a)(3), any lease of such equipment,
2 and any security agreement or conditional sale contract
3 relating to such equipment, if such security agreement or
4 conditional sale contract is an executory contract, shall be
5 deemed rejected.

6 “(d) With respect to equipment first placed in service
7 on or before October 22, 1994, for purposes of this
8 section—

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

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

17 **SEC. 127. DISCHARGE UNDER CHAPTER 13.**

18 Section 1328(a) of title 11, United States Code, is
19 amended by striking paragraphs (1) through (3) and in-
20 serting the following:

21 “(1) provided for under section 1322(b)(5) of
22 this title;

23 “(2) of the kind specified in paragraph (2), (4),
24 (3)(B), (5), (8), or (9) of section 523(a) of this title;

1 “(3) for restitution, or a criminal fine, included
2 in a sentence on the debtor’s conviction of a crime;
3 or

4 “(4) for restitution, or damages, awarded in a
5 civil action against the debtor as a result of willful
6 or malicious injury by the debtor that caused per-
7 sonal injury to an individual or the death of an indi-
8 vidual.”.

9 **SEC. 128. BANKRUPTCY JUDGESHIPS.**

10 (a) **SHORT TITLE.**—This section may be cited as the
11 “Bankruptcy Judgeship Act of 1999”.

12 (b) **TEMPORARY JUDGESHIPS.**—

13 (1) **APPOINTMENTS.**—The following judgeship
14 positions shall be filled in the manner prescribed in
15 section 152(a)(1) of title 28, United States Code, for
16 the appointment of bankruptcy judges provided for
17 in section 152(a)(2) of such title:

18 (A) One additional bankruptcy judgeship
19 for the eastern district of California.

20 (B) Four additional bankruptcy judgeships
21 for the central district of California.

22 (C) One additional bankruptcy judgeship
23 for the southern district of Florida.

24 (D) Two additional bankruptcy judgeships
25 for the district of Maryland.

1 (E) One additional bankruptcy judgeship
2 for the eastern district of Michigan.

3 (F) One additional bankruptcy judgeship
4 for the southern district of Mississippi.

5 (G) One additional bankruptcy judgeship
6 for the district of New Jersey.

7 (H) One additional bankruptcy judgeship
8 for the eastern district of New York.

9 (I) One additional bankruptcy judgeship
10 for the northern district of New York.

11 (J) One additional bankruptcy judgeship
12 for the southern district of New York.

13 (K) One additional bankruptcy judgeship
14 for the eastern district of Pennsylvania.

15 (L) One additional bankruptcy judgeship
16 for the middle district of Pennsylvania.

17 (M) One additional bankruptcy judgeship
18 for the western district of Tennessee.

19 (N) One additional bankruptcy judgeship
20 for the eastern district of Virginia.

21 (2) VACANCIES.—The first vacancy occurring in
22 the office of a bankruptcy judge in each of the judi-
23 cial districts set forth in paragraph (1) that—

24 (A) results from the death, retirement, res-
25 ignation, or removal of a bankruptcy judge; and

1 (B) occurs 5 years or more after the ap-
2 pointment date of a bankruptcy judge ap-
3 pointed under paragraph (1),
4 shall not be filled.

5 (c) EXTENSIONS.—

6 (1) IN GENERAL.—The temporary bankruptcy
7 judgeship positions authorized for the northern dis-
8 trict of Alabama, the district of Delaware, the dis-
9 trict of Puerto Rico, the district of South Carolina,
10 and the eastern district of Tennessee under section
11 3(a)(1), (3), (7), (8), and (9) of the Bankruptcy
12 Judgeship Act of 1992 (28 U.S.C. 152 note) are ex-
13 tended until the first vacancy occurring in the office
14 of a bankruptcy judge in the applicable district re-
15 sulting from the death, retirement, resignation, or
16 removal of a bankruptcy judge and occurring—

17 (A) 8 years or more after November 8,
18 1993, with respect to the northern district of
19 Alabama;

20 (B) 10 years or more after October 28,
21 1993, with respect to the district of Delaware;

22 (C) 8 years or more after August 29,
23 1994, with respect to the district of Puerto
24 Rico;

1 (D) 8 years or more after June 27, 1994,
2 with respect to the district of South Carolina;
3 and

4 (E) 8 years or more after November 23,
5 1993, with respect to the eastern district of
6 Tennessee.

7 (2) APPLICABILITY OF OTHER PROVISIONS.—
8 All other provisions of section 3 of the Bankruptcy
9 Judgeship Act of 1992 remain applicable to such
10 temporary judgeship position.

11 (d) TECHNICAL AMENDMENT.—The first sentence of
12 section 152(a)(1) of title 28, United States Code, is
13 amended to read as follows: “Each bankruptcy judge to
14 be appointed for a judicial district as provided in para-
15 graph (2) shall be appointed by the United States court
16 of appeals for the circuit in which such district is lo-
17 cated.”.

18 (e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—
19 Section 156 of title 28, United States Code, is amended
20 by adding at the end the following new subsection:

21 “(g)(1) In this subsection, the term ‘travel
22 expenses’—

23 “(A) means the expenses incurred by a bank-
24 ruptcy judge for travel that is not directly related to
25 any case assigned to such bankruptcy judge; and

1 “(B) shall not include the travel expenses of a
2 bankruptcy judge if—

3 “(i) the payment for the travel expenses is
4 paid by such bankruptcy judge from the per-
5 sonal funds of such bankruptcy judge; and

6 “(ii) such bankruptcy judge does not re-
7 ceive funds (including reimbursement) from the
8 United States or any other person or entity for
9 the payment of such travel expenses.

10 “(2) Each bankruptcy judge shall annually submit
11 the information required under paragraph (3) to the chief
12 bankruptcy judge for the district in which the bankruptcy
13 judge is assigned.

14 “(3)(A) Each chief bankruptcy judge shall submit an
15 annual report to the Director of the Administrative Office
16 of the United States Courts on the travel expenses of each
17 bankruptcy judge assigned to the applicable district (in-
18 cluding the travel expenses of the chief bankruptcy judge
19 of such district).

20 “(B) The annual report under this paragraph shall
21 include—

22 “(i) the travel expenses of each bankruptcy
23 judge, with the name of the bankruptcy judge to
24 whom the travel expenses apply;

1 “(ii) a description of the subject matter and
2 purpose of the travel relating to each travel expense
3 identified under clause (i), with the name of the
4 bankruptcy judge to whom the travel applies; and

5 “(iii) the number of days of each travel de-
6 scribed under clause (ii), with the name of the bank-
7 ruptcy judge to whom the travel applies.

8 “(4)(A) The Director of the Administrative Office of
9 the United States Courts shall—

10 “(i) consolidate the reports submitted under
11 paragraph (3) into a single report; and

12 “(ii) annually submit such consolidated report
13 to Congress.

14 “(B) The consolidated report submitted under this
15 paragraph shall include the specific information required
16 under paragraph (3)(B), including the name of each bank-
17 ruptcy judge with respect to clauses (i), (ii), and (iii) of
18 paragraph (3)(B).”.

19 **SEC. 129. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED**
20 **STATES CODE.**

21 Section 507(a) of title 11, United States Code, is
22 amended by inserting after paragraph (9) the following:

23 “(10) Tenth, allowed claims for death or per-
24 sonal injuries resulting from the operation of a
25 motor vehicle or vessel if such operation was unlaw-

1 ful because the debtor was intoxicated from using al-
2 cohol, a drug or another substance.”.

3 **SEC. 130. AMENDMENT TO SECTION 1325 OF TITLE 11,**
4 **UNITED STATES CODE.**

5 Section 1325(b) of title 11, United States Code, is
6 amended—

7 (1) in paragraph (1), by inserting “to unse-
8 cured creditors” after “to make payments”;

9 (2) in paragraph (2)—

10 (A) by inserting “current monthly” before
11 “income”;

12 (B) by striking “and which is not” and in-
13 serting “less amounts”;

14 (C) by inserting after “received by the
15 debtor”, “(other than child support payments,
16 foster care payments, or disability payments for
17 a dependent child made in accordance with ap-
18 plicable nonbankruptcy law and which is rea-
19 sonably necessary to be expended)”; and

20 (D) in subparagraph (A) by inserting after
21 “dependent of the debtor” the following: “, as
22 determined in accordance with section
23 707(b)(2)(A) and if applicable 707(b)(2)(B)”.

1 **SEC. 131. APPLICATION OF THE CODEBTOR STAY ONLY**
2 **WHEN THE STAY PROTECTS THE DEBTOR.**

3 Section 1301(b) of title 11, United States Code, is
4 amended—

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

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

7 “(2)(A) Notwithstanding subsection (c) and except as
8 provided in subparagraph (B), in any case in which the
9 debtor did not receive the consideration for the claim held
10 by a creditor, the stay provided by subsection (a) shall
11 apply to that creditor for a period not to exceed 30 days
12 beginning on the date of the order for relief, to the extent
13 the creditor proceeds against—

14 “(i) the individual that received that consider-
15 ation; or

16 “(ii) property not in the possession of the debt-
17 or that secures that claim.

18 “(B) Notwithstanding subparagraph (A), the stay
19 provided by subsection (a) shall apply in any case in which
20 the debtor is primarily obligated to pay the creditor in
21 whole or in part with respect to a claim described in sub-
22 paragraph (A) under a legally binding separation or prop-
23 erty settlement agreement or divorce or dissolution decree
24 with respect to—

25 “(i) an individual described in subparagraph
26 (A)(i); or

1 “(ii) property described in subparagraph (A)(ii).

2 “(3) Notwithstanding subsection (c), the stay pro-
3 vided by subsection (a) shall terminate as of the date of
4 confirmation of the plan, in any case in which the plan
5 of the debtor provides that the debtor’s interest in per-
6 sonal property subject to a lease with respect to which the
7 debtor is the lessee will be surrendered or abandoned or
8 no payments will be made under the plan on account of
9 the debtor’s obligations under the lease.”.

10 **SEC. 132. ADEQUATE PROTECTION FOR INVESTORS.**

11 (a) DEFINITION.—Section 101 of title 11, United
12 States Code, is amended by inserting after paragraph (48)
13 the following:

14 “(48A) ‘securities self regulatory organization’
15 means either a securities association registered with
16 the Securities and Exchange Commission pursuant
17 to section 15A of the Securities Exchange Act of
18 1934 or a national securities exchange registered
19 with the Securities and Exchange Commission pur-
20 suant to section 6 of the Securities Exchange Act of
21 1934;”.

22 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
23 United States Code, as amended by section 118, is
24 amended—

1 (1) in paragraph (19) by striking “or” at the
2 end;

3 (2) in paragraph (20) by striking the period at
4 the end and inserting “; or”; and

5 (3) by inserting after paragraph (20) the fol-
6 lowing:

7 “(21) under subsection (a), of the commence-
8 ment or continuation of an investigation or action by
9 a securities self regulatory organization to enforce
10 such organization’s regulatory power; of the enforce-
11 ment of an order or decision, other than for mone-
12 tary sanctions, obtained in an action by the securi-
13 ties self regulatory organization to enforce such or-
14 ganization’s regulatory power; or of any act taken by
15 the securities self regulatory organization to delist,
16 delete, or refuse to permit quotation of any stock
17 that does not meet applicable regulatory require-
18 ments.”.

19 **SEC. 133. LIMITATION ON LUXURY GOODS.**

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

22 “(C)(i) for purposes of subparagraph (A),
23 consumer debts owed to a single creditor and
24 aggregating more than \$250 for ‘luxury goods
25 or services’ incurred by an individual debtor on

1 or within 90 days before the order for relief
2 under this title, or cash advances aggregating
3 more than \$250 that are extensions of con-
4 sumer credit under an open end credit plan ob-
5 tained by an individual debtor on or within 90
6 days before the order for relief under this title,
7 are presumed to be nondischargeable; and

8 “(ii) for purposes of this subparagraph—

9 “(I) the term ‘luxury goods or serv-
10 ices’ does not include goods or services rea-
11 sonably necessary for the support or main-
12 tenance of the debtor or a dependent of the
13 debtor; and

14 “(II) the term ‘an extension of con-
15 sumer credit under an open end credit
16 plan’ has the same meaning such term has
17 for purposes of the Consumer Credit Pro-
18 tection Act;”.

19 **SEC. 134. ALLOWING THE DEBTOR TO RETAIN LEASED PER-**
20 **SONAL PROPERTY BY ASSUMPTION.**

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

23 “(p)(1) If a lease of personal property is rejected or
24 not timely assumed by the trustee under subsection (d),
25 the leased property is no longer property of the estate and

1 the stay under section 362(a) of this title is automatically
2 terminated.

3 “(2) In the case of an individual under chapter 7,
4 the debtor may notify the creditor in writing that the debt-
5 or desires to assume the lease. Upon being so notified,
6 the creditor may, at its option, notify the debtor that it
7 is willing to have the lease assumed by the debtor and
8 may, at its option, condition such assumption on cure of
9 any outstanding default on terms set by the contract. If
10 within 30 days of the notice from the creditor the debtor
11 notifies the lessor in writing that the lease is assumed,
12 the liability under the lease will be assumed by the debtor
13 and not by the estate. The stay under section 362 of this
14 title and the injunction under section 524(a) of this title
15 shall not be violated by notification of the debtor and ne-
16 gotiation of cure under this subsection. Nothing in this
17 paragraph shall require a debtor to assume a lease, or a
18 creditor to permit assumption.

19 “(3) In a case under chapter 11 of this title in which
20 the debtor is an individual and in a case under chapter
21 13 of this title, if the debtor is the lessee with respect
22 to personal property and the lease is not assumed in the
23 plan confirmed by the court, the lease is deemed rejected
24 as of the conclusion of the hearing on confirmation. If the
25 lease is rejected, the stay under section 362 of this title

1 and any stay under section 1301 is automatically termi-
 2 nated with respect to the property subject to the lease.”.

3 **SEC. 135. ADEQUATE PROTECTION OF LESSORS AND PUR-**
 4 **CHASE MONEY SECURED CREDITORS.**

5 (a) IN GENERAL.—Chapter 13 of title 11, United
 6 States Code, is amended by adding after section 1307 the
 7 following:

8 **“§ 1307A. Adequate protection in chapter 13 cases**

9 “(a)(1)(A) On or before the date that is 30 days after
 10 the filing of a case under this chapter, the debtor shall
 11 make cash payments in an amount determined under
 12 paragraph (2), to—

13 “(i) any lessor of personal property; and

14 “(ii) any creditor holding a claim secured by
 15 personal property to the extent that the claim is at-
 16 tributable to the purchase of that property by the
 17 debtor.

18 “(B) The debtor or the plan shall continue making
 19 the adequate protection payments required under subpara-
 20 graph (A) until the earlier of the date on which—

21 “(i) the creditor begins to receive actual pay-
 22 ments under the plan; or

23 “(ii) the debtor relinquishes possession of the
 24 property referred to in subparagraph (A) to—

25 “(I) the lessor or creditor; or

1 “(II) any third party acting under claim of
2 right, as applicable.

3 “(2) The payments referred to in paragraph (1)(A)
4 shall be the contract amount and shall reduce any amount
5 payable under section 1326(a) of the title.

6 “(b)(1) Subject to the limitations under paragraph
7 (2), the court may, after notice and hearing, change the
8 amount and timing of the dates of payment of payments
9 made under subsection (a).

10 “(2)(A) The payments referred to in paragraph (1)
11 shall be payable not less frequently than monthly.

12 “(B) The amount of payments referred to in para-
13 graph (1) shall not be less than the amount of any weekly,
14 biweekly, monthly, or other periodic payment scheduled as
15 payable under the contract between the debtor and cred-
16 itor.

17 “(c) Notwithstanding section 1326(b), the payments
18 referred to in subsection (a)(1)(A) shall be continued in
19 addition to plan payments under a confirmed plan until
20 actual payments to the creditor begin under that plan, if
21 the confirmed plan provides—

22 “(1) for payments to a creditor or lessor de-
23 scribed in subsection (a)(1); and

1 “(2) for the deferral of payments to such cred-
 2 itor or lessor under the plan until the payment of
 3 amounts described in section 1326(b).

4 “(d) Notwithstanding sections 362, 542, and 543, a
 5 lessor or creditor described in subsection (a) may retain
 6 possession of property described in that subsection that
 7 was obtained in accordance with applicable law before the
 8 date of filing of the petition until the first payment under
 9 subsection (a)(1)(A) is received by the lessor or creditor.

10 “(e) On or before 60 days after the filing of a case
 11 under this chapter, a debtor retaining possession of per-
 12 sonal property subject to a lease or securing a claim attrib-
 13 utable in whole or in part to the purchase price of such
 14 property shall provide each creditor or lessor reasonable
 15 evidence of the maintenance of any required insurance
 16 coverage with respect to the use or ownership of such
 17 property and continue to do so for so long as the debtor
 18 retains possession of such property.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
 20 at the beginning of chapter 13 of title 11, United States
 21 Code, is amended by inserting after the item relating to
 22 section 1307 the following:

“1307A. Adequate protection in chapter 13 cases.”.

23 **SEC. 136. AUTOMATIC STAY.**

24 Section 362(b) of title 11, United States Code, as
 25 amended by sections 118 and 132, is amended—

1 (1) in paragraph (20), by striking “or” at the
2 end;

3 (2) in paragraph (21), by striking the period at
4 the end and inserting a semicolon; and

5 (3) by inserting after paragraph (21) the fol-
6 lowing:

7 “(22) under subsection (a) of any transfer that
8 is not avoidable under section 544 of this title and
9 that is not avoidable under section 549 of this title;

10 “(23) under subsection (a)(3), of the continu-
11 ation of any eviction, unlawful detainer action, or
12 similar proceeding by a lessor against a debtor in-
13 volving residential real property in which the debtor
14 resides as a tenant under a rental agreement and
15 the debtor has not paid rent to the lessor pursuant
16 to the terms of the lease agreement or applicable
17 State law after the commencement and during the
18 course of the case;

19 “(24) under subsection (a)(3), of the com-
20 mencement or continuation of any eviction, unlawful
21 detainer action, or similar proceeding by a lessor
22 against a debtor involving residential real property
23 in which the debtor resides as a tenant under a rent-
24 al agreement that has terminated pursuant to the
25 lease agreement or applicable State law;

1 “(25) under subsection (a)(3), of any eviction,
2 unlawful detainer action, or similar proceeding, if
3 the debtor has previously filed within the last year
4 and failed to pay post-petition rent during the
5 course of that case; or

6 “(26) under subsection (a)(3), of eviction ac-
7 tions based on endangerment to property or person
8 or the use of illegal drugs.”.

9 **SEC. 137. EXTEND PERIOD BETWEEN BANKRUPTCY DIS-**
10 **CHARGES.**

11 Title 11, United States Code, is amended—

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

14 (2) in section 1328 by adding at the end the
15 following:

16 “(f) Notwithstanding subsections (a) and (b), the
17 court shall not grant a discharge of all debts provided for
18 by the plan or disallowed under section 502 of this title
19 if the debtor has received a discharge in any case filed
20 under this title within 5 years of the order for relief under
21 this chapter.”.

22 **SEC. 138. DEFINITION OF DOMESTIC SUPPORT OBLIGA-**
23 **TION.**

24 Section 101 of title 11, United States Code, is
25 amended—

1 (1) by striking paragraph (12A); and

2 (2) by inserting after paragraph (14) the fol-
3 lowing:

4 “(14A) ‘domestic support obligation’ means a
5 debt that accrues before or after the entry of an
6 order for relief under this title that is—

7 “(A) owed to or recoverable by—

8 “(i) a spouse, former spouse, or child
9 of the debtor or that child’s legal guardian;
10 or

11 “(ii) a governmental unit;

12 “(B) in the nature of alimony, mainte-
13 nance, or support (including assistance provided
14 by a governmental unit) of such spouse, former
15 spouse, or child, without regard to whether such
16 debt is expressly so designated;

17 “(C) established or subject to establish-
18 ment before or after entry of an order for relief
19 under this title, by reason of applicable provi-
20 sions of—

21 “(i) a separation agreement, divorce
22 decree, or property settlement agreement;

23 “(ii) an order of a court of record; or

1 “(iii) a determination made in accord-
 2 ance with applicable nonbankruptcy law by
 3 a governmental unit; and

4 “(D) not assigned to a nongovernmental
 5 entity, unless that obligation is assigned volun-
 6 tarily by the spouse, former spouse, child, or
 7 parent solely for the purpose of collecting the
 8 debt.”.

9 **SEC. 139. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP-**
 10 **PORT OBLIGATIONS.**

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

13 (1) by striking paragraph (7);

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

16 (3) in paragraph (2), as redesignated, by strik-
 17 ing “First” and inserting “Second”;

18 (4) in paragraph (3), as redesignated, by strik-
 19 ing “Second” and inserting “Third”;

20 (5) in paragraph (4), as redesignated, by strik-
 21 ing “Third” and inserting “Fourth”;

22 (6) in paragraph (5), as redesignated, by strik-
 23 ing “Fourth” and inserting “Fifth”;

24 (7) in paragraph (6), as redesignated, by strik-
 25 ing “Fifth” and inserting “Sixth”;

1 (8) in paragraph (7), as redesignated, by strik-
2 ing “Sixth” and inserting “Seventh”; and

3 (9) by inserting before paragraph (2), as redes-
4 ignated, the following:

5 “(1) First, allowed claims for domestic support
6 obligations to be paid in the following order on the
7 condition that funds received under this paragraph
8 by a governmental unit in a case under this title be
9 applied:

10 “(A) Claims that, as of the date of entry
11 of the order for relief, are owed directly to a
12 spouse, former spouse, or child of the debtor, or
13 the parent of such child, without regard to
14 whether the claim is filed by the spouse, former
15 spouse, child, or parent, or is filed by a govern-
16 mental unit on behalf of that person.

17 “(B) Claims that, as of the date of entry
18 of the order for relief, are assigned by a spouse,
19 former spouse, child of the debtor, or the par-
20 ent of that child to a governmental unit or are
21 owed directly to a governmental unit under ap-
22 plicable nonbankruptcy law.”.

1 **SEC. 140. REQUIREMENTS TO OBTAIN CONFIRMATION AND**
2 **DISCHARGE IN CASES INVOLVING DOMESTIC**
3 **SUPPORT OBLIGATIONS.**

4 Title 11, United States Code, is amended—

5 (1) in section 1129(a), by adding at the end the
6 following:

7 “(14) If the debtor is required by a judicial or
8 administrative order or statute to pay a domestic
9 support obligation, the debtor has paid all amounts
10 payable under such order or statute for such obliga-
11 tion that become payable after the date on which the
12 petition is filed.”;

13 (2) in section 1325(a)—

14 (A) in paragraph (5), by striking “and” at
15 the end;

16 (B) in paragraph (6), by striking the pe-
17 riod at the end and inserting “; and”; and

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

19 “(7) if the debtor is required by a judicial or
20 administrative order or statute to pay a domestic
21 support obligation, the debtor has paid all amounts
22 payable under such order for such obligation that
23 become payable after the date on which the petition
24 is filed.”; and

25 (3) in section 1328(a), as amended by section
26 127, in the matter preceding paragraph (1), by in-

1 serting “, and with respect to a debtor who is re-
2 quired by a judicial or administrative order to pay
3 a domestic support obligation, certifies that all
4 amounts payable under such order or statute that
5 are due on or before the date of the certification (in-
6 cluding amounts due before or after the petition was
7 filed) have been paid” after “completion by the debt-
8 or of all payments under the plan”.

9 **SEC. 141. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
10 **SUPPORT OBLIGATION PROCEEDINGS.**

11 Section 362(b) of title 11, United States Code, as
12 amended by sections 118, 132, and 136, is amended—

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

15 “(2) under subsection (a)—

16 “(A) of the commencement or continuation
17 of an action or proceeding for—

18 “(i) the establishment of paternity; or

19 “(ii) the establishment or modification
20 of an order for domestic support obliga-
21 tions; or

22 “(B) the collection of a domestic support
23 obligation from property that is not property of
24 the estate;”;

1 (2) in paragraph (25), by striking “or” at the
2 end;

3 (3) in paragraph (26), by striking the period at
4 the end and inserting a semicolon; and

5 (4) by inserting after paragraph (26) the fol-
6 lowing:

7 “(27) under subsection (a) with respect to the
8 withholding of income pursuant to an order as speci-
9 fied in section 466(b) of the Social Security Act (42
10 U.S.C. 666(b)); or

11 “(28) under subsection (a) with respect to—

12 “(A) the withholding, suspension, or re-
13 striction of drivers’ licenses, professional and
14 occupational licenses, and recreational licenses
15 pursuant to State law, as specified in section
16 466(a)(16) of the Social Security Act (42
17 U.S.C. 666(a)(16)) or with respect to the re-
18 porting of overdue support owed by an absent
19 parent to any consumer reporting agency as
20 specified in section 466(a)(7) of the Social Se-
21 curity Act (42 U.S.C. 666(a)(7));

22 “(B) the interception of tax refunds, as
23 specified in sections 464 and 466(a)(3) of the
24 Social Security Act (42 U.S.C. 664 and
25 666(a)(3)); or

1 “(C) the enforcement of medical obliga-
 2 tions as specified under title IV of the Social
 3 Security Act (42 U.S.C. 601 et seq.).”.

4 **SEC. 142. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
 5 **ALIMONY, MAINTENANCE, AND SUPPORT.**

6 Section 523 of title 11, United States Code, is
 7 amended—

8 (1) in subsection (a), by striking paragraph (5)
 9 and inserting the following:

10 “(5) for a domestic support obligation;”;

11 (2) in subsection (a)(15)—

12 (A) by inserting “or” after “court of
 13 record,”; and

14 (B) by striking “unless—” and all that fol-
 15 lows through “debtor” the last place it appears;
 16 and

17 (3) in subsection (c), by striking “(6), or (15)”
 18 each place it appears and inserting “or (6)”.

19 **SEC. 143. CONTINUED LIABILITY OF PROPERTY.**

20 Section 522 of title 11, United States Code, is
 21 amended—

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

24 “(1) a debt of a kind specified in paragraph (1)
 25 or (5) of section 523(a) (in which case, notwith-

1 standing any provision of applicable nonbankruptcy
 2 law to the contrary, such property shall be liable for
 3 a debt of a kind specified in section 523(a)(5);” and
 4 (2) in subsection (f)(1)(A), by striking the dash
 5 and all that follows through the end of the subpara-
 6 graph and inserting “of a kind that is specified in
 7 section 523(a)(5); or”.

8 **SEC. 144. PROTECTION OF DOMESTIC SUPPORT CLAIMS**
 9 **AGAINST PREFERENTIAL TRANSFER MO-**
 10 **TIONS.**

11 Section 547(c)(7) of title 11, United States Code, is
 12 amended to read as follows:

13 “(7) to the extent such transfer was a bona fide
 14 payment of a debt for a domestic support obligation;
 15 or”.

16 **SEC. 145. CLARIFICATION OF MEANING OF HOUSEHOLD**
 17 **GOODS.**

18 Section 101 of title 11, United States Code, is
 19 amended by inserting after paragraph (27) the following:

20 “(27A) ‘household goods’ includes tangible per-
 21 sonal property normally found in or around a resi-
 22 dence, but does not include motorized vehicles used
 23 for transportation purposes;”.

1 **SEC. 146. NONDISCHARGEABLE DEBTS.**

2 Section 523(a) of title 11, United States Code, is
3 amended by inserting after paragraph (14) the following:

4 “(14A) incurred to pay a debt that is non-
5 dischargeable by reason of section 727, 1141,
6 1228(a), 1228(b), or 1328(c), or any other provision
7 of this subsection, if the debtor incurred the debt to
8 pay such a nondischargeable debt with the intent to
9 discharge in bankruptcy the newly-created debt, ex-
10 cept that all debts incurred to pay nondischargeable
11 debts, without regard to intent, are nondischargeable
12 if incurred within 90 days of the filing of the peti-
13 tion;”.

14 **SEC. 147. MONETARY LIMITATION ON CERTAIN EXEMPT**
15 **PROPERTY.**

16 (a) AMENDMENT.—Section 522 of title 11, United
17 States Code, as amended by section 125, is amended—

18 (1) in subsection (b)(2)(A) by striking “sub-
19 section (o)” and inserting “subsections (o) and (p)”
20 before “any property”; and

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

22 “(p)(1) Except as provided in paragraphs (2) and
23 (3), as a result of electing under subsection (b)(3)(A) to
24 exempt property under State or local law, a debtor may
25 not exempt any interest that exceeds \$250,000 in value,
26 in the aggregate, in—

1 “(A) real or personal property that the debtor
2 or a dependent of the debtor uses as a residence;

3 “(B) a cooperative that owns property that the
4 debtor or a dependent of the debtor uses as a resi-
5 dence; or

6 “(C) a burial plot for the debtor or a dependent
7 of the debtor.

8 “(2) The limitation under paragraph (1) shall not
9 apply to an exemption claimed under subsection (b)(3)(A)
10 by a family farmer for the principal residence of that
11 farmer.

12 “(3) Paragraph (1) shall not apply to debtors if appli-
13 cable State law provides by statute that such paragraph
14 shall not apply to debtors.”.

15 (b) APPLICATION OF AMENDMENT TO INDIVIDUAL
16 STATES.—(1) Section 522(p) of title 11, United States
17 Code, as added by subsection (a), shall not apply with re-
18 spect to a State before the end of the first regular session
19 of the State legislature following the date of the enactment
20 of this Act.

21 (2) For purposes of paragraph (1), the term “State”
22 has the meaning given such term in section 101 of title
23 11, United States Code.

1 **SEC. 148. BANKRUPTCY FEES.**

2 Section 1930 of title 28, United States Code, is
3 amended—

4 (1) in subsection (a) by striking “Notwith-
5 standing section 1915 of this title, the” and insert-
6 ing “The”; and

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

8 “(f)(1) Pursuant to procedures prescribed by the Ju-
9 dicial Conference of the United States, the district court
10 or the bankruptcy court may waive the filing fee in a case
11 under chapter 7 of title 11 for an individual debtor who
12 is unable to pay such fee in installments. For purposes
13 of this paragraph, the term ‘filing fee’ means the filing
14 fee required by subsection (a), or any other fee prescribed
15 by the Judicial Conference under subsections (b) and (c)
16 that is payable to the clerk upon the commencement of
17 a case under chapter 7 of title 11, United States Code.

18 “(2) The district court or the bankruptcy court may
19 also waive for such debtors other fees prescribed pursuant
20 to subsections (b) and (c).

21 “(3) This subsection does not restrict the district
22 court or the bankruptcy court from waiving, in accordance
23 with Judicial Conference policy, fees prescribed pursuant
24 to such subsections for other debtors and creditors.”.

1 **SEC. 149. COLLECTION OF CHILD SUPPORT.**

2 (a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-
3 tion 704 of title 11, United States Code, as amended by
4 section 102, is amended—

5 (1) by inserting “(a)” before “The trustee”;

6 (2) in paragraph (9) by striking “and” at the
7 end;

8 (3) in paragraph (10) by striking the period
9 and inserting “; and”; and

10 (4) by adding at the end the following:

11 “(11) if, with respect to an individual debtor,
12 there is a claim for support of a child of the debtor
13 or a custodial parent of such child entitled to receive
14 priority under section 507(a)(1) of this title, provide
15 the applicable notification specified in subsection (b).

16 “(b)(1) In any case described in subsection (a)(11),
17 the trustee shall—

18 “(A)(i) notify in writing the holder of the claim
19 of the right of such holder to use the services of a
20 State child support enforcement agency established
21 under sections 464 and 466 of the Social Security
22 Act for the State in which the holder resides; and

23 “(ii) include in the notice under this paragraph
24 the address and telephone number of the child sup-
25 port enforcement agency; and

1 “(B)(i) notify in writing the State child support
2 agency of the State in which the holder of the claim
3 resides of the claim;

4 “(ii) include in the notice under this paragraph
5 the name, address, and telephone number of the
6 holder of the claim; and

7 “(iii) at such time as the debtor is granted a
8 discharge under section 727 of this title, notify the
9 holder of such claim and the State child support
10 agency of the State in which such holder resides
11 of—

12 “(I) the granting of the discharge;

13 “(II) the last recent known address of the
14 debtor; and

15 “(III) with respect to the debtor’s case, the
16 name of each creditor that holds a claim that
17 is not discharged under paragraph (2), (4), or
18 (14A) of section 523(a) of this title or that was
19 reaffirmed by the debtor under section 524(c)
20 of this title.

21 “(2)(A) If, after receiving a notice under paragraph
22 (1)(B)(iii), a holder of a claim or a State child support
23 agency is unable to locate the debtor that is the subject
24 of the notice, such holder or such agency may request from

1 a creditor described in paragraph (1)(B)(iii)(III) the last
2 known address of the debtor.

3 “(B) Notwithstanding any other provision of law, a
4 creditor that makes a disclosure of a last known address
5 of a debtor in connection with a request made under sub-
6 paragraph (A) shall not be liable to the debtor or any
7 other person by reason of making such disclosure.”.

8 (b) DUTIES OF TRUSTEE UNDER CHAPTER 13.—
9 Section 1302 of title 11, United States Code, is
10 amended—

11 (1) in subsection (b)—

12 (A) in paragraph (4) by striking “and” at
13 the end;

14 (B) in paragraph (5) by striking the period
15 and inserting “; and”; and

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

17 “(6) if, with respect to an individual debtor,
18 there is a claim for support of a child of the debtor
19 or a custodial parent of such child entitled to receive
20 priority under section 507(a)(1) of this title, provide
21 the applicable notification specified in subsection
22 (d).”; and

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

24 “(d)(1) In any case described in subsection (b)(6),
25 the trustee shall—

1 “(A)(i) notify in writing the holder of the claim
2 of the right of such holder to use the services of a
3 State child support enforcement agency established
4 under sections 464 and 466 of the Social Security
5 Act for the State in which the holder resides; and

6 “(ii) include in the notice under this paragraph
7 the address and telephone number of the child sup-
8 port enforcement agency; and

9 “(B)(i) notify in writing the State child support
10 agency of the State in which the holder of the claim
11 resides of the claim; and

12 “(ii) include in the notice under this paragraph
13 the name, address, and telephone number of the
14 holder of the claim;

15 “(iii) at such time as the debtor is granted a
16 discharge under section 1328 of this title, notify the
17 holder of the claim and the State child support
18 agency of the State in which such holder resides
19 of—

20 “(I) the granting of the discharge;

21 “(II) the last recent known address of the
22 debtor; and

23 “(III) with respect to the debtor’s case, the
24 name of each creditor that holds a claim that
25 is not discharged under paragraph (2), (4), or

1 (14A) of section 523(a) of this title or that was
 2 reaffirmed by the debtor under section 524(c)
 3 of this title.

4 “(2)(A) If, after receiving a notice under paragraph
 5 (1)(B)(iii), a holder of a claim or a State child support
 6 agency is unable to locate the debtor that is the subject
 7 of the notice, such holder or such agency may request from
 8 a creditor described in paragraph (1)(B)(iii) the last
 9 known address of the debtor.

10 “(B) Notwithstanding any other provision of law, a
 11 creditor that makes a disclosure of a last known address
 12 of a debtor in connection with a request made under sub-
 13 paragraph (A) shall not be liable to the debtor or any
 14 other person by reason of making such disclosure.”.

15 **SEC. 150. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICI-**
 16 **PANT CONTRIBUTIONS AND OTHER PROP-**
 17 **ERTY FROM THE ESTATE.**

18 (a) IN GENERAL.—Section 541(b) of title 11, United
 19 States Code, is amended—

20 (1) by striking “or” at the end of paragraph
 21 (4)(B)(ii);

22 (2) by striking the period at the end of para-
 23 graph (5) and inserting “; or”; and

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

1 “(7) any amount or interest in property to the
2 extent that an employer has withheld amounts from
3 the wages of employees for contribution to an em-
4 ployee benefit plan subject to title I of the Employee
5 Retirement Income Security Act of 1974, or to the
6 extent that the employer has received amounts as a
7 result of payments by participants or beneficiaries to
8 an employer for contribution to an employee benefit
9 plan subject to title I of the Employee Retirement
10 Income Security Act of 1974.”.

11 (b) APPLICATION OF AMENDMENT.—The amendment
12 made by this section shall not apply to cases commenced
13 under title 11, United States Code, before the expiration
14 of the 180-day period beginning on the date of the enact-
15 ment of this Act.

16 **SEC. 151. CLARIFICATION OF POSTPETITION WAGES AND**
17 **BENEFITS.**

18 Section 503(b)(1)(A) of title 11, United States Code,
19 is amended to read as follows:

20 “(A) the actual, necessary costs and expenses of
21 preserving the estate, including wages, salaries, or
22 commissions for services rendered after the com-
23 mencement of the case, and wages and benefits at-
24 tributable to any period of time after commencement
25 of the case as a result of the debtor’s violation of

1 Federal law, without regard to when the original un-
2 lawful act occurred or to whether any services were
3 rendered;”.

4 **SEC. 152. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
5 **SUPPORT OBLIGATION PROCEEDINGS.**

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

8 (1) in subparagraph (A) by striking “or” at the
9 end;

10 (2) in subparagraph (B) by adding “or” at the
11 end; and

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

13 “(C) under subsection (a) of—

14 “(i) the withholding of income for
15 payment of a domestic support obligation
16 pursuant to a judicial or administrative
17 order or statute for such obligation that
18 first becomes payable after the date on
19 which the petition is filed; or

20 “(ii) the withholding of income for
21 payment of a domestic support obligation
22 owed directly to the spouse, former spouse
23 or child of the debtor or the parent of such
24 child, pursuant to a judicial or administra-
25 tive order or statute for such obligation

1 that becomes payable before the date on
2 which the petition is filed unless the court
3 finds, after notice and hearing, that such
4 withholding would render the plan infeasible;”.

6 **SEC. 153. AUTOMATIC STAY INAPPLICABLE TO CERTAIN**
7 **PROCEEDINGS AGAINST THE DEBTOR.**

8 Section 362(b)(2) of title 11, United States Code, as
9 amended by section 153, is amended—

10 (1) in subparagraph (B) by striking “or” at the
11 end;

12 (2) by inserting after subparagraph (C) the following:
13

14 “(D) the commencement or continuation of
15 a proceeding concerning a child custody or visitation;
16

17 “(E) the commencement or continuation of
18 a proceeding alleging domestic violence; or

19 “(F) the commencement or continuation of
20 a proceeding seeking a dissolution of marriage,
21 except to the extent the proceeding concerns
22 property of the estate;”.

1 **SEC. 154. DISCLOSURES.**

2 (a) DISCLOSURES.—Subchapter II of chapter 5 of
3 title 11, United States Code, as amended by section 106,
4 is amended by adding at the end the following:

5 **“§ 527. Disclosures**

6 “(a) A debt relief agency providing bankruptcy assist-
7 ance to an assisted person shall provide the following no-
8 tices to the assisted person:

9 “(1) the written notice required under section
10 342(b)(1) of this title; and

11 “(2) to the extent not covered in the written no-
12 tice described in paragraph (1) of this section and
13 no later than three business days after the first date
14 on which a debt relief agency first offers to provide
15 any bankruptcy assistance services to an assisted
16 person, a clear and conspicuous written notice advis-
17 ing assisted persons of the following—

18 “(A) all information the assisted person is
19 required to provide with a petition and there-
20 after during a case under this title must be
21 complete, accurate and truthful;

22 “(B) all assets and all liabilities must be
23 completely and accurately disclosed in the docu-
24 ments filed to commence the case, and the re-
25 placement value of each asset as defined in sec-
26 tion 506 of this title must be stated in those

1 documents where requested after reasonable in-
2 quiry to establish such value;

3 “(C) current monthly income, the amounts
4 specified in section 707(b)(2) and, in a chapter
5 13 case, disposable income (determined in ac-
6 cordance with section 707(b)(2)) must be stated
7 after reasonable inquiry; and

8 “(D) that information an assisted person
9 provides during their case may be audited pur-
10 suant to this title and that failure to provide
11 such information may result in dismissal of the
12 proceeding under this title or other sanction in-
13 cluding, in some instances, criminal sanctions.

14 “(b) A debt relief agency providing bankruptcy assist-
15 ance to an assisted person shall provide each assisted per-
16 son at the same time as the notices required under sub-
17 section (a)(1) with the following statement, to the extent
18 applicable, or one substantially similar. The statement
19 shall be clear and conspicuous and shall be in a single
20 document separate from other documents or notices pro-
21 vided to the assisted person:

22 “‘IMPORTANT INFORMATION ABOUT BANK-
23 RUPTCY ASSISTANCE SERVICES FROM AN AT-
24 TORNEY OR BANKRUPTCY PETITION PRE-
25 PARER.

1 “‘If you decide to seek bankruptcy relief, you can
2 represent yourself, you can hire an attorney to represent
3 you, or you can get help in some localities from a bank-
4 ruptcy petition preparer who is not an attorney. THE
5 LAW REQUIRES AN ATTORNEY OR BANKRUPTCY
6 PETITION PREPARER TO GIVE YOU A WRITTEN
7 CONTRACT SPECIFYING WHAT THE ATTORNEY
8 OR BANKRUPTCY PETITION PREPARER WILL DO
9 FOR YOU AND HOW MUCH IT WILL COST. Ask to
10 see the contract before you hire anyone.

11 “‘The following information helps you understand
12 what must be done in a routine bankruptcy case to help
13 you evaluate how much service you need. Although bank-
14 ruptcy can be complex, many cases are routine.

15 “‘Before filing a bankruptcy case, either you or your
16 attorney should analyze your eligibility for different forms
17 of debt relief made available by the Bankruptcy Code and
18 which form of relief is most likely to be beneficial for you.
19 Be sure you understand the relief you can obtain and its
20 limitations. To file a bankruptcy case, documents called
21 a Petition, Schedules and Statement of Financial Affairs,
22 as well as in some cases a Statement of Intention need
23 to be prepared correctly and filed with the bankruptcy
24 court. You will have to pay a filing fee to the bankruptcy
25 court. Once your case starts, you will have to attend the

1 required first meeting of creditors where you may be ques-
2 tioned by a court official called a “trustee” and by credi-
3 tors.

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

8 “‘If you choose to file a chapter 13 case in which
9 you repay your creditors what you can afford over three
10 to five years, you may also want help with preparing your
11 chapter 13 plan and with the confirmation hearing on your
12 plan which will be before a bankruptcy judge.

13 “‘If you select another type of relief under the Bank-
14 ruptcy Code other than chapter 7 or chapter 13, you will
15 want to find out what needs to be done from someone fa-
16 miliar with that type of relief.

17 “‘Your bankruptcy case may also involve litigation.
18 You are generally permitted to represent yourself in litiga-
19 tion in bankruptcy court, but only attorneys, not bank-
20 ruptcy petition preparers, can give you legal advice.’.

21 “(c) Except to the extent the debt relief agency pro-
22 vides the required information itself after reasonably dili-
23 gent inquiry of the assisted person or others so as to ob-
24 tain such information reasonably accurately for inclusion
25 on the petition, schedules or statement of financial affairs,

1 a debt relief agency providing bankruptcy assistance to an
2 assisted person, to the extent permitted by nonbankruptcy
3 law, shall provide each assisted person at the time re-
4 quired for the notice required under subsection (a)(1) rea-
5 sonably sufficient information (which shall be provided in
6 a clear and conspicuous writing) to the assisted person
7 on how to provide all the information the assisted person
8 is required to provide under this title pursuant to section
9 521, including—

10 “(1) how to value assets at replacement value,
11 determine current monthly income, the amounts
12 specified in section 707(b)(2)) and, in a chapter 13
13 case, how to determine disposable income in accord-
14 ance with section 707(b)(2) and related calculations;

15 “(2) how to complete the list of creditors, in-
16 cluding how to determine what amount is owed and
17 what address for the creditor should be shown; and

18 “(3) how to determine what property is exempt
19 and how to value exempt property at replacement
20 value as defined in section 506 of this title.

21 “(d) A debt relief agency shall maintain a copy of
22 the notices required under subsection (a) of this section
23 for two years after the date on which the notice is given
24 the assisted person.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tions for chapter 5 of title 11, United States Code, as
 3 amended by section 106, is amended by inserting after the
 4 item relating to section 526 the following:

“527. Disclosures.”.

5 **SEC. 155. DEBTOR’S BILL OF RIGHTS.**

6 Subchapter II of chapter 5 of title 11, United States
 7 Code, as amended by sections 106 and 154, is amended
 8 by adding at the end the following:

9 **“§ 528. Debtor’s bill of rights**

10 “(a) A debt relief agency shall—

11 “(1) no later than five business days after the
 12 first date on which a debt relief agency provides any
 13 bankruptcy assistance services to an assisted person,
 14 but prior to such assisted person’s petition under
 15 this title being filed, execute a written contract with
 16 the assisted person specifying clearly and conspicu-
 17 ously the services the agency will provide the as-
 18 sisted person and the basis on which fees or charges
 19 will be made for such services and the terms of pay-
 20 ment, and give the assisted person a copy of the
 21 fully executed and completed contract in a form the
 22 person can keep;

23 “(2) disclose in any advertisement of bank-
 24 ruptcy assistance services or of the benefits of bank-
 25 ruptcy directed to the general public (whether in

1 general media, seminars or specific mailings, tele-
2 phonic or electronic messages or otherwise) that the
3 services or benefits are with respect to proceedings
4 under this title, clearly and conspicuously using the
5 following statement: ‘We are a debt relief agency.
6 We help people file Bankruptcy petitions to obtain
7 relief under the Bankruptcy Code.’ or a substantially
8 similar statement. An advertisement shall be of
9 bankruptcy assistance services if it describes or of-
10 fers bankruptcy assistance with a chapter 13 plan,
11 regardless of whether chapter 13 is specifically men-
12 tioned, including such statements as ‘federally super-
13 vised repayment plan’ or ‘Federal debt restructuring
14 help’ or other similar statements which would lead
15 a reasonable consumer to believe that help with
16 debts was being offered when in fact in most cases
17 the help available is bankruptcy assistance with a
18 chapter 13 plan; and

19 “(3) if an advertisement directed to the general
20 public indicates that the debt relief agency provides
21 assistance with respect to credit defaults, mortgage
22 foreclosures, lease eviction proceedings, excessive
23 debt, debt collection pressure, or inability to pay any
24 consumer debt, disclose conspicuously in that adver-
25 tisement that the assistance is with respect to or

1 may involve proceedings under this title, using the
 2 following statement: ‘We are a debt relief agency.
 3 We help people file Bankruptcy petitions to obtain
 4 relief under the Bankruptcy Code.’ or a substantially
 5 similar statement.”.

6 (b) CONFORMING AMENDMENT.—The table of sec-
 7 tions for chapter 5 of title 11, United States Code, as
 8 amended by sections 106 and 154, is amended by inserting
 9 after the item relating to section 527, the following:

“528. Debtor’s bill of rights.”.

10 **TITLE II—DISCOURAGING** 11 **BANKRUPTCY ABUSE**

12 **SEC. 201. REENACTMENT OF CHAPTER 12.**

13 (a) REENACTMENT.—Chapter 12 of title 11, United
 14 States Code, as in effect on March 31, 1999, is hereby
 15 reenacted.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 subsection (a) shall take effect on March 31, 1999.

18 **SEC. 202. MEETINGS OF CREDITORS AND EQUITY SECURITY** 19 **HOLDERS.**

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

22 “(e) Notwithstanding subsections (a) and (b), the
 23 court, on the request of a party in interest and after notice
 24 and a hearing, for cause may order that the United States
 25 trustee not convene a meeting of creditors or equity secu-

1 rity holders if the debtor has filed a plan as to which the
 2 debtor solicited acceptances prior to the commencement
 3 of the case.”.

4 **SEC. 203. PROTECTION OF RETIREMENT SAVINGS IN BANK-**
 5 **RUPTCY.**

6 (a) IN GENERAL.—Section 522 of title 11, United
 7 States Code, as amended by sections 113, 125, and 147
 8 is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (2)—

11 (i) by striking “(2)(A)” and inserting:

12 “(3) Property listed in this paragraph is—

13 “(A) subject to subsections (o) and (p),”;

14 (ii) in subparagraph (B), by striking

15 “and” at the end;

16 (iii) in subparagraph (C), by striking

17 the period at the end and inserting “;

18 and”; and

19 (iv) by adding at the end the fol-

20 lowing:

21 “(D) retirement funds to the extent that those

22 funds are in a fund or account that is exempt from

23 taxation under section 401, 403, 408, 408A, 414,

24 457, or 501(a) of the Internal Revenue Code of

25 1986.”;

1 (B) by striking paragraph (1) and insert-
 2 ing:

3 “(2) Property listed in this paragraph is property
 4 that is specified under subsection (d), unless the State law
 5 that is applicable to the debtor under paragraph (3)(A)
 6 specifically does not so authorize.”;

7 (C) in the matter preceding paragraph
 8 (2)—

9 (i) by striking “(b)” and inserting
 10 “(b)(1)”;

11 (ii) by striking “paragraph (2)” both
 12 places it appears and inserting “paragraph
 13 (3)”;

14 (iii) by striking “paragraph (1)” each
 15 place it appears and inserting “paragraph
 16 (2)”;

17 (iv) by striking “Such property is—”;
 18 and

19 (D) by adding at the end of the subsection
 20 the following:

21 “(4) For purposes of paragraph (3)(D) and sub-
 22 section (d)(12), the following shall apply:

23 “(A) If the retirement funds are in a retirement
 24 fund that has received a favorable determination
 25 pursuant to section 7805 of the Internal Revenue

1 Code of 1986, and that determination is in effect as
2 of the date of the commencement of the case under
3 section 301, 302, or 303 of this title, those funds
4 shall be presumed to be exempt from the estate.

5 “(B) If the retirement funds are in a retirement
6 fund that has not received a favorable determination
7 pursuant to such section 7805, those funds are ex-
8 empt from the estate if the debtor demonstrates
9 that—

10 “(i) no prior determination to the contrary
11 has been made by a court or the Internal Rev-
12 enue Service; and

13 “(ii) the retirement fund is in substantial
14 compliance with the applicable requirements of
15 the Internal Revenue Code of 1986.

16 “(C) A direct transfer of retirement funds from
17 one fund or account that is exempt from taxation
18 under section 401, 403, 408, 408A, 414, 457, or
19 501(a) of the Internal Revenue Code of 1986, pur-
20 suant to section 401(a)(31) of the Internal Revenue
21 Code of 1986, or otherwise, shall not cease to qualify
22 for exemption under paragraph (3)(D) or subsection
23 (d)(12) by reason of that direct transfer.

24 “(D)(i) Any distribution that qualifies as an eli-
25 gible rollover distribution within the meaning of sec-

1 tion 402(c) of the Internal Revenue Code of 1986 or
2 that is described in clause (ii) shall not cease to
3 qualify for exemption under paragraph (3)(D) or
4 subsection (d)(12) by reason of that distribution.

5 “(ii) A distribution described in this clause is
6 an amount that—

7 “(I) has been distributed from a fund or
8 account that is exempt from taxation under sec-
9 tion 401, 403, 408, 408A, 414, 457, or 501(a)
10 of the Internal Revenue Code of 1986; and

11 “(II) to the extent allowed by law, is de-
12 posited in such a fund or account not later than
13 60 days after the distribution of that amount.”;
14 and

15 (2) in subsection (d)—

16 (A) in the matter preceding paragraph (1),
17 by striking “subsection (b)(1)” and inserting
18 “subsection (b)(2)”; and

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

20 “(12) Retirement funds to the extent that those
21 funds are in a fund or account that is exempt from
22 taxation under section 401, 403, 408, 408A, 414,
23 457, or 501(a) of the Internal Revenue Code of
24 1986.”.

1 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
2 United States Code, as amended by sections 118, 132,
3 136, and 141 is amended—

4 (1) in paragraph (27), by striking “or” at the
5 end;

6 (2) in paragraph (28), by striking the period
7 and inserting “; or”;

8 (3) by inserting after paragraph (28) the fol-
9 lowing:

10 “(29) under subsection (a), of withholding of
11 income from a debtor’s wages and collection of
12 amounts withheld, pursuant to the debtor’s agree-
13 ment authorizing that withholding and collection for
14 the benefit of a pension, profit-sharing, stock bonus,
15 or other plan established under section 401, 403,
16 408, 408A, 414, 457, or 501(a) of the Internal Rev-
17 enue Code of 1986 that is sponsored by the em-
18 ployer of the debtor, or an affiliate, successor, or
19 predecessor of such employer—

20 “(A) to the extent that the amounts with-
21 held and collected are used solely for payments
22 relating to a loan from a plan that satisfies the
23 requirements of section 408(b)(1) of the Em-
24 ployee Retirement Income Security Act of 1974

1 or is subject to section 72(p) of the Internal
2 Revenue Code of 1986; or

3 “(B) in the case of a loan from a thrift
4 savings plan described in subchapter III of title
5 5, that satisfies the requirements of section
6 8433(g) of such title.”; and

7 (4) by adding at the end of the flush material
8 following paragraph (29) the following: “Paragraph
9 (29) does not apply to any amount owed to a plan
10 referred to in that paragraph that is incurred under
11 a loan made during the 1-year period preceding the
12 filing of a petition. Nothing in paragraph (29) may
13 be construed to provide that any loan made under
14 a governmental plan under section 414(d), or a con-
15 tract or account under section 403(b), of the Inter-
16 nal Revenue Code of 1986 constitutes a claim or a
17 debt under this title.”.

18 (c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of
19 title 11, United States Code, is amended—

20 (1) by striking “or” at the end of paragraph
21 (17);

22 (2) by striking the period at the end of para-
23 graph (18) and inserting “; or”; and

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

1 “(19) owed to a pension, profit-sharing, stock
2 bonus, or other plan established under section 401,
3 403, 408, 408A, 414, 457, or 501(c) of the Internal
4 Revenue Code of 1986, pursuant to—

5 “(A) a loan permitted under section
6 408(b)(1) of the Employee Retirement Income
7 Security Act of 1974) or subject to section
8 72(p) of the Internal Revenue Code of 1986; or

9 “(B) a loan from the thrift savings plan
10 described in subchapter III of title 5, that satis-
11 fies the requirements of section 8433(g) of such
12 title.

13 Paragraph (19) does not apply to any amount owed to
14 a plan referred to in that paragraph that is incurred under
15 a loan made during the 1-year period preceding the filing
16 of a petition. Nothing in paragraph (19) may be construed
17 to provide that any loan made under a governmental plan
18 under section 414(d), or a contract or account under sec-
19 tion 403(b), of the Internal Revenue Code of 1986 con-
20 stitutes a claim or a debt under this title.”.

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

24 “(f) A plan may not materially alter the terms of a
25 loan described in section 362(b)(29) of this title.”.

1 **SEC. 204. PROTECTION OF REFINANCE OF SECURITY IN-**
2 **TEREST.**

3 Subparagraphs (A), (B), and (C) of section 547(e)(2)
4 of title 11, United States Code, are amended by striking
5 “10” each place it appears and inserting “30”.

6 **SEC. 205. EXECUTORY CONTRACTS AND UNEXPIRED**
7 **LEASES.**

8 Section 365(d)(4) of title 11, United States Code, is
9 amended to read as follows:

10 “(4)(A) Subject to subparagraph (B), in any case
11 under any chapter in this title, an unexpired lease of non-
12 residential real property under which the debtor is the les-
13 see shall be deemed rejected, and the trustee shall imme-
14 diately surrender such property to the lessor, if the trustee
15 does not assume or reject the unexpired lease by the ear-
16 lier of—

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

19 “(ii) the date of the entry of an order con-
20 firming a plan.

21 “(B)(i) The court may extend the period determined
22 under subparagraph (A) for 120 days upon motion of the
23 trustee or the lessor for cause.

24 “(ii) If the court grants an extension under clause
25 (i), the court may grant a subsequent extension only upon
26 prior written consent of the lessor.”.

1 **SEC. 206. CREDITORS AND EQUITY SECURITY HOLDERS**
2 **COMMITTEES.**

3 (a) APPOINTMENT.—Section 1102(a)(2) of title 11,
4 United States Code, is amended by inserting before the
5 first sentence the following: “On its own motion or on re-
6 quest of a party in interest, and after notice and hearing,
7 the court may order a change in the membership of a com-
8 mittee appointed under this subsection, if the court deter-
9 mines that the change is necessary to ensure adequate rep-
10 resentation of creditors or equity security holders. The
11 court may expand the membership of a committee to in-
12 clude a creditor that is small business if the court deter-
13 mines that such creditor holds claims of the kind rep-
14 resented by such committee that are, in the aggregate, dis-
15 proportionately large when compared to the annual gross
16 revenue of such creditor.”.

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

20 “(3) A committee appointed under subsection (a)
21 shall provide access to information for creditors who hold
22 claims of the kind represented by such committee and who
23 are not appointed such committee, shall to be open for
24 comment from such creditors, and shall be subject to a
25 court order compelling additional reports or disclosure to
26 be made to such creditors.”.

1 **SEC. 207. AMENDMENT TO SECTION 546 OF TITLE 11,**
2 **UNITED STATES CODE.**

3 Section 546 of title 11, United States Code, is
4 amended by inserting at the end thereof:

5 “(i) Notwithstanding section 545 (2) and (3) of this
6 title, the trustee may not avoid a warehouseman’s lien for
7 storage, transportation or other costs incidental to the
8 storage and handling of goods, as provided by section 7–
9 209 of the Uniform Commercial Code.”.

10 **SEC. 208. LIMITATION.**

11 Section 546(c)(1)(B) of title 11, United States Code,
12 is amended by striking “20” and inserting “45”.

13 **SEC. 209. AMENDMENT TO SECTION 330(a) OF TITLE 11,**
14 **UNITED STATES CODE.**

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

17 (1) in paragraph (3)—

18 (A) in subparagraph (A) after “awarded”,
19 by inserting “to an examiner, chapter 11 trust-
20 ee, or professional person”; and

21 (B) by redesignating subdivisions (A)
22 through (E) as clauses (i) through (iv), respec-
23 tively; and

24 (2) by adding at the the following:

25 “(B) In determining the amount of reasonable
26 compensation to be awarded a trustee, the court

1 shall treat such compensation as a commission based
2 on the results achieved.”.

3 **SEC. 210. POSTPETITION DISCLOSURE AND SOLICITATION.**

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

6 “(g) Notwithstanding subsection (b), an acceptance
7 or rejection of the plan may be solicited from a holder
8 of a claim or interest if such solicitation complies with ap-
9 plicable nonbankruptcy law and if such holder was solici-
10 ited before the commencement of the case in a manner
11 complying with applicable nonbankruptcy law.”.

12 **SEC. 211. PREFERENCES.**

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

15 (1) by amending paragraph (2) to read as fol-
16 lows:

17 “(2) to the extent that such transfer was in
18 payment of a debt incurred by the debtor in the or-
19 dinary course of business or financial affairs of the
20 debtor and the transferee, and such transfer was—

21 “(A) made in the ordinary course of busi-
22 ness or financial affairs of the debtor and the
23 transferee; or

24 “(B) made according to ordinary business
25 terms;”;

1 (2) in paragraph (7) by striking “or” at the
2 end;

3 (3) in paragraph (8) by striking the period at
4 the end and inserting “; or”; and

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

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

10 **SEC. 212. VENUE OF CERTAIN PROCEEDINGS.**

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

14 **SEC. 213. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

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

17 (1) by striking “On” and inserting “(1) Subject
18 to paragraph (1), on”; and

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

20 “(2)(A) Such 120-day period may not be extended
21 beyond a date that is 18 months after the date of the order
22 for relief under this chapter.

23 “(B) Such 180-day period may not be extended be-
24 yond a date that is 20 months after the date of the order
25 for relief under this chapter.”.

1 **SEC. 214. FEES ARISING FROM CERTAIN OWNERSHIP IN-**
2 **TERESTS.**

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

5 (1) by striking “dwelling” the first place it ap-
6 pears;

7 (2) by striking “ownership or” and inserting
8 “ownership,”;

9 (3) by striking “housing” the first place it ap-
10 pears; and

11 (4) by striking “but only” and all that follows
12 through “such period,” and inserting “or a lot in a
13 homeowners association, for as long as the debtor or
14 the trustee has a legal, equitable, or possessory own-
15 ership interest in such unit, such corporation, or
16 such lot,”.

17 **SEC. 215. DEFAULTS BASED ON NONMONETARY OBLIGA-**
18 **TIONS.**

19 (a) EXECUTORY CONTRACTS AND UNEXPIRED
20 LEASES.—Section 365 of title 11, United States Code, is
21 amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1)(A) by striking the
24 semicolon at the end and inserting the fol-
25 lowing:

1 “other than a default that is a breach of a provision
2 relating to—

3 “(i) the satisfaction of any provision (other
4 than a penalty rate or penalty provision) relat-
5 ing to a default arising from any failure to per-
6 form nonmonetary obligations under an unex-
7 pired lease of real property, if it is impossible
8 for the trustee to cure such default by per-
9 forming nonmonetary acts at and after the time
10 of assumption; or

11 “(ii) the satisfaction of any provision
12 (other than a penalty rate or penalty provision)
13 relating to a default arising from any failure to
14 perform nonmonetary obligations under an ex-
15 ecutory contract (excluding executory contracts
16 that transfer a right or interest under a filed or
17 issued patent, copyright, trademark, trade
18 dress, or trade secret), if it is impossible for the
19 trustee to cure such default by performing non-
20 monetary acts at and after the time of assump-
21 tion and if the court determines, based on the
22 equities of the case, that this subparagraph
23 should not apply with respect to such default;”;
24 and

1 (B) by amending paragraph (2)(D) to read
2 as follows:

3 “(D) the satisfaction of any penalty rate or
4 penalty provision relating to a default arising from
5 a failure to perform nonmonetary obligations under
6 an executory contract (excluding executory contracts
7 that transfer a right or interest under a filed or
8 issued patent, copyright, trademark, trade dress, or
9 trade secret) or under an unexpired lease of real or
10 personal property.”;

11 (2) in subsection (c)—

12 (A) in paragraph (2) by adding “or” at the
13 end;

14 (B) in paragraph (3) by striking “; or” at
15 the end and inserting a period; and

16 (C) by striking paragraph (4);

17 (3) in subsection (d)—

18 (A) by striking paragraphs (5) through
19 (9); and

20 (B) by redesignating paragraph (10) as
21 paragraph (5); and

22 (4) in subsection (f)(1) by striking “; except
23 that” and all that follows through the end of the
24 paragraph and inserting a period.

1 (b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Sec-
2 tion 1124(2) of title 11, United States Code, is
3 amended—

4 (1) in subparagraph (A) by inserting “or of a
5 kind that section 365(b)(2) of this title expressly
6 does not require to be cured” before the semicolon
7 at the end;

8 (2) in subparagraph (C) by striking “and” at
9 the end;

10 (3) by redesignating subparagraph (D) as sub-
11 paragraph (E); and

12 (4) by inserting after subparagraph (C) the fol-
13 lowing:

14 “(D) if such claim or such interest arises
15 from any failure to perform a nonmonetary ob-
16 ligation, compensates the holder of such claim
17 or such interest (other than the debtor or an in-
18 sider) for any actual pecuniary loss incurred by
19 such holder as a result of such failure; and”.

20 **SEC. 216. SHARING OF COMPENSATION.**

21 Section 504 of title 11, United States Code, is
22 amended by adding at the end the following:

23 “(c) This section shall not apply with respect to shar-
24 ing, or agreeing to share, compensation with a bona fide
25 public service attorney referral program that operates in

1 accordance with non-Federal law regulating attorney re-
2 ferral services and with rules of professional responsibility
3 applicable to attorney acceptance of referrals.”.

4 **SEC. 217. PRIORITY FOR ADMINISTRATIVE EXPENSES.**

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

7 (1) by deleting “and” at the end of paragraph
8 (5);

9 (2) by striking the period at the end of para-
10 graph (6) and inserting “; and”; and

11 (3) by inserting the following after paragraph
12 (6):

13 “(7) with respect to a nonresidential real prop-
14 erty lease previously assumed under section 365,
15 and subsequently rejected, a sum equal to all mone-
16 tary obligations due, excluding those arising from or
17 relating to a failure to operate or penalty provisions,
18 for the period of one year following the later of the
19 rejection date or date of actual turnover of the
20 premises, without reduction or setoff for any reason
21 whatsoever except for sums actually received or to be
22 received from a nondebtor; and the claim for remain-
23 ing sums due for the balance of the term of the lease
24 shall be a claim under section 502(b)(6).”.

1 **SEC. 218. NONDISCHARGEABILITY OF CERTAIN EDU-**
 2 **CATIONAL BENEFITS AND LOANS.**

3 Section 523(a)(8) of title 11, United States Code, is
 4 amended to read as follows:

5 “(8) for—

6 “(A) an educational benefit overpayment
 7 or loan made, insured or guaranteed by a gov-
 8 ernmental unit, or made under any program
 9 funded in whole or in part by a governmental
 10 unit or nonprofit institution, or for an obliga-
 11 tion to repay funds received as an educational
 12 benefit, scholarship or stipend; or

13 “(B) any other education loan incurred by
 14 an individual debtor that meets the definition of
 15 ‘Qualified Education Loan’ under section
 16 221(e)(1) of the Internal Revenue Code,
 17 unless excepting such debt from discharge under this
 18 paragraph will impose an undue hardship on the
 19 debtor and a debtor’s dependents;”.

20 **TITLE III—GENERAL BUSINESS**
 21 **BANKRUPTCY PROVISIONS**

22 **SEC. 301. DEFINITION OF DISINTERESTED PERSON.**

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

25 “(14) ‘disinterested person’ means a person
 26 that—

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

3 “(B) is not and was not, within 2 years be-
4 fore the date of the filing of the petition, a di-
5 rector, officer, or employee of the debtor; and

6 “(C) does not have an interest materially
7 adverse to the interest of the estate or of any
8 class of creditors or equity security holders, by
9 reason of any direct or indirect relationship to,
10 connection with, or interest in, the debtor, or
11 for any other reason;”.

12 **SEC. 302. MISCELLANEOUS IMPROVEMENTS.**

13 (a) WHO MAY BE A DEBTOR.—Section 109 of title
14 11, United States Code, is amended by adding at the end
15 the following:

16 “(h)(1) Subject to paragraphs (2) and (3) and not-
17 withstanding any other provision of this section, an indi-
18 vidual may not be a debtor under this title unless that
19 individual has, during the 90-day period preceding the
20 date of filing of the petition of that individual, received
21 credit counseling, including, at a minimum, participation
22 in an individual or group briefing that outlined the oppor-
23 tunities for available credit counseling and assisted that
24 individual in performing an initial budget analysis,
25 through a credit counseling program (offered through an

1 approved credit counseling service described in section
2 111(a)).

3 “(2)(A) Paragraph (1) shall not apply with respect
4 to a debtor who resides in a district for which the United
5 States trustee or bankruptcy administrator of the bank-
6 ruptcy court of that district determines that the approved
7 credit counseling services for that district are not reason-
8 ably able to provide adequate services to the additional
9 individuals who would otherwise seek credit counseling
10 from those programs by reason of the requirements of
11 paragraph (1).

12 “(B) Each United States trustee or bankruptcy ad-
13 ministrator that makes a determination described in sub-
14 paragraph (A) shall review that determination not later
15 than one year after the date of that determination, and
16 not less frequently than every year thereafter.

17 “(3)(A) Subject to subparagraph (B), the require-
18 ments of paragraph (1) shall not apply with respect to
19 a debtor who submits to the court a certification that—

20 “(i) describes exigent circumstances that merit
21 a waiver of the requirements of paragraph (1);

22 “(ii) states that the debtor requested credit
23 counseling services from an approved credit coun-
24 seling service, but was unable to obtain the services
25 referred to in paragraph (1) during the 5-day period

1 beginning on the date on which the debtor made
2 that request or that the exigent circumstances re-
3 quire filing before such 5-day period expires; and

4 “(iii) is satisfactory to the court.

5 “(B) With respect to a debtor, an exemption under
6 subparagraph (A) shall cease to apply to that debtor on
7 the date on which the debtor meets the requirements of
8 paragraph (1), but in no case may the exemption apply
9 to that debtor after the date that is 30 days after the debt-
10 or files a petition.”.

11 (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title
12 11, United States Code, is amended—

13 (1) in paragraph (9), by striking “or” at the
14 end;

15 (2) in paragraph (10), by striking the period
16 and inserting “; or”; and

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

18 “(11) after the filing of the petition, the debtor
19 failed to complete an instructional course concerning
20 personal financial management described in section
21 111 unless the debtor resides in a district for which
22 the United States trustee or bankruptcy adminis-
23 trator of the bankruptcy court of that district deter-
24 mines that the approved instructional courses are
25 not adequate to provide service to the additional in-

1 individuals who would be required to compete the in-
2 structional course by reason of the requirements of
3 this section. Each United States trustee or bank-
4 ruptcy administrator that makes such a determina-
5 tion shall review that determination not later than 1
6 year after the date of that determination, and not
7 less frequently than every year thereafter.”.

8 (c) CHAPTER 13 DISCHARGE.—Section 1328 of title
9 11, United States Code, as amended by section 137, is
10 amended by adding at the end the following:

11 “(g) The court shall not grant a discharge under this
12 section to a debtor, unless after filing a petition the debtor
13 has completed an instructional course concerning personal
14 financial management described in section 111.

15 “(h) Subsection (g) shall not apply with respect to
16 a debtor who resides in a district for which the United
17 States trustee or bankruptcy administrator of the bank-
18 ruptcy court of that district determines that the approved
19 instructional courses are not adequate to provide service
20 to the additional individuals who would be required to
21 complete the instructional course by reason of the require-
22 ments of this section.

23 “(i) Each United States trustee or bankruptcy ad-
24 ministrator that makes a determination described in sub-
25 section (h) shall review that determination not later than

1 1 year after the date of that determination, and not less
 2 frequently than every year thereafter.”.

3 (d) DEBTOR’S DUTIES.—Section 521 of title 11,
 4 United States Code, as amended by sections 604 and 120,
 5 is amended by adding at the end the following:

6 “(d) In addition to the requirements under subsection
 7 (a), an individual debtor shall file with the court—

8 “(1) a certificate from the credit counseling
 9 service that provided the debtor services under sec-
 10 tion 109(h); and

11 “(2) a copy of the debt repayment plan, if any,
 12 developed under section 109(h) through the credit
 13 counseling service referred to in paragraph (1).”.

14 (e) GENERAL PROVISIONS.—

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

18 **“§ 111. Credit counseling services; financial manage-**
 19 **ment instructional courses**

20 “(a) The clerk of each district shall maintain a pub-
 21 licly available list of credit counseling agencies and of pro-
 22 grams described in section 109(h) and instructional
 23 courses offered by such agencies currently approved by—

24 “(1) the United States Trustee; or

1 “(2) the bankruptcy administrator for the dis-
2 trict.

3 “(b) The United States Trustee or bankruptcy ad-
4 ministrators shall only approve credit counseling agencies
5 which satisfy standards set in regulations promulgated by
6 the Federal Trade Commission and which are accredited
7 by the Council on Accreditation or an equivalent third
8 party nonprofit accrediting organization.

9 “(c) The United States Trustee or bankruptcy ad-
10 ministrators shall only approve programs or courses under
11 subsection (a) if they satisfy standards set in regulations
12 promulgated by the Executive Office of the United States
13 Trustees. The Executive Office of the United States
14 Trustee is authorized to promulgate regulations setting
15 such standards.

16 “(d) The Federal Trade Commission shall have au-
17 thority to promulgate regulations setting standards for
18 credit counseling agencies for the purposes of subsection
19 (b). Such standards shall establish minimum requirements
20 for such agencies with respect to providing qualified coun-
21 selors, safekeeping and payment of client funds, disclosure
22 to clients, adequate counseling with respect to client credit
23 problems, and such other matters as relate to the quality
24 and financial security of such programs. Nothing in this
25 provision shall limit the authority of the Federal Trade

1 Commission pursuant to the Federal Trade Commission
2 Act (15 U.S.C. 45 et seq.).

3 “(e) The United States Trustee or bankruptcy ad-
4 ministrator may notify the clerk that a credit counseling
5 agency, or a program or course, is no longer approved,
6 in which case the clerk shall remove it from the list main-
7 tained under subsection (a).”.

8 (2) REGULATIONS.—The Federal Trade Com-
9 mission and the Executive Office of United States
10 Trustees shall promulgate regulations pursuant to
11 the power delegated in this section within 180 days
12 of the date of the enactment of this Act.

13 (3) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of chapter 1 of title 11,
15 United States Code, is amended by adding at the
16 end the following:

“111. Credit counseling services; financial management instructional courses.”.

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

19 (1) by inserting after paragraph (13) the fol-
20 lowing:

21 “(13A) ‘debtor’s principal residence’ means a
22 residential structure including incidental property
23 when the structure contains 1 to 4 units, whether or
24 not that structure is attached to real property, and
25 includes, without limitation, an individual condo-

1 minium or cooperative unit or mobile or manufac-
2 tured home or trailer;”;

3 (2) by inserting after paragraph (27A), as
4 added by section 318 of this Act, the following:

5 “(27B) ‘incidental property’ means property in-
6 cidental to such residence including, without limita-
7 tion, property commonly conveyed with a principal
8 residence where the real estate is located, window
9 treatments, carpets, appliances and equipment lo-
10 cated in the residence, and easements, appur-
11 tenances, fixtures, rents, royalties, mineral rights, oil
12 and gas rights, escrow funds and insurance pro-
13 ceeds;”;

14 (3) in section 362(b), as amended by sections
15 117, 118, 132, 136, 141, 203, 818, and 1007—

16 (A) in paragraph (28) by striking “or” at
17 the end thereof;

18 (B) in paragraph (29) by striking the pe-
19 riod at the end and inserting “; or”; and

20 (C) by inserting after paragraph (29) the
21 following:

22 “(30) under subsection (a), until a prepetition
23 default is cured fully in a case under chapter 13 of
24 this title by actual payment of all arrears as re-
25 quired by the plan, of the postponement, continu-

1 ation or other similar delay of a prepetition fore-
2 closure proceeding or sale in accordance with appli-
3 cable nonbankruptcy law, but nothing herein shall
4 imply that such postponement, continuation or other
5 similar delay is a violation of the stay under sub-
6 section (a).”; and

7 (4) by amending section 1322(b)(2) to read as
8 follows:

9 “(2) modify the rights of holders of secured
10 claims, other than a claim secured primarily by a se-
11 curity interest in property used as the debtor’s prin-
12 cipal residence at any time during 180 days prior to
13 the filing of the petition, or of holders of unsecured
14 claims, or leave unaffected the rights of holders of
15 any class of claims;”.

16 (f) LIMITATION.—Section 362 of title 11, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 “(j) If one case commenced under chapter 7, 11, or
20 13 of this title is dismissed due to the creation of a debt
21 repayment plan administered by a credit counseling agen-
22 cy approved pursuant to section 111 of this title, then for
23 purposes of section 362(c)(3) of this title the subsequent
24 case commenced under any such chapter shall not be pre-
25 sumed to be filed not in good faith.”.

1 (g) RETURN OF GOODS SHIPPED.—Section 546(g) of
 2 title 11, United States Code, as added by section 222(a)
 3 of Public Law 103–394, is amended to read as follows:

4 “(h) Notwithstanding the rights and powers of a
 5 trustee under sections 544(a), 545, 547, 549, and 553 of
 6 this title, if the court determines on a motion by the trust-
 7 ee made not later than 120 days after the date of the order
 8 for relief in a case under chapter 11 of this title and after
 9 notice and hearing, that a return is in the best interests
 10 of the estate, the debtor, with the consent of the creditor,
 11 and subject to the prior rights, if any, of third parties in
 12 such goods, may return goods shipped to the debtor by
 13 the creditor before the commencement of the case, and the
 14 creditor may offset the purchase price of such goods
 15 against any claim of the creditor against the debtor that
 16 arose before the commencement of the case.”.

17 **SEC. 303. EXTENSIONS.**

18 Section 302(d)(3) of the Bankruptcy, Judges, United
 19 States Trustees, and Family Farmer Bankruptcy Act of
 20 1986 (28 U.S.C. 581 note) is amended—

21 (1) in subparagraph (A), in the matter fol-
 22 lowing clause (ii), by striking “or October 1, 2002,
 23 whichever occurs first”; and

24 (2) in subparagraph (F)—

25 (A) in clause (i)—

- 1 (i) in subclause (II), by striking “or
 2 October 1, 2002, whichever occurs first”;
 3 and
 4 (ii) in the matter following subclause
 5 (II), by striking “October 1, 2003, or”;
 6 and
 7 (B) in clause (ii), in the matter following
 8 subclause (II)—
 9 (i) by striking “before October 1,
 10 2003, or”; and
 11 (ii) by striking “, whichever occurs
 12 first”.

13 **SEC. 304. LOCAL FILING OF BANKRUPTCY CASES.**

14 Section 1408 of title 28, United States Code, is
 15 amended—

16 (1) by striking “Except” and inserting “(a) Ex-
 17 cept”; and

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

19 “(b) For the purposes of subsection (a), if the debtor
 20 is a corporation, the domicile and residence of the debtor
 21 are conclusively presumed to be where the debtor’s prin-
 22 cipal place of business in the United States is located.”.

23 **SEC. 305. PERMITTING ASSUMPTION OF CONTRACTS.**

24 (a) Section 365(c) of title 11, United States Code,
 25 is amended to read as follows:

1 “(c)(1) The trustee may not assume or assign an ex-
2 ecutory contract or unexpired lease of the debtor, whether
3 or not the contract or lease prohibits or restricts assign-
4 ment of rights or delegation of duties, if—

5 “(A)(i) applicable law excuses a party to the
6 contract or lease from accepting performance from
7 or rendering performance to an assignee of the con-
8 tract or lease, whether or not the contract or lease
9 prohibits or restricts assignment of rights or delega-
10 tion of duties; and

11 “(ii) the party does not consent to the assump-
12 tion or assignment; or

13 “(B) the contract is a contract to make a loan,
14 or extend other debt financing or financial accom-
15 modations, to or for the benefit of the debtor, or to
16 issue a security of the debtor.

17 “(2) Notwithstanding paragraph (1)(A) and applica-
18 ble nonbankruptcy law, in a case under chapter 11 of this
19 title, a trustee in a case in which a debtor is a corporation,
20 or a debtor in possession, may assume an executory con-
21 tract or unexpired lease of the debtor, whether or not the
22 contract or lease prohibits or restricts assignment of rights
23 or delegation of duties.

24 “(3) The trustee may not assume or assign an unex-
25 pired lease of the debtor of nonresidential real property,

1 whether or not the contract or lease prohibits or restricts
2 assignment of rights or delegation of duties, if the lease
3 has been terminated under applicable nonbankruptcy law
4 before the order for relief.”.

5 (b) Section 365(d) of title 11, United States Code,
6 is amended by striking paragraphs (5), (6), (7), (8), and
7 (9), and redesignating paragraph (10) as paragraph (5).

8 (c) Section 365(e) of title 11, United States Code,
9 is amended to read as follows:

10 “(e)(1) Notwithstanding a provision in an executory
11 contract or unexpired lease, or in applicable law, an execu-
12 tory contract or unexpired lease of the debtor may not be
13 terminated or modified, and any right or obligation under
14 such contract or lease may not be terminated or modified,
15 at any time after the commencement of the case solely
16 because of a provision in such contract or lease that is
17 conditioned on—

18 “(A) the insolvency or financial condition of the
19 debtor at any time before the closing of the case;

20 “(B) the commencement of a case under this
21 title; or

22 “(C) the appointment of or taking possession by
23 a trustee in a case under this title or a custodian be-
24 fore such commencement.

1 “(2) Paragraph (1) does not apply to an executory
2 contract or unexpired lease of the debtor if the trustee
3 may not assume or assign, and the debtor in possession
4 may not assume, the contract or lease by reason of the
5 provisions of subsection (c) of this section.”.

6 (d) Section 365(f)(1) of title 11, United States Code,
7 is amended by striking the semicolon and all that follows
8 through “event”.

9 **TITLE IV SMALL BUSINESS**
10 **BANKRUPTCY PROVISIONS**

11 **SEC. 401. FLEXIBLE RULES FOR DISCLOSURE STATEMENT**
12 **AND PLAN.**

13 (a) Section 1125(a)(1) of title 11, United States
14 Code, is amended by inserting before the semicolon fol-
15 lowing:

16 “and in determining whether a disclosure statement pro-
17 vides adequate information, the court shall consider the
18 complexity of the case, the benefit of additional informa-
19 tion to creditors and other parties in interest, and the cost
20 of providing additional information”.

21 (b) Section 1125(f) of title 11, United States Code,
22 is amended to read as follows:

23 “(f) Notwithstanding subsection (b)—

1 “(1) the court may determine that the plan
2 itself provides adequate information and that a separate disclosure statement is not necessary;

3 “(2) the court may approve a disclosure statement submitted on standard forms approved by the
4 court or adopted pursuant to section 2075 of title
5 28, United States Code; and

6 “(3)(A) the court may conditionally approve a
7 disclosure statement subject to final approval after
8 notice and a hearing;

9 “(B) acceptances and rejections of a plan may
10 be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is
11 solicited, but a conditionally approved disclosure statement shall be mailed not less than 20 days before the date of the hearing on confirmation of the
12 plan; and

13 “(C) the hearing on the disclosure statement may be
14 combined with the hearing on confirmation of a plan.”.

15 **SEC. 402. DEFINITIONS.**

16 (a) DEFINITIONS. Section 101 of title 11, United
17 States Code, is amended by striking paragraph (51C) and
18 inserting the following:

1 “(51C) ‘small business case’ means a case filed
2 under chapter 11 of this title in which the debtor is
3 a small business debtor; and

4 “(51D) ‘small business debtor’ means (A) a
5 person (including affiliates of such person that are
6 also debtors under this title) that has aggregate non-
7 contingent, liquidated secured and unsecured debts
8 as of the date of the petition or the order for relief
9 in an amount not more than \$4,000,000 (excluding
10 debts owed to one or more affiliates or insiders), ex-
11 cept that if a group of affiliated debtors has aggre-
12 gate noncontingent liquidated secured and unsecured
13 debts greater than \$4,000,000 (excluding debt owed
14 to one or more affiliates or insiders), then no mem-
15 ber of such group is a small business debtor;”.

16 (b) CONFORMING AMENDMENT.—Section 1102(a)(3)
17 of title 11, United States Code, is amended by inserting
18 “debtor” after “small business” .

19 **SEC. 403. STANDARD FORM DISCLOSURE STATEMENT AND**
20 **PLAN.**

21 The Advisory Committee on Bankruptcy Rules of the
22 Judicial Conference of the United States shall, within a
23 reasonable period of time after the date of the enactment
24 of this Act, propose for adoption standard form disclosure
25 statements and plans of reorganization for small business

1 debtors (as defined in section 101 of title 11, United
2 States Code, as amended by this Act), designed to achieve
3 a practical balance between—

4 (1) the reasonable needs of the courts, the
5 United States trustee, creditors, and other parties in
6 interest for reasonably complete information; and

7 (2) economy and simplicity for debtors.

8 **SEC. 404. UNIFORM NATIONAL REPORTING REQUIRE-**
9 **MENTS.**

10 (a) REPORTING REQUIRED.—

11 (1) Title 11, United States Code, is amended by
12 inserting after section 307 the following:

13 **“§ 308. Debtor reporting requirements**

14 “A small business debtor shall file periodic financial
15 and other reports containing information including—

16 “(1) the debtor’s profitability, that is, approxi-
17 mately how much money the debtor has been earn-
18 ing or losing during current and recent fiscal peri-
19 ods;

20 “(2) reasonable approximations of the debtor’s
21 projected cash receipts and cash disbursements over
22 a reasonable period;

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

25 “(4) whether the debtor is—

1 “(A) in compliance in all material respects
2 with postpetition requirements imposed by this
3 title and the Federal Rules of Bankruptcy Pro-
4 cedure; and

5 “(B) timely filing tax returns and paying
6 taxes and other administrative claims when due,
7 and, if not, what the failures are and how, at
8 what cost, and when the debtor intends to rem-
9 edy such failures; and

10 “(5) such other matters as are in the best inter-
11 ests of the debtor and creditors, and in the public
12 interest in fair and efficient procedures under chap-
13 ter 11 of this title.”.

14 (2) The table of sections of chapter 3 of title
15 11, United States Code, is amended by inserting
16 after the item relating to section 307 the following:

“308. Debtor reporting requirements.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall take effect 60 days after the date on
19 which rules are prescribed pursuant to section 2075, title
20 28, United States Code to establish forms to be used to
21 comply with section 308 of title 11, United States Code,
22 as added by subsection (a).

1 **SEC. 405. UNIFORM REPORTING RULES AND FORMS FOR**
2 **SMALL BUSINESS CASES.**

3 (a) PROPOSAL OF RULES AND FORMS.—The Advi-
4 sory Committee on Bankruptcy Rules of the Judicial Con-
5 ference of the United States shall propose for adoption
6 amended Federal Rules of Bankruptcy Procedure and Of-
7 ficial Bankruptcy Forms to be used by small business
8 debtors to file periodic financial and other reports con-
9 taining information, including information relating to—

10 (1) the debtor's profitability;

11 (2) the debtor's cash receipts and disburse-
12 ments; and

13 (3) whether the debtor is timely filing tax re-
14 turns and paying taxes and other administrative
15 claims when due.

16 (b) PURPOSE.—The rules and forms proposed under
17 subsection (a) shall be designed to achieve a practical bal-
18 ance between—

19 (1) the reasonable needs of the bankruptcy
20 court, the United States trustee, creditors, and other
21 parties in interest for reasonably complete informa-
22 tion;

23 (2) the small business debtor's interest that re-
24 quired reports be easy and inexpensive to complete;
25 and

1 (3) the interest of all parties that the required
2 reports help the small business debtor to understand
3 its financial condition and plan its future.

4 **SEC. 406. DUTIES IN SMALL BUSINESS CASES.**

5 (a) DUTIES IN CHAPTER 11 CASES.—Title 11,
6 United States Code, is amended by inserting after section
7 1114 the following:

8 **“§ 1115. Duties of trustee or debtor in possession in**
9 **small business cases**

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

13 “(1) append to the voluntary petition or, in an
14 involuntary case, file within 3 days after the date of
15 the order for relief—

16 “(A) its most recent balance sheet, state-
17 ment of operations, cash-flow statement, Fed-
18 eral income tax return; or

19 “(B) a statement made under penalty of
20 perjury that no balance sheet, statement of op-
21 erations, or cash-flow statement has been pre-
22 pared and no Federal tax return has been filed;

23 “(2) attend, through its responsible individual,
24 meetings scheduled by the court or the United
25 States trustee, including initial debtor interviews

1 and meetings of creditors convened under section
2 341 of this title;

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

9 “(4) file all postpetition financial and other re-
10 ports required by the Federal Rules of Bankruptcy
11 Procedure or by local rule of the district court;

12 “(5) subject to section 363(c)(2) of this title,
13 maintain insurance customary and appropriate to
14 the industry;

15 “(6)(A) timely file tax returns;

16 “(B) subject to section 363(c)(2) of this title,
17 timely pay all administrative expense tax claims, ex-
18 cept those being contested by appropriate pro-
19 ceedings being diligently prosecuted; and

20 “(C) subject to section 363(c)(2) of this title,
21 establish one or more separate deposit accounts not
22 later than 10 business days after the date of order
23 for relief (or as soon thereafter as possible if all
24 banks contacted decline the business) and deposit
25 therein, not later than 1 business day after receipt

1 thereof or a responsible time set by the court, all
 2 taxes payable for periods beginning after the date
 3 the case is commenced that are collected or withheld
 4 by the debtor for governmental units unless the
 5 court waives this requirement after notice and hear-
 6 ing; and

7 “(7) allow the United States trustee, or its des-
 8 ignated representative, to inspect the debtor’s busi-
 9 ness premises, books, and records at reasonable
 10 times, after reasonable prior written notice, unless
 11 notice is waived by the debtor.”.

12 (b) TECHNICAL AMENDMENT.—The table of sections
 13 of chapter 11, United States Code, is amended by insert-
 14 ing after the item relating to section 1114 the following:

“1115. Duties of trustee or debtor in possession in small business cases.”.

15 **SEC. 407. PLAN FILING AND CONFIRMATION DEADLINES.**

16 Section 1121(e) of title 11, United States Code, is
 17 amended to read as follows:

18 “(e) In a small business case—

19 “(1) only the debtor may file a plan until after
 20 90 days after the date of the order for relief, unless
 21 a trustee has been appointed under this chapter, or
 22 unless the court, on request of a party in interest
 23 and after notice and hearing, shortens such time;

24 “(2) the debtor shall file a plan, and any nec-
 25 essary disclosure statement, not later than 90 days

1 after the date of the order for relief, unless the
2 United States Trustee has appointed under section
3 1102(a)(1) of this title a committee of unsecured
4 creditors that the court has determined, before the
5 90 days has expired, is sufficiently active and rep-
6 resentative to provide effective oversight of the debt-
7 or; and

8 “(3) the time periods specified in paragraphs
9 (1) and (2) of this subsection and the time fixed in
10 section 1129(e) of this title for confirmation of a
11 plan, may be extended only as follows:

12 “(A) On request of a party in interest
13 made within the respective periods, and after
14 notice and hearing, the court may for cause
15 grant one or more extensions, cumulatively not
16 to exceed 60 days, if the movant establishes—

17 “(i) that no cause exists to dismiss or
18 convert the case or appoint a trustee or ex-
19 aminer under subparagraphs (A) (I) of
20 section 1112(b) of this title; and

21 “(ii) that there is a reasonable possi-
22 bility the court will confirm a plan within
23 a reasonable time;

24 “(B) On request of a party in interest
25 made within the respective periods, and after

1 notice and hearing, the court may for cause
2 grant one or more extensions in excess of those
3 authorized under subparagraph (A) of this
4 paragraph, if the movant establishes:

5 “(i) that no cause exists to dismiss or
6 convert the case or appoint a trustee or ex-
7 aminer under subparagraphs (A) (I) of
8 section 1112(b)(3) of this title; and

9 “(ii) that it is more likely than not
10 that the court will confirm a plan within a
11 reasonable time; and

12 “(C) a new deadline shall be imposed
13 whenever an extension is granted.”.

14 **SEC. 408. PLAN CONFIRMATION DEADLINE.**

15 Section 1129 of title 11, United States Code, is
16 amended by adding at the end the following:

17 “(e) In a small business case, the debtor shall confirm
18 a plan not later than 150 days after the date of the order
19 for relief unless—

20 “(1) the United States Trustee has appointed,
21 under section 1102(a)(1) of this title, a committee
22 of unsecured creditors that the court has deter-
23 mined, before the 150 days has expired, is suffi-
24 ciently active and representative to provide effective
25 oversight of the debtor; or

1 “(2) such 150-day period is extended as pro-
2 vided in section 1121(e)(3) of this title.”.

3 **SEC. 409. PROHIBITION AGAINST EXTENSION OF TIME.**

4 Section 105(d) of title 11, United States Code, is
5 amended—

6 (1) in paragraph (2)(B)(vi) by striking the pe-
7 riod at the end and inserting “; and”; and

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

9 “(3) in a small business case, not extend the
10 time periods specified in sections 1121(e) and
11 1129(e) of this title except as provided in section
12 1121(e)(3) of this title.”.

13 **SEC. 410. DUTIES OF THE UNITED STATES TRUSTEE.**

14 Section 586(a) of title 28, United States Code, is
15 amended—

16 (1) in paragraph (3)—

17 (A) in subparagraph (G) by striking “and
18 at the end”;

19 (B) by redesignating subparagraph (H) as
20 subparagraph (I); and

21 (C) by inserting after subparagraph (G)
22 the following:

23 “(H) in small business cases (as defined in
24 section 101 of title 11), performing the addi-

1 tional duties specified in title 11 pertaining to
2 such cases”;

3 (2) in paragraph (5) by striking “and at the
4 end”;

5 (3) in paragraph (6) by striking the period at
6 the end and inserting “; and”; and

7 (4) by inserting after paragraph (7) the fol-
8 lowing:

9 “(7) in each of such small business cases—

10 “(A) conduct an initial debtor interview as
11 soon as practicable after the entry of order for
12 relief but before the first meeting scheduled
13 under section 341(a) of title 11 at which time
14 the United States trustee shall begin to inves-
15 tigate the debtor’s viability, inquire about the
16 debtor’s business plan, explain the debtor’s obli-
17 gations to file monthly operating reports and
18 other required reports, attempt to develop an
19 agreed scheduling order, and inform the debtor
20 of other obligations;

21 “(B) when determined to be appropriate
22 and advisable, visit the appropriate business
23 premises of the debtor and ascertain the state
24 of the debtor’s books and records and verify
25 that the debtor has filed its tax returns; and

1 “(C) review and monitor diligently the
2 debtor’s activities, to identify as promptly as
3 possible whether the debtor will be unable to
4 confirm a plan; and

5 “(8) in cases in which the United States trustee
6 finds material grounds for any relief under section
7 1112 of title 11, the United States trustee shall
8 apply promptly to the court for relief.”.

9 **SEC. 411. SCHEDULING CONFERENCES.**

10 Section 105(d) of title 11, United States Code, is
11 amended—

12 (1) in the matter preceding paragraph (1) by
13 striking “, may”;

14 (2) by amending paragraph (1) to read as fol-
15 lows:

16 “(1) shall hold such status conferences as are
17 necessary to further the expeditious and economical
18 resolution of the case; and”; and

19 (3) in paragraph (2) by striking “unless incon-
20 sistent with another provision of this title or with
21 applicable Federal Rules of Bankruptcy Procedure”,
22 and inserting “may”.

23 **SEC. 412. SERIAL FILER PROVISIONS.**

24 Section 362 of title 11, United States Code, as
25 amended by section 302, is amended—

1 (1) in subsection (i) as so redesignated by sec-
2 tion 122—

3 (A) by striking “An” and inserting “(1)
4 Except as provided in paragraph (2), an”; and
5 (B) by adding at the end the following:

6 “(2) If such violation is based on an action taken by
7 an entity in the good-faith belief that subsection (h) ap-
8 plies to the debtor, then recovery under paragraph (1)
9 against such entity shall be limited to actual damages.”;
10 and

11 (2) by inserting after subsection (j), as added
12 by section 302, the following:

13 “(k)(1) Except as provided in paragraph (2) of this
14 subsection, the provisions of subsection (a) of this section
15 shall not apply in a case in which the debtor—

16 “(A) is a debtor in a case under this title pend-
17 ing at the time the petition is filed;

18 “(B) was a debtor in a case under this title
19 which was dismissed for any reason by an order that
20 became final in the 2-year period ending on the date
21 of the order for relief entered with respect to the pe-
22 tition;

23 “(C) was a debtor in a case under this title in
24 which a chapter 11, 12, or 13 plan was confirmed

1 in the 2-year period ending on the date of the order
 2 for relief entered with respect to the petition; or

3 “(D) is an entity that has succeeded to sub-
 4 stantially all of the assets or business of a debtor de-
 5 scribed in subparagraph (A), (B), or (C).

6 “(2) This subsection shall not apply—

7 “(A) to a case initiated by an involuntary peti-
 8 tion filed by a creditor that is not an insider or affil-
 9 iate of the debtor; or

10 “(B) after such time as the debtor, after notice
 11 and a hearing, demonstrates by a preponderance of
 12 the evidence, that the filing of such petition resulted
 13 from circumstances beyond the control of the debtor
 14 and not foreseeable at the time the earlier case was
 15 filed; and that it is more likely than not that the
 16 court will confirm a plan, other than a liquidating
 17 plan, within a reasonable time.”.

18 **SEC. 413. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
 19 **VERSION AND APPOINTMENT OF TRUSTEE**
 20 **OR EXAMINER.**

21 (a) EXPANDED GROUNDS FOR DISMISSAL OR CON-
 22 VERSION.—Section 1112(b) of title 11, United States
 23 Code, is amended to read as follows:

24 “(b)(1) Except as provided in paragraphs (2) and (4)
 25 of this subsection, and in subsection (c) of this section,

1 on request of a party in interest, and after notice and a
2 hearing, the court shall convert a case under this chapter
3 to a case under chapter 7 of this title or dismiss a case
4 under this chapter, or appoint a trustee or examiner under
5 section 1104(e) of this title, whichever is in the best inter-
6 est of creditors and the estate, if the movant establishes
7 cause.

8 “(2) The court may decline to grant the relief speci-
9 fied in paragraph (1) of this subsection if the debtor or
10 another party in interest objects and establishes by a pre-
11 ponderance of the evidence that—

12 “(A) it is more likely than not that a plan will
13 be confirmed within a time as fixed by this title or
14 by order of the court entered pursuant to section
15 1121(e)(3), or within a reasonable time if no time
16 has been fixed; and

17 “(B) if the cause is an act or omission of the
18 debtor that—

19 “(i) there exists a reasonable justification
20 for the act or omission; and

21 “(ii) the act or omission will be cured with-
22 in a reasonable time fixed by the court not to
23 exceed 30 days after the court decides the mo-
24 tion, unless the movant expressly consents to a
25 continuance for a specific period of time, or

1 compelling circumstances beyond the control of
2 the debtor justify an extension.

3 “(3) For purposes of this subsection, cause
4 includes—

5 “(A) substantial or continuing loss to or dimi-
6 nution of the estate;

7 “(B) gross mismanagement of the estate;

8 “(C) failure to maintain insurance that poses a
9 material risk to the estate or the public;

10 “(D) unauthorized use of cash collateral harm-
11 ful to one or more creditors;

12 “(E) failure to comply with an order of the
13 court;

14 “(F) failure timely to satisfy any filing or re-
15 porting requirement established by this title or by
16 any rule applicable to a case under this chapter;

17 “(G) failure to attend the meeting of creditors
18 convened under section 341(a) of this title;

19 “(H) failure timely to provide information or
20 attend meetings reasonably requested by the United
21 States trustee or bankruptcy administrator;

22 “(I) failure timely to pay taxes due after the
23 date of the order for relief or to file tax returns due
24 after the order for relief;

1 “(J) failure to file a disclosure statement, or to
2 file or confirm a plan, within the time fixed by this
3 title or by order of the court;

4 “(K) failure to pay any fees or charges required
5 under chapter 123 of title 28, United States Code;

6 “(L) revocation of an order of confirmation
7 under section 1144 of this title;

8 “(M) inability to effectuate substantial con-
9 summation of a confirmed plan;

10 “(N) material default by the debtor with re-
11 spect to a confirmed plan; and

12 “(O) termination of a plan by reason of the oc-
13 currence of a condition specified in the plan.

14 “(4) The court may grant relief under this subsection
15 for cause as defined in subparagraphs C, F, G, H, or K
16 of paragraph 3 of this subsection only upon motion of the
17 United States trustee or bankruptcy administrator or
18 upon the courts own motion.

19 “(5) The court shall commence the hearing on any
20 motion under this subsection not later than 30 days after
21 filing of the motion, and shall decide the motion within
22 15 days after commencement of the hearing, unless the
23 movant expressly consents to a continuance for a specific
24 period of time or compelling circumstances prevent the

1 court from meeting the time limits established by this
2 paragraph.”.

3 (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF
4 TRUSTEE OR EXAMINER.—Section 1104 of title 11,
5 United States Code, is amended by adding at the end the
6 following:

7 “(e) If grounds exist to convert or dismiss the case
8 under section 1112 of this title, the court may instead ap-
9 point a trustee or examiner, if it determines that such ap-
10 pointment is in the best interests of creditors and the es-
11 tate.”.

12 **SEC. 414. STUDY OF OPERATION OF TITLE 11, UNITED**
13 **STATES CODE, WITH RESPECT TO SMALL**
14 **BUSINESSES.**

15 Not later than 2 years after the date of the enact-
16 ment of this Act, the Administrator of the Small Business
17 Administration, in consultation with the Attorney General,
18 the Director of the Administrative Office of United States
19 Trustees, and the Director of the Administrative Office
20 of the United States Courts, shall—

21 (1) conduct a study to determine—

22 (A) the internal and external factors that
23 cause small businesses, especially sole propri-
24 etorships, to become debtors in cases under title
25 11, United States Code, and that cause certain

1 small businesses to successfully complete cases
2 under chapter 11 of such title; and

3 (B) how Federal laws relating to bank-
4 ruptcy may be made more effective and efficient
5 in assisting small businesses to remain viable;
6 and

7 (2) submit to the President pro tempore of the
8 Senate and the Speaker of the House of Representa-
9 tives a report summarizing that study.

10 **SEC. 415. PAYMENT OF INTEREST.**

11 Section 362(d)(3) of title 11, United States Code, is
12 amended—

13 (1) by inserting “or 30 days after the court de-
14 termines that the debtor is subject to this para-
15 graph, whichever is later” after “90-day period”;
16 and

17 (2) by amending subparagraph (B) to read as
18 follows:

19 “(B) the debtor has commenced monthly
20 payments (which payments may, in the debtor’s
21 sole discretion, notwithstanding section
22 363(c)(2) of this title, be made from rents or
23 other income generated before or after the com-
24 mencement of the case by or from the property)
25 to each creditor whose claim is secured by such

1 real estate (other than a claim secured by a
2 judgment lien or by an unmatured statutory
3 lien), which payments are in an amount equal
4 to interest at the then-applicable nondefault
5 contract rate of interest on the value of the
6 creditor's interest in the real estate; or”.

7 **TITLE V—MUNICIPAL**
8 **BANKRUPTCY PROVISIONS**

9 **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**
10 **TION.**

11 (a) TECHNICAL AMENDMENT RELATING TO MUNICI-
12 PALITIES.—Section 921(d) of title 11, United States
13 Code, is amended by inserting “notwithstanding section
14 301(b)” before the period at the end.

15 (b) CONFORMING AMENDMENT.—Section 301 of title
16 11, United States Code, is amended—

17 (1) by inserting “(a)” before “A voluntary”;
18 and

19 (2) by amending the last sentence to read as
20 follows:

21 “(b) The commencement of a voluntary case under
22 a chapter of this title constitutes an order for relief under
23 such chapter.”.

1 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAP-**
2 **TER 9.**

3 Section 901(a) of title 11, United States Code, is
4 amended—

5 (1) by inserting “555, 556,” after “553,”; and

6 (2) by inserting “559, 560, 561, 562” after
7 “557,”.

8 **TITLE VI—STREAMLINING THE**
9 **BANKRUPTCY SYSTEM**

10 **SEC. 601. CREDITOR REPRESENTATION AT FIRST MEETING**
11 **OF CREDITORS.**

12 Section 341(c) of title 11, United States Code, is
13 amended by inserting after the first sentence the fol-
14 lowing: “Notwithstanding any local court rule, provision
15 of a State constitution, any other Federal or State law
16 that is not a bankruptcy law, or other requirement that
17 representation at the meeting of creditors under sub-
18 section (a) be by an attorney, a creditor holding a con-
19 sumer debt or any representative of the creditor (which
20 may include an entity or an employee of an entity and
21 may be a representative for more than one creditor) shall
22 be permitted to appear at and participate in the meeting
23 of creditors and activities related thereto in a case under
24 chapter 7 or 13, either alone or in conjunction with an
25 attorney for the creditor. Nothing in this subsection shall

1 be construed to require any creditor to be represented by
2 an attorney at any meeting of creditors.”.

3 **SEC. 602. AUDIT PROCEDURES.**

4 (a) AMENDMENTS.—Section 586 of title 28, United
5 States Code, is amended—

6 (1) in subsection (a) by amending striking
7 paragraph (6) to read as follows:

8 “(6) make such reports as the Attorney General
9 directs, including the results of audits performed
10 under subsection (f); and”; and

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

12 “(f)(1)(A) The Attorney General shall establish pro-
13 cedures to determine the accuracy, veracity, and complete-
14 ness of petitions, schedules, and other information which
15 the debtor is required to provide under sections 521 and
16 1322 of title 11, and, if applicable, section 111 of title
17 11, in individual cases filed under chapter 7 or 13 of such
18 title. Such audits shall be in accordance with generally ac-
19 cepted auditing standards and performed by independent
20 certified public accountants or independent licensed public
21 accountants.

22 “(B) Those procedures shall—

23 “(i) establish a method of selecting appropriate
24 qualified persons to contract to perform those au-
25 dits;

1 “(ii) establish a method of randomly selecting
2 cases to be audited, except that not less than 1 out
3 of every 250 cases in each Federal judicial district
4 shall be selected for audit;

5 “(iii) require audits for schedules of income and
6 expenses which reflect greater than average
7 variances from the statistical norm of the district in
8 which the schedules were filed; and

9 “(iv) establish procedures for providing, not less
10 frequently than annually, public information con-
11 cerning the aggregate results of such audits includ-
12 ing the percentage of cases, by district, in which a
13 material misstatement of income or expenditures is
14 reported.

15 “(2) The United States trustee for each district is
16 authorized to contract with auditors to perform audits in
17 cases designated by the United States trustee according
18 to the procedures established under paragraph (1).

19 “(3)(A) The report of each audit conducted under
20 this subsection shall be filed with the court and trans-
21 mitted to the United States trustee. Each report shall
22 clearly and conspicuously specify any material
23 misstatement of income or expenditures or of assets iden-
24 tified by the person performing the audit. In any case
25 where a material misstatement of income or expenditures

1 or of assets has been reported, the clerk of the bankruptcy
2 court shall give notice of the misstatement to the creditors
3 in the case.

4 “(B) If a material misstatement of income or expend-
5 itures or of assets is reported, the United States trustee
6 shall—

7 “(i) report the material misstatement, if appro-
8 priate, to the United States Attorney pursuant to
9 section 3057 of title 18, United States Code; and

10 “(ii) if advisable, take appropriate action, in-
11 cluding but not limited to commencing an adversary
12 proceeding to revoke the debtor’s discharge pursuant
13 to section 727(d) of title 11, United States Code.”.

14 (b) AMENDMENTS TO SECTION 521 OF TITLE 11,
15 U.S.C.—Section 521(a) of title 11, United States Code,
16 as amended by section 603, is amended in paragraphs (3)
17 and (4) by adding “or an auditor appointed pursuant to
18 section 586 of title 28, United States Code” after “serving
19 in the case”.

20 (c) AMENDMENTS TO SECTION 727 OF TITLE 11,
21 U.S.C.—Section 727(d) of title 11, United States Code,
22 is amended—

23 (1) by deleting “or” at the end of paragraph
24 (2);

5 “(4) the debtor has failed to explain
6 satisfactorily—

“(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit conducted pursuant to section 586(f) of title 28, United States Code.”.

20 SEC. 603. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7
21 AND 13 CASES.

24 (1) in subsection (c)—

1 (A) by striking “, but the failure of such
2 notice to contain such information shall not in-
3 validate the legal effect of such notice”; and

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

5 “If the credit agreement between the debtor and the cred-
6 itor or the last communication before the filing of the peti-
7 tion in a voluntary case from the creditor to a debtor who
8 is an individual states an account number of the debtor
9 which is the current account number of the debtor with
10 respect to any debt held by the creditor against the debtor,
11 the debtor shall include such account number in any notice
12 to the creditor required to be given under this title. If the
13 creditor has specified to the debtor an address at which
14 the creditor wishes to receive correspondence regarding
15 the debtor’s account, any notice to the creditor required
16 to be given by the debtor under this title shall be given
17 at such address. For the purposes of this section, ‘notice’
18 shall include, but shall not be limited to, any correspond-
19 ence from the debtor to the creditor after the commence-
20 ment of the case, any statement of the debtor’s intention
21 under section 521(a)(2) of this title, notice of the com-
22 mencement of any proceeding in the case to which the
23 creditor is a party, and any notice of the hearing under
24 section 1324 of this title.”;

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

1 “(d) At any time, a creditor in a case of an individual
2 debtor under chapter 7 or 13 may file with the court and
3 serve on the debtor a notice of the address to be used to
4 notify the creditor in that case. After 5 days following re-
5 ceipt of such notice, any notice the court or the debtor
6 is required to give the creditor shall be given at that ad-
7 dress.

8 “(e) An entity may file with the court a notice stating
9 its address for notice in cases under chapters 7 and 13.
10 After 30 days following the filing of such notice, any notice
11 in any case filed under chapter 7 or 13 given by the court
12 shall be to that address unless specific notice is given
13 under subsection (d) with respect to a particular case.

14 “(f) Notice given to a creditor other than as provided
15 in this section shall not be effective notice until it has been
16 brought to the attention of the creditor. If the creditor
17 has designated a person or department to be responsible
18 for receiving notices concerning bankruptcy cases and has
19 established reasonable procedures so that bankruptcy no-
20 tices received by the creditor will be delivered to such de-
21 partment or person, notice will not be brought to the at-
22 tention of the creditor until received by such person or
23 department. No sanction under section 362(h) of this title
24 or any other sanction which a court may impose on ac-
25 count of violations of the stay under section 362(a) of this

1 title or failure to comply with section 542 or 543 of this
2 title may be imposed on any action of the creditor unless
3 the action takes place after the creditor has received notice
4 of the commencement of the case effective under this sec-
5 tion.”.

6 (b) DEBTOR’S DUTIES.—Section 521 of title 11,
7 United States Code, as amended by sections 604, 120, and
8 302, is amended—

9 (1) by inserting “(a)” before “The debtor
10 shall—”;

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

13 “(1) file—

14 “(A) a list of creditors; and

15 “(B) unless the court orders otherwise—

16 “(i) a schedule of assets and liabil-
17 ities;

18 “(ii) a schedule of current monthly in-
19 come and current expenditures prepared in
20 accordance with section 707(b)(2);

21 “(iii) a statement of the debtor’s fi-
22 nancial affairs and, if applicable, a
23 certificate—

24 “(I) of an attorney whose name
25 is on the petition as the attorney for

1 the debtor or any bankruptcy petition
2 preparer signing the petition pursuant
3 to section 110(b)(1) of this title indi-
4 cating that such attorney or bank-
5 ruptcy petition preparer delivered to
6 the debtor any notice required by sec-
7 tion 342(b) of this title; or

8 “(II) if no attorney for the debt-
9 or is indicated and no bankruptcy pe-
10 tition preparer signed the petition, of
11 the debtor that such notice was ob-
12 tained and read by the debtor;

13 “(iv) copies of any Federal tax re-
14 turns, including any schedules or attach-
15 ments, filed by the debtor for the 3-year
16 period preceding the order for relief;

17 “(v) copies of all payment advices or
18 other evidence of payment, if any, received
19 by the debtor from any employer of the
20 debtor in the period 60 days prior to the
21 filing of the petition; and

22 “(vi) a statement disclosing any rea-
23 sonably anticipated increase in income or
24 expenditures over the 12-month period fol-
25 lowing the date of filing;” and

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

2 “(e)(1) At any time, a creditor, in the case of an indi-
3 vidual under chapter 7 or 13, may file with the court no-
4 tice that the creditor requests the petition, schedules, and
5 a statement of affairs filed by the debtor in the case and
6 the court shall make those documents available to the
7 creditor who requests those documents at a reasonable
8 cost within 5 business days after such request.

9 “(2) At any time, a creditor in a case under chapter
10 13 may file with the court notice that the creditor requests
11 the plan filed by the debtor in the case, and the court
12 shall make such plan available to the creditor who requests
13 such plan at a reasonable cost and not later than 5 days
14 after such request.

15 “(f) An individual debtor in a case under chapter 7
16 or 13 shall file with the court—

17 “(1) at the time filed with the taxing authority,
18 all tax returns, including any schedules or attach-
19 ments, with respect to the period from the com-
20 mencement of the case until such time as the case
21 is closed;

22 “(2) at the time filed with the taxing authority,
23 all tax returns, including any schedules or attach-
24 ments, that were not filed with the taxing authority
25 when the schedules under subsection (a)(1) were

1 filed with respect to the period that is 3 years before
2 the order for relief;

3 “(3) any amendments to any of the tax returns,
4 including schedules or attachments, described in
5 paragraph (1) or (2); and

6 “(4) in a case under chapter 13, a statement
7 subject to the penalties of perjury by the debtor of
8 the debtor’s current monthly income and expendi-
9 tures in the preceding tax year and current monthly
10 income less expenditures for the month preceding
11 the statement prepared in accordance with section
12 707(b)(2) that shows how the amounts are
13 calculated—

14 “(A) beginning on the date that is the
15 later of 90 days after the close of the debtor’s
16 tax year or 1 year after the order for relief, un-
17 less a plan has been confirmed; and

18 “(B) thereafter, on or before the date that
19 is 45 days before each anniversary of the con-
20 firmation of the plan until the case is closed.

21 “(g)(1) A statement referred to in subsection (f)(4)
22 shall disclose—

23 “(A) the amount and sources of income of the
24 debtor;

1 “(B) the identity of any persons responsible
2 with the debtor for the support of any dependents of
3 the debtor; and

4 “(C) the identity of any persons who contrib-
5 uted, and the amount contributed, to the household
6 in which the debtor resides.

7 “(2) The tax returns, amendments, and statement of
8 income and expenditures described in paragraph (1) shall
9 be available to the United States trustee, any bankruptcy
10 administrator, any trustee, and any party in interest for
11 inspection and copying, subject to the requirements of
12 subsection (h).

13 “(h)(1) Not later than 30 days after the date of the
14 enactment of the Consumer Bankruptcy Reform Act of
15 1999, the Director of the Administrative Office of the
16 United States Courts shall establish procedures for safe-
17 guarding the confidentiality of any tax information re-
18 quired to be provided under this section.

19 “(2) The procedures under paragraph (1) shall in-
20 clude reasonable restrictions on creditor access to tax in-
21 formation that is required to be provided under this sec-
22 tion to verify creditor identity and to restrict use of the
23 information except with respect to the case.

24 “(3) Not later than 1 year after the date of the enact-
25 ment of the Consumer Bankruptcy Reform Act of 1999,

1 the Director of the Administrative Office of the United
2 States Courts shall prepare, and submit to Congress a re-
3 port that—

4 “(A) assesses the effectiveness of the proce-
5 dures under paragraph (1) to provide timely and
6 sufficient information to creditors concerning the
7 case; and

8 “(B) if appropriate, includes proposed
9 legislation—

10 “(i) to further protect the confidentiality of
11 tax information or to make it better available to
12 creditors; and

13 “(ii) to provide penalties for the improper
14 use by any person of the tax information re-
15 quired to be provided under this section.

16 “(i) If requested by the United States trustee or a
17 trustee serving in the case, the debtor provide a document
18 that establishes the identity of the debtor, including a
19 driver’s license, passport, or other document that contains
20 a photograph of the debtor and such other personal identi-
21 fying information relating to the debtor that establishes
22 the identity of the debtor.”.

23 (c) Section 1324 of title 11, United States Code, is
24 amended—

25 (1) by inserting “(a)” before “After”; and

1 (2) by inserting at the end thereof—

2 “(c) Whenever a party in interest is given notice of
3 a hearing on the confirmation or modification of a plan
4 under this chapter, such notice shall include the informa-
5 tion provided by the debtor on the most recent statement
6 filed with the court pursuant to section 521(a)(1)(B)(ii)
7 or (f)(4) of this title.”.

8 **SEC. 604. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**
9 **ULES OR PROVIDE REQUIRED INFORMATION.**

10 Section 521 of title 11, United States Code, as
11 amended by section 603 is amended by inserting after sub-
12 section (a) the following:

13 “(b)(1) Notwithstanding section 707(a) of this title,
14 and subject to paragraph (2), if an individual debtor in
15 a voluntary case under chapter 7 or 13 fails to file all
16 of the information required under subsection (a)(1) within
17 45 days after the filing of the petition commencing the
18 case, the case shall be automatically dismissed effective
19 on the 46th day after the filing of the petition.

20 “(2) With respect to a case described in paragraph
21 (1), any party in interest may request the court to enter
22 an order dismissing the case. The court shall, if so re-
23 quested, enter an order of dismissal not later than 5 days
24 after such request.

1 “(3) Upon request of the debtor made within 45 days
2 after the filing of the petition commencing a case de-
3 scribed in paragraph (1), the court may allow the debtor
4 an additional period not to exceed 45 days to file the infor-
5 mation required under subsection (a)(1) if the court finds
6 justification for extending the period for the filing.”.

7 **SEC. 605. ADEQUATE TIME TO PREPARE FOR HEARING ON**
8 **CONFIRMATION OF THE PLAN.**

9 (a) HEARING.—Section 1324 of title 11, United
10 States Code, is amended—

11 (1) by striking “After” and inserting the fol-
12 lowing:

13 “(a) Except as provided in subsection (b) and after”;
14 and

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

16 “(b) The hearing on confirmation of the plan may
17 be held not earlier than 20 days, and not later than 45
18 days, after the meeting of creditors under section 341(a)
19 of this title.”.

20 **SEC. 606. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**
21 **IN CERTAIN CASES.**

22 Title 11, United States Code, is amended—

23 (1) by amending section 1322(d) to read as fol-
24 lows:

1 “(d) If the current monthly income of the debtor and
2 the debtor’s spouse combined, when multiplied by 12, is
3 not less than the highest national median family income
4 last reported by the Bureau of the Census for a family
5 of equal or lesser size or, in the case of a household of
6 one person, not less than the national median household
7 income for one earner, the plan may not provide for pay-
8 ments over a period that is longer than 5 years. If the
9 current monthly income of the debtor and the debtor’s
10 spouse combined, when multiplied by 12, is less than the
11 highest national median family income for a family of
12 equal or lesser size, or in the case of a household of one
13 person, the national median household income for one
14 earner, the plan may not provide for payments over a pe-
15 riod that is longer than 3 years, unless the court, for
16 cause, approves a longer period, but the court may not
17 approve a period that is longer than 5 years. Notwith-
18 standing the foregoing, the national median family income
19 for a family of more than four individuals shall be the
20 national median family income last reported by the Bu-
21 reau of the Census for a family of four individuals plus
22 \$583 for each additional member of the family.”;

23 (2) in section 1325(b)(1)(B) as amended by
24 section 130—

1 (A) by striking “three year period” and in-
2 serting “applicable commitment period”; and

3 (B) by inserting at the end of subpara-
4 graph (B) the following: “The ‘applicable com-
5 mitment period’ shall be not less than 5 years
6 if the current monthly income of the debtor and
7 the debtor’s spouse combined, when multiplied
8 by 12, is not less than the highest national me-
9 dian family income last reported by the Bureau
10 of the Census for a family of equal or lesser
11 size, or in the case of a household of one per-
12 son, the national median household income for
13 one earner. Notwithstanding the foregoing, the
14 national median family income for a family of
15 more than four individuals shall be the national
16 median family income last reported by the Bu-
17 reau of the Census for a family of four individ-
18 uals plus \$583 for each additional member of
19 the family.”; and

20 (3) in section 1329—

21 (A) by striking in subsection (c) “three
22 years” and inserting “the applicable commit-
23 ment period under section 1325(b)(1)(B)”; and

24 (B) by inserting at the end of subsection
25 (c) the following:

1 “The duration period shall be 5 years if the current
2 monthly income of the debtor and the debtor’s spouse
3 combined, when multiplied by 12, is not less than the high-
4 est national median family income last reported by the Bu-
5 reau of the Census for a family of equal or lesser size or,
6 in the case of a household of one person, the national me-
7 dian household income for one earner, as of the date of
8 the modification and shall be 3 years if the current month-
9 ly total income of the debtor and the debtor’s spouse com-
10 bined, when multiplied by 12, is less than the highest na-
11 tional median family income last reported by the Bureau
12 of the Census for a family of equal or lesser size or, in
13 the case of a household of one person, less than the na-
14 tional median household income for one earner as of the
15 date of the modification. Notwithstanding the foregoing,
16 the national median family income for a family of more
17 than four individuals shall be the national median family
18 income last reported by the Bureau of the Census for a
19 family of four individuals plus \$583 for each additional
20 member of the family.”.

21 **SEC. 607. SENSE OF THE CONGRESS REGARDING EXPAN-**
22 **SION OF RULE 9011 OF THE FEDERAL RULES**
23 **OF BANKRUPTCY PROCEDURE.**

24 It is the sense of the Congress that rule 9011 of the
25 Federal Rules of Bankruptcy Procedure (11 U.S.C. App)

1 should be modified to include a requirement that all docu-
2 ments (including schedules), signed and unsigned, sub-
3 mitted to the court or to a trustee by debtors who rep-
4 resent themselves and debtors who are represented by an
5 attorney be submitted only after the debtor or the debtor's
6 attorney has made reasonable inquiry to verify that the
7 information contained in such documents is well grounded
8 in fact, and is warranted by existing law or a good-faith
9 argument for the extension, modification, or reversal of
10 existing law.

11 **SEC. 608. ELIMINATION OF CERTAIN FEES PAYABLE IN**
12 **CHAPTER 11 BANKRUPTCY CASES.**

13 (a) AMENDMENTS.—Section 1930(a)(6) of title 28,
14 United States Code, is amended—

15 (1) in the first sentence by striking “until the
16 case is converted or dismissed, whichever occurs
17 first”; and

18 (2) in the second sentence—

19 (A) by striking “The” and inserting “Until
20 the plan is confirmed or the case is converted
21 (whichever occurs first) the”; and

22 (B) by striking “less than \$300,000;” and
23 inserting “less than \$300,000. Until the case is
24 converted, dismissed, or closed (whichever oc-

1 curs first and without regard to confirmation of
2 the plan) the fee shall be”.

3 (b) DELAYED EFFECTIVE DATE.—The amendments
4 made by subsection (a) shall take effect on October 1,
5 1999.

6 **SEC. 609. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**
7 **TENDED TO DEPENDENT STUDENTS.**

8 Not later than 1 year after the date of the enactment
9 of this Act, the Comptroller General of the United States
10 shall—

11 (1) conduct a study regarding the impact that
12 the extension of credit to individuals who are—

13 (A) claimed as dependents for purposes of
14 the Internal Revenue Code of 1986; and

15 (B) enrolled in post-secondary educational
16 institutions,

17 has on the rate of cases filed under title 11, United
18 States Code; and

19 (2) submit to the Speaker of the House of Rep-
20 resentatives and the President pro tempore of the
21 Senate a report summarizing such study.

22 **SEC. 610. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
23 **CASES.**

24 Section 362(e) of title 11, United States Code, is
25 amended—

1 (1) by inserting “(1)” after “(e)”; and

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

3 “(2) Notwithstanding paragraph (1), in the case of
4 an individual filing under chapter 7, 11, or 13, the stay
5 under subsection (a) shall terminate on the date that is
6 60 days after a request is made by a party in interest
7 under subsection (d), unless—

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

11 “(B) that 60-day period is extended—

12 “(i) by agreement of all parties in interest;

13 or

14 “(ii) by the court for such specific period
15 of time as the court finds is required by for
16 good cause as described in findings made by the
17 court.”.

18 **SEC. 611. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**

19 **TER 13.**

20 Section 348(f)(1) of title 11, United States Code, is
21 amended—

22 (1) in subparagraph (A), by striking “and” at
23 the end;

24 (2) in subparagraph (B)—

1 (A) by striking “in the converted case,
2 with allowed secured claims” and inserting
3 “only in a case converted to chapter 11 or 12
4 but not in a case converted to chapter 7, with
5 allowed secured claims in cases under chapters
6 11 and 12”; and

7 (B) by striking the period and inserting “;
8 and”; and

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

10 “(C) with respect to cases converted from chap-
11 ter 13—

12 “(i) the claim of any creditor holding secu-
13 rity as of the date of the petition shall continue
14 to be secured by that security unless the full
15 amount of such claim determined under appli-
16 cable nonbankruptcy law has been paid in full
17 as of the date of conversion, notwithstanding
18 any valuation or determination of the amount
19 of an allowed secured claim made for the pur-
20 poses of the chapter 13 proceeding; and

21 “(ii) unless a prebankruptcy default has
22 been fully cured pursuant to the plan at the
23 time of conversion, in any proceeding under this
24 title or otherwise, the default shall have the ef-

1 fect given under applicable nonbankruptcy
2 law.”.

3 **SEC. 612. BANKRUPTCY APPEALS.**

4 (a) APPEALS.—Title 28, United States Code, is
5 amended by inserting after section 1292 the following:

6 **“§ 1293. Bankruptcy appeals**

7 “(a) The courts of appeals (other than the United
8 States Court of Appeals for the Federal Circuit) shall have
9 jurisdiction of appeals from the following:

10 “(1) Final orders and judgments entered by
11 bankruptcy courts and district courts in cases under
12 title 11, in proceedings arising under title 11, and
13 in proceedings arising in or related to a case under
14 title 11, including final orders in proceedings regard-
15 ing the automatic stay of section 362 of title 11,
16 United States Code.

17 “(2) Interlocutory orders entered by bankruptcy
18 courts and district courts granting, continuing,
19 modifying, refusing or dissolving injunctions, or re-
20 fusing to dissolve or modify injunctions in cases
21 under title 11, in proceedings arising under title 11,
22 and in proceedings arising in or related to a case
23 under title 11, other than interlocutory orders in
24 proceedings regarding the automatic stay of section
25 362 of title 11, United States Code.

1 “(3) Interlocutory orders of bankruptcy courts
2 and district courts entered under section 1104(a) or
3 1121(d) of title 11, or the refusal to enter an order
4 under such section.

5 “(4) An interlocutory order of a bankruptcy
6 court or district court entered in a case under title
7 11, in a proceeding arising under title 11, or in a
8 proceeding arising in or related to a case under title
9 11, if the court of appeals that would have jurisdic-
10 tion of an appeal of a final order entered in such
11 case or such proceeding permits, in its discretion,
12 appeal to be taken from such interlocutory order.

13 “(5) Final decisions, judgments, orders, and de-
14 crees entered by a bankruptcy appellate panel under
15 subsection (b) of this section.

16 “(b)(1) The judicial council of a circuit may establish
17 a bankruptcy appellate panel composed of bankruptcy
18 judges in the circuit who are appointed by the judicial
19 council, which panel shall exercise the jurisdiction to re-
20 view orders and judgments of bankruptcy courts described
21 in paragraphs (1) through (5) of subsection (a) of this
22 section unless—

23 “(A) the appellant elects at the time of filing
24 the appeal; or

1 “(B) any other party elects, not later than 10
2 days after service of the notice of the appeal,
3 to have such jurisdiction exercised by the court of appeals.

4 “(2) An appeal to be heard by a bankruptcy appellate
5 panel under paragraph (1) shall be heard by three mem-
6 bers of the bankruptcy appellate panel, provided that a
7 member of such panel may not hear an appeal originating
8 in the district for which such member is appointed or des-
9 ignated under section 152 of this title.

10 “(3) If authorized by the Judicial Conference of the
11 United States, the judicial councils of two or more circuits
12 may establish a joint bankruptcy appellate panel.”.

13 (b) PROCEDURAL RULES.—Until rules of practice
14 and procedure are promulgated or amended pursuant to
15 the Rules Enabling Act (28 U.S.C. 2071–77) to govern
16 appeals to a bankruptcy appellate panel or to a court of
17 appeals exercising jurisdiction pursuant to section 1293
18 of title 28, as added by this Act, the following shall apply:

19 (1) A notice of appeal with respect to an appeal
20 from an order or judgment of a bankruptcy court to
21 a court of appeals or a bankruptcy appellate panel
22 must be filed within the time provided in Rule 8002
23 of the Federal Rules of Bankruptcy Procedure.

24 (2) An appeal to a bankruptcy appellate panel
25 shall be taken in the manner provided in Part VIII

1 of the Federal Rules of Bankruptcy Procedure and
2 local court rules.

3 (3) An appeal from an order or judgment of a
4 bankruptcy court directly to a court of appeals shall
5 be governed by the rules of practice and procedure
6 that apply to a civil appeal from a judgment of a
7 district court exercising original jurisdiction, as if
8 the bankruptcy court were a district court, except as
9 provided in paragraph (1) regarding the time to ap-
10 peal or by local court rules.

11 (4) An appeal to a court of appeals from a deci-
12 sion, judgment, order, or decree entered by a bank-
13 ruptcy appellate panel exercising appellate jurisdic-
14 tion shall be taken in the manner provided by Rule
15 6(b) of the Federal Rules of Appellate Procedure.

16 (c) REPEALER.—(1) Section 158 of title 28, United
17 States Code, is repealed.

18 (2) The table of sections of chapter 6 of title 28,
19 United States Code, is amended by striking the item relat-
20 ing to section 158.

21 **SEC. 613. GAO STUDY.**

22 (a) STUDY.—Not later than 270 days after the date
23 of the enactment of this Act, the Comptroller General of
24 the United States shall conduct a study of the feasibility,
25 effectiveness, and cost of requiring trustees appointed

1 under title 11, United States Code, or the bankruptcy
2 courts, to provide to the Office of Child Support Enforce-
3 ment promptly after the commencement of cases by indi-
4 vidual debtors under such title, the names and social secu-
5 rity numbers of such debtors for the purposes of allowing
6 such Office to determine whether such debtors have out-
7 standing obligations for child support (as determined on
8 the basis of information in the Federal Case Registry or
9 other national database).

10 (b) REPORT.—Not later than 300 days after the date
11 of the enactment of this Act, the Comptroller General shall
12 submit to the Speaker of the House of Representatives
13 and the President pro tempore of the Senate, a report con-
14 taining the results of the study required by subsection (a).

15 **SEC. 614. COMPENSATING TRUSTEES.**

16 Title 11, United States Code, is amended—

17 (1) in section 104(b)(1) in the material pre-
18 ceding subparagraph (A)—

19 (A) by striking “and”; and

20 (B) by inserting “, 1326(b)(3)” before
21 “immediately”;

22 (2) in section 326, by inserting at the end the
23 following:

24 “(e) Notwithstanding any other provision of this sec-
25 tion, the court shall allow reasonable compensation under

1 section 330(a) of this title for the services and expenses
2 of the trustee in taking the actions described in para-
3 graphs (1) and (2) if—

4 “(1) a trustee in a chapter 7 case commences
5 a motion to dismiss or convert under section 707(b)
6 and such motion is granted; or

7 “(2) the trustee demonstrates by a preponder-
8 ance of the evidence that the case was converted or
9 dismissed because of the trustee’s actions.”; and

10 (3) in section 1326(b)—

11 (A) in paragraph (1), by striking “and”;

12 (B) in paragraph (2), by striking the pe-
13 riod at the end thereof and inserting “; and”;
14 and

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

16 “(3)(A) the amount of the compensation de-
17 scribed in subclauses (I) and (II) which is unpaid at
18 the time of each such payment, prorated over the re-
19 maining duration of the plan—

20 “(i) and which has been allowed in a
21 case—

22 “(I) converted to this chapter; or

23 “(II) dismissed from chapter 7 in
24 which the debtor in this case was a debtor,
25 whether dismissed voluntarily by the debt-

1 or or on motion of the trustee under sec-
2 tion 707(b);

3 “(ii) but only to the extent such compensa-
4 tion has been allowed to a chapter 7 trustee
5 under section 326(e);

6 “(B) the compensation payable to the chapter 7
7 trustee in the case under this chapter shall not ex-
8 ceed the greater of the trustee fee allowed pursuant
9 to section 330 of this title plus—

10 “(i) \$25 per month; or

11 “(ii) the amount payable to unsecured non-
12 priority creditors as provided by the plan multi-
13 plied by 5 percent, and the result divided by the
14 number of months in the plan; and

15 “(C) notwithstanding any other provision of
16 this title, any such compensation awarded to a chap-
17 ter 7 trustee in a converted or dismissed case shall
18 be payable and may be collected in a case under this
19 chapter—

20 “(i) even if such amount has been dis-
21 charged in a prior proceeding under this title;
22 and

23 “(ii) only to the extent permitted by this
24 section.”.

1 **TITLE VII—BANKRUPTCY DATA**

2 **SEC. 701. IMPROVED BANKRUPTCY STATISTICS.**

3 (a) AMENDMENT.—Chapter 6 of part I of title 28,
4 United States Code, is amended by adding at the end the
5 following:

6 **“§ 159. Bankruptcy statistics**

7 “(a) The clerk of each district shall compile statistics
8 regarding individual debtors with primarily consumer
9 debts seeking relief under chapters 7, 11, and 13 of title
10 11. Those statistics shall be in a form prescribed by the
11 Director of the Administrative Office of the United States
12 Courts (referred to in this section as the ‘Office’).

13 “(b) The Director shall—

14 “(1) compile the statistics referred to in sub-
15 section (a);

16 “(2) make the statistics available to the public;
17 and

18 “(3) not later than October 31, 2000, and an-
19 nually thereafter, prepare, and submit to Congress a
20 report concerning the information collected under
21 subsection (a) that contains an analysis of the infor-
22 mation.

23 “(c) The compilation required under subsection (b)
24 shall—

1 “(1) be itemized, by chapter, with respect to
2 title 11, United States Code;

3 “(2) be presented in the aggregate and for each
4 district; and

5 “(3) include information concerning—

6 “(A) the total assets and total liabilities of
7 the debtors described in subsection (a), and in
8 each category of assets and liabilities, as re-
9 ported in the schedules prescribed pursuant to
10 section 2075 of this title and filed by those
11 debtors;

12 “(B) the current monthly income, and av-
13 erage income and average expenses of those
14 debtors as reported on the schedules and state-
15 ments that each such debtor files under sections
16 521 and 1322 of title 11, United States Code;

17 “(C) the aggregate amount of debt dis-
18 charged in the reporting period, determined as
19 the difference between the total amount of debt
20 and obligations of a debtor reported on the
21 schedules and the amount of such debt reported
22 in categories which are predominantly non-
23 dischargeable;

1 “(D) the average period of time between
2 the filing of the petition and the closing of the
3 case;

4 “(E) for the reporting period—

5 “(i) the number of cases in which a
6 reaffirmation was filed; and

7 “(ii)(I) the total number of reaffirma-
8 tions filed;

9 “(II) of those cases in which a reaffir-
10 mation was filed, the number in which the
11 debtor was not represented by an attorney;
12 and

13 “(III) of those cases, the number of
14 cases in which the reaffirmation was ap-
15 proved by the court;

16 “(F) with respect to cases filed under
17 chapter 13 of title 11, for the reporting
18 period—

19 “(i)(I) the number of cases in which a
20 final order was entered determining the
21 value of property securing a claim in an
22 amount less than the amount of the claim;
23 and

1 “(II) the number of final orders deter-
2 mining the value of property securing a
3 claim issued;

4 “(ii) the number of cases dismissed,
5 the number of cases dismissed for failure
6 to make payments under the plan, the
7 number of cases refiled after dismissal,
8 and the number of cases in which the plan
9 was completed, separately itemized with re-
10 spect to the number of modifications made
11 before completion of the plan, if any; and

12 “(iii) the number of cases in which
13 the debtor filed another case within the 6
14 years previous to the filing;

15 “(G) the number of cases in which credi-
16 tors were fined for misconduct and any amount
17 of punitive damages awarded by the court for
18 creditor misconduct; and

19 “(H) the number of cases in which sanc-
20 tions under rule 9011 of the Federal Rules of
21 Bankruptcy Procedure were imposed against
22 debtor’s counsel and damages awarded under
23 such Rule.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 6 of title 28, United States
 3 Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall take effect 18 months after the date of
 6 the enactment of this Act.

7 **SEC. 702. UNIFORM RULES FOR THE COLLECTION OF BANK-**
 8 **RUPTCY DATA.**

9 (a) AMENDMENT.—Title 28, United States Code, is
 10 amended by inserting after section 589a the following:

11 **“§ 589b. Bankruptcy data**

12 “(a) RULES.—The Attorney General shall, within a
 13 reasonable time after the effective date of this section,
 14 issue rules requiring uniform forms for (and from time
 15 to time thereafter to appropriately modify and approve)—

16 “(1) final reports by trustees in cases under
 17 chapters 7, 12, and 13 of title 11, United States
 18 Code; and

19 “(2) periodic reports by debtors in possession or
 20 trustees, as the case may be, in cases under chapter
 21 11 of title 11, United States Code.

22 “(b) REPORTS.—All reports referred to in subsection
 23 (a) shall be designed (and the requirements as to place
 24 and manner of filing shall be established) so as to facili-
 25 tate compilation of data and maximum possible access of

1 the public, both by physical inspection at one or more cen-
2 tral filing locations, and by electronic access through the
3 Internet or other appropriate media.

4 “(c) REQUIRED INFORMATION.—The information re-
5 quired to be filed in the reports referred to in subsection
6 (b) shall be that which is in the best interests of debtors
7 and creditors, and in the public interest in reasonable and
8 adequate information to evaluate the efficiency and practi-
9 cality of the Federal bankruptcy system. In issuing rules
10 proposing the forms referred to in subsection (a), the At-
11 torney General shall strike the best achievable practical
12 balance between—

13 “(1) the reasonable needs of the public for in-
14 formation about the operational results of the Fed-
15 eral bankruptcy system; and

16 “(2) economy, simplicity, and lack of undue
17 burden on persons with a duty to file reports.

18 “(d) FINAL REPORTS.—Final reports proposed for
19 adoption by trustees under chapters 7, 12, and 13 of title
20 11 shall, in addition to such other matters as are required
21 by law or as the Attorney General in the discretion of the
22 Attorney General, shall propose, include with respect to
23 a case under such title—

24 “(1) information about the length of time the
25 case was pending;

1 “(2) assets abandoned;
2 “(3) assets exempted;
3 “(4) receipts and disbursements of the estate;
4 “(5) expenses of administration;
5 “(6) claims asserted;
6 “(7) claims allowed; and
7 “(8) distributions to claimants and claims dis-
8 charged without payment,

9 in each case by appropriate category and, in cases under
10 chapters 12 and 13 of title 11, date of confirmation of
11 the plan, each modification thereto, and defaults by the
12 debtor in performance under the plan.

13 “(e) PERIODIC REPORTS.—Periodic reports proposed
14 for adoption by trustees or debtors in possession under
15 chapter 11 of title 11 shall, in addition to such other mat-
16 ters as are required by law or as the Attorney General,
17 in the discretion of the Attorney General, shall propose,
18 include—

19 “(1) information about the standard industry
20 classification, published by the Department of Com-
21 merce, for the businesses conducted by the debtor;

22 “(2) length of time the case has been pending;

23 “(3) number of full-time employees as at the
24 date of the order for relief and at end of each re-
25 porting period since the case was filed;

“(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

23 SEC. 703. SENSE OF THE CONGRESS REGARDING AVAIL-
24 ABILITY OF BANKRUPTCY DATA.

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1 (1) the national policy of the United States
2 should be that all data held by bankruptcy clerks in
3 electronic form, to the extent such data reflects only
4 public records (as defined in section 107 of title 11,
5 United States Code), should be released in a usable
6 electronic form in bulk to the public subject to such
7 appropriate privacy concerns and safeguards as the
8 Judicial Conference of the United States may deter-
9 mine; and

10 (2) there should be established a bankruptcy
11 data system in which—

12 (A) a single set of data definitions and
13 forms are used to collect data nationwide; and

14 (B) data for any particular bankruptcy
15 case are aggregated in the same electronic
16 record.

17 **TITLE VIII—BANKRUPTCY TAX**
18 **PROVISIONS**

19 **SEC. 801. TREATMENT OF CERTAIN LIENS.**

20 (a) TREATMENT OF CERTAIN LIENS.—Section 724
21 of title 11, United States Code, is amended—

22 (1) in subsection (b), in the matter preceding
23 paragraph (1), by inserting “(other than to the ex-
24 tent that there is a properly perfected unavoidable
25 tax lien arising in connection with an ad valorem tax

1 on real or personal property of the estate)” after
2 “under this title”;

3 (2) in subsection (b)(2), after “507(a)(1)”, in-
4 sert “(except that such expenses, other than claims
5 for wages, salaries, or commissions which arise after
6 the filing of a petition, shall be limited to expenses
7 incurred under chapter 7 of this title and shall not
8 include expenses incurred under chapter 11 of this
9 title)”;

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

11 “(e) Before subordinating a tax lien on real or per-
12 sonal property of the estate, the trustee shall—

13 “(1) exhaust the unencumbered assets of the
14 estate; and

15 “(2) in a manner consistent with section 506(c)
16 of this title, recover from property securing an al-
17 lowed secured claim the reasonable, necessary costs
18 and expenses of preserving or disposing of that prop-
19 erty.

20 “(f) Notwithstanding the exclusion of ad valorem tax
21 liens set forth in this section and subject to the require-
22 ments of subsection (e)—

23 “(1) claims for wages, salaries, and commis-
24 sions that are entitled to priority under section
25 507(a)(3) of this title; or

1 “(2) claims for contributions to an employee
2 benefit plan entitled to priority under section
3 507(a)(4) of this title,
4 may be paid from property of the estate which secures
5 a tax lien, or the proceeds of such property.”.

6 (b) DETERMINATION OF TAX LIABILITY.—Section
7 505(a)(2) of title 11, United States Code, is amended—

8 (1) in subparagraph (A), by striking “or” at
9 the end;

10 (2) in subparagraph (B), by striking the period
11 at the end and inserting “; or”; and

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

13 “(C) the amount or legality of any amount arising
14 in connection with an ad valorem tax on real or
15 personal property of the estate, if the applicable period
16 for contesting or redetermining that amount
17 under any law (other than a bankruptcy law) has expired.”.

19 **SEC. 802. EFFECTIVE NOTICE TO GOVERNMENT.**

20 (a) EFFECTIVE NOTICE TO GOVERNMENTAL
21 UNITS.—Section 342 of title 11, United States Code, as
22 amended by section 603, is amended by adding at the end
23 the following:

24 “(g) If a debtor lists a governmental unit as a creditor
25 in a list or schedule, any notice required to be given

1 by the debtor under this title, any rule, any applicable law,
2 or any order of the court, shall identify the department,
3 agency, or instrumentality through which the debtor is in-
4 debted. The debtor shall identify (with information such
5 as a taxpayer identification number, loan, account or con-
6 tract number, or real estate parcel number, where applica-
7 ble), and describe the underlying basis for the govern-
8 mental unit's claim. If the debtor's liability to a govern-
9 mental unit arises from a debt or obligation owed or in-
10 curred by another individual, entity, or organization, or
11 under a different name, the debtor shall identify such indi-
12 vidual, entity, organization, or name.

13 “(h) The clerk shall keep and update quarterly, in
14 the form and manner as the Director of the Administra-
15 tive Office of the United States Courts prescribes, and
16 make available to debtors, a register in which a govern-
17 mental unit may designate a safe harbor mailing address
18 for service of notice in cases pending in the district. A
19 governmental unit may file a statement with the clerk des-
20 ignating a safe harbor address to which notices are to be
21 sent, unless such governmental unit files a notice of
22 change of address.”.

23 (b) ADOPTION OF RULES PROVIDING NOTICE.—The
24 Advisory Committee on Bankruptcy Rules of the Judicial
25 Conference shall, within a reasonable period of time after

1 the date of the enactment of this Act, propose for adoption
2 enhanced rules for providing notice to State, Federal, and
3 local government units that have regulatory authority over
4 the debtor or which may be creditors in the debtor's case.
5 Such rules shall be reasonably calculated to ensure that
6 notice will reach the representatives of the governmental
7 unit, or subdivision thereof, who will be the proper persons
8 authorized to act upon the notice. At a minimum, the rules
9 should require that the debtor—

10 (1) identify in the schedules and the notice, the
11 subdivision, agency, or entity in respect of which
12 such notice should be received;

13 (2) provide sufficient information (such as case
14 captions, permit numbers, taxpayer identification
15 numbers, or similar identifying information) to per-
16 mit the governmental unit or subdivision thereof, en-
17 titled to receive such notice, to identify the debtor or
18 the person or entity on behalf of which the debtor
19 is providing notice where the debtor may be a suc-
20 cessor in interest or may not be the same as the per-
21 son or entity which incurred the debt or obligation;
22 and

23 (3) identify, in appropriate schedules, served to-
24 gether with the notice, the property in respect of
25 which the claim or regulatory obligation may have

1 arisen, if any, the nature of such claim or regulatory
2 obligation and the purpose for which notice is being
3 given.

4 (c) EFFECT OF FAILURE OF NOTICE.—Section 342
5 of title 11, United States Code, as amended by section
6 603 and subsection (a), is amended by adding at the end
7 the following:

8 “(i) A notice that does not comply with subsections
9 (d) and (e) shall not be effective unless the debtor dem-
10 onstrates, by clear and convincing evidence, that timely
11 notice was given in a manner reasonably calculated to sat-
12 isfy the requirements of this section was given, and that—

13 “(1) either the notice was timely sent to the
14 safe harbor address provided in the register main-
15 tained by the clerk of the district in which the case
16 was pending for such purposes; or

17 “(2) no safe harbor address was provided in
18 such list for the governmental unit and that an offi-
19 cer of the governmental unit who is responsible for
20 the matter or claim had actual knowledge of the case
21 in sufficient time to act.”.

22 **SEC. 803. NOTICE OF REQUEST FOR A DETERMINATION OF**
23 **TAXES.**

24 Section 505(b) of title 11, United States Code, is
25 amended by striking “Unless” at the beginning of the sec-

1 ond sentence thereof and inserting “If the request is made
2 substantially in the manner designated by the govern-
3 mental unit and unless”.

4 **SEC. 804. RATE OF INTEREST ON TAX CLAIMS.**

5 (a) AMENDMENT.—Chapter 5 of title 11, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 511. Rate of interest on tax claims**

9 “If any provision of this title requires the payment
10 of interest on a tax claim or requires the payment of inter-
11 est to enable a creditor to receive the present value of the
12 allowed amount of a tax claim, the rate of interest shall
13 be as follows:

14 “(1) In the case of ad valorem tax claims,
15 whether secured or unsecured, other unsecured tax
16 claims where interest is required to be paid under
17 section 726(a)(5) of this title, secured tax claims,
18 and administrative tax claims paid under section
19 503(b)(1) of this title, the rate shall be determined
20 under applicable nonbankruptcy law.

21 “(2) In the case of all other tax claims, the
22 minimum rate of interest shall be the Federal short-
23 term rate rounded to the nearest full percent, deter-
24 mined under section 1274(d) of the Internal Rev-
25 enue Code of 1986, plus 3 percentage points.

1 “(A) In the case of claims for Federal in-
 2 come taxes, such rate shall be subject to any
 3 adjustment that may be required under section
 4 6621(d) of the Internal Revenue Code of 1986.

5 “(B) In the case of taxes paid under a con-
 6 firmed plan or reorganization, such rate shall
 7 be determined as of the calendar month in
 8 which the plan is confirmed.”.

9 (b) CONFORMING AMENDMENT.—The table of sec-
 10 tions of chapter 5 of title 11, United States Code, is
 11 amended by inserting after the item relating to section
 12 510 the following:

“511. Rate of interest on tax claims.”.

13 **SEC. 805. TOLLING OF PRIORITY OF TAX CLAIM TIME PERI-**
 14 **ODS.**

15 Section 507(a)(8)(A) of title 11, United States Code,
 16 as so redesignated, is amended—

17 (1) in clause (i) by inserting after “petition”
 18 and before the semicolon “, plus any time, plus 6
 19 months, during which the stay of proceedings was in
 20 effect in a prior case under this title”; and

21 (2) amend clause (ii) to read as follows:

22 “(ii) assessed within 240 days before
 23 the date of the filing of the petition, exclu-
 24 sive of—

1 “(I) any time plus 30 days dur-
2 ing which an offer in compromise with
3 respect of such tax, was pending or in
4 effect during such 240-day period;

5 “(II) any time plus 30 days dur-
6 ing which an installment agreement
7 with respect of such tax was pending
8 or in effect during such 240-day pe-
9 riod, up to 1 year; and

10 “(III) any time plus 6 months
11 during which a stay of proceedings
12 against collections was in effect in a
13 prior case under this title during such
14 240-day period.”.

15 **SEC. 806. PRIORITY PROPERTY TAXES INCURRED.**

16 Section 507(a)(8)(B) of title 11, United States Code,
17 is amended by striking “assessed” and inserting “in-
18 curred”.

19 **SEC. 807. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**
20 **OTHER TAXES.**

21 Section 1328(a)(2) of title 11, United States Code,
22 is amended by inserting “(1),” after “paragraph”.

23 **SEC. 808. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

24 Section 1141(d) of title 11, United States Code, is
25 amended by adding at the end the following:

1 “(6) Notwithstanding the provisions of paragraph
2 (1), the confirmation of a plan does not discharge a debtor
3 which is a corporation from any debt for a tax or customs
4 duty with respect to which the debtor made a fraudulent
5 return or willfully attempted in any manner to evade or
6 defeat such tax.”.

7 **SEC. 809. STAY OF TAX PROCEEDINGS.**

8 (a) SECTION 362 STAY LIMITED TO PREPETITION
9 TAXES.—Section 362(a)(8) of title 11, United States
10 Code, is amended by striking the period at the end and
11 inserting “, in respect of a tax liability for a taxable period
12 ending before the order for relief.”.

13 (b) APPEAL OF TAX COURT DECISIONS PER-
14 MITTED.—Section 362(b)(9) of title 11, United States
15 Code, is amended—

16 (1) in subparagraph (C) by striking “or” at the
17 end;

18 (2) in subparagraph (D) by striking the period
19 at the end and inserting “; or”; and

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

21 “(E) the appeal of a decision by a court or
22 administrative tribunal which determines a tax
23 liability of the debtor without regard to whether
24 such determination was made prepetition or
25 postpetition.”.

1 **SEC. 810. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**

2 **CASES.**

3 Section 1129(a)(9) of title 11, United States Code,
4 is amended—

5 (1) in subparagraph (B) by striking “and” at
6 the end; and

7 (2) in subparagraph (C)—

8 (A) by striking “deferred cash payments,
9 over a period not exceeding six years after the
10 date of assessment of such claim,” and insert-
11 ing “regular installment payments in cash, but
12 in no case with a balloon provision, and no
13 more than three months apart, beginning no
14 later than the effective date of the plan and
15 ending on the earlier of five years after the pe-
16 tition date or the last date payments are to be
17 made under the plan to unsecured creditors,”;
18 and

19 (B) by striking the period at the end and
20 inserting “; and”; and

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

22 “(D) with respect to a secured claim which
23 would be described in section 507(a)(8) of this
24 title but for its secured status, the holder of
25 such claim will receive on account of such claim
26 cash payments of not less than is required in

1 subparagraph (C) and over a period no greater
2 than is required in such subparagraph.”.

3 **SEC. 811. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**
4 **ITED.**

5 Section 545(2) of title 11, United States Code, is
6 amended by striking the semicolon at the end and insert-
7 ing “, except where such purchaser is a purchaser de-
8 scribed in section 6323 of the Internal Revenue Code of
9 1986 or similar provision of State or local law;”.

10 **SEC. 812. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
11 **NESS.**

12 (a) PAYMENT OF TAXES REQUIRED.—Section 960 of
13 title 28, United States Code, is amended—

14 (1) by inserting “(a)” before “Any”; and

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

16 “(b) Such taxes shall be paid when due in the conduct
17 of such business unless—

18 “(1) the tax is a property tax secured by a lien
19 against property that is abandoned within a reason-
20 able time after the lien attaches, by the trustee of
21 a bankruptcy estate, pursuant to section 554 of title
22 11, United States Code; or

23 “(2) payment of the tax is excused under a spe-
24 cific provision of title 11, United States Code.

1 “(c) In a case pending under chapter 7 of title 11,
2 payment of a tax may be deferred until final distribution
3 is made under section 726 of title 11, United States Code,
4 if—

5 “(1) the tax was not incurred by a trustee duly
6 appointed under chapter 7 of title 11, United States
7 Code; or

8 “(2) before the due date of the tax, the court
9 has made a finding of probable insufficiency of
10 funds of the estate to pay in full the administrative
11 expenses allowed under section 503(b) of title 11
12 that have the same priority in distribution under
13 section 726(b) of title 11 as such tax.”.

14 (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—
15 Section 503(b)(1)(B) of title 11, United States Code, is
16 amended in clause (i) by inserting after “estate,” and be-
17 fore “except” the following: “whether secured or unse-
18 cured, including property taxes for which liability is in rem
19 only, in personam or both,”.

20 (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE
21 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of
22 title 11, United States Code, is amended by adding at the
23 end the following:

24 “(D) notwithstanding the requirements of sub-
25 section (a) of this section, a governmental unit shall

1 not be required to file a request for the payment of
2 a claim described in subparagraph (B) or (C);”.

3 (d) PAYMENT OF TAXES AND FEES AS SECURED
4 CLAIMS.—Section 506 of title 11, United States Code, is
5 amended—

6 (1) in subsection (b) by inserting “or State
7 statute” after “agreement”; and

8 (2) in subsection (c) by inserting “, including
9 the payment of all ad valorem property taxes in re-
10 spect of the property” before the period at the end.

11 **SEC. 813. TARDILY FILED PRIORITY TAX CLAIMS.**

12 Section 726(a)(1) of title 11, United States Code, is
13 amended by striking “before the date on which the trustee
14 commences distribution under this section” and inserting
15 “on or before the earlier of 10 days after the mailing to
16 creditors of the summary of the trustee’s final report or
17 the date on which the trustee commences final distribution
18 under this section”.

19 **SEC. 814. INCOME TAX RETURNS PREPARED BY TAX AU-**
20 **THORITIES.**

21 Section 523(a)(1)(B) of title 11, United States Code,
22 is amended—

23 (1) by inserting “or equivalent report or no-
24 tice,” after “a return,”;

25 (2) in clause (i)—

1 (A) by inserting “or given” after “filed”;

2 and

3 (B) by striking “or” at the end;

4 (3) in clause (ii)—

5 (A) by inserting “or given” after “filed”;

6 and

7 (B) by inserting “, report, or notice” after

8 “return”; and

9 (4) by adding at the end the following:

10 “(iii) for purposes of this subsection,

11 a return—

12 “(I) must satisfy the require-
13 ments of applicable nonbankruptcy
14 law, and includes a return prepared
15 pursuant to section 6020(a) of the In-
16 ternal Revenue Code of 1986, or simi-
17 lar State or local law, or a written
18 stipulation to a judgment entered by a
19 nonbankruptcy tribunal, but does not
20 include a return made pursuant to
21 section 6020(b) of the Internal Rev-
22 enue Code of 1986, or similar State
23 or local law; and

1 “(II) must have been filed in a
2 manner permitted by applicable non-
3 bankruptcy law; or”.

4 **SEC. 815. DISCHARGE OF THE ESTATE’S LIABILITY FOR UN-**
5 **PAID TAXES.**

6 Section 505(b) of title 11, United States Code, is
7 amended in the second sentence by inserting “the estate,”
8 after “misrepresentation,”.

9 **SEC. 816. REQUIREMENT TO FILE TAX RETURNS TO CON-**
10 **FIRM CHAPTER 13 PLANS.**

11 (a) FILING OF PREPETITION TAX RETURNS RE-
12 QUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of
13 title 11, United States Code, as amended by section 140,
14 is amended—

15 (1) in paragraph (6) by striking “and” at the
16 end;

17 (2) in paragraph (7) by striking the period at
18 the end and inserting “; and”; and

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

20 “(8) if the debtor has filed all Federal, State,
21 and local tax returns as required by section 1308 of
22 this title.”.

23 (b) ADDITIONAL TIME PERMITTED FOR FILING TAX
24 RETURNS.—(1) Chapter 13 of title 11, United States

1 Code, as amended by section 135, is amended by adding
2 at the end the following:

3 **“§ 1308. Filing of prepetition tax returns**

4 “(a) On or before the day prior to the day on which
5 the first meeting of the creditors is convened under section
6 341(a) of this title, the debtor shall have filed with appro-
7 priate tax authorities all tax returns for all taxable periods
8 ending in the 3-year period ending on the date of filing
9 of the petition.

10 “(b) If the tax returns required by subsection (a)
11 have not been filed by the date on which the first meeting
12 of creditors is convened under section 341(a) of this title,
13 the trustee may continue such meeting for a reasonable
14 period of time, to allow the debtor additional time to file
15 any unfiled returns, but such additional time shall be no
16 more than—

17 “(1) for returns that are past due as of the
18 date of the filing of the petition, 120 days from such
19 date;

20 “(2) for returns which are not past due as of
21 the date of the filing of the petition, the later of 120
22 days from such date or the due date for such re-
23 turns under the last automatic extension of time for
24 filing such returns to which the debtor is entitled,

1 and for which request has been timely made, accord-
2 ing to applicable nonbankruptcy law; and

3 “(3) upon notice and hearing, and order en-
4 tered before the lapse of any deadline fixed accord-
5 ing to this subsection, where the debtor dem-
6 onstrates, by clear and convincing evidence, that the
7 failure to file the returns as required is because of
8 circumstances beyond the control of the debtor, the
9 court may extend the deadlines set by the trustee as
10 provided in this subsection for—

11 “(A) a period of no more than 30 days for
12 returns described in paragraph (1) of this sub-
13 section; and

14 “(B) for no more than the period of time
15 ending on the applicable extended due date for
16 the returns described in paragraph (2).

17 “(c) For purposes of this section only, a return in-
18 cludes a return prepared pursuant to section 6020 (a) or
19 (b) of the Internal Revenue Code of 1986 or similar State
20 or local law, or a written stipulation to a judgment entered
21 by a nonbankruptcy tribunal.”.

22 (2) The table of sections of chapter 13 of title 11,
23 United States Code, is amended by inserting after the
24 item relating to section 1307 the following:

“1308. Filing of prepetition tax returns.”.

1 (c) DISMISSAL OR CONVERSION ON FAILURE TO
2 COMPLY.—Section 1307 of title 11, United States Code,
3 is amended—

4 (1) by redesignating subsections (e) and (f) as
5 subsections (f) and (g), respectively; and

6 (2) by inserting after subsection (d) the fol-
7 lowing:

8 “(e) Upon the failure of the debtor to file tax returns
9 under section 1308 of this title, on request of a party in
10 interest or the United States trustee and after notice and
11 a hearing, the court shall dismiss a case or convert a case
12 under this chapter to a case under chapter 7 of this title,
13 whichever is in the best interests of creditors and the es-
14 tate.”.

15 (d) TIMELY FILED CLAIMS.—Section 502(b)(9) of
16 title 11, United States Code, is amended by striking the
17 period at the end and inserting “, and except that in a
18 case under chapter 13 of this title, a claim of a govern-
19 mental unit for a tax in respect of a return filed under
20 section 1308 of this title shall be timely if it is filed on
21 or before 60 days after such return or returns were filed
22 as required.”.

23 (e) RULES FOR OBJECTIONS TO CLAIMS AND TO
24 CONFIRMATION.—It is the sense of the Congress that the
25 Advisory Committee on Bankruptcy Rules of the Judicial

1 Conference should, within a reasonable period of time
2 after the date of the enactment of this Act, propose for
3 adoption amended Federal Rules of Bankruptcy Proce-
4 dure which provide that—

5 (1) notwithstanding the provisions of Rule
6 3015(f), in cases under chapter 13 of title 11,
7 United States Code, a governmental unit may object
8 to the confirmation of a plan on or before 60 days
9 after the debtor files all tax returns required under
10 sections 1308 and 1325(a)(7) of title 11, United
11 States Code; and

12 (2) in addition to the provisions of Rule 3007,
13 in a case under chapter 13 of title 11, United States
14 Code, no objection to a tax in respect of a return re-
15 quired to be filed under such section 1308 shall be
16 filed until such return has been filed as required.

17 **SEC. 817. STANDARDS FOR TAX DISCLOSURE.**

18 Section 1125(a) of title 11, United States Code, is
19 amended in paragraph (1)—

20 (1) by inserting after “records,” the following:
21 “including a full discussion of the potential material
22 Federal, State, and local tax consequences of the
23 plan to the debtor, any successor to the debtor, and
24 a hypothetical investor domiciled in the State in
25 which the debtor resides or has its principal place of

1 business typical of the holders of claims or interests
2 in the case,”;

3 (2) by inserting “such” after “enable”; and

4 (3) by striking “reasonable” where it appears
5 after “hypothetical” and by striking “typical of hold-
6 ers of claims or interests” after “investor”.

7 **SEC. 818. SETOFF OF TAX REFUNDS.**

8 Section 362(b) of title 11, United States Code, as
9 amended by sections 118, 132, 136, and 203, is
10 amended—

11 (1) in paragraph (29) by striking “or”;

12 (2) in paragraph (30) by striking the period at
13 the end and inserting “; or”; and

14 (3) by inserting after paragraph (30) the fol-
15 lowing:

16 “(31) under subsection (a) of the setoff of an
17 income tax refund, by a governmental unit, in re-
18 spect of a taxable period which ended before the
19 order for relief against an income tax liability for a
20 taxable period which also ended before the order for
21 relief, unless—

22 “(A) prior to such setoff, an action to de-
23 termine the amount or legality of such tax li-
24 ability under section 505(a) was commenced; or

1 “(B) where the setoff of an income tax re-
 2 fund is not permitted because of a pending ac-
 3 tion to determine the amount or legality of a
 4 tax liability, the governmental unit may hold
 5 the refund pending the resolution of the ac-
 6 tion.”.

7 **TITLE IX—ANCILLARY AND**
 8 **OTHER CROSS-BORDER CASES**

9 **SEC. 901. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**
 10 **UNITED STATES CODE.**

11 (a) IN GENERAL.—Title 11, United States Code, is
 12 amended by inserting after chapter 13 the following:

13 **“CHAPTER 15—ANCILLARY AND OTHER**
 14 **CROSS-BORDER CASES**

“Sec.

“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.

“1503. International obligations of the United States.

“1504. Commencement of ancillary case.

“1505. Authorization to act in a foreign country.

“1506. Public policy exception.

“1507. Additional assistance.

“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND
 CREDITORS TO THE COURT

“1509. Right of direct access.

“1510. Limited jurisdiction.

“1511. Commencement of case under section 301 or 303.

“1512. Participation of a foreign representative in a case under this title.

“1513. Access of foreign creditors to a case under this title.

“1514. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING
 AND RELIEF

- “1515. Application for recognition of a foreign proceeding.
- “1516. Presumptions concerning recognition.
- “1517. Order recognizing a foreign proceeding.
- “1518. Subsequent information.
- “1519. Relief that may be granted upon petition for recognition of a foreign proceeding.
- “1520. Effects of recognition of a foreign main proceeding.
- “1521. Relief that may be granted upon recognition of a foreign proceeding.
- “1522. Protection of creditors and other interested persons.
- “1523. Actions to avoid acts detrimental to creditors.
- “1524. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

- “1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
- “1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
- “1527. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

- “1528. Commencement of a case under this title after recognition of a foreign main proceeding.
- “1529. Coordination of a case under this title and a foreign proceeding.
- “1530. Coordination of more than 1 foreign proceeding.
- “1531. Presumption of insolvency based on recognition of a foreign main proceeding.
- “1532. Rule of payment in concurrent proceedings.

1 **“§ 1501. Purpose and scope of application**

2 “(a) The purpose of this chapter is to incorporate the
3 Model Law on Cross-Border Insolvency so as to provide
4 effective mechanisms for dealing with cases of cross-border
5 insolvency with the objectives of—

6 “(1) cooperation between—

7 “(A) United States courts, United States
8 trustees, trustees, examiners, debtors, and debtors
9 in possession; and

10 “(B) the courts and other competent authorities
11 of foreign countries involved in cross-border
12 insolvency cases;

1 “(2) greater legal certainty for trade and in-
2 vestment;

3 “(3) fair and efficient administration of cross-
4 border insolvencies that protects the interests of all
5 creditors, and other interested entities, including the
6 debtor;

7 “(4) protection and maximization of the value
8 of the debtor’s assets; and

9 “(5) facilitation of the rescue of financially
10 troubled businesses, thereby protecting investment
11 and preserving employment.

12 “(b) This chapter applies where—

13 “(1) assistance is sought in the United States
14 by a foreign court or a foreign representative in con-
15 nection with a foreign proceeding;

16 “(2) assistance is sought in a foreign country in
17 connection with a case under this title;

18 “(3) a foreign proceeding and a case under this
19 title with respect to the same debtor are taking place
20 concurrently; or

21 “(4) creditors or other interested persons in a
22 foreign country have an interest in requesting the
23 commencement of, or participating in, a case or pro-
24 ceeding under this title.

25 “(c) This chapter does not apply to—

1 “(1) a proceeding concerning an entity, other
2 than a foreign insurance company, identified by ex-
3 clusion in subsection 109(b);

4 “(2) an individual, or to an individual and such
5 individual’s spouse, who have debts within the limits
6 specified in section 109(e) and who are citizens of
7 the United States or aliens lawfully admitted for
8 permanent residence in the United States; or

9 “(3) an entity subject to a proceeding under the
10 Securities Investor Protection Act, a stockbroker
11 subject to subchapter III of chapter 7 of this title,
12 or a commodity broker subject to subchapter IV of
13 chapter 7 of this title.

14 “(d) The court may not grant relief under this chap-
15 ter with respect to any deposit, escrow, trust fund, or
16 other security required or permitted under any applicable
17 State insurance law or regulation for the benefit of claim
18 holders in the United States.

19 “SUBCHAPTER I—GENERAL PROVISIONS

20 “§ 1502. **Definitions**

21 “For the purposes of this chapter, the term—

22 “(1) ‘debtor’ means an entity that is the subject
23 of a foreign proceeding;

1 “(2) ‘establishment’ means any place of oper-
2 ations where the debtor carries out a nontransitory
3 economic activity;

4 “(3) ‘foreign court’ means a judicial or other
5 authority competent to control or supervise a foreign
6 proceeding;

7 “(4) ‘foreign main proceeding’ means a foreign
8 proceeding taking place in the country where the
9 debtor has the center of its main interests;

10 “(5) ‘foreign nonmain proceeding’ means a for-
11 eign proceeding, other than a foreign main pro-
12 ceeding, taking place in a country where the debtor
13 has an establishment;

14 “(6) ‘trustee’ includes a trustee, a debtor in
15 possession in a case under any chapter of this title,
16 or a debtor under chapter 9 of this title; and

17 “(7) ‘within the territorial jurisdiction of the
18 United States’ when used with reference to property
19 of a debtor refers to tangible property located within
20 the territory of the United States and intangible
21 property deemed under applicable nonbankruptcy
22 law to be located within that territory, including any
23 property subject to attachment or garnishment that
24 may properly be seized or garnished by an action in
25 a Federal or State court in the United States.

1 **“§ 1503. International obligations of the United States**

2 “To the extent that this chapter conflicts with an ob-
3 ligation of the United States arising out of any treaty or
4 other form of agreement to which it is a party with one
5 or more other countries, the requirements of the treaty
6 or agreement prevail.

7 **“§ 1504. Commencement of ancillary case**

8 “A case under this chapter is commenced by the filing
9 of a petition for recognition of a foreign proceeding under
10 section 1515.

11 **“§ 1505. Authorization to act in a foreign country**

12 “A trustee or another entity (including an examiner)
13 may be authorized by the court to act in a foreign country
14 on behalf of an estate created under section 541. An entity
15 authorized to act under this section may act in any way
16 permitted by the applicable foreign law.

17 **“§ 1506. Public policy exception**

18 “Nothing in this chapter prevents the court from re-
19 fusing to take an action governed by this chapter if the
20 action would be manifestly contrary to the public policy
21 of the United States.

22 **“§ 1507. Additional assistance**

23 “(a) Subject to the specific limitations stated else-
24 where in this chapter the court, upon recognition of a for-
25 eign proceeding, the court may provide additional assist-

1 ance to a foreign representative under this title or under
2 other laws of the United States.

3 “(b) In determining whether to provide additional as-
4 sistance under this title or under other laws of the United
5 States, the court shall consider whether such additional
6 assistance, consistent with the principles of comity, will
7 reasonably assure—

8 “(1) just treatment of all holders of claims
9 against or interests in the debtor’s property;

10 “(2) protection of claim holders in the United
11 States against prejudice and inconvenience in the
12 processing of claims in such foreign proceeding;

13 “(3) prevention of preferential or fraudulent
14 dispositions of property of the debtor;

15 “(4) distribution of proceeds of the debtor’s
16 property substantially in accordance with the order
17 prescribed by this title; and

18 “(5) if appropriate, the provision of an oppor-
19 tunity for a fresh start for the individual that such
20 foreign proceeding concerns.

21 **“§ 1508. Interpretation**

22 “In interpreting this chapter, the court shall consider
23 its international origin, and the need to promote an appli-
24 cation of this chapter that is consistent with the applica-
25 tion of similar statutes adopted by foreign jurisdictions.

1 “SUBCHAPTER II—ACCESS OF FOREIGN REP-
2 RESENTATIVES AND CREDITORS TO THE
3 COURT

4 “§ 1509. Right of direct access

5 “(a) A foreign representative may commence a case
6 under section 1504 of this title by filing with the court
7 a petition for recognition of a foreign proceeding under
8 section 1515 of this title.

9 “(b) If the court grants recognition under section
10 1515 of this title, and subject to any limitations that the
11 court may impose consistent with the policy of this
12 chapter—

13 “(1) the foreign representative has the capacity
14 to sue and be sued in a court in the United States;

15 “(2) the foreign representative may apply di-
16 rectly to a court in the United States for appropriate
17 relief in that court; and

18 “(3) a court in the United States shall grant
19 comity or cooperation to the foreign representative.

20 “(c) A request for comity or cooperation by a foreign
21 representative in a court in the United States shall be ac-
22 companied by a certified copy of an order granting rec-
23 ognition under section 1517 of this title.

24 “(d) If the court denies recognition under this chap-
25 ter, the court may issue any appropriate order necessary

1 to prevent the foreign representative from obtaining com-
2 ity or cooperation from courts in the United States.

3 “(e) Whether or not the court grants recognition, and
4 subject to sections 306 and 1510 of this title, a foreign
5 representative is subject to applicable nonbankruptcy law.

6 “(f) Notwithstanding any other provision of this sec-
7 tion, the failure of a foreign representative to commence
8 a case or to obtain recognition under this chapter does
9 not affect any right the foreign representative may have
10 to sue in a court in the United State to collect or recover
11 a claim which is the property of the debtor.”.

12 **“§ 1510. Limited jurisdiction**

13 “The sole fact that a foreign representative files a
14 petition under section 1515 does not subject the foreign
15 representative to the jurisdiction of any court in the
16 United States for any other purpose.

17 **“§ 1511. Commencement of case under section 301 or**
18 **303**

19 “(a) Upon recognition, a foreign representative may
20 commence—

21 “(1) an involuntary case under section 303; or

22 “(2) a voluntary case under section 301 or 302,
23 if the foreign proceeding is a foreign main pro-
24 ceeding.

1 “(b) The petition commencing a case under sub-
2 section (a) must be accompanied by certified copy of an
3 order granting recognition. The court where the petition
4 for recognition has been filed must be advised of the for-
5 eign representative’s intent to commence a case under sub-
6 section (a) prior to such commencement.

7 **“§ 1512. Participation of a foreign representative in a**
8 **case under this title**

9 “Upon recognition of a foreign proceeding, the for-
10 eign representative in that proceeding is entitled to par-
11 ticipate as a party in interest in a case regarding the debt-
12 or under this title.

13 **“§ 1513. Access of foreign creditors to a case under**
14 **this title**

15 “(a) Foreign creditors have the same rights regarding
16 the commencement of, and participation in, a case under
17 this title as domestic creditors.

18 “(b)(1) Subsection (a) does not change or codify
19 present law as to the priority of claims under section 507
20 or 726 of this title, except that the claim of a foreign cred-
21 itor under those sections shall not be given a lower priority
22 than that of general unsecured claims without priority
23 solely because the holder of such claim is a foreign cred-
24 itor.

1 “(2)(A) Subsection (a) and paragraph (1) do not
2 change or codify present law as to the allowability of for-
3 eign revenue claims or other foreign public law claims in
4 a proceeding under this title.

5 “(B) Allowance and priority as to a foreign tax claim
6 or other foreign public law claim shall be governed by any
7 applicable tax treaty of the United States, under the con-
8 ditions and circumstances specified therein.

9 **“§ 1514. Notification to foreign creditors concerning a**
10 **case under this title**

11 “(a) Whenever in a case under this title notice is to
12 be given to creditors generally or to any class or category
13 of creditors, such notice shall also be given to the known
14 creditors generally, or to creditors in the notified class or
15 category, that do not have addresses in the United States.
16 The court may order that appropriate steps be taken with
17 a view to notifying any creditor whose address is not yet
18 known.

19 “(b) Such notification to creditors with foreign ad-
20 dresses described in subsection (a) shall be given individ-
21 ually, unless the court considers that, under the cir-
22 cumstances, some other form of notification would be
23 more appropriate. No letters rogatory or other similar for-
24 mality is required.

1 “(c) When a notification of commencement of a case
2 is to be given to foreign creditors, the notification shall—

3 “(1) indicate the time period for filing proofs of
4 claim and specify the place for their filing;

5 “(2) indicate whether secured creditors need to
6 file their proofs of claim; and

7 “(3) contain any other information required to
8 be included in such a notification to creditors under
9 this title and the orders of the court.

10 “(d) Any rule of procedure or order of the court as
11 to notice or the filing of a claim shall provide such addi-
12 tional time to creditors with foreign addresses as is rea-
13 sonable under the circumstances.

14 “SUBCHAPTER III—RECOGNITION OF A
15 FOREIGN PROCEEDING AND RELIEF

16 **“§ 1515. Application for recognition of a foreign pro-**
17 **ceeding**

18 “(a) A foreign representative applies to the court for
19 recognition of the foreign proceeding in which the foreign
20 representative has been appointed by filing a petition for
21 recognition.

22 “(b) A petition for recognition shall be accompanied
23 by—

1 “(1) a certified copy of the decision com-
2 mencing the foreign proceeding and appointing the
3 foreign representative;

4 “(2) a certificate from the foreign court affirm-
5 ing the existence of the foreign proceeding and of
6 the appointment of the foreign representative; or

7 “(3) in the absence of evidence referred to in
8 paragraphs (1) and (2), any other evidence accept-
9 able to the court of the existence of the foreign pro-
10 ceeding and of the appointment of the foreign rep-
11 resentative.

12 “(c) A petition for recognition shall also be accom-
13 panied by a statement identifying all foreign proceedings
14 with respect to the debtor that are known to the foreign
15 representative.

16 “(d) The documents referred to in paragraphs (1)
17 and (2) of subsection (b) must be translated into English.
18 The court may require a translation into English of addi-
19 tional documents.

20 **“§ 1516. Presumptions concerning recognition**

21 “(a) If the decision or certificate referred to in section
22 1515(b) indicates that the foreign proceeding is a foreign
23 proceeding as defined in section 101 and that the person
24 or body is a foreign representative as defined in section
25 101, the court is entitled to so presume.

1 “(b) The court is entitled to presume that documents
2 submitted in support of the petition for recognition are
3 authentic, whether or not they have been legalized.

4 “(c) In the absence of evidence to the contrary, the
5 debtor’s registered office, or habitual residence in the case
6 of an individual, is presumed to be the center of the debt-
7 or’s main interests.

8 **“§ 1517. Order recognizing a foreign proceeding**

9 “(a) Subject to section 1506, after notice and a hear-
10 ing an order recognizing a foreign proceeding shall be en-
11 tered if—

12 “(1) the foreign proceeding is a foreign main
13 proceeding or foreign nonmain proceeding within the
14 meaning of section 1502;

15 “(2) the foreign representative applying for rec-
16 ognition is a person or body as defined in section
17 101; and

18 “(3) the petition meets the requirements of sec-
19 tion 1515.

20 “(b) The foreign proceeding shall be recognized—

21 “(1) as a foreign main proceeding if it is taking
22 place in the country where the debtor has the center
23 of its main interests; or

24 “(2) as a foreign nonmain proceeding if the
25 debtor has an establishment within the meaning of

1 section 1502 in the foreign country where the pro-
2 ceeding is pending.

3 “(c) A petition for recognition of a foreign proceeding
4 shall be decided upon at the earliest possible time. Entry
5 of an order recognizing a foreign proceeding constitutes
6 recognition under this chapter.

7 “(d) The provisions of this subchapter do not prevent
8 modification or termination of recognition if it is shown
9 that the grounds for granting it were fully or partially
10 lacking or have ceased to exist, but in considering such
11 action the court shall give due weight to possible prejudice
12 to parties that have relied upon the granting of recogni-
13 tion. The case under this chapter may be closed in the
14 manner prescribed under section 350.

15 **“§ 1518. Subsequent information**

16 “From the time of filing the petition for recognition
17 of the foreign proceeding, the foreign representative shall
18 file with the court promptly a notice of change of status
19 concerning—

20 “(1) any substantial change in the status of the
21 foreign proceeding or the status of the foreign rep-
22 resentative’s appointment; and

23 “(2) any other foreign proceeding regarding the
24 debtor that becomes known to the foreign represent-
25 ative.

1 **“§ 1519. Relief that may be granted upon petition for**
2 **recognition of a foreign proceeding**

3 “(a) From the time of filing a petition for recognition
4 until the court rules on the petition, the court may, at
5 the request of the foreign representative, where relief is
6 urgently needed to protect the assets of the debtor or the
7 interests of the creditors, grant relief of a provisional na-
8 ture, including—

9 “(1) staying execution against the debtor’s as-
10 sets;

11 “(2) entrusting the administration or realiza-
12 tion of all or part of the debtor’s assets located in
13 the United States to the foreign representative or
14 another person authorized by the court, including an
15 examiner, in order to protect and preserve the value
16 of assets that, by their nature or because of other
17 circumstances, are perishable, susceptible to devalu-
18 ation or otherwise in jeopardy; and

19 “(3) any relief referred to in paragraph (3),
20 (4), or (7) of section 1521(a).

21 “(b) Unless extended under section 1521(a)(6), the
22 relief granted under this section terminates when the peti-
23 tion for recognition is decided upon.

24 “(c) It is a ground for denial of relief under this sec-
25 tion that such relief would interfere with the administra-
26 tion of a foreign main proceeding.

1 “(d) The court may not enjoin a police or regulatory
2 act of a governmental unit, including a criminal action or
3 proceeding, under this section.

4 “(e) The standards, procedures, and limitations ap-
5 plicable to an injunction shall apply to relief under this
6 section.

7 **“§ 1520. Effects of recognition of a foreign main pro-**
8 **ceeding**

9 “(a) Upon recognition of a foreign proceeding that
10 is a foreign main proceeding—

11 “(1) sections 361 and 362 with respect to the
12 debtor and that property of the debtor that is within
13 the territorial jurisdiction of the United States;

14 “(2) sections 363, 549, and 552 of this title
15 apply to a transfer of an interest of the debtor in
16 property that is within the territorial jurisdiction of
17 the United States to the same extent that the sec-
18 tions would apply to property of an estate;

19 “(3) unless the court orders otherwise, the for-
20 eign representative may operate the debtor’s busi-
21 ness and may exercise the rights and powers of a
22 trustee under and to the extent provided by sections
23 363 and 552; and

1 “(4) section 552 applies to property of the debt-
2 or that is within the territorial jurisdiction of the
3 United States.”.

4 “(b) Subsection (a) does not affect the right to com-
5 mence an individual action or proceeding in a foreign
6 country to the extent necessary to preserve a claim against
7 the debtor.

8 “(c) Subsection (a) does not affect the right of a for-
9 eign representative or an entity to file a petition com-
10 mencing a case under this title or the right of any party
11 to file claims or take other proper actions in such a case.

12 **“§ 1521. Relief that may be granted upon recognition**
13 **of a foreign proceeding**

14 “(a) Upon recognition of a foreign proceeding, wheth-
15 er main or nonmain, where necessary to effectuate the
16 purpose of this chapter and to protect the assets of the
17 debtor or the interests of the creditors, the court may, at
18 the request of the foreign representative, grant any appro-
19 priate relief, including—

20 “(1) staying the commencement or continuation
21 of an individual action or proceeding concerning the
22 debtor’s assets, rights, obligations or liabilities to the
23 extent they have not been stayed under section
24 1520(a);

1 “(2) staying execution against the debtor’s as-
2 sets to the extent it has not been stayed under sec-
3 tion 1520(a);

4 “(3) suspending the right to transfer, encumber
5 or otherwise dispose of any assets of the debtor to
6 the extent this right has not been suspended under
7 section 1520(a);

8 “(4) providing for the examination of witnesses,
9 the taking of evidence or the delivery of information
10 concerning the debtor’s assets, affairs, rights, obliga-
11 tions or liabilities;

12 “(5) entrusting the administration or realiza-
13 tion of all or part of the debtor’s assets within the
14 territorial jurisdiction of the United States to the
15 foreign representative or another person, including
16 an examiner, authorized by the court;

17 “(6) extending relief granted under section
18 1519(a); and

19 “(7) granting any additional relief that may be
20 available to a trustee, except for relief available
21 under sections 522, 544, 545, 547, 548, 550, and
22 724(a).

23 “(b) Upon recognition of a foreign proceeding, wheth-
24 er main or nonmain, the court may, at the request of the
25 foreign representative, entrust the distribution of all or

1 part of the debtor's assets located in the United States
2 to the foreign representative or another person, including
3 an examiner, authorized by the court, provided that the
4 court is satisfied that the interests of creditors in the
5 United States are sufficiently protected.

6 “(c) In granting relief under this section to a rep-
7 resentative of a foreign nonmain proceeding, the court
8 must be satisfied that the relief relates to assets that,
9 under the law of the United States, should be adminis-
10 tered in the foreign nonmain proceeding or concerns infor-
11 mation required in that proceeding.

12 “(d) The court may not enjoin a police or regulatory
13 act of a governmental unit, including a criminal action or
14 proceeding, under this section.

15 “(e) The standards, procedures, and limitations ap-
16 plicable to an injunction shall apply to relief under para-
17 graphs (1), (2), (3), and (6) of subsection (a).

18 **“§ 1522. Protection of creditors and other interested**
19 **persons**

20 “(a) The court may grant relief under section 1519
21 or 1521, or may modify or terminate relief under sub-
22 section (c), only if the interests of the creditors and other
23 interested entities, including the debtor, are sufficiently
24 protected.

1 “(b) The court may subject relief granted under sec-
2 tion 1519 or 1521, or the operation of the debtor’s busi-
3 ness under section 1520(a)(3) of this title, to conditions
4 it considers appropriate, including the giving of security
5 or the filing of a bond.

6 “(c) The court may, at the request of the foreign rep-
7 resentative or an entity affected by relief granted under
8 section 1519 or 1521, or at its own motion, modify or
9 terminate such relief.

10 “(d) Section 1104(d) shall apply to the appointment
11 of an examiner under this chapter. Any examiner shall
12 comply with the qualification requirements imposed on a
13 trustee by section 322.

14 **“§ 1523. Actions to avoid acts detrimental to creditors**

15 “(a) Upon recognition of a foreign proceeding, the
16 foreign representative has standing in a case concerning
17 the debtor pending under another chapter of this title to
18 initiate actions under sections 522, 544, 545, 547, 548,
19 550, and 724(a).

20 “(b) When the foreign proceeding is a foreign
21 nonmain proceeding, the court must be satisfied that an
22 action under subsection (a) relates to assets that, under
23 United States law, should be administered in the foreign
24 nonmain proceeding.

1 **“§ 1524. Intervention by a foreign representative**

2 “Upon recognition of a foreign proceeding, the for-
3 eign representative may intervene in any proceedings in
4 a State or Federal court in the United States in which
5 the debtor is a party.

6 **“SUBCHAPTER IV—COOPERATION WITH FOR-**
7 **EIGN COURTS AND FOREIGN REPRESENTA-**
8 **TIVES**

9 **“§ 1525. Cooperation and direct communication be-**
10 **tween the court and foreign courts or for-**
11 **foreign representatives**

12 “(a) Consistent with section 1501, the court shall co-
13 operate to the maximum extent possible with foreign
14 courts or foreign representatives, either directly or
15 through the trustee.

16 “(b) The court is entitled to communicate directly
17 with, or to request information or assistance directly from,
18 foreign courts or foreign representatives, subject to the
19 rights of parties in interest to notice and participation.

20 **“§ 1526. Cooperation and direct communication be-**
21 **tween the trustee and foreign courts or**
22 **foreign representatives**

23 “(a) Consistent with section 1501, the trustee or
24 other person, including an examiner, authorized by the
25 court, shall, subject to the supervision of the court, cooper-

1 ate to the maximum extent possible with foreign courts
2 or foreign representatives.

3 “(b) The trustee or other person, including an exam-
4 iner, authorized by the court is entitled, subject to the su-
5 pervision of the court, to communicate directly with for-
6 eign courts or foreign representatives.

7 **“§ 1527. Forms of cooperation**

8 “Cooperation referred to in sections 1525 and 1526
9 may be implemented by any appropriate means,
10 including—

11 “(1) appointment of a person or body, including
12 an examiner, to act at the direction of the court;

13 “(2) communication of information by any
14 means considered appropriate by the court;

15 “(3) coordination of the administration and su-
16 pervision of the debtor’s assets and affairs;

17 “(4) approval or implementation of agreements
18 concerning the coordination of proceedings; and

19 “(5) coordination of concurrent proceedings re-
20 garding the same debtor.

1 “SUBCHAPTER V—CONCURRENT PROCEEDINGS

2 **“§ 1528. Commencement of a case under this title**3 **after recognition of a foreign main pro-**4 **ceeding**

5 “After recognition of a foreign main proceeding, a
6 case under another chapter of this title may be commenced
7 only if the debtor has assets in the United States. The
8 effects of such case shall be restricted to the assets of the
9 debtor that are within the territorial jurisdiction of the
10 United States and, to the extent necessary to implement
11 cooperation and coordination under sections 1525, 1526,
12 and 1527, to other assets of the debtor that are within
13 the jurisdiction of the court under sections 541(a) of this
14 title, and 1334(e) of title 28, to the extent that such other
15 assets are not subject to the jurisdiction and control of
16 a foreign proceeding that has been recognized under this
17 chapter.

18 **“§ 1529. Coordination of a case under this title and a**19 **foreign proceeding**

20 “Where a foreign proceeding and a case under an-
21 other chapter of this title are taking place concurrently
22 regarding the same debtor, the court shall seek coopera-
23 tion and coordination under sections 1525, 1526, and
24 1527, and the following shall apply:

1 “(1) When the case in the United States is tak-
2 ing place at the time the petition for recognition of
3 the foreign proceeding is filed—

4 “(A) any relief granted under sections
5 1519 or 1521 must be consistent with the relief
6 granted in the case in the United States; and

7 “(B) even if the foreign proceeding is rec-
8 ognized as a foreign main proceeding, section
9 1520 does not apply.

10 “(2) When a case in the United States under
11 this title commences after recognition, or after the
12 filing of the petition for recognition, of the foreign
13 proceeding—

14 “(A) any relief in effect under sections
15 1519 or 1521 shall be reviewed by the court
16 and shall be modified or terminated if incon-
17 sistent with the case in the United States; and

18 “(B) if the foreign proceeding is a foreign
19 main proceeding, the stay and suspension re-
20 ferred to in section 1520(a) shall be modified or
21 terminated if inconsistent with the relief grant-
22 ed in the case in the United States.

23 “(3) In granting, extending, or modifying relief
24 granted to a representative of a foreign nonmain
25 proceeding, the court must be satisfied that the re-

1 relief relates to assets that, under the law of the
2 United States, should be administered in the foreign
3 nonmain proceeding or concerns information re-
4 quired in that proceeding.

5 “(4) In achieving cooperation and coordination
6 under sections 1528 and 1529, the court may grant
7 any of the relief authorized under section 305.

8 **“§ 1530. Coordination of more than 1 foreign pro-**
9 **ceeding**

10 “In matters referred to in section 1501, with respect
11 to more than 1 foreign proceeding regarding the debtor,
12 the court shall seek cooperation and coordination under
13 sections 1525, 1526, and 1527, and the following shall
14 apply:

15 “(1) Any relief granted under section 1519 or
16 1521 to a representative of a foreign nonmain pro-
17 ceeding after recognition of a foreign main pro-
18 ceeding must be consistent with the foreign main
19 proceeding.

20 “(2) If a foreign main proceeding is recognized
21 after recognition, or after the filing of a petition for
22 recognition, of a foreign nonmain proceeding, any
23 relief in effect under section 1519 or 1521 shall be
24 reviewed by the court and shall be modified or termi-

1 nated if inconsistent with the foreign main pro-
2 ceeding.

3 “(3) If, after recognition of a foreign nonmain
4 proceeding, another foreign nonmain proceeding is
5 recognized, the court shall grant, modify, or termi-
6 nate relief for the purpose of facilitating coordina-
7 tion of the proceedings.

8 **“§ 1531. Presumption of insolvency based on recogni-**
9 **tion of a foreign main proceeding**

10 “In the absence of evidence to the contrary, recogni-
11 tion of a foreign main proceeding is for the purpose of
12 commencing a proceeding under section 303, proof that
13 the debtor is generally not paying its debts as such debts
14 become due.

15 **“§ 1532. Rule of payment in concurrent proceedings**

16 “Without prejudice to secured claims or rights in
17 rem, a creditor who has received payment with respect to
18 its claim in a foreign proceeding pursuant to a law relating
19 to insolvency may not receive a payment for the same
20 claim in a case under any other chapter of this title re-
21 garding the debtor, so long as the payment to other credi-
22 tors of the same class is proportionately less than the pay-
23 ment the creditor has already received.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters
 2 for title 11, United States Code, is amended by inserting
 3 after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Cases 1501”.

4 **SEC. 902. OTHER AMENDMENTS TO TITLES 11 AND 28,**
 5 **UNITED STATES CODE.**

6 (a) APPLICABILITY OF CHAPTERS.—Section 103 of
 7 title 11, United States Code, is amended—

8 (1) in subsection (a), by inserting before the pe-
 9 riod the following: “, and this chapter, sections 307,
 10 304, 555 through 557, 559, and 560 apply in a case
 11 under chapter 15”; and

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

13 “(j) Chapter 15 applies only in a case under such
 14 chapter, except that—

15 “(1) sections 1505, 1513, and 1514 apply in all
 16 cases under this title; and

17 “(2) section 1509 applies whether or not a case
 18 under this title is pending.”.

19 (b) DEFINITIONS.—Paragraphs (23) and (24) of title
 20 11, United States Code, are amended to read as follows:

21 “(23) ‘foreign proceeding’ means a collective ju-
 22 dicial or administrative proceeding in a foreign coun-
 23 try, including an interim proceeding, under a law re-
 24 lating to insolvency or adjustment of debt in which
 25 proceeding the assets and affairs of the debtor are

1 subject to control or supervision by a foreign court,
2 for the purpose of reorganization or liquidation;

3 “(24) ‘foreign representative’ means a person
4 or body, including a person or body appointed on an
5 interim basis, authorized in a foreign proceeding to
6 administer the reorganization or the liquidation of
7 the debtor’s assets or affairs or to act as a rep-
8 resentative of the foreign proceeding;”.

9 (c) AMENDMENTS TO TITLE 28, UNITED STATES
10 CODE.—

11 (1) PROCEDURES.—Section 157(b)(2) of title
12 28, United States Code, is amended—

13 (A) in subparagraph (N), by striking
14 “and” at the end;

15 (B) in subparagraph (O), by striking the
16 period at the end and inserting “; and”; and

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

18 “(P) recognition of foreign proceedings and
19 other matters under chapter 15 of title 11, United
20 States Code.”.

21 (2) BANKRUPTCY CASES AND PROCEEDINGS.—

22 Section 1334(c) of title 28, United States Code, is
23 amended by striking “Nothing in” and inserting
24 “Except with respect to a case under chapter 15 of
25 title 11, nothing in”.

1 (3) DUTIES OF TRUSTEES.—Section 586(a)(3)
2 of title 28, United States Code, is amended by strik-
3 ing “or 13” and inserting “13, or 15,” after “chap-
4 ter”.

5 (d) OTHER SECTIONS OF TITLE 11.—(1) Section
6 109(b)(3) of title 11, United States Code, is amended to
7 read as follows:

8 “(3)(A) a foreign insurance company, engaged
9 in such business in the United States; or

10 “(B) a foreign bank, savings bank, cooperative
11 bank, savings and loan association, building and
12 loan association, or credit union, which has a branch
13 or agency (as defined in section 3101 of title 12,
14 United States Code) in the United States.”.

15 (2) Section 303(k) of title 11, United States Code,
16 is repealed.

17 (3)(A) Section 304 of title 11, United States Code,
18 is repealed.

19 (B) The table of sections of chapter 3 of title 11,
20 United States Code, is amended by striking the item relat-
21 ing to section 304.

22 (C) Section 306 of title 11, United States Code, is
23 amended by striking “, 304,” each place it appears.

24 (4) Section 305(a)(2) of title 11, United States
25 Code, is amended to read:

1 “(2)(A) a petition under section 1515 of this
2 title for recognition of a foreign proceeding has been
3 granted; and

4 “(B) the purposes of chapter 15 of this title
5 would be best served by such dismissal or suspen-
6 sion.”.

7 (5) Section 508 of title 11, United States Code,
8 is amended by striking subsection (a) and by strik-
9 ing out the letter “(b)” at the beginning of the sec-
10 ond paragraph.

11 **TITLE X—FINANCIAL CONTRACT** 12 **PROVISIONS**

13 **SEC. 1001. TREATMENT OF CERTAIN AGREEMENTS BY CON-** 14 **SERVATORS OR RECEIVERS OF INSURED DE-** 15 **POSITORY INSTITUTIONS.**

16 (a) DEFINITION OF QUALIFIED FINANCIAL CON-
17 TRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit In-
18 surance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by
19 inserting “, resolution or order” after “any similar agree-
20 ment that the Corporation determines by regulation”.

21 (b) DEFINITION OF SECURITIES CONTRACT.—Sec-
22 tion 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act
23 (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as fol-
24 lows:

1 “(ii) SECURITIES CONTRACT.—The
2 term ‘securities contract’—

3 “(I) means a contract for the
4 purchase, sale, or loan of a security, a
5 certificate of deposit, a mortgage loan,
6 or any interest in a mortgage loan, a
7 group or index of securities, certifi-
8 cates of deposit, or mortgage loans or
9 interests therein (including any inter-
10 est therein or based on the value
11 thereof) or any option on any of the
12 foregoing, including any option to
13 purchase or sell any such security,
14 certificate of deposit, loan, interest,
15 group or index, or option;

16 “(II) does not include any pur-
17 chase, sale, or repurchase obligation
18 under a participation in a commercial
19 mortgage loan unless the Corporation
20 determines by regulation, resolution,
21 or order to include any such agree-
22 ment within the meaning of such
23 term;

1 “(III) means any option entered
2 into on a national securities exchange
3 relating to foreign currencies;

4 “(IV) means the guarantee by or
5 to any securities clearing agency of
6 any settlement of cash, securities, cer-
7 tificates of deposit, mortgage loans or
8 interests therein, group or index of se-
9 curities, certificates of deposit, or
10 mortgage loans or interests therein
11 (including any interest therein or
12 based on the value thereof) or option
13 on any of the foregoing, including any
14 option to purchase or sell any such se-
15 curity, certificate of deposit, loan, in-
16 terest, group or index or option;

17 “(V) means any margin loan;

18 “(VI) means any other agree-
19 ment or transaction that is similar to
20 any agreement or transaction referred
21 to in this clause;

22 “(VII) means any combination of
23 the agreements or transactions re-
24 ferred to in this clause;

1 “(VIII) means any option to
2 enter into any agreement or trans-
3 action referred to in this clause;

4 “(IX) means a master agreement
5 that provides for an agreement or
6 transaction referred to in subclause
7 (I), (III), (IV), (V), (VI), (VII), or
8 (VIII), together with all supplements
9 to any such master agreement, with-
10 out regard to whether the master
11 agreement provides for an agreement
12 or transaction that is not a securities
13 contract under this clause, except that
14 the master agreement shall be consid-
15 ered to be a securities contract under
16 this clause only with respect to each
17 agreement or transaction under the
18 master agreement that is referred to
19 in subclause (I), (III), (IV), (V), (VI),
20 (VII), or (VIII); and

21 “(X) means any security agree-
22 ment or arrangement or other credit
23 enhancement related to any agree-
24 ment or transaction referred to in this
25 clause.”.

1 (c) DEFINITION OF COMMODITY CONTRACT.—Sec-
2 tion 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act
3 (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as fol-
4 lows:

5 “(iii) COMMODITY CONTRACT.—The
6 term ‘commodity contract’ means—

7 “(I) with respect to a futures
8 commission merchant, a contract for
9 the purchase or sale of a commodity
10 for future delivery on, or subject to
11 the rules of, a contract market or
12 board of trade;

13 “(II) with respect to a foreign fu-
14 tures commission merchant, a foreign
15 future;

16 “(III) with respect to a leverage
17 transaction merchant, a leverage
18 transaction;

19 “(IV) with respect to a clearing
20 organization, a contract for the pur-
21 chase or sale of a commodity for fu-
22 ture delivery on, or subject to the
23 rules of, a contract market or board
24 of trade that is cleared by such clear-
25 ing organization, or commodity option

1 traded on, or subject to the rules of,
2 a contract market or board of trade
3 that is cleared by such clearing orga-
4 nization;

5 “(V) with respect to a commodity
6 options dealer, a commodity option;

7 “(VI) any other agreement or
8 transaction that is similar to any
9 agreement or transaction referred to
10 in this clause;

11 “(VII) any combination of the
12 agreements or transactions referred to
13 in this clause;

14 “(VIII) any option to enter into
15 any agreement or transaction referred
16 to in this clause;

17 “(IX) a master agreement that
18 provides for an agreement or trans-
19 action referred to in subclause (I),
20 (II), (III), (IV), (V), (VI), (VII), or
21 (VIII), together with all supplements
22 to any such master agreement, with-
23 out regard to whether the master
24 agreement provides for an agreement
25 or transaction that is not a com-

1 commodity contract under this clause, ex-
 2 cept that the master agreement shall
 3 be considered to be a commodity con-
 4 tract under this clause only with re-
 5 spect to each agreement or trans-
 6 action under the master agreement
 7 that is referred to in subclause (I),
 8 (II), (III), (IV), (V), (VI), (VII), or
 9 (VIII); or

10 “(X) a security agreement or ar-
 11 rangement or other credit enhance-
 12 ment related to any agreement or
 13 transaction referred to in this
 14 clause.”.

15 (d) DEFINITION OF FORWARD CONTRACT.—Section
 16 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
 17 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

18 “(iv) FORWARD CONTRACT.—The
 19 term ‘forward contract’ means—

20 “(I) a contract (other than a
 21 commodity contract) for the purchase,
 22 sale, or transfer of a commodity or
 23 any similar good, article, service,
 24 right, or interest which is presently or
 25 in the future becomes the subject of

1 dealing in the forward contract trade,
2 or product or byproduct thereof, with
3 a maturity date more than 2 days
4 after the date the contract is entered
5 into, including, but not limited to, a
6 repurchase agreement, reverse repur-
7 chase agreement, consignment, lease,
8 swap, hedge transaction, deposit, loan,
9 option, allocated transaction,
10 unallocated transaction, or any other
11 similar agreement;

12 “(II) any combination of agree-
13 ments or transactions referred to in
14 subclauses (I) and (III);

15 “(III) any option to enter into
16 any agreement or transaction referred
17 to in subclause (I) or (II);

18 “(IV) a master agreement that
19 provides for an agreement or trans-
20 action referred to in subclauses (I),
21 (II), or (III), together with all supple-
22 ments to any such master agreement,
23 without regard to whether the master
24 agreement provides for an agreement
25 or transaction that is not a forward

1 contract under this clause, except that
 2 the master agreement shall be consid-
 3 ered to be a forward contract under
 4 this clause only with respect to each
 5 agreement or transaction under the
 6 master agreement that is referred to
 7 in subclause (I), (II), or (III); or

8 “(V) a security agreement or ar-
 9 rangement or other credit enhance-
 10 ment related to any agreement or
 11 transaction referred to in subclause
 12 (I), (II), (III), or (IV).”.

13 (e) DEFINITION OF REPURCHASE AGREEMENT.—
 14 Section 11(e)(8)(D)(v) of the Federal Deposit Insurance
 15 Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as
 16 follows:

17 “(v) REPURCHASE AGREEMENT.—The
 18 term ‘repurchase agreement’ (which defini-
 19 tion also applies to a reverse repurchase
 20 agreement)—

21 “(I) mean an agreement, includ-
 22 ing related terms, which provides for
 23 the transfer of one or more certifi-
 24 cates of deposit, mortgage-related se-
 25 curities (as such term is defined in

1 the Securities Exchange Act of 1934),
2 mortgage loans, interests in mortgage-
3 related securities or mortgage loans,
4 eligible bankers' acceptances, qualified
5 foreign government securities or secu-
6 rities that are direct obligations of, or
7 that are fully guaranteed by, the
8 United States or any agency of the
9 United States against the transfer of
10 funds by the transferee of such certifi-
11 cates of deposit, eligible bankers' ac-
12 ceptances, securities, loans, or inter-
13 ests with a simultaneous agreement
14 by such transferee to transfer to the
15 transferor thereof certificates of de-
16 posit, eligible bankers' acceptances,
17 securities, loans, or interests as de-
18 scribed above, at a date certain not
19 later than 1 year after such transfers
20 or on demand, against the transfer of
21 funds, or any other similar agreement;

22 “(II) does not include any repur-
23 chase obligation under a participation
24 in a commercial mortgage loan unless
25 the Corporation determines by regula-

tion, resolution, or order to include any such participation within the meaning of such term;

“(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

“(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

“(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

1 “(VI) means a security agree-
2 ment or arrangement or other credit
3 enhancement related to any agree-
4 ment or transaction referred to in
5 subclause (I), (III), (IV), or (V).

6 For purposes of this clause, the term
7 ‘qualified foreign government security’
8 means a security that is a direct obligation
9 of, or that is fully guaranteed by, the cen-
10 tral government of a member of the Orga-
11 nization for Economic Cooperation and
12 Development (as determined by regulation
13 or order adopted by the appropriate Fed-
14 eral banking authority).”.

15 (f) DEFINITION OF SWAP AGREEMENT.—Section
16 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
17 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

18 “(vi) SWAP AGREEMENT.—The term
19 ‘swap agreement’ means—

20 “(I) any agreement, including the
21 terms and conditions incorporated by
22 reference in any such agreement,
23 which is an interest rate swap, option,
24 future, or forward agreement, includ-
25 ing a rate floor, rate cap, rate collar,

1 cross-currency rate swap, and basis
2 swap; a spot, same day-tomorrow, to-
3 morrow-next, forward, or other for-
4 eign exchange or precious metals
5 agreement; a currency swap, option,
6 future, or forward agreement; an eq-
7 uity index or equity swap, option, fu-
8 ture, or forward agreement; a debt
9 index or debt swap, option, future, or
10 forward agreement; a credit spread or
11 credit swap, option, future, or forward
12 agreement; a commodity index or
13 commodity swap, option, future, or
14 forward agreement;

15 “(II) any agreement or trans-
16 action similar to any other agreement
17 or transaction referred to in this
18 clause that is presently, or in the fu-
19 ture becomes, regularly entered into
20 in the swap market (including terms
21 and conditions incorporated by ref-
22 erence in such agreement) and that is
23 a forward, swap, future, or option on
24 one or more rates, currencies, com-
25 modities, equity securities or other eq-

1 uity instruments, debt securities or
2 other debt instruments, or economic
3 indices or measures of economic risk
4 or value;

5 “(III) any combination of agree-
6 ments or transactions referred to in
7 this clause;

8 “(IV) any option to enter into
9 any agreement or transaction referred
10 to in this clause;

11 “(V) a master agreement that
12 provides for an agreement or trans-
13 action referred to in subclause (I),
14 (II), (III), or (IV), together with all
15 supplements to any such master
16 agreement, without regard to whether
17 the master agreement contains an
18 agreement or transaction that is not a
19 swap agreement under this clause, ex-
20 cept that the master agreement shall
21 be considered to be a swap agreement
22 under this clause only with respect to
23 each agreement or transaction under
24 the master agreement that is referred

1 to in subclause (I), (II), (III), or (IV);
2 and

3 “(VI) any security agreement or
4 arrangement or other credit enhance-
5 ment related to any agreements or
6 transactions referred to in subpara-
7 graph (I), (II), (III), or (IV).

8 Such term is applicable for purposes of
9 this title only and shall not be construed or
10 applied so as to challenge or affect the
11 characterization, definition, or treatment of
12 any swap agreement under any other stat-
13 ute, regulation, or rule, including the Secu-
14 rities Act of 1933, the Securities Exchange
15 Act of 1934, the Public Utility Holding
16 Company Act of 1935, the Trust Indenture
17 Act of 1939, the Investment Company Act
18 of 1940, the Investment Advisers Act of
19 1940, the Securities Investor Protection
20 Act of 1970, the Commodity Exchange
21 Act, and the regulations promulgated by
22 the Securities and Exchange Commission
23 or the Commodity Futures Trading Com-
24 mission.”.

1 (g) DEFINITION OF TRANSFER.—Section
 2 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12
 3 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

4 “(viii) TRANSFER.—The term ‘trans-
 5 fer’ means every mode, direct or indirect,
 6 absolute or conditional, voluntary or invol-
 7 untary, of disposing of or parting with
 8 property or with an interest in property,
 9 including retention of title as a security in-
 10 terest and foreclosure of the depository
 11 institutions’s equity of redemption.”.

12 (h) TREATMENT OF QUALIFIED FINANCIAL CON-
 13 TRACTS.—Section 11(e)(8) of the Federal Deposit Insur-
 14 ance Act (12 U.S.C. 1821(e)(8)) is amended—

15 (1) in subparagraph (A), by striking “para-
 16 graph (10)” and inserting “paragraphs (9) and
 17 (10)”;

18 (2) in subparagraph (A)(i), by striking “to
 19 cause the termination or liquidation” and inserting
 20 “such person has to cause the termination, liquida-
 21 tion, or acceleration”;

22 (3) by amending subparagraph (A)(ii) to read
 23 as follows:

24 “(ii) any right under any security
 25 agreement or arrangement or other credit

1 enhancement related to one or more quali-
2 fied financial contracts described in clause
3 (i);” and

4 (4) by amending subparagraph (E)(ii) to read
5 as follows:

6 “(ii) any right under any security
7 agreement or arrangement or other credit
8 enhancement related to one or more quali-
9 fied financial contracts described in clause
10 (i);”.

11 (i) AVOIDANCE OF TRANSFERS.—Section
12 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12
13 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section
14 5242 of the Revised Statutes of the United States (12
15 U.S.C. 91) or any other Federal or State law relating to
16 the avoidance of preferential or fraudulent transfers,” be-
17 fore “the Corporation”.

18 **SEC. 1002. AUTHORITY OF THE CORPORATION WITH RE-**
19 **SPECT TO FAILED AND FAILING INSTITU-**
20 **TIONS.**

21 (a) IN GENERAL.—Section 11(e)(8) of the Federal
22 Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is
23 amended—

24 (1) in subparagraph (E), by striking “other
25 than paragraph (12) of this subsection, subsection

1 (d)(9)” and inserting “other than subsections (d)(9)
2 and (e)(10)”;

3 (2) by adding at the end the following new sub-
4 paragraphs:

5 “(F) CLARIFICATION.—No provision of law
6 shall be construed as limiting the right or
7 power of the Corporation, or authorizing any
8 court or agency to limit or delay, in any man-
9 ner, the right or power of the Corporation to
10 transfer any qualified financial contract in ac-
11 cordance with paragraphs (9) and (10) of this
12 subsection or to disaffirm or repudiate any such
13 contract in accordance with subsection (e)(1) of
14 this section.

15 “(G) WALKAWAY CLAUSES NOT EFFEC-
16 TIVE.—

17 “(i) IN GENERAL.—Notwithstanding
18 the provisions of subparagraphs (A) and
19 (E), and sections 403 and 404 of the Fed-
20 eral Deposit Insurance Corporation Im-
21 provement Act of 1991, no walkaway
22 clause shall be enforceable in a qualified fi-
23 nancial contract of an insured depository
24 institution in default.

1 “(ii) WALKAWAY CLAUSE DEFINED.—

2 For purposes of this subparagraph, the
3 term ‘walkaway clause’ means a provision
4 in a qualified financial contract that, after
5 calculation of a value of a party’s position
6 or an amount due to or from 1 of the par-
7 ties in accordance with its terms upon ter-
8 mination, liquidation, or acceleration of the
9 qualified financial contract, either does not
10 create a payment obligation of a party or
11 extinguishes a payment obligation of a
12 party in whole or in part solely because of
13 such party’s status as a nondefaulting
14 party.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—

16 Section 11(e)(12)(A) of the Federal Deposit Insurance
17 Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting
18 “or the exercise of rights or powers” after “the appoint-
19 ment”.

20 **SEC. 1003. AMENDMENTS RELATING TO TRANSFERS OF**
21 **QUALIFIED FINANCIAL CONTRACTS.**

22 (a) TRANSFERS OF QUALIFIED FINANCIAL CON-
23 TRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9)
24 of the Federal Deposit Insurance Act (12 U.S.C.
25 1821(e)(9)) is amended to read as follows:

1 “(9) TRANSFER OF QUALIFIED FINANCIAL CON-
2 TRACTS.—

3 “(A) IN GENERAL.—In making any trans-
4 fer of assets or liabilities of a depository institu-
5 tion in default which includes any qualified fi-
6 nancial contract, the conservator or receiver for
7 such depository institution shall either—

8 “(i) transfer to one financial institu-
9 tion, other than a financial institution for
10 which a conservator, receiver, trustee in
11 bankruptcy, or other legal custodian has
12 been appointed or which is otherwise the
13 subject of a bankruptcy or insolvency
14 proceeding—

15 “(I) all qualified financial con-
16 tracts between any person or any af-
17 filiate of such person and the deposi-
18 tory institution in default;

19 “(II) all claims of such person or
20 any affiliate of such person against
21 such depository institution under any
22 such contract (other than any claim
23 which, under the terms of any such
24 contract, is subordinated to the claims

1 of general unsecured creditors of such
2 institution);

3 “(III) all claims of such deposi-
4 tory institution against such person or
5 any affiliate of such person under any
6 such contract; and

7 “(IV) all property securing or
8 any other credit enhancement for any
9 contract described in subclause (I) or
10 any claim described in subclause (II)
11 or (III) under any such contract; or

12 “(ii) transfer none of the qualified fi-
13 nancial contracts, claims, property or other
14 credit enhancement referred to in clause (i)
15 (with respect to such person and any affil-
16 iate of such person).

17 “(B) TRANSFER TO FOREIGN BANK, FOR-
18 EIGN FINANCIAL INSTITUTION, OR BRANCH OR
19 AGENCY OF A FOREIGN BANK OR FINANCIAL IN-
20 STITUTION.—In transferring any qualified fi-
21 nancial contracts and related claims and prop-
22 erty pursuant to subparagraph (A)(i), the con-
23 servator or receiver for such depository institu-
24 tion shall not make such transfer to a foreign
25 bank, financial institution organized under the

1 laws of a foreign country, or a branch or agency
2 of a foreign bank or financial institution unless,
3 under the law applicable to such bank, financial
4 institution, branch or agency, to the qualified
5 financial contracts, and to any netting contract,
6 any security agreement or arrangement or other
7 credit enhancement related to one or more
8 qualified financial contracts, the contractual
9 rights of the parties to such qualified financial
10 contracts, netting contracts, security agree-
11 ments or arrangements, or other credit en-
12 hancements are enforceable substantially to the
13 same extent as permitted under this section.

14 “(C) TRANSFER OF CONTRACTS SUBJECT
15 TO THE RULES OF A CLEARING ORGANIZA-
16 TION.—In the event that a conservator or re-
17 ceiver transfers any qualified financial contract
18 and related claims, property and credit en-
19 hancements pursuant to subparagraph (A)(i)
20 and such contract is subject to the rules of a
21 clearing organization, the clearing organization
22 shall not be required to accept the transferee as
23 a member by virtue of the transfer.

24 “(D) DEFINITION.—For purposes of this
25 section, the term ‘financial institution’ means a

1 broker or dealer, a depository institution, a fu-
2 tures commission merchant, or any other insti-
3 tution as determined by the Corporation by reg-
4 ulation to be a financial institution.”.

5 (b) NOTICE TO QUALIFIED FINANCIAL CONTRACT
6 COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal
7 Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is
8 amended by amending the flush material following clause
9 (ii) to read as follows: “the conservator or receiver shall
10 notify any person who is a party to any such contract of
11 such transfer by 5:00 p.m. (eastern time) on the business
12 day following the date of the appointment of the receiver,
13 in the case of a receivership, or the business day following
14 such transfer, in the case of a conservatorship.”.

15 (c) RIGHTS AGAINST RECEIVER AND TREATMENT OF
16 BRIDGE BANKS.—Section 11(e)(10) of the Federal De-
17 posit Insurance Act (12 U.S.C. 1821(e)(10)) is further
18 amended—

19 (1) by redesignating subparagraph (B) as sub-
20 paragraph (D); and

21 (2) by inserting after subparagraph (A) the fol-
22 lowing new subparagraphs:

23 “(B) CERTAIN RIGHTS NOT ENFORCE-
24 ABLE.—

1 “(i) RECEIVERSHIP.—A person who is
2 a party to a qualified financial contract
3 with an insured depository institution may
4 not exercise any right such person has to
5 terminate, liquidate, or net such contract
6 under paragraph (8)(A) or section 403 or
7 404 of the Federal Deposit Insurance Cor-
8 poration Improvement Act of 1991 solely
9 by reason of or incidental to the appoint-
10 ment of a receiver for the depository insti-
11 tution (or the insolvency or financial condi-
12 tion of the depository institution for which
13 the receiver has been appointed)—

14 “(I) until 5:00 p.m. (eastern
15 time) on the business day following
16 the date of the appointment of the re-
17 ceiver; or

18 “(II) after the person has re-
19 ceived notice that the contract has
20 been transferred pursuant to para-
21 graph (9)(A).

22 “(ii) CONSERVATORSHIP.—A person
23 who is a party to a qualified financial con-
24 tract with an insured depository institution
25 may not exercise any right such person has

1 to terminate, liquidate, or net such con-
2 tract under paragraph (8)(E) or sections
3 403 or 404 of the Federal Deposit Insur-
4 ance Corporation Improvement Act of
5 1991, solely by reason of or incidental to
6 the appointment of a conservator for the
7 depository institution (or the insolvency or
8 financial condition of the depository insti-
9 tution for which the conservator has been
10 appointed).

11 “(iii) NOTICE.—For purposes of this
12 subsection, the Corporation as receiver or
13 conservator of an insured depository insti-
14 tution shall be deemed to have notified a
15 person who is a party to a qualified finan-
16 cial contract with such depository institu-
17 tion if the Corporation has taken steps
18 reasonably calculated to provide notice to
19 such person by the time specified in sub-
20 paragraph (A) of this subsection.

21 “(C) TREATMENT OF BRIDGE BANKS.—
22 The following institutions shall not be consid-
23 ered a financial institution for which a conser-
24 vator, receiver, trustee in bankruptcy, or other
25 legal custodian has been appointed or which is

1 otherwise the subject of a bankruptcy or insol-
2 vency proceeding for purposes of subsection
3 (e)(9)—

4 “(i) a bridge bank; or

5 “(ii) a depository institution organized
6 by the Corporation, for which a conser-
7 vator is appointed either—

8 “(I) immediately upon the orga-
9 nization of the institution; or

10 “(II) at the time of a purchase
11 and assumption transaction between
12 such institution and the Corporation
13 as receiver for a depository institution
14 in default.”.

15 **SEC. 1004. AMENDMENTS RELATING TO DISAFFIRMANCE**
16 **OR REPUDIATION OF QUALIFIED FINANCIAL**
17 **CONTRACTS.**

18 Section 11(e) of the Federal Deposit Insurance Act
19 (12 U.S.C. 1821(e)) is further amended—

20 (1) by redesignating paragraphs (11) through
21 (15) as paragraphs (12) through (16), respectively;
22 and

23 (2) by inserting after paragraph (10) the fol-
24 lowing new paragraph:

1 “(11) DISAFFIRMANCE OR REPUDIATION OF
2 QUALIFIED FINANCIAL CONTRACTS.—In exercising
3 the rights of disaffirmance or repudiation of a con-
4 servator or receiver with respect to any qualified fi-
5 nancial contract to which an insured depository in-
6 stitution is a party, the conservator or receiver for
7 such institution shall either—

8 “(A) disaffirm or repudiate all qualified fi-
9 nancial contracts between—

10 “(i) any person or any affiliate of
11 such person; and

12 “(ii) the depository institution in de-
13 fault; or

14 “(B) disaffirm or repudiate none of the
15 qualified financial contracts referred to in sub-
16 paragraph (A) (with respect to such person or
17 any affiliate of such person).”.

18 **SEC. 1005. CLARIFYING AMENDMENT RELATING TO MAS-**
19 **TER AGREEMENTS.**

20 Section 11(e)(8)(D)(vii) of the Federal Deposit In-
21 surance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to
22 read as follows:

23 “(vii) TREATMENT OF MASTER
24 AGREEMENT AS ONE AGREEMENT.—Any
25 master agreement for any contract or

1 agreement described in any preceding
2 clause of this subparagraph (or any master
3 agreement for such master agreement or
4 agreements), together with all supplements
5 to such master agreement, shall be treated
6 as a single agreement and a single quali-
7 fied financial contract. If a master agree-
8 ment contains provisions relating to agree-
9 ments or transactions that are not them-
10 selves qualified financial contracts, the
11 master agreement shall be deemed to be a
12 qualified financial contract only with re-
13 spect to those transactions that are them-
14 selves qualified financial contracts.”.

15 **SEC. 1006. FEDERAL DEPOSIT INSURANCE CORPORATION**
16 **IMPROVEMENT ACT OF 1991.**

17 (a) DEFINITIONS.—Section 402 of the Federal De-
18 posit Insurance Corporation Improvement Act of 1991 (12
19 U.S.C. 4402) is amended—

20 (1) in paragraph (6)—

21 (A) by redesignating subparagraphs (B)
22 through (D) as subparagraphs (C) through (E),
23 respectively;

24 (B) by inserting after subparagraph (A)
25 the following new subparagraph:

1 “(B) an uninsured national bank or an un-
2 insured State bank that is a member of the
3 Federal Reserve System if the national bank or
4 State member bank is not eligible to make ap-
5 plication to become an insured bank under sec-
6 tion 5 of the Federal Deposit Insurance Act;”;
7 and

8 (C) by amending subparagraph (C) (as re-
9 designated) to read as follows:

10 “(C) a branch or agency of a foreign bank,
11 a foreign bank and any branch or agency of the
12 foreign bank, or the foreign bank that estab-
13 lished the branch or agency, as those terms are
14 defined in section 1(b) of the International
15 Banking Act of 1978;”;

16 (2) in paragraph (11), by adding before the pe-
17 riod “and any other clearing organization with which
18 such clearing organization has a netting contract”;

19 (3) by amending paragraph (14)(A)(i) to read
20 as follows:

21 “(i) means a contract or agreement
22 between two or more financial institutions,
23 clearing organizations, or members that
24 provides for netting present or future pay-
25 ment obligations or payment entitlements

1 (including liquidation or closeout values re-
2 lating to such obligations or entitlements)
3 among the parties to the agreement; and”;
4 and

5 (4) by adding at the end the following new
6 paragraph:

7 “(15) PAYMENT.—The term ‘payment’ means a
8 payment of United States dollars, another currency,
9 or a composite currency, and a noncash delivery, in-
10 cluding a payment or delivery to liquidate an
11 unmatured obligation.”.

12 (b) ENFORCEABILITY OF BILATERAL NETTING CON-
13 TRACTS.—Section 403 of the Federal Deposit Insurance
14 Corporation Improvement Act of 1991 (12 U.S.C. 4403)
15 is amended—

16 (1) by amending subsection (a) to read as fol-
17 lows:

18 “(a) GENERAL RULE.—Notwithstanding any other
19 provision of State or Federal law (other than paragraphs
20 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal
21 Deposit Insurance Act or any order authorized under sec-
22 tion 5(b)(2) of the Securities Investor Protection Act of
23 1970, the covered contractual payment obligations and the
24 covered contractual payment entitlements between any two
25 financial institutions shall be netted in accordance with,

1 and subject to the conditions of, the terms of any applica-
2 ble netting contract (except as provided in section
3 561(b)(2) of title 11, United States Code).”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(f) ENFORCEABILITY OF SECURITY AGREE-
7 MENTS.—The provisions of any security agreement or ar-
8 rangement or other credit enhancement related to one or
9 more netting contracts between any two financial institu-
10 tions shall be enforceable in accordance with their terms
11 (except as provided in section 561(b)(2) of title 11, United
12 States Code) and shall not be stayed, avoided, or otherwise
13 limited by any State or Federal law (other than para-
14 graphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the
15 Federal Deposit Insurance Act and section 5(b)(2) of the
16 Securities Investor Protection Act of 1970).”.

17 (c) ENFORCEABILITY OF CLEARING ORGANIZATION
18 NETTING CONTRACTS.—Section 404 of the Federal De-
19 posit Insurance Corporation Improvement Act of 1991 (12
20 U.S.C. 4404) is amended—

21 (1) by amending subsection (a) to read as fol-
22 lows:

23 “(a) GENERAL RULE.—Notwithstanding any other
24 provision of State or Federal law (other than paragraphs
25 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal

1 Deposit Insurance Act and any order authorized under
2 section 5(b)(2) of the Securities Investor Protection Act
3 of 1970, the covered contractual payment obligations and
4 the covered contractual payment entitlements of a member
5 of a clearing organization to and from all other members
6 of a clearing organization shall be netted in accordance
7 with and subject to the conditions of any applicable net-
8 ting contract (except as provided in section 561(b)(2) of
9 title 11, United States Code).”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(h) ENFORCEABILITY OF SECURITY AGREE-
13 MENTS.—The provisions of any security agreement or ar-
14 rangement or other credit enhancement related to one or
15 more netting contracts between any two members of a
16 clearing organization shall be enforceable in accordance
17 with their terms (except as provided in section 561(b)(2)
18 of title 11, United States Code) and shall not be stayed,
19 avoided, or otherwise limited by any State or Federal law
20 other than paragraphs (8)(E), (8)(F), and (10)(B) of sec-
21 tion 11(e) of the Federal Deposit Insurance Act and sec-
22 tion 5(b)(2) of the Securities Investor Protection Act of
23 1970.”.

24 (d) ENFORCEABILITY OF CONTRACTS WITH UNIN-
25 SURED NATIONAL BANKS AND UNINSURED FEDERAL

1 BRANCHES AND AGENCIES.—The Federal Deposit Insur-
2 ance Corporation Improvement Act of 1991 (12 U.S.C.
3 4401 et seq.) is amended—

4 (1) by redesignating section 407 as section 408;
5 and

6 (2) by adding after section 406 the following
7 new section:

8 **“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED**
9 **NATIONAL BANKS AND UNINSURED FEDERAL**
10 **BRANCHES AND AGENCIES.**

11 “(a) IN GENERAL.—Notwithstanding any other pro-
12 vision of law, paragraphs (8), (9), (10), and (11) of section
13 11(e) of the Federal Deposit Insurance Act shall apply
14 to an uninsured national bank or uninsured Federal
15 branch or Federal agency except—

16 “(1) any reference to the ‘Corporation as re-
17 ceiver’ or ‘the receiver or the Corporation’ shall refer
18 to the receiver of an uninsured national bank or un-
19 insured Federal branch or Federal agency appointed
20 by the Comptroller of the Currency;

21 “(2) any reference to the ‘Corporation’ (other
22 than in section 11(e)(8)(D) of such Act), the ‘Cor-
23 poration, whether acting as such or as conservator
24 or receiver’, a ‘receiver’, or a ‘conservator’ shall refer
25 to the receiver or conservator of an uninsured na-

1 tional bank or uninsured Federal branch or Federal
2 agency appointed by the Comptroller of the Cur-
3 rency; and

4 “(3) any reference to an ‘insured depository in-
5 stitution’ or ‘depository institution’ shall refer to an
6 uninsured national bank or an uninsured Federal
7 branch or Federal agency.

8 “(b) LIABILITY.—The liability of a receiver or conser-
9 vator of an uninsured national bank or uninsured Federal
10 branch or agency shall be determined in the same manner
11 and subject to the same limitations that apply to receivers
12 and conservators of insured depository institutions under
13 section 11(e) of the Federal Deposit Insurance Act.

14 “(c) REGULATORY AUTHORITY.—

15 “(1) IN GENERAL.—The Comptroller of the
16 Currency, in consultation with the Federal Deposit
17 Insurance Corporation, may promulgate regulations
18 to implement this section.

19 “(2) SPECIFIC REQUIREMENT.—In promul-
20 gating regulations to implement this section, the
21 Comptroller of the Currency shall ensure that the
22 regulations generally are consistent with the regula-
23 tions and policies of the Federal Deposit Insurance
24 Corporation adopted pursuant to the Federal De-
25 posit Insurance Act.

1 “(d) DEFINITIONS.—For purposes of this section, the
 2 terms ‘Federal branch’, ‘Federal agency’, and ‘foreign
 3 bank’ have the same meaning as in section 1(b) of the
 4 International Banking Act.”.

5 **SEC. 1007. BANKRUPTCY CODE AMENDMENTS.**

6 (a) DEFINITIONS OF FORWARD CONTRACT, REPUR-
 7 CHASE AGREEMENT, SECURITIES CLEARING AGENCY,
 8 SWAP AGREEMENT, COMMODITY CONTRACT, AND SECU-
 9 RITIES CONTRACT.—Title 11, United States Code, is
 10 amended—

11 (1) in section 101—

12 (A) in paragraph (25)—

13 (i) by striking “means a contract”

14 and inserting “means—

15 “(A) a contract”;

16 (ii) by striking “, or any combination

17 thereof or option thereon;” and inserting

18 “, or any other similar agreement;”; and

19 (iii) by adding at the end the fol-

20 lowing:

21 “(B) any combination of agreements or

22 transactions referred to in subparagraphs (A)

23 and (C);

1 “(C) any option to enter into an agreement
2 or transaction referred to in subparagraph (A)
3 or (B);

4 “(D) a master agreement that provides for
5 an agreement or transaction referred to in sub-
6 paragraph (A), (B), or (C), together with all
7 supplements to any such master agreement,
8 without regard to whether such master agree-
9 ment provides for an agreement or transaction
10 that is not a forward contract under this para-
11 graph, except that such master agreement shall
12 be considered to be a forward contract under
13 this paragraph only with respect to each agree-
14 ment or transaction under such master agree-
15 ment that is referred to in subparagraph (A),
16 (B) or (C); or

17 “(E) a security agreement or arrangement,
18 or other credit enhancement related to any
19 agreement or transaction referred to in sub-
20 paragraph (A), (B), (C), or (D), but not to ex-
21 ceed the actual value of such contract, option,
22 agreement, or transaction on the date of the fil-
23 ing of the petition;”;

24 (B) in paragraph (46), by striking “on any
25 day during the period beginning 90 days before

1 the date of” and replacing it with “at any time
2 before”;

3 (C) by amending paragraph (47) to read
4 as follows:

5 “(47) ‘repurchase agreement’ (which definition
6 also applies to a reverse repurchase agreement)
7 means—

8 “(i) an agreement, including related
9 terms, which provides for the transfer of
10 one or more certificates of deposit, mort-
11 gage-related securities (as defined in the
12 Securities Exchange Act of 1934), mort-
13 gage loans, interests in mortgage-related
14 securities or mortgage loans, eligible bank-
15 ers’ acceptances, qualified foreign govern-
16 ment securities; or securities that are di-
17 rect obligations of, or that are fully guar-
18 anteed by, the United States or any agency
19 of the United States against the transfer
20 of funds by the transferee of such certifi-
21 cates of deposit, eligible bankers’ accept-
22 ances, securities, loans, or interests; with a
23 simultaneous agreement by such transferee
24 to transfer to the transferor thereof certifi-
25 cates of deposit, eligible bankers’ accept-

1 ance, securities, loans, or interests of the
2 kind described above, at a date certain not
3 later than 1 year after such transfer or on
4 demand, against the transfer of funds;

5 “(ii) any combination of agreements
6 or transactions referred to in clauses (i)
7 and (iii);

8 “(iii) an option to enter into an agree-
9 ment or transaction referred to in clause
10 (i) or (ii);

11 “(iv) a master agreement that pro-
12 vides for an agreement or transaction re-
13 ferred to in clause (i), (ii), or (iii), together
14 with all supplements to any such master
15 agreement, without regard to whether such
16 master agreement provides for an agree-
17 ment or transaction that is not a repur-
18 chase agreement under this paragraph, ex-
19 cept that such master agreement shall be
20 considered to be a repurchase agreement
21 under this paragraph only with respect to
22 each agreement or transaction under the
23 master agreement that is referred to in
24 clause (i), (ii), or (iii); or

1 “(v) a security agreement or arrange-
2 ment or other credit enhancement related
3 to any agreement or transaction referred
4 to in clause (i), (ii), (iii), or (iv), but not
5 to exceed the actual value of such contract
6 on the date of the filing of the petition;
7 and

8 “(B) does not include a repurchase obliga-
9 tion under a participation in a commercial
10 mortgage loan,

11 and, for purposes of this paragraph, the term ‘quali-
12 fied foreign government security’ means a security
13 that is a direct obligation of, or that is fully guaran-
14 teed by, the central government of a member of the
15 Organization for Economic Cooperation and Devel-
16 opment;”;

17 (D) in paragraph (48) by inserting “or ex-
18 empt from such registration under such section
19 pursuant to an order of the Securities and Ex-
20 change Commission” after “1934”; and

21 (E) by amending paragraph (53B) to read
22 as follows:

23 “(53B) ‘swap agreement’—

24 “(A) means—

1 “(i) any agreement, including the
2 terms and conditions incorporated by ref-
3 erence in such agreement, which is an in-
4 terest rate swap, option, future, or forward
5 agreement, including a rate floor, rate cap,
6 rate collar, cross-currency rate swap, and
7 basis swap; a spot, same day-tomorrow, to-
8 morrow-next, forward, or other foreign ex-
9 change or precious metals agreement; a
10 currency swap, option, future, or forward
11 agreement; an equity index or an equity
12 swap, option, future, or forward agree-
13 ment; a debt index or a debt swap, option,
14 future, or forward agreement; a credit
15 spread or a credit swap, option, future, or
16 forward agreement; or a commodity index
17 or a commodity swap, option, future, or
18 forward agreement;

19 “(ii) any agreement or transaction
20 similar to any other agreement or trans-
21 action referred to in this paragraph that—

22 “(I) is presently, or in the future
23 becomes, regularly entered into in the
24 swap market (including terms and

1 conditions incorporated by reference
2 therein); and

3 “(II) is a forward, swap, future,
4 or option on one or more rates, cur-
5 rencies commodities, equity securities,
6 or other equity instruments, debt se-
7 curities or other debt instruments, or
8 on an economic index or measure of
9 economic risk or value;

10 “(iii) any combination of agreements
11 or transactions referred to in this para-
12 graph;

13 “(iv) any option to enter into an
14 agreement or transaction referred to in
15 this paragraph;

16 “(v) a master agreement that provides
17 for an agreement or transaction referred to
18 in clause (i), (ii), (iii), or (iv), together
19 with all supplements to any such master
20 agreement, and without regard to whether
21 the master agreement contains an agree-
22 ment or transaction that is not a swap
23 agreement under this paragraph, except
24 that the master agreement shall be consid-
25 ered to be a swap agreement under this

1 paragraph only with respect to each agree-
2 ment or transaction under the master
3 agreement that is referred to in clause (i),
4 (ii), (iii), or (iv); or

5 “(B) any security agreement or arrange-
6 ment or other credit enhancement related to
7 any agreements or transactions referred to in
8 subparagraph (A); and

9 “(C) is applicable for purposes of this title
10 only and shall not be construed or applied so as
11 to challenge or affect the characterization, defi-
12 nition, or treatment of any swap agreement
13 under any other statute, regulation, or rule, in-
14 cluding the Securities Act of 1933, the Securi-
15 ties Exchange Act of 1934, the Public Utility
16 Holding Company Act of 1935, the Trust In-
17 denture Act of 1939, the Investment Company
18 Act of 1940, the Investment Advisers Act of
19 1940, the Securities Investor Protection Act of
20 1970, the Commodity Exchange Act, and the
21 regulations prescribed by the Securities and Ex-
22 change Commission or the Commodity Futures
23 Trading Commission.”;

24 (2) by amending section 741(7) to read as fol-

25 lows:

1 “(7) ‘securities contract’—

2 “(A) means—

3 “(i) a contract for the purchase, sale,
4 or loan of a security, a certificate of de-
5 posit, a mortgage loan or any interest in a
6 mortgage loan, a group or index of securi-
7 ties, certificates of deposit or mortgage
8 loans or interests therein (including an in-
9 terest therein or based on the value there-
10 of), or option on any of the foregoing, in-
11 cluding an option to purchase or sell any
12 such security certificate of deposit, loan,
13 interest, group or index or option;

14 “(ii) any option entered into on a na-
15 tional securities exchange relating to for-
16 eign currencies;

17 “(iii) the guarantee by or to any secu-
18 rities clearing agency of a settlement of
19 cash, securities, certificates of deposit
20 mortgage loans or interests therein, group
21 or index of securities, or mortgage loans or
22 interests therein (including any interest
23 therein or based on the value thereof), or
24 option on any of the foregoing, including
25 an option to purchase or sell any such se-

1 curity certificate of deposit, loan, interest,
2 group or index or option;

3 “(iv) any margin loan;

4 “(v) any other agreement or trans-
5 action that is similar to an agreement or
6 transaction referred to in this paragraph;

7 “(vi) any combination of the agree-
8 ments or transactions referred to in this
9 paragraph;

10 “(vii) any option to enter into any
11 agreement or transaction referred to in
12 this paragraph;

13 “(viii) a master agreement that pro-
14 vides for an agreement or transaction re-
15 ferred to in clause (i), (ii), (iii), (iv), (v),
16 (vi), or (vii), together with all supplements
17 to any such master agreement, without re-
18 gard to whether the master agreement pro-
19 vides for an agreement or transaction that
20 is not a securities contract under this
21 paragraph, except that such master agree-
22 ment shall be considered to be a securities
23 contract under this paragraph only with
24 respect to each agreement or transaction
25 under such master agreement that is re-

1 ferred to in clause (i), (ii), (iii), (iv), (v),
2 (vi), or (vii); or

3 “(ix) any security agreement or ar-
4 rangement, or other credit enhancement,
5 related to any agreement or transaction re-
6 ferred to in this paragraph, but not to ex-
7 ceed the actual value of such contract on
8 the date of the filing of the petition; and

9 “(B) does not include any purchase, sale,
10 or repurchase obligation under a participation
11 in a commercial mortgage loan.”; and
12 (3) in section 761(4)—

13 (A) by striking “or” at the end of subpara-
14 graph (D); and

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

16 “(F) any other agreement or transaction
17 that is similar to an agreement or transaction
18 referred to in this paragraph;

19 “(G) any combination of the agreements or
20 transactions referred to in this paragraph;

21 “(H) any option to enter into an agree-
22 ment or transaction referred to in this para-
23 graph;

24 “(I) a master agreement that provides for
25 an agreement or transaction referred to in sub-

1 paragraph (A), (B), (C), (D), (E), (F), (G), or
2 (H), together with all supplements to such mas-
3 ter netting agreement, without regard to wheth-
4 er the master netting agreement provides for an
5 agreement or transaction that is not a com-
6 modity contract under this paragraph, except
7 that the master agreement shall be considered
8 to be a commodity contract under this para-
9 graph only with respect to each agreement or
10 transaction under the master agreement that is
11 referred to in subparagraph (A), (B), (C), (D),
12 (E), (F), (G), or (H); or

13 “(J) a security agreement or arrangement,
14 or other credit enhancement related to any
15 agreement or transaction referred to in this
16 paragraph, but not to exceed the actual value of
17 such contract on the date of the filing of the pe-
18 tition;”.

19 (b) DEFINITIONS OF FINANCIAL INSTITUTION, FI-
20 NANCIAL PARTICIPANT, AND FORWARD CONTRACT MER-
21 CHANT.—Section 101 of title 11, United States Code, is
22 amended—

23 (1) by amending paragraph (22) to read as fol-
24 lows:

25 “(22) ‘financial institution’ means—

1 “(A) a Federal reserve bank, or an entity
2 (domestic or foreign) that is a commercial or
3 savings bank, industrial savings bank, savings
4 and loan association, trust company, or receiver
5 or conservator for such entity and, when any
6 such Federal reserve bank, receiver, conservator
7 or entity is acting as agent or custodian for a
8 customer in connection with a securities con-
9 tract, as defined in section 741 of this title,
10 such customer; or

11 “(B) in connection with a securities con-
12 tract, as defined in section 741 of this title, an
13 investment company registered under the In-
14 vestment Company Act of 1940;”;

15 (2) by inserting after paragraph (22) the fol-
16 lowing:

17 “(22A) ‘financial participant’ means an entity
18 that, at the time it enters into a securities contract,
19 commodity contract or forward contract, or at the
20 time of the filing of the petition, has one or more
21 agreements or transactions described in paragraph
22 (1), (2), (3), (4), or (5) of section 561(a) with the
23 debtor or any other entity (other than an affiliate)
24 of a total gross dollar value of at least
25 \$1,000,000,000 in notional or actual principal

1 amount outstanding on any day during the previous
2 15-month period, or has gross mark-to-market posi-
3 tions of at least \$100,000,000 (aggregated across
4 counterparties) in one or more such agreement or
5 transaction with the debtor or any other entity
6 (other than an affiliate) on any day during the pre-
7 vious 15-month period;” and

8 (3) by amending paragraph (26) to read as fol-
9 lows:

10 “(26) ‘forward contract merchant’ means a
11 Federal reserve bank, or an entity whose business
12 consists in whole or in part of entering into forward
13 contracts as or with merchants or in a commodity,
14 as defined or in section 761 of this title, or any simi-
15 lar good, article, service, right, or interest which is
16 presently or in the future becomes the subject of
17 dealing or in the forward contract trade;”.

18 (c) DEFINITION OF MASTER NETTING AGREEMENT
19 AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-
20 tion 101 of title 11, United States Code, is amended by
21 inserting after paragraph (38) the following new para-
22 graphs:

23 “(38A) ‘master netting agreement’ means an
24 agreement providing for the exercise of rights, in-
25 cluding rights of netting, setoff, liquidation, termi-

1 nation, acceleration, or closeout, under or in connec-
2 tion with one or more contracts that are described
3 in any one or more of paragraphs (1) through (5)
4 of section 561(a), or any security agreement or ar-
5 rangement or other credit enhancement related to
6 one or more of the foregoing. If a master netting
7 agreement contains provisions relating to agree-
8 ments or transactions that are not contracts de-
9 scribed in paragraphs (1) through (5) of section
10 561(a), the master netting agreement shall be
11 deemed to be a master netting agreement only with
12 respect to those agreements or transactions that are
13 described in any one or more of the paragraphs (1)
14 through (5) of section 561(a);

15 “(38B) ‘master netting agreement participant’
16 means an entity that, at any time before the filing
17 of the petition, is a party to an outstanding master
18 netting agreement with the debtor;”.

19 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,
20 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-
21 CHASE AGREEMENTS, AND MASTER NETTING AGREE-
22 MENTS UNDER THE AUTOMATIC-STAY.—

23 (1) IN GENERAL.—Section 362(b) of title 11,
24 United States Code, as amended by sections 118,
25 132, 136, 142, 203, and 818, is amended—

1 (A) in paragraph (6), by inserting “,
2 pledged to, and under the control of,” after
3 “held by”;

4 (B) in paragraph (7), by inserting “,
5 pledged to, and under the control of,” after
6 “held by”;

7 (C) by amending paragraph (17) to read
8 as follows:

9 “(17) under subsection (a), of the setoff by a
10 swap participant of a mutual debt and claim under
11 or in connection with one or more swap agreements
12 that constitutes the setoff of a claim against the
13 debtor for any payment or other transfer of property
14 due from the debtor under or in connection with any
15 swap agreement against any payment due to the
16 debtor from the swap participant under or in con-
17 nection with any swap agreement or against cash,
18 securities, or other property held by, pledged to, and
19 under the control of, or due from such swap partici-
20 pant to margin guarantee, secure, or settle a swap
21 agreement;”;

22 (D) in paragraph (30) by striking “or” at
23 the end;

24 (E) in paragraph (31) by striking the pe-
25 riod at the end and inserting “; or”; and

1 (F) by inserting after paragraph (31) the
2 following new paragraph:

3 “(32) under subsection (a), of the setoff by a
4 master netting agreement participant of a mutual
5 debt and claim under or in connection with one or
6 more master netting agreements or any contract or
7 agreement subject to such agreements that con-
8 stitutes the setoff of a claim against the debtor for
9 any payment or other transfer of property due from
10 the debtor under or in connection with such agree-
11 ments or any contract or agreement subject to such
12 agreements against any payment due to the debtor
13 from such master netting agreement participant
14 under or in connection with such agreements or any
15 contract or agreement subject to such agreements or
16 against cash, securities, or other property held by,
17 pledged or and under the control of, or due from
18 such master netting agreement participant to mar-
19 gin, guarantee, secure, or settle such agreements or
20 any contract or agreement subject to such agree-
21 ments, to the extent such participant is eligible to
22 exercise such offset rights under paragraph (6), (7),
23 or (17) for each individual contract covered by the
24 master netting agreement in issue.”.

1 (2) LIMITATION.—Section 362 of title 11,
2 United States Code, as amended by sections 120,
3 302, and 412, is amended by adding at the end the
4 following:

5 “(1) LIMITATION.—The exercise of rights not subject
6 to the stay arising under subsection (a) pursuant to para-
7 graph (6), (7), or (17), or (31) of subsection (b) shall not
8 be stayed by any order of a court or administrative agency
9 in any proceeding under this title.”.

10 (e) LIMITATION OF AVOIDANCE POWERS UNDER
11 MASTER NETTING AGREEMENT.—Section 546 of title 11,
12 United States Code, as amended by sections 207 and 302,
13 is amended—

14 (1) in subsection (g) (as added by section 103
15 of Public Law 101–311)—

16 (A) by striking “under a swap agreement”;
17 and

18 (B) by striking “in connection with a swap
19 agreement” and inserting “under or in connec-
20 tion with any swap agreement”; and

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

22 “(j) Notwithstanding sections 544, 545, 547,
23 548(a)(2)(B), and 548(b) of this title, the trustee may not
24 avoid a transfer made by or to a master netting agreement
25 participant under or in connection with any master netting

1 agreement or any individual contract covered thereby that
2 is made before the commencement of the case, except
3 under section 548(a)(1)(A) of this title, and except to the
4 extent the trustee could otherwise avoid such a transfer
5 made under an individual contract covered by such master
6 netting agreement.”.

7 (f) FRAUDULENT TRANSFERS OF MASTER NETTING
8 AGREEMENTS.—Section 548(d)(2) of title 11, United
9 States Code, is amended—

10 (1) in subparagraph (C), by striking “and”;

11 (2) in subparagraph (D), by striking the period
12 and inserting “; and”; and

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(E) a master netting agreement participant
16 that receives a transfer in connection with a master
17 netting agreement or any individual contract covered
18 thereby takes for value to the extent of such trans-
19 fer, except, with respect to a transfer under any in-
20 dividual contract covered thereby, to the extent such
21 master netting agreement participant otherwise did
22 not take (or is otherwise not deemed to have taken)
23 such transfer for value.”.

1 (g) TERMINATION OR ACCELERATION OF SECURITIES
2 CONTRACTS.—Section 555 of title 11, United States Code,
3 is amended—

4 (1) by amending the section heading to read as
5 follows:

6 **“§ 555. Contractual right to liquidate, terminate, or**
7 **accelerate a securities contract”;**

8 and

9 (2) in the first sentence, by striking “liquida-
10 tion” and inserting “liquidation, termination, or ac-
11 celeration”.

12 (h) TERMINATION OR ACCELERATION OF COMMOD-
13 ITIES OR FORWARD CONTRACTS.—Section 556 of title 11,
14 United States Code, is amended—

15 (1) by amending the section heading to read as
16 follows:

17 **“§ 556. Contractual right to liquidate, terminate, or**
18 **accelerate a commodities contract or for-**
19 **ward contract”;**

20 and

21 (2) in the first sentence, by striking “liquida-
22 tion” and inserting “liquidation, termination, or ac-
23 celeration”.

1 (i) TERMINATION OR ACCELERATION OF REPUR-
2 CHASE AGREEMENTS.—Section 559 of title 11, United
3 States Code, is amended—

4 (1) by amending the section heading to read as
5 follows:

6 **“§ 559. Contractual right to liquidate, terminate, or**
7 **accelerate a repurchase agreement”;**

8 and

9 (2) in the first sentence, by striking “liquida-
10 tion” and inserting “liquidation, termination, or ac-
11 celeration”.

12 (j) LIQUIDATION, TERMINATION, OR ACCELERATION
13 OF SWAP AGREEMENTS.—Section 560 of title 11, United
14 States Code, is amended—

15 (1) by amending the section heading to read as
16 follows:

17 **“§ 560. Contractual right to liquidate, terminate, or**
18 **accelerate a swap agreement”;**

19 and

20 (2) in the first sentence, by striking “termi-
21 nation of a swap agreement” and inserting “liquida-
22 tion, termination, or acceleration of one or more
23 swap agreements”; and

24 (3) by striking “in connection with any swap
25 agreement” and inserting “in connection with the

1 termination, liquidation, or acceleration of one or
 2 more swap agreements”.

3 (k) LIQUIDATION, TERMINATION, ACCELERATION, OR
 4 OFFSET UNDER A MASTER NETTING AGREEMENT AND
 5 ACROSS CONTRACTS.—(1) Title 11, United States Code,
 6 is amended by inserting after section 560 the following:

7 **“§ 561. Contractual right to terminate, liquidate, ac-**
 8 **celerate, or offset under a master netting**
 9 **agreement and across contracts**

10 “(a) IN GENERAL.—Subject to subsection (b), the ex-
 11 ercise of any contractual right, because of a condition of
 12 the kind specified in section 365(e)(1), to cause the termi-
 13 nation, liquidation, or acceleration of or to offset or net
 14 termination values, payment amounts or other transfer ob-
 15 ligations arising under or in connection with one or more
 16 (or the termination, liquidation, or acceleration of one or
 17 more)—

18 “(1) securities contracts, as defined in section
 19 741(7);

20 “(2) commodity contracts, as defined in section
 21 761(4);

22 “(3) forward contracts;

23 “(4) repurchase agreements;

24 “(5) swap agreements; or

25 “(6) master netting agreements,

1 shall not be stayed, avoided, or otherwise limited by oper-
2 ation of any provision of this title or by any order of a
3 court or administrative agency in any proceeding under
4 this title.

5 “(b) EXCEPTION.—

6 “(1) A party may exercise a contractual right
7 described in subsection (a) to terminate, liquidate, or
8 accelerate only to the extent that such party could
9 exercise such a right under section 555, 556, 559,
10 or 560 for each individual contract covered by the
11 master netting agreement in issue.

12 “(2) If a debtor is a commodity broker subject
13 to subchapter IV of chapter 7 of this title—

14 “(A) a party may not net or offset an obli-
15 gation to the debtor arising under, or in con-
16 nection with, a commodity contract against any
17 claim arising under, or in connection with,
18 other instruments, contracts, or agreements
19 listed in subsection (a) except to the extent the
20 party has positive net equity in the commodity
21 accounts at the debtor, as calculated under sub-
22 chapter IV; and

23 “(B) another commodity broker may not
24 net or offset an obligation to the debtor arising
25 under, or in connection with, a commodity con-

1 tract entered into or held on behalf of a cus-
 2 tomer of the debtor against any claim arising
 3 under, or in connection with, other instruments,
 4 contracts, or agreements listed in subsection
 5 (a).

6 “(c) DEFINITION.—As used in this section, the term
 7 ‘contractual right’ includes a right set forth in a rule or
 8 bylaw of a national securities exchange, a national securi-
 9 ties association, or a securities clearing agency, a right
 10 set forth in a bylaw of a clearing organization or contract
 11 market or in a resolution of the governing board thereof,
 12 and a right, whether or not evidenced in writing, arising
 13 under common law, under law merchant, or by reason of
 14 normal business practice.”.

15 (2) CONFORMING AMENDMENT.—The table of sec-
 16 tions of chapter 9 of title 11, United States Code, is
 17 amended by inserting after the item relating to section
 18 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a
 master netting agreement and across contracts.

19 (l) ANCILLARY PROCEEDINGS.—Section 304 of title
 20 11, United States Code, is amended by adding at the end
 21 the following:

22 “(d) Any provisions of this title relating to securities
 23 contracts, commodity contracts, forward contracts, repur-
 24 chase agreements, swap agreements, or master netting

1 agreements shall apply in a case ancillary to a foreign pro-
 2 ceeding under this section or any other section of this title,
 3 so that enforcement of contractual provisions of such con-
 4 tracts and agreements in accordance with their terms will
 5 not be stayed or otherwise limited by operation of any pro-
 6 vision of this title or by order of a court in any case under
 7 this title, and to limit avoidance powers to the same extent
 8 as in a proceeding under chapter 7 or 11 of this title (such
 9 enforcement not to be limited based on the presence or
 10 absence of assets of the debtor in the United States).”.

11 (m) COMMODITY BROKER LIQUIDATIONS.—Title 11,
 12 United States Code, is amended by inserting after section
 13 766 the following:

14 **“§ 767. Commodity broker liquidation and forward**
 15 **contract merchants, commodity brokers,**
 16 **stockbrokers, financial institutions, secu-**
 17 **rities clearing agencies, swap partici-**
 18 **pants, repo participants, and master net-**
 19 **ting agreement participants**

20 “Notwithstanding any other provision of this title,
 21 the exercise of rights by a forward contract merchant,
 22 commodity broker, stockbroker, financial institution, secu-
 23 rities clearing agency, swap participant, repo participant,
 24 or master netting agreement participant under this title

1 shall not affect the priority of any unsecured claim it may
2 have after the exercise of such rights.”.

3 (n) STOCKBROKER LIQUIDATIONS.—Title 11, United
4 States Code, is amended by inserting after section 752 the
5 following:

6 **“§ 753. Stockbroker liquidation and forward contract**
7 **merchants, commodity brokers, stock-**
8 **brokers, financial institutions, securities**
9 **clearing agencies, swap participants,**
10 **repo participants, and master netting**
11 **agreement participants**

12 “Notwithstanding any other provision of this title,
13 the exercise of rights by a forward contract merchant,
14 commodity broker, stockbroker, financial institution, secu-
15 rities clearing agency, swap participant, repo participant,
16 financial participant, or master netting agreement partici-
17 pant under this title shall not affect the priority of any
18 unsecured claim it may have after the exercise of such
19 rights.”.

20 (o) SETOFF.—Section 553 of title 11, United States
21 Code, is amended—

22 (1) in subsection (a)(3)(C), by inserting “(ex-
23 cept for a setoff of a kind described in section
24 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(19), 555,

1 556, 559, 560 or 561 of this title)” before the pe-
2 riod; and

3 (2) in subsection (b)(1), by striking
4 “362(b)(14),” and inserting “362(b)(17),
5 362(b)(19), 555, 556, 559, 560, 561”.

6 (p) SECURITIES CONTRACTS, COMMODITY CON-
7 TRACTS, AND FORWARD CONTRACTS.—Title 11, United
8 States Code, is amended—

9 (1) in section 362(b)(6), by striking “financial
10 institutions,” each place such term appears and in-
11 serting “financial institution, financial participant”;

12 (2) in section 546(e), by inserting “financial
13 participant,” after “financial institution,”;

14 (3) in section 548(d)(2)(B), by inserting “fi-
15 nancial participant,” after “financial institution,”;

16 (4) in section 555—

17 (A) by inserting “financial participant,”
18 after “financial institution,”; and

19 (B) by inserting before the period at the
20 end “, a right set forth in a bylaw of a clearing
21 organization or contract market or in a resolu-
22 tion of the governing board thereof, and a right,
23 whether or not in writing, arising under com-
24 mon law, under law merchant, or by reason of
25 normal business practice”; and

1 (5) in section 556, by inserting “, financial par-
 2 ticipant” after “commodity broker”.

3 (q) CONFORMING AMENDMENTS.—Title 11, United
 4 States Code, is amended—

5 (1) in the table of sections of chapter 5—

6 (A) by amending the items relating to sec-
 7 tions 555 and 556 to read as follows:

“555. Contractual right to liquidate, terminate, or accelerate a securities con-
 tract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities con-
 tract or forward contract.”;

8 and

9 (B) by amending the items relating to sec-
 10 tions 559 and 560 to read as follows:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase
 agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agree-
 ment.”;

11 and

12 (2) in the table of sections of chapter 7—

13 (A) by inserting after the item relating to
 14 section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, com-
 modity brokers, stockbrokers, financial institutions, securities
 clearing agencies, swap participants, repo participants, and
 master netting agreement participants.”;

15 and

16 (B) by inserting after the item relating to
 17 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity bro-
 kers, stockbrokers, financial institutions, securities clearing
 agencies, swap participants, repo participants, and master net-
 ting agreement participants.”.

1 **SEC. 1008. RECORDKEEPING REQUIREMENTS.**

2 Section 11(e)(8) of the Federal Deposit Insurance
3 Act (12 U.S.C. 1821(e)(8)) is amended by adding at the
4 end the following new subparagraph:

5 “(H) RECORDKEEPING REQUIREMENTS.—

6 The Corporation, in consultation with the ap-
7 propriate Federal banking agencies, may pre-
8 scribe regulations requiring more detailed rec-
9 ordkeeping with respect to qualified financial
10 contracts (including market valuations) by in-
11 sured depository institutions.”.

12 **SEC. 1009. EXEMPTIONS FROM CONTEMPORANEOUS EXE-**
13 **CUTION REQUIREMENT.**

14 Section 13(e)(2) of the Federal Deposit Insurance
15 Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

16 “(2) EXEMPTIONS FROM CONTEMPORANEOUS
17 EXECUTION REQUIREMENT.—An agreement to pro-
18 vide for the lawful collateralization of—

19 “(A) deposits of, or other credit extension
20 by, a Federal, State, or local governmental enti-
21 ty, or of any depositor referred to in section
22 11(a)(2), including an agreement to provide col-
23 lateral in lieu of a surety bond;

24 “(B) bankruptcy estate funds pursuant to
25 section 345(b)(2) of title 11, United States
26 Code;

1 “(C) extensions of credit, including any
2 overdraft, from a Federal reserve bank or Fed-
3 eral home loan bank; or

4 “(D) one or more qualified financial con-
5 tracts, as defined in section 11(e)(8)(D),
6 shall not be deemed invalid pursuant to paragraph
7 (1)(B) solely because such agreement was not exe-
8 cuted contemporaneously with the acquisition of the
9 collateral or because of pledges, delivery, or substi-
10 tution of the collateral made in accordance with such
11 agreement.”.

12 **SEC. 1010. DAMAGE MEASURE.**

13 (a) Title 11, United States Code, as amended by sec-
14 tion 1007, is amended—

15 (1) by inserting after section 561 the following:

16 **“§ 562. Damage measure in connection with swap**
17 **agreements, securities contracts, forward**
18 **contracts, commodity contracts, repur-**
19 **chase agreements, or master netting**
20 **agreements**

21 “If the trustee rejects a swap agreement, securities
22 contract as defined in section 741 of this title, forward
23 contract, commodity contract (as defined in section 761
24 of this title) repurchase agreement, or master netting
25 agreement pursuant to section 365(a) of this title, or if

1 a forward contract merchant, stockbroker, financial insti-
 2 tution, securities clearing agency, repo participant, finan-
 3 cial participant, master netting agreement participant, or
 4 swap participant liquidates, terminates, or accelerates
 5 such contract or agreement, damages shall be measured
 6 as of the earlier of—

7 “(1) the date of such rejection; or

8 “(2) the date of such liquidation, termination,
 9 or acceleration.”; and

10 (2) in the table of sections of chapter 5 by in-
 11 serting after the item relating to section 561 the fol-
 12 lowing:

“562. Damage measure in connection with swap agreements, securities con-
 tracts, forward contracts, commodity contracts, repurchase
 agreements, or master netting agreements.”.

13 (b) CLAIMS ARISING FROM REJECTION.—Section
 14 502(g) of title 11, United States Code, is amended—

15 (1) by designating the existing text as para-
 16 graph (1); and

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

18 “(2) A claim for damages calculated in accordance
 19 with section 561 of this title shall be allowed under sub-
 20 section (a), (b), or (c), or disallowed under subsection (d)
 21 or (e), as if such claim had arisen before the date of the
 22 filing of the petition.”.

1 **SEC. 1011. SIPC STAY.**

2 Section 5(b)(2) of the Securities Investor Protection
3 Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding
4 after subparagraph (B) the following new subparagraph:

5 “(C) EXCEPTION FROM STAY.—

6 “(i) Notwithstanding section 362 of
7 title 11, United States Code, neither the
8 filing of an application under subsection
9 (a)(3) nor any order or decree obtained by
10 Securities Investor Protection Corporation
11 from the court shall operate as a stay of
12 any contractual rights of a creditor to liq-
13 uidate, terminate, or accelerate a securities
14 contract, commodity contract, forward con-
15 tract, repurchase agreement, swap agree-
16 ment, or master netting agreement, each
17 as defined in title 11, to offset or net ter-
18 mination values, payment amounts, or
19 other transfer obligations arising under or
20 in connection with one or more of such
21 contracts or agreements, or to foreclose on
22 any cash collateral pledged by the debtor
23 whether or not with respect to one or more
24 of such contracts or agreements.

25 “(ii) Notwithstanding clause (i), such
26 application, order, or decree may operate

1 as a stay of the foreclosure on securities
2 collateral pledged by the debtor, whether
3 or not with respect to one or more of such
4 contracts or agreements, securities sold by
5 the debtor under a repurchase agreement
6 or securities lent under a securities lending
7 agreement.

8 “(iii) As used in this section, the term
9 ‘contractual right’ includes a right set
10 forth in a rule or bylaw of a national secu-
11 rities exchange, a national securities asso-
12 ciation, or a securities clearing agency, a
13 right set forth in a bylaw of a clearing or-
14 ganization or contract market or in a reso-
15 lution of the governing board thereof, and
16 a right, whether or not in writing, arising
17 under common law, under law merchant,
18 or by reason of normal business practice.”.

19 **SEC. 1012. ASSET-BACKED SECURITIZATIONS.**

20 Section 541 of title 11, United States Code, as
21 amended by section 150, is amended—

22 (1) by redesignating paragraph (5) of sub-
23 section (b) as paragraph (6);

24 (2) by inserting after paragraph (4) of sub-
25 section (b) the following new paragraph:

1 “(5) any eligible asset (or proceeds thereof), to
2 the extent that such eligible asset was transferred by
3 the debtor, before the date of commencement of the
4 case, to an eligible entity in connection with an
5 asset-backed securitization, except to the extent such
6 asset (or proceeds or value thereof) may be recov-
7 ered by the trustee under section 550 by virtue of
8 avoidance under section 548(a);” and

9 (3) by adding at the end the following new sub-
10 section:

11 “(e) For purposes of this section, the following defini-
12 tions shall apply:

13 “(1) the term ‘asset-backed securitization’
14 means a transaction in which eligible assets trans-
15 ferred to an eligible entity are used as the source of
16 payment on securities, the most senior of which are
17 rated investment grade by one or more nationally
18 recognized securities rating organizations, issued by
19 an issuer;

20 “(2) the term ‘eligible asset’ means—

21 “(A) financial assets (including interests
22 therein and proceeds thereof), either fixed or re-
23 volving, including residential and commercial
24 mortgage loans, consumer receivables, trade re-
25 ceivables, and lease receivables, that, by their

1 terms, convert into cash within a finite time pe-
2 riod, plus any residual interest in property sub-
3 ject to receivables included in such financial as-
4 sets plus any rights or other assets designed to
5 assure the servicing or timely distribution of
6 proceeds to security holders;

7 “(B) cash; and

8 “(C) securities.

9 “(3) the term ‘eligible entity’ means—

10 “(A) an issuer; or

11 “(B) a trust, corporation, partnership, or
12 other entity engaged exclusively in the business
13 of acquiring and transferring eligible assets di-
14 rectly or indirectly to an issuer and taking ac-
15 tions ancillary thereto;

16 “(4) the term ‘issuer’ means a trust, corpora-
17 tion, partnership, or other entity engaged exclusively
18 in the business of acquiring and holding eligible as-
19 sets, issuing securities backed by eligible assets, and
20 taking actions ancillary thereto; and

21 “(5) the term ‘transferred’ means the debtor,
22 pursuant to a written agreement, represented and
23 warranted that eligible assets were sold, contributed,
24 or otherwise conveyed with the intention of removing

1 them from the estate of the debtor pursuant to sub-
2 section (b)(5), irrespective, without limitation of—

3 “(A) whether the debtor directly or indi-
4 rectly obtained or held an interest in the issuer
5 or in any securities issued by the issuer;

6 “(B) whether the debtor had an obligation
7 to repurchase or to service or supervise the
8 servicing of all or any portion of such eligible
9 assets; or

10 “(C) the characterization of such sale, con-
11 tribution, or other conveyance for tax, account-
12 ing, regulatory reporting, or other purposes.”.

13 **SEC. 1013. FEDERAL RESERVE COLLATERAL REQUIRE-**
14 **MENTS.**

15 The third sentence of the third undesignated para-
16 graph of section 16 of the Federal Reserve Act (12 U.S.C.
17 412) is amended by striking “acceptances acquired under
18 the provisions of section 13 of this Act” and inserting “ac-
19 ceptances acquired under section 10A, 10B, 13, or 13A
20 of this Act”.

21 **SEC. 1014. EFFECTIVE DATE; APPLICATION OF AMEND-**
22 **MENTS.**

23 (a) **EFFECTIVE DATE.**—This title shall take effect on
24 the date of the enactment of this Act.

1 (b) APPLICATION OF AMENDMENTS.—The amend-
2 ments made by this title shall apply with respect to cases
3 commenced or appointments made under any Federal or
4 State law after the date of the enactment of this Act, but
5 shall not apply with respect to cases commenced or ap-
6 pointments made under any Federal or State law before
7 the date of the enactment of this Act.

8 **TITLE XI—TECHNICAL**
9 **CORRECTIONS**

10 **SEC. 1101. DEFINITIONS.**

11 Section 101 of title 11, United States Code, as
12 amended by sections 102, 105, 132, 138, 301, 302, 402,
13 902, and 1007, is amended—

14 (1) by striking “In this title—” and inserting
15 “In this title:”;

16 (2) in each paragraph, by inserting “The term”
17 after the paragraph designation;

18 (3) in paragraph (35)(B), by striking “para-
19 graphs (21B) and (33)(A)” and inserting “para-
20 graphs (23) and (35)”;

21 (4) in each of paragraphs (35A) and (38), by
22 striking “; and” at the end and inserting a period;

23 (5) in paragraph (51B)—

1 (A) by inserting “who is not a family farm-
2 er” after “debtor” the first place it appears;
3 and

4 (B) by striking “thereto having aggregate”
5 and all that follows through the end of the
6 paragraph;

7 (6) by amending paragraph (54) to read as fol-
8 lows:

9 “(54) The term ‘transfer’ means—

10 “(A) the creation of a lien;

11 “(B) the retention of title as a security in-
12 terest;

13 “(C) the foreclosure of a debtor’s equity of
14 redemption; or

15 “(D) each mode, direct or indirect, abso-
16 lute or conditional, voluntary or involuntary, of
17 disposing of or parting with—

18 “(i) property; or

19 “(ii) an interest in property;”;

20 (7) in each of paragraphs (1) through (35), in
21 each of paragraphs (36) and (37), and in each of
22 paragraphs (40) through (55) (including paragraph
23 (54), as amended by paragraph (6) of this section),
24 by striking the semicolon at the end and inserting a
25 period; and

1 (8) by redesignating paragraphs (4) through
2 (55), including paragraph (54), as amended by para-
3 graph (6) of this section, in entirely numerical se-
4 quence.

5 **SEC. 1102. ADJUSTMENT OF DOLLAR AMOUNTS.**

6 Section 104 of title 11, United States Code, is
7 amended by inserting “522(f)(3), 707(b)(5),” after
8 “522(d),” each place it appears.

9 **SEC. 1103. EXTENSION OF TIME.**

10 Section 108(c)(2) of title 11, United States Code, is
11 amended by striking “922” and all that follows through
12 “or”, and inserting “922, 1201, or”.

13 **SEC. 1104. TECHNICAL AMENDMENTS.**

14 Title 11, United States Code, is amended—

15 (1) in section 109(b)(2) by striking “subsection
16 (c) or (d) of”; and

17 (2) in section 552(b)(1) by striking “product”
18 each place it appears and inserting “products”.

19 **SEC. 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
20 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
21 **TITIONS.**

22 Section 110(j)(3) of title 11, United States Code, is
23 amended by striking “attorney’s” and inserting “attor-
24 neys’”.

1 **SEC. 1106. LIMITATION ON COMPENSATION OF PROFES-**
2 **SIONAL PERSONS.**

3 Section 328(a) of title 11, United States Code, is
4 amended by inserting “on a fixed or percentage fee basis,”
5 after “hourly basis,”.

6 **SEC. 1107. SPECIAL TAX PROVISIONS.**

7 Section 346(g)(1)(C) of title 11, United States Code,
8 is amended by striking “, except” and all that follows
9 through “1986”.

10 **SEC. 1108. EFFECT OF CONVERSION.**

11 Section 348(f)(2) of title 11, United States Code, is
12 amended by inserting “of the estate” after “property” the
13 first place it appears.

14 **SEC. 1109. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

15 Section 503(b)(4) of title 11, United States Code, is
16 amended by inserting “subparagraph (A), (B), (C), (D),
17 or (E) of” before “paragraph (3)”.

18 **SEC. 1110. PRIORITIES.**

19 Section 507(a) of title 11, United States Code, as
20 amended by section 323, is amended in paragraph (4), as
21 so redesignated by section 142, by striking the semicolon
22 at the end and inserting a period.

23 **SEC. 1111. EXEMPTIONS.**

24 Section 522(g)(2) of title 11, United States Code, is
25 amended by striking “subsection (f)(2)” and inserting
26 “subsection (f)(1)(B)”.

1 **SEC. 1112. EXCEPTIONS TO DISCHARGE.**

2 Section 523 of title 11, United States Code, as
3 amended by section 146, is amended—

4 (1) in subsection (a)(3), by striking “or (6)”
5 each place it appears and inserting “(6), or (15)”;

6 (2) as amended by section 304(e) of Public Law
7 103–394 (108 Stat. 4133), in paragraph (15), by
8 transferring such paragraph so as to insert it after
9 paragraph (14A) of subsection (a);

10 (3) in subsection (a)(9), by inserting “,
11 watercraft, or aircraft” after “motor vehicle”;

12 (4) in subsection (a)(15), as so redesignated by
13 paragraph (2) of this subsection, by inserting “to a
14 spouse, former spouse, or child of the debtor and”
15 after “(15)”; and

16 (5) in subsection (e), by striking “a insured”
17 and inserting “an insured”.

18 **SEC. 1113. EFFECT OF DISCHARGE.**

19 Section 524(a)(3) of title 11, United States Code, is
20 amended by striking “section 523” and all that follows
21 through “or that” and inserting “section 523, 1228(a)(1),
22 or 1328(a)(1) of this title, or that”.

23 **SEC. 1114. PROTECTION AGAINST DISCRIMINATORY TREAT-**
24 **MENT.**

25 Section 525(c) of title 11, United States Code, is
26 amended—

1 (1) in paragraph (1), by inserting “student” be-
2 fore “grant” the second place it appears; and

3 (2) in paragraph (2), by striking “the program
4 operated under part B, D, or E of” and inserting
5 “any program operated under”.

6 **SEC. 1115. PROPERTY OF THE ESTATE.**

7 Section 541(b)(4)(B)(ii) of title 11, United States
8 Code, is amended by inserting “365 or” before “542”.

9 **SEC. 1116. PREFERENCES.**

10 (a) IN GENERAL.—Section 547 of title 11, United
11 States Code, is amended—

12 (1) in subsection (b), by striking “subsection
13 (c)” and inserting “subsections (c) and (i)”; and

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

15 “(i) If the trustee avoids under subsection (b) a
16 transfer made between 90 days and 1 year before the date
17 of the filing of the petition, by the debtor to an entity
18 that is not an insider for the benefit of a creditor that
19 is an insider, such transfer may be avoided under this sec-
20 tion only with respect to the creditor that is an insider.”.

21 (b) APPLICABILITY.—The amendments made by this
22 section shall apply to any case that is pending or com-
23 menced on or after the date of the enactment of this Act.

1 **SEC. 1117. POSTPETITION TRANSACTIONS.**

2 Section 549(c) of title 11, United States Code, is
3 amended—

4 (1) by inserting “an interest in” after “transfer
5 of”;

6 (2) by striking “such property” and inserting
7 “such real property”; and

8 (3) by striking “the interest” and inserting
9 “such interest”.

10 **SEC. 1118. DISPOSITION OF PROPERTY OF THE ESTATE.**

11 Section 726(b) of title 11, United States Code, is
12 amended by striking “1009,”.

13 **SEC. 1119. GENERAL PROVISIONS.**

14 Section 901(a) of title 11, United States Code, is
15 amended by inserting “1123(d),” after “1123(b),”.

16 **SEC. 1120. APPOINTMENT OF ELECTED TRUSTEE.**

17 Section 1104(b) of title 11, United States Code, is
18 amended—

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

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

21 “(2)(A) If an eligible, disinterested trustee is elected
22 at a meeting of creditors under paragraph (1), the United
23 States trustee shall file a report certifying that election.
24 Upon the filing of a report under the preceding sentence—

1 “(i) the trustee elected under paragraph (1)
2 shall be considered to have been selected and ap-
3 pointed for purposes of this section; and

4 “(ii) the service of any trustee appointed under
5 subsection (d) shall terminate.

6 “(B) In the case of any dispute arising out of an elec-
7 tion under subparagraph (A), the court shall resolve the
8 dispute.”.

9 **SEC. 1121. ABANDONMENT OF RAILROAD LINE.**

10 Section 1170(e)(1) of title 11, United States Code,
11 is amended by striking “section 11347” and inserting
12 “section 11326(a)”.

13 **SEC. 1122. CONTENTS OF PLAN.**

14 Section 1172(c)(1) of title 11, United States Code,
15 is amended by striking “section 11347” and inserting
16 “section 11326(a)”.

17 **SEC. 1123. DISCHARGE UNDER CHAPTER 12.**

18 Subsections (a) and (c) of section 1228 of title 11,
19 United States Code, are amended by striking
20 “1222(b)(10)” each place it appears and inserting
21 “1222(b)(9)”.

22 **SEC. 1124. BANKRUPTCY CASES AND PROCEEDINGS.**

23 Section 1334(d) of title 28, United States Code, is
24 amended—

1 (1) by striking “made under this subsection”
2 and inserting “made under subsection (c)”; and
3 (2) by striking “This subsection” and inserting
4 “Subsection (c) and this subsection”.

5 **SEC. 1125. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
6 **RULE.**

7 Section 156(a) of title 18, United States Code, is
8 amended—

9 (1) in the first undesignated paragraph—

10 (A) by inserting “(1) the term” before
11 “‘bankruptcy’”; and

12 (B) by striking the period at the end and
13 inserting “; and”; and

14 (2) in the second undesignated paragraph—

15 (A) by inserting “(2) the term” before
16 “‘document’”; and

17 (B) by striking “this title” and inserting
18 “title 11”.

19 **SEC. 1126. TRANSFERS MADE BY NONPROFIT CHARITABLE**
20 **CORPORATIONS.**

21 (a) SALE OF PROPERTY OF ESTATE.—Section 363(d)
22 of title 11, United States Code, is amended—

23 (1) by striking “only” and all that follows
24 through the end of the subsection and inserting
25 “only—

1 “(1) in accordance with applicable nonbank-
2 ruptcy law that governs the transfer of property by
3 a corporation or trust that is not a moneyed, busi-
4 ness, or commercial corporation or trust; and

5 “(2) to the extent not inconsistent with any re-
6 lief granted under subsection (c), (d), (e), or (f) of
7 section 362 of this title.”.

8 (b) CONFIRMATION OF PLAN FOR REORGANIZA-
9 TION.—Section 1129(a) of title 11, United States Code,
10 as amended by section 140, is amended by adding at the
11 end the following:

12 “(15) All transfers of property of the plan shall
13 be made in accordance with any applicable provi-
14 sions of nonbankruptcy law that govern the transfer
15 of property by a corporation or trust that is not a
16 moneyed, business, or commercial corporation or
17 trust.”.

18 (c) TRANSFER OF PROPERTY.—Section 541 of title
19 11, United States Code, as amended by section 1102, is
20 amended by adding at the end the following:

21 “(f) Notwithstanding any other provision of this title,
22 property that is held by a debtor that is a corporation de-
23 scribed in section 501(c)(3) of the Internal Revenue Code
24 of 1986 and exempt from tax under section 501(a) of such
25 Code may be transferred to an entity that is not such a

1 corporation, but only under the same conditions as would
 2 apply if the debtor had not filed a case under this title.”.

3 (d) APPLICABILITY.—The amendments made by this
 4 section shall apply to a case pending under title 11, United
 5 States Code, on the date of the enactment of this Act,
 6 except that the court shall not confirm a plan under chap-
 7 ter 11 of this title without considering whether this section
 8 would substantially affect the rights of a party in interest
 9 who first acquired rights with respect to the debtor after
 10 the date of the petition. The parties who may appear and
 11 be heard in a proceeding under this section include the
 12 attorney general of the State in which the debtor is incor-
 13 porated, was formed, or does business.

14 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
 15 tion shall be deemed to require the court in which a case
 16 under chapter 11 is pending to remand or refer any pro-
 17 ceeding, issue, or controversy to any other court or to re-
 18 quire the approval of any other court for the transfer of
 19 property.

20 **SEC. 1127. PROHIBITION ON CERTAIN ACTIONS FOR FAIL-**
 21 **URE TO INCUR FINANCE CHARGES.**

22 Section 127 of the Truth in Lending Act (15 U.S.C.
 23 1637) is amended by adding at the end the following:

24 “(i) PROHIBITION ON CERTAIN ACTIONS FOR FAIL-
 25 URE TO INCUR FINANCE CHARGES.—A creditor of an ac-

1 count under an open end consumer credit plan may not
 2 terminate an account prior to its expiration date solely be-
 3 cause the consumer has not incurred finance charges on
 4 the account. Nothing in this subsection shall prohibit a
 5 creditor from terminating an account for inactivity in 3
 6 or more consecutive months.”.

7 **SEC. 1128. PROTECTION OF VALID PURCHASE MONEY SE-**
 8 **CURITY INTERESTS.**

9 Section 547(c)(3)(B) of title 11, United States Code,
 10 is amended by striking “20” and inserting “30”.

11 **SEC. 1129. TRUSTEES.**

12 (a) **SUSPENSION AND TERMINATION OF PANEL**
 13 **TRUSTEES AND STANDING TRUSTEES.**—Section 586(d) of
 14 title 28, United States Code, is amended—

15 (1) by inserting “(1)” after “(d)”; and

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

17 “(2) A trustee whose appointment under subsection
 18 (a)(1) or under subsection (b) is terminated or who ceases
 19 to be assigned to cases filed under title 11, United States
 20 Code, may obtain judicial review of the final agency deci-
 21 sion by commencing an action in the United States district
 22 court for the district for which the panel to which the
 23 trustee is appointed under subsection (a)(1), or in the
 24 United States district court for the district in which the
 25 trustee is appointed under subsection (b) resides, after

1 first exhausting all available administrative remedies,
2 which if the trustee so elects, shall also include an admin-
3 istrative hearing on the record. Unless the trustee elects
4 to have an administrative hearing on the record, the trust-
5 ee shall be deemed to have exhausted all administrative
6 remedies for purposes of this paragraph if the agency fails
7 to make a final agency decision within 90 days after the
8 trustee requests administrative remedies. The Attorney
9 General shall prescribe procedures to implement this para-
10 graph. The decision of the agency shall be affirmed by
11 the district court unless it is unreasonable and without
12 cause based on the administrative record before the agen-
13 cy.”.

14 (b) EXPENSES OF STANDING TRUSTEES.—Section
15 586(e) of title 28, United States Code, is amended by add-
16 ing at the end the following:

17 “(3) After first exhausting all available administra-
18 tive remedies, an individual appointed under subsection
19 (b) may obtain judicial review of final agency action to
20 deny a claim of actual, necessary expenses under this sub-
21 section by commencing an action in the United States dis-
22 trict court in the district where the individual resides. The
23 decision of the agency shall be affirmed by the district
24 court unless it is unreasonable and without cause based
25 upon the administrative record before the agency.

1 “(4) The Attorney General shall prescribe procedures
2 to implement this subsection.”.

3 **TITLE XII—GENERAL EFFECTIVE**
4 **DATE; APPLICATION OF**
5 **AMENDMENTS**

6 **SEC. 1201. EFFECTIVE DATE; APPLICATION OF AMEND-**
7 **MENTS.**

8 (a) EFFECTIVE DATE.—Except as provided otherwise
9 in this Act, this Act and the amendments made by this
10 Act shall take effect 180 days after the date of the enact-
11 ment of this Act.

12 (b) APPLICATION OF AMENDMENTS.—Except as oth-
13 erwise provided in this Act, the amendments made by this
14 Act shall not apply with respect to cases commenced under
15 title 11, United States Code, before the effective date of
16 this Act.

Passed the House of Representatives May 5, 1999.

Attest:

Clerk.