

106TH CONGRESS  
1ST SESSION

# S. 625

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

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IN THE SENATE OF THE UNITED STATES

MARCH 16, 1999

Mr. GRASSLEY (for himself, Mr. TORRICELLI, Mr. BIDEN, and Mr. SESSIONS)  
introduced the following bill; which was read twice and referred to the  
Committee on the Judiciary

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## A BILL

To amend title 11, 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,*

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

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

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

Sec. 1. Short title; table of contents.

### TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.

Sec. 103. Notice of alternatives.

- Sec. 104. Debtor financial management training test program.
- Sec. 105. Credit counseling.

## TITLE II—ENHANCED CONSUMER PROTECTION

### Subtitle A—Penalties for Abusive Creditor Practices

- Sec. 201. Promotion of alternative dispute resolution.
- Sec. 202. Effect of discharge.
- Sec. 203. Violations of the automatic stay.
- Sec. 204. Discouraging abuse of reaffirmation practices.

### Subtitle B—Priority Child Support

- Sec. 211. Priorities for claims for domestic support obligations.
- Sec. 212. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
- Sec. 213. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 214. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 215. Continued liability of property.
- Sec. 216. Protection of domestic support claims against preferential transfer motions.
- Sec. 217. Amendment to section 1325 of title 11, United States Code.
- Sec. 218. Definition of domestic support obligation.
- Sec. 219. Collection of child support.

### Subtitle C—Other Consumer Protections

- Sec. 221. Definitions.
- Sec. 222. Disclosures.
- Sec. 223. Debtor's bill of rights.
- Sec. 224. Enforcement.
- Sec. 225. Sense of Congress.
- Sec. 226. Additional amendments to title 11, United States Code.

## TITLE III—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 301. Reinforcement of the fresh start.
- Sec. 302. Discouraging bad faith repeat filings.
- Sec. 303. Curbing abusive filings.
- Sec. 304. Debtor retention of personal property security.
- Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 306. Giving secured creditors fair treatment in chapter 13.
- Sec. 307. Exemptions.
- Sec. 308. Residency requirement for homestead exemption.
- Sec. 309. Protecting secured creditors in chapter 13 cases.
- Sec. 310. Limitation on luxury goods.
- Sec. 311. Automatic stay.
- Sec. 312. Extension of period between bankruptcy discharges.
- Sec. 313. Definition of household goods and antiques.
- Sec. 314. Debt incurred to pay nondischargeable debts.
- Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
- Sec. 316. Dismissal for failure to timely file schedules or provide required information.

- Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
- Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
- Sec. 320. Prompt relief from stay in individual cases.

#### TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

##### Subtitle A—General Business Bankruptcy Provisions

- Sec. 401. Rolling stock equipment.
- Sec. 402. Adequate protection for investors.
- Sec. 403. Meetings of creditors and equity security holders.
- Sec. 404. Protection of refinance of security interest.
- Sec. 405. Executory contracts and unexpired leases.
- Sec. 406. Creditors and equity security holders committees.
- Sec. 407. Amendment to section 546 of title 11, United States Code.
- Sec. 408. Limitation.
- Sec. 409. Amendment to section 330(a) of title 11, United States Code.
- Sec. 410. Postpetition disclosure and solicitation.
- Sec. 411. Preferences.
- Sec. 412. Venue of certain proceedings.
- Sec. 413. Period for filing plan under chapter 11.
- Sec. 414. Fees arising from certain ownership interests.
- Sec. 415. Creditor representation at first meeting of creditors.
- Sec. 416. Elimination of certain fees payable in chapter 11 bankruptcy cases.
- Sec. 417. Definition of disinterested person.
- Sec. 418. Factors for compensation of professional persons.
- Sec. 419. Appointment of elected trustee.

##### Subtitle B—Small Business Bankruptcy Provisions

- Sec. 421. Flexible rules for disclosure statement and plan.
- Sec. 422. Definitions; effect of discharge.
- Sec. 423. Standard form disclosure statement and plan.
- Sec. 424. Uniform national reporting requirements.
- Sec. 425. Uniform reporting rules and forms for small business cases.
- Sec. 426. Duties in small business cases.
- Sec. 427. Plan filing and confirmation deadlines.
- Sec. 428. Plan confirmation deadline.
- Sec. 429. Prohibition against extension of time.
- Sec. 430. Duties of the United States trustee.
- Sec. 431. Scheduling conferences.
- Sec. 432. Serial filer provisions.
- Sec. 433. Expanded grounds for dismissal or conversion and appointment of trustee.
- Sec. 434. Study of operation of title 11, United States Code, with respect to small businesses.
- Sec. 435. Payment of interest.

#### TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 501. Petition and proceedings related to petition.
- Sec. 502. Applicability of other sections to chapter 9.

#### TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

- Sec. 601. Audit procedures.
- Sec. 602. Improved bankruptcy statistics.
- Sec. 603. Uniform rules for the collection of bankruptcy data.
- Sec. 604. Sense of Congress regarding availability of bankruptcy data.

#### TITLE VII—BANKRUPTCY TAX PROVISIONS

- Sec. 701. Treatment of certain liens.
- Sec. 702. Effective notice to government.
- Sec. 703. Notice of request for a determination of taxes.
- Sec. 704. Rate of interest on tax claims.
- Sec. 705. Tolling of priority of tax claim time periods.
- Sec. 706. Priority property taxes incurred.
- Sec. 707. Chapter 13 discharge of fraudulent and other taxes.
- Sec. 708. Chapter 11 discharge of fraudulent taxes.
- Sec. 709. Stay of tax proceedings.
- Sec. 710. Periodic payment of taxes in chapter 11 cases.
- Sec. 711. Avoidance of statutory tax liens prohibited.
- Sec. 712. Payment of taxes in the conduct of business.
- Sec. 713. Tardily filed priority tax claims.
- Sec. 714. Income tax returns prepared by tax authorities.
- Sec. 715. Discharge of the estate's liability for unpaid taxes.
- Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
- Sec. 717. Standards for tax disclosure.
- Sec. 718. Setoff of tax refunds.

#### TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
- Sec. 802. Amendments to other chapters in title 11, United States Code.
- Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.

#### TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Bankruptcy Code amendments.
- Sec. 902. Damage measure.
- Sec. 903. Asset-backed securitizations.
- Sec. 904. Effective date; application of amendments.

#### TITLE X—PROTECTION OF FAMILY FARMERS

- Sec. 1001. Reenactment of chapter 12.
- Sec. 1002. Debt limit increase.
- Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
- Sec. 1004. Certain claims owed to governmental units.

#### TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

- Sec. 1101. Definitions.
- Sec. 1102. Disposal of patient records.
- Sec. 1103. Administrative expense claim for costs of closing a health care business.
- Sec. 1104. Appointment of ombudsman to act as patient advocate.
- Sec. 1105. Debtor in possession; duty of trustee to transfer patients.

## TITLE XII—TECHNICAL AMENDMENTS

- Sec. 1201. Definitions.
- Sec. 1202. Adjustment of dollar amounts.
- Sec. 1203. Extension of time.
- Sec. 1204. Technical amendments.
- Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
- Sec. 1206. Limitation on compensation of professional persons.
- Sec. 1207. Special tax provisions.
- Sec. 1208. Effect of conversion.
- Sec. 1209. Allowance of administrative expenses.
- Sec. 1210. Priorities.
- Sec. 1211. Exemptions.
- Sec. 1212. Exceptions to discharge.
- Sec. 1213. Effect of discharge.
- Sec. 1214. Protection against discriminatory treatment.
- Sec. 1215. Property of the estate.
- Sec. 1216. Preferences.
- Sec. 1217. Postpetition transactions.
- Sec. 1218. Disposition of property of the estate.
- Sec. 1219. General provisions.
- Sec. 1220. Abandonment of railroad line.
- Sec. 1221. Contents of plan.
- Sec. 1222. Discharge under chapter 12.
- Sec. 1223. Bankruptcy cases and proceedings.
- Sec. 1224. Knowing disregard of bankruptcy law or rule.
- Sec. 1225. Transfers made by nonprofit charitable corporations.
- Sec. 1226. Protection of valid purchase money security interests.
- Sec. 1227. Extensions.
- Sec. 1228. Bankruptcy judgeships.

## TITLE XIII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 1301. Effective date; application of amendments.

1           **TITLE I—NEEDS-BASED**  
 2                           **BANKRUPTCY**

3   **SEC. 101. CONVERSION.**

4           Section 706(e) of title 11, United States Code, is  
 5 amended by inserting “or consents to” after “requests”.

6   **SEC. 102. DISMISSAL OR CONVERSION.**

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

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

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

5           and

6           (2) in subsection (b)—

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

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

10               (i) in the first sentence—

11                   (I) by striking “but not at the re-  
12                   quest or suggestion” and inserting “,  
13                   panel trustee or”;

14                   (II) by inserting “, or, with the  
15                   debtor’s consent, convert such a case  
16                   to a case under chapter 13 of this  
17                   title,” after “consumer debts”; and

18                   (III) by striking “substantial  
19                   abuse” and inserting “abuse”; and

20               (ii) by striking the next to last sen-  
21           tence; and

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

23           “(2)(A)(i) In considering under paragraph (1) wheth-  
24           er the granting of relief would be an abuse of the provi-  
25           sions of this chapter, the court shall presume abuse exists

1 if the debtor's current monthly income reduced by the  
2 amounts determined under clauses (ii), (iii), and (iv), and  
3 multiplied by 60 is not less than the lesser of—

4           “(I) 25 percent of the debtor's nonpriority un-  
5           secured claims in the case; or

6           “(II) \$15,000.

7           “(ii) The debtor's monthly expenses shall be the ap-  
8           plicable monthly (excluding payments for debts) expenses  
9           under standards issued by the Internal Revenue Service  
10          for the area in which the debtor resides, as in effect on  
11          the date of the entry of the order for relief, for the debtor,  
12          the dependents of the debtor, and the spouse of the debtor  
13          in a joint case, if the spouse is not otherwise a dependent.

14          “(iii) The debtor's average monthly payments on ac-  
15          count of secured debts shall be calculated as—

16                 “(I) the total of all amounts scheduled as con-  
17                 tractually due to secured creditors in each month of  
18                 the 60 months following the date of the petition; di-  
19                 vided by

20                 “(II) 60.

21          “(iv) The debtor's expenses for payment of all pri-  
22          ority claims (including priority child support and alimony  
23          claims) shall be calculated as—

24                 “(I) the total amount of debts entitled to pri-  
25                 ority; divided by

1           “(II) 60.

2           “(B)(i) In any proceeding brought under this sub-  
3 section, the presumption of abuse may be rebutted by  
4 demonstrating special circumstances that justify addi-  
5 tional expenses or adjustments of current monthly total  
6 income. In order to establish special circumstances, the  
7 debtor shall be required to—

8           “(I) itemize each additional expense or adjust-  
9 ment of income; and

10          “(II) provide—

11           “(aa) documentation for such expenses;  
12          and

13           “(bb) a detailed explanation of the special  
14 circumstances that make such expenses nec-  
15 essary and reasonable.

16          “(ii) The debtor, and the attorney for the debtor if  
17 the debtor has an attorney, shall attest under oath to the  
18 accuracy of any information provided to demonstrate that  
19 additional expenses or adjustments to income are required.

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



1           “(I) 25 percent of the debtor’s nonpriority un-  
2           secured claims; or

3           “(II) \$15,000.

4           “(C)(i) As part of the schedule of current income and  
5           expenditures required under section 521, the debtor shall  
6           include a statement of the debtor’s current monthly in-  
7           come, and the calculations that determine whether a pre-  
8           sumption arises under subparagraph (A)(i), that shows  
9           how each such amount is calculated.

10          “(ii) The Supreme Court shall promulgate rules  
11          under section 2075 of title 28, that prescribe a form for  
12          a statement under clause (i) and may provide general rules  
13          on the content of the statement.

14          “(3) In considering under paragraph (1) whether the  
15          granting of relief would be an abuse of the provisions of  
16          this chapter in a case in which the presumption in sub-  
17          paragraph (A)(i) of such paragraph does not apply or has  
18          been rebutted, the court shall consider—

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

21                 “(B) the totality of the circumstances (includ-  
22                 ing whether the debtor seeks to reject a personal  
23                 services contract and the financial need for such re-  
24                 jection as sought by the debtor) of the debtor’s fi-  
25                 nancial situation demonstrates abuse.”.

1 (b) DEFINITION.—Title 11, United States Code, is  
2 amended—

3 (1) in section 101, by inserting after paragraph  
4 (10) the following:

5 “(10A) ‘current monthly income’—

6 “(A) means the average monthly income  
7 from all sources which the debtor, or in a joint  
8 case, the debtor and the debtor’s spouse, receive  
9 without regard to whether the income is taxable  
10 income, derived during the 180-day period pre-  
11 ceding the date of determination; and

12 “(B) includes any amount paid by any en-  
13 tity other than the debtor (or, in a joint case,  
14 the debtor and the debtor’s spouse), on a reg-  
15 ular basis to the household expenses of the  
16 debtor or the debtor’s dependents (and, in a  
17 joint case, the debtor’s spouse if not otherwise  
18 a dependent);” and

19 (2) in section 704—

20 (A) by inserting “(a)” before “The trustee  
21 shall—”; and

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

23 “(b)(1) With respect to an individual debtor under  
24 this chapter—

1           “(A) the United States trustee or bankruptcy  
2 administrator shall review all materials filed by the  
3 debtor and, not later than 10 days before the first  
4 meeting of creditors, file with the court a statement  
5 as to whether the debtor’s case would be presumed  
6 to be an abuse under section 707(b); and

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

10          “(2) The United States trustee or bankruptcy admin-  
11 istrator shall not later than 30 days after receiving a  
12 statement filed under paragraph (1) file a motion to dis-  
13 miss or convert under section 707(b), or file a statement  
14 setting forth the reasons the United States trustee or  
15 bankruptcy administrator does not believe that such a mo-  
16 tion would be appropriate. If, based on the filing of such  
17 statement with the court, the United States trustee or  
18 bankruptcy administrator determines that the debtor’s  
19 case should be presumed to be an abuse under section  
20 707(b) and the product of the debtor’s current monthly  
21 income, multiplied by 12 is not less than—

22           “(A) the highest national or applicable State  
23 median family income reported for a family of equal  
24 or lesser size, whichever is greater; or

1           “(B) in the case of a household of 1 person, the  
2           national or applicable State median household in-  
3           come for 1 earner, whichever is greater.

4           “(3)(A) The court shall order the counsel for the  
5           debtor to reimburse the panel trustee for all reasonable  
6           costs in prosecuting a motion brought under section  
7           707(b), including reasonable attorneys’ fees, if—

8                 “(i) a panel trustee appointed under section  
9                 586(a)(1) of title 28 brings a motion for dismissal  
10                or conversion under this subsection; and

11               “(ii) the court—

12                         “(I) grants that motion; and

13                         “(II) finds that the action of the counsel  
14                        for the debtor in filing under this chapter was  
15                        not substantially justified.

16           “(B) If the court finds that the attorney for the debt-  
17           or violated Rule 9011, at a minimum, the court shall  
18           order—

19                 “(i) the assessment of an appropriate civil pen-  
20                 alty against the counsel for the debtor; and

21                 “(ii) the payment of the civil penalty to the  
22                 panel trustee or the United States trustee.

23           “(C) In the case of a petition referred to in subpara-  
24           graph (B), the signature of an attorney shall constitute  
25           a certificate that the attorney has—

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

3           “(ii) determined that the petition—

4                   “(I) is well grounded in fact; and

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

9           “(4)(A) Except as provided in subparagraph (B) and  
10          subject to paragraph (5), the court may award a debtor  
11          all reasonable costs in contesting a motion brought by a  
12          party in interest (other than a panel trustee or United  
13          States trustee) under this subsection (including reasonable  
14          attorneys’ fees) if—

15                   “(i) the court does not grant the motion; and

16                   “(ii) the court finds that—

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

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

23           “(B) A party in interest that has a claim of an aggre-  
24          gate amount less than \$1,000 shall not be subject to sub-  
25          paragraph (A).

1       “(5) Only the judge, United States trustee, bank-  
 2 ruptcy administrator, or panel trustee may bring a motion  
 3 under this section if the debtor and the debtor’s spouse  
 4 combined, as of the date of the order for relief, have a  
 5 total current monthly income equal to or less than the na-  
 6 tional or applicable State median family monthly income  
 7 calculated on a monthly basis for a family of equal size.”.

8       (c) CLERICAL AMENDMENT.—The table of sections  
 9 for chapter 7 of title 11, United States Code, is amended  
 10 by striking the item relating to section 707 and inserting  
 11 the following:

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

12 **SEC. 103. NOTICE OF ALTERNATIVES.**

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

15       “(b)(1) Before the commencement of a case under  
 16 this title by an individual whose debts are primarily con-  
 17 sumer debts, that individual shall be given or obtain (as  
 18 required in section 521(a)(1), as part of the certification  
 19 process under subchapter I of chapter 5) a written notice  
 20 prescribed by the United States trustee for the district in  
 21 which the petition is filed under section 586 of title 28.

22       “(2) The notice shall contain the following:

23               “(A) A brief description of chapters 7, 11, 12,  
 24 and 13 and the general purpose, benefits, and costs  
 25 of proceeding under each of those chapters.

1           “(B) A brief description of services that may be  
2           available to that individual from a credit counseling  
3           service that is approved by the United States trustee  
4           for that district.”.

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

7           (a) DEVELOPMENT OF FINANCIAL MANAGEMENT  
8           AND TRAINING CURRICULUM AND MATERIALS.—The Di-  
9           rector of the Executive Office for United States Trustees  
10          (in this section referred to as the “Director”) shall—

11                   (1) consult with a wide range of individuals who  
12           are experts in the field of debtor education, includ-  
13           ing trustees who are appointed under chapter 13 of  
14           title 11, United States Code, and who operate finan-  
15           cial management education programs for debtors;  
16           and

17                   (2) develop a financial management training  
18           curriculum and materials that may be used to edu-  
19           cate individual debtors concerning how to better  
20           manage their finances.

21           (b) TEST.—

22                   (1) IN GENERAL.—The Director shall select 3  
23           judicial districts of the United States in which to  
24           test the effectiveness of the financial management

1 training curriculum and materials developed under  
2 subsection (a).

3 (2) AVAILABILITY OF CURRICULUM AND MATE-  
4 RIALS.—For a 1-year period beginning not later  
5 than 270 days after the date of enactment of this  
6 Act, the curriculum and materials referred to in  
7 paragraph (1) shall be made available by the Direc-  
8 tor, directly or indirectly, on request to individual  
9 debtors in cases filed during that 1-year period  
10 under chapter 7 or 13 of title 11, United States  
11 Code.

12 (c) EVALUATION.—

13 (1) IN GENERAL.—During the 1-year period re-  
14 ferred to in subsection (b), the Director shall evalu-  
15 ate the effectiveness of—

16 (A) the financial management training cur-  
17 riculum and materials developed under sub-  
18 section (a); and

19 (B) a sample of existing consumer edu-  
20 cation programs such as those described in the  
21 report of the National Bankruptcy Review Com-  
22 mission issued on October 20, 1997, that are  
23 representative of consumer education programs  
24 carried out by—

25 (i) the credit industry;



- 1 (ii) trustees serving under chapter 13  
2 of title 11, United States Code; and  
3 (iii) consumer counseling groups.

4 (2) REPORT.—Not later than 3 months after  
5 concluding the evaluation under paragraph (1), the  
6 Director shall submit a report to the Speaker of the  
7 House of Representatives and the President pro  
8 tempore of the Senate, for referral to the appro-  
9 priate committees of Congress, containing the find-  
10 ings of the Director regarding the effectiveness of  
11 such curriculum, such materials, and such programs.

12 **SEC. 105. CREDIT COUNSELING.**

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 from an approved nonprofit credit counseling service de-  
22 scribed in section 111(a) an individual or group briefing  
23 that outlined the opportunities for available credit coun-  
24 seling and assisted that individual in performing a related  
25 budget analysis.

1       “(2)(A) Paragraph (1) shall not apply with respect  
2 to a debtor who resides in a district for which the United  
3 States trustee or bankruptcy administrator of the bank-  
4 ruptcy court of that district determines that the approved  
5 nonprofit credit counseling services for that district are  
6 not reasonably able to provide adequate services to the ad-  
7 ditional individuals who would otherwise seek credit coun-  
8 seling from those programs by reason of the requirements  
9 of paragraph (1).

10       “(B) Each United States trustee or bankruptcy ad-  
11 ministrator that makes a determination described in sub-  
12 paragraph (A) shall review that determination not later  
13 than 1 year after the date of that determination, and not  
14 less frequently than every year thereafter.

15       “(3)(A) Subject to subparagraph (B), the require-  
16 ments of paragraph (1) shall not apply with respect to  
17 a debtor who submits to the court a certification that—

18               “(i) describes exigent circumstances that merit  
19 a waiver of the requirements of paragraph (1);

20               “(ii) states that the debtor requested credit  
21 counseling services from an approved nonprofit cred-  
22 it counseling service, but was unable to obtain the  
23 services referred to in paragraph (1) during the 5-  
24 day period beginning on the date on which the debt-  
25 or made that request; and

1           “(iii) is satisfactory to the court.

2           “(B) With respect to a debtor, an exemption under  
3 subparagraph (A) shall cease to apply to that debtor on  
4 the date on which the debtor meets the requirements of  
5 paragraph (1), but in no case may the exemption apply  
6 to that debtor after the date that is 30 days after the debt-  
7 or files a petition.”.

8           (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title  
9 11, United States Code, is amended—

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

12           (2) in paragraph (10), by striking the period  
13 and inserting “; or”; and

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

15           “(11) after the filing of the petition, the debtor  
16 failed to complete an instructional course concerning  
17 personal financial management described in section  
18 111.”.

19           (c) CHAPTER 13 DISCHARGE.—Section 1328 of title  
20 11, United States Code, is amended by adding at the end  
21 the following:

22           “(g) The court shall not grant a discharge under this  
23 section to a debtor, unless after filing a petition the debtor  
24 has completed an instructional course concerning personal  
25 financial management described in section 111.

1       “(h) Subsection (g) shall not apply with respect to  
2 a debtor who resides in a district for which the United  
3 States trustee or bankruptcy administrator of the bank-  
4 ruptcy court of that district determines that the approved  
5 instructional courses are not adequate to service the addi-  
6 tional individuals who would be required to complete the  
7 instructional course by reason of the requirements of this  
8 section.

9       “(i) Each United States trustee or bankruptcy ad-  
10 ministrator that makes a determination described in sub-  
11 section (h) shall review that determination not later than  
12 1 year after the date of that determination, and not less  
13 frequently than every year thereafter.”.

14       (d) DEBTOR’S DUTIES.—Section 521 of title 11,  
15 United States Code, is amended—

16           (1) by inserting “(a)” before “The debtor  
17 shall—”; and

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

19       “(b) In addition to the requirements under subsection  
20 (a), an individual debtor shall file with the court—

21           “(1) a certificate from the credit counseling  
22 service that provided the debtor services under sec-  
23 tion 109(h); and

1           “(2) a copy of the debt repayment plan, if any,  
2           developed under section 109(h) through the credit  
3           counseling service referred to in paragraph (1).”.

4           (e) GENERAL PROVISIONS.—

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

8           **“§ 111. Credit counseling services; financial manage-**  
9                                   **ment instructional courses**

10          “(a) The clerk of each district shall maintain a list  
11          of credit counseling services that provide 1 or more pro-  
12          grams described in section 109(h) and a list of instruc-  
13          tional courses concerning personal financial management  
14          that have been approved by—

15                 “(1) the United States trustee; or

16                 “(2) the bankruptcy administrator for the dis-  
17          trict.”.

18          (2) CLERICAL AMENDMENT.—The table of sec-  
19          tions for chapter 1 of title 11, United States Code,  
20          is amended by adding at the end the following:

          “111. Credit counseling services; financial management instructional courses.”.

21          (f) LIMITATION.—Section 362 of title 11, United  
22          States Code, is amended by adding at the end the fol-  
23          lowing:

1       “(i) If a case commenced under chapter 7, 11, or 13  
 2 of this title is dismissed due to the creation of a debt re-  
 3 payment plan, for purposes of subsection (c)(3), any sub-  
 4 sequent case commenced by the debtor under any such  
 5 chapter shall not be presumed to be filed not in good  
 6 faith.”.

7                   **TITLE II—ENHANCED**  
 8                   **CONSUMER PROTECTION**  
 9                   **Subtitle A—Penalties for Abusive**  
 10                   **Creditor Practices**

11 **SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**  
 12                   **TION.**

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

16       “(k)(1) The court, on the motion of the debtor and  
 17 after a hearing, may reduce a claim filed under this sec-  
 18 tion based in whole on unsecured consumer debts by not  
 19 more than 20 percent of the claim, if—

20               “(A) the claim was filed by a creditor who un-  
 21 reasonably refused to negotiate a reasonable alter-  
 22 native repayment schedule proposed by an approved  
 23 credit counseling agency acting on behalf of the  
 24 debtor;

1           “(B) the offer of the debtor under subpara-  
2 graph (A)—

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

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

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

11          “(2) The debtor shall have the burden of proving, by  
12 clear and convincing evidence, that—

13           “(A) the creditor unreasonably refused to con-  
14 sider the debtor’s proposal; and

15           “(B) the proposed alternative repayment sched-  
16 ule was made in the 60-day period specified in para-  
17 graph (1)(B)(i).”.

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

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

1 **SEC. 202. EFFECT OF DISCHARGE.**

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

4 “(i) The willful failure of a creditor to credit pay-  
5 ments received under a plan confirmed under this title (in-  
6 cluding a plan of reorganization confirmed under chapter  
7 11 of this title) in the manner required by the plan (in-  
8 cluding crediting the amounts required under the plan)  
9 shall constitute a violation of an injunction under sub-  
10 section (a)(2).”.

11 **SEC. 203. VIOLATIONS OF THE AUTOMATIC STAY.**

12 Section 362(a) of title 11, United States Code, is  
13 amended—

14 (1) in paragraph (7), by striking “and” at the  
15 end;

16 (2) in paragraph (8), by striking the period at  
17 the end and inserting “; and”; and

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

19 “(9) any communication (other than a recita-  
20 tion of the creditor’s legal rights) threatening a  
21 debtor (for the purpose of coercing an agreement for  
22 the reaffirmation of debt), at any time after the  
23 commencement and before the granting of a dis-  
24 charge in a case under this title, of an intention to—

25 “(A) file a motion to—



1 “(i) determine the dischargeability of  
2 a debt; or

3 “(ii) under section 707(b), to dismiss  
4 or convert a case; or

5 “(B) repossess collateral from the debtor  
6 to which the stay applies.”.

7 **SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION**  
8 **PRACTICES.**

9 (a) IN GENERAL.—Section 524 of title 11, United  
10 States Code, as amended by section 202 of this Act, is  
11 amended—

12 (1) in subsection (c)—

13 (A) in paragraph (2)—

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

16 (ii) in subparagraph (B), by inserting  
17 “and” at the end; and

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

20 “(C)(i) the consideration for such agree-  
21 ment is based on a wholly unsecured consumer  
22 debt; and

23 “(ii) such agreement contains a clear and  
24 conspicuous statement that advises the debtor  
25 that—

1           “(I) the debtor is entitled to a hearing  
2 before the court at which—

3                   “(aa) the debtor shall appear in  
4 person; and

5                   “(bb) the court shall decide  
6 whether the agreement constitutes an  
7 undue hardship, is not in the debtor’s  
8 best interest, or is not the result of a  
9 threat by the creditor to take an ac-  
10 tion that, at the time of the threat,  
11 that the creditor may not legally take  
12 or does not intend to take; and

13           “(II) if the debtor is represented by  
14 counsel, the debtor may waive the debtor’s  
15 right to a hearing under subclause (I) by  
16 signing a statement—

17                   “(aa) waiving the hearing;

18                   “(bb) stating that the debtor is  
19 represented by counsel; and

20                   “(cc) identifying the counsel.”;

21           and

22           (B) in paragraph (6)(A)—

23                   (i) in clause (i), by striking “and” at  
24 the end;

1 (ii) in clause (ii), by striking the pe-  
 2 riod and inserting “and”; and

3 (iii) by adding at the end the fol-  
 4 lowing:

5 “(iii) not an agreement that the debtor entered  
 6 into as a result of a threat by the creditor to take  
 7 an action that, at the time of the threat, the creditor  
 8 could not legally take or did not intend to take.”;  
 9 and

10 (2) in subsection (d), in the third sentence, by  
 11 inserting after “during the course of negotiating an  
 12 agreement” the following: “(or if the consideration  
 13 by such agreement is based on a wholly secured con-  
 14 sumer debt, and the debtor has not waived the right  
 15 to a hearing under subsection (c)(2)(C))”.

16 (b) LAW ENFORCEMENT.—

17 (1) IN GENERAL.—Chapter 9 of title 18, United  
 18 States Code, is amended by adding at the end the  
 19 following:

20 **“§ 158. Designation of United States attorneys and**  
 21 **agents of the Federal Bureau of Inves-**  
 22 **tigation to address abusive reaffirma-**  
 23 **tions of debt**

24 “(a) IN GENERAL.—The Attorney General of the  
 25 United States shall designate the individuals described in

1 subsection (b) to have primary responsibility in carrying  
 2 out enforcement activities in addressing violations of sec-  
 3 tion 152 or 157 relating to abusive reaffirmations of debt.

4 “(b) UNITED STATES DISTRICT ATTORNEYS AND  
 5 AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—

6 The individuals referred to in subsection (a) are

7 “(1) a United States attorney for each judicial  
 8 district of the United States; and

9 “(2) an agent of the Federal Bureau of Inves-  
 10 tigation (within the meaning of section 3107) for  
 11 each field office of the Federal Bureau of Investiga-  
 12 tion.

13 “(c) BANKRUPTCY INVESTIGATIONS.—Each United  
 14 States attorney designated under this section shall have  
 15 primary responsibility for carrying out the duties of a  
 16 United States attorney under section 3057.”.

17 (2) CLERICAL AMENDMENT.—The analysis for  
 18 chapter 9 of title 18, United States Code, is amend-  
 19 ed by adding at the end the following:

“158. Designation of United States attorneys and agents of the Federal Bureau  
 of Investigation to address abusive reaffirmations of debt.”.

20 (c) EXCEPTIONS TO DISCHARGE.—Section 523 of  
 21 title 11, United States Code, is amended by adding at the  
 22 end the following:

23 “(f) Nothing in this section or in any other provision  
 24 of this title shall preempt any State law relating to unfair

1 trade practices that imposes restrictions on creditor con-  
 2 duct that would give rise to liability—

3 “(1) under this section; or

4 “(2) under section 524, for failure to comply  
 5 with applicable requirements for seeking a reaffirma-  
 6 tion of debt.

7 “(g) ACTIONS BY STATES.—The attorney general of  
 8 a State, or an official or agency designated by a State—

9 “(1) may bring an action on behalf of its resi-  
 10 dents to recover damages on their behalf under sub-  
 11 section (d) or section 524(c); and

12 “(2) may bring an action in a State court to  
 13 enforce a State criminal law that is similar to sec-  
 14 tion 152 or 157 of title 18.”.

## 15 **Subtitle B—Priority Child Support**

### 16 **SEC. 211. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP- 17 PORT OBLIGATIONS.**

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

20 (1) by striking paragraph (7);

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

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

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

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

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

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

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

11          (9) by inserting before paragraph (2), as redesi-  
12          gnated, the following:

13          “(1) First, allowed claims for domestic support obli-  
14          gations to be paid in the following order on the condition  
15          that funds received under this paragraph by a govern-  
16          mental unit in a case under this title be applied:

17                 “(A) Claims that, as of the date of entry of the  
18                 order for relief, are owed directly to a spouse, former  
19                 spouse, or child of the debtor, or the parent of such  
20                 child, without regard to whether the claim is filed by  
21                 the spouse, former spouse, child, or parent, or is  
22                 filed by a governmental unit on behalf of that per-  
23                 son.

24                 “(B) Claims that, as of the date of entry of the  
25                 order for relief, are assigned by a spouse, former

1 spouse, child of the debtor, or the parent of that  
2 child to a governmental unit or are owed directly to  
3 a governmental unit under applicable nonbankruptcy  
4 law.”.

5 **SEC. 212. REQUIREMENTS TO OBTAIN CONFIRMATION AND**  
6 **DISCHARGE IN CASES INVOLVING DOMESTIC**  
7 **SUPPORT OBLIGATIONS.**

8 Title 11, United States Code, is amended—

9 (1) in section 1129(a), by adding at the end the  
10 following:

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

17 (2) in section 1325(a)—

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

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

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

23 “(7) if the debtor is required by a judicial or  
24 administrative order or statute to pay a domestic  
25 support obligation, the debtor has paid all amounts

1 payable under such order for such obligation that  
 2 become payable after the date on which the petition  
 3 is filed.”; and

4 (3) in section 1328(a), in the matter preceding  
 5 paragraph (1), by inserting “, and with respect to a  
 6 debtor who is required by a judicial or administra-  
 7 tive order to pay a domestic support obligation, cer-  
 8 tifies that all amounts payable under such order or  
 9 statute that are due on or before the date of the cer-  
 10 tification (including amounts due before or after the  
 11 petition was filed) have been paid” after “completion  
 12 by the debtor of all payments under the plan”.

13 **SEC. 213. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**  
 14 **SUPPORT OBLIGATION PROCEEDINGS.**

15 Section 362(b) of title 11, United States Code, is  
 16 amended—

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

19 “(2) under subsection (a)—

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

22 “(i) the establishment of paternity as  
 23 a part of an effort to collect domestic sup-  
 24 port obligations; or



1                   “(ii) the establishment or modification  
2                   of an order for domestic support obliga-  
3                   tions; or

4                   “(B) the collection of a domestic support  
5                   obligation from property that is not property of  
6                   the estate;”;

7                   (2) in paragraph (17), by striking “or” at the  
8                   end;

9                   (3) in paragraph (18), by striking the period at  
10                  the end and inserting a semicolon; and

11                  (4) by inserting after paragraph (18) the fol-  
12                  lowing:

13                  “(19) under subsection (a) with respect to the  
14                  withholding of income under an order as specified in  
15                  section 466(b) of the Social Security Act (42 U.S.C.  
16                  666(b)); or

17                  “(20) under subsection (a) with respect to—

18                         “(A) the withholding, suspension, or re-  
19                         striction of drivers’ licenses, professional and  
20                         occupational licenses, and recreational licenses  
21                         under State law, as specified in section  
22                         466(a)(16) of the Social Security Act (42  
23                         U.S.C. 666(a)(16)) or with respect to the re-  
24                         porting of overdue support owed by an absent  
25                         parent to any consumer reporting agency as

1 specified in section 466(a)(7) of the Social Se-  
2 curity Act (42 U.S.C. 666(a)(7));

3 “(B) the interception of tax refunds, as  
4 specified in sections 464 and 466(a)(3) of the  
5 Social Security Act (42 U.S.C. 664 and  
6 666(a)(3)); or

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

10 **SEC. 214. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**  
11 **ALIMONY, MAINTENANCE, AND SUPPORT.**

12 Section 523 of title 11, United States Code, is  
13 amended—

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

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

17 (2) in subsection (c), by striking “(6), or (15)”  
18 and inserting “or (6)”; and

19 (3) in paragraph (15), by striking “govern-  
20 mental unit” and all through the end of the para-  
21 graph and inserting a semicolon.

22 **SEC. 215. CONTINUED LIABILITY OF PROPERTY.**

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

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

3 “(1) a debt of a kind specified in paragraph (1)  
4 or (5) of section 523(a) (in which case, notwith-  
5 standing any provision of applicable nonbankruptcy  
6 law to the contrary, such property shall be liable for  
7 a debt of a kind specified in section 523(a)(5));”;  
8 and

9 (2) in subsection (f)(1)(A), by striking the dash  
10 and all that follows through the end of the subpara-  
11 graph and inserting “of a kind that is specified in  
12 section 523(a)(5); or”.

13 **SEC. 216. PROTECTION OF DOMESTIC SUPPORT CLAIMS**  
14 **AGAINST PREFERENTIAL TRANSFER MO-**  
15 **TIONS.**

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

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

21 **SEC. 217. AMENDMENT TO SECTION 1325 OF TITLE 11,**  
22 **UNITED STATES CODE.**

23 Section 1325(b)(2) of title 11, United States Code,  
24 is amended by inserting “(other than child support pay-  
25 ments, foster care payments, or disability payments for

1 a dependent child made in accordance with applicable non-  
2 bankruptcy law and which is reasonably necessary to be  
3 expended)” after “received by the debtor”.

4 **SEC. 218. DEFINITION OF DOMESTIC SUPPORT OBLIGA-**  
5 **TION.**

6 Section 101 of title 11, United States Code, is  
7 amended—

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

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

11 “(14A) ‘domestic support obligation’ means a  
12 debt that accrues before or after the entry of an  
13 order for relief under this title that is—

14 “(A) owed to or recoverable by—

15 “(i) a spouse, former spouse, or child  
16 of the debtor or that child’s legal guardian;  
17 or

18 “(ii) a governmental unit;

19 “(B) in the nature of alimony, mainte-  
20 nance, or support (including assistance provided  
21 by a governmental unit) of such spouse, former  
22 spouse, or child, without regard to whether such  
23 debt is expressly so designated;

24 “(C) established or subject to establish-  
25 ment before or after entry of an order for relief

1 under this title, by reason of applicable provi-  
2 sions of—

3 “(i) a separation agreement, divorce  
4 decree, or property settlement agreement;

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

6 “(iii) a determination made in accord-  
7 ance with applicable nonbankruptcy law by  
8 a governmental unit; and

9 “(D) not assigned to a nongovernmental  
10 entity, unless that obligation is assigned volun-  
11 tarily by the spouse, former spouse, child, or  
12 parent solely for the purpose of collecting the  
13 debt.”.

14 **SEC. 219. COLLECTION OF CHILD SUPPORT.**

15 (a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-  
16 tion 704 of title 11, United States Code, as amended by  
17 section 102(b) of this Act, is amended—

18 (1) in subsection (a)—

19 (A) in paragraph (8), by striking “and” at  
20 the end;

21 (B) in paragraph (9), by striking the pe-  
22 riod and inserting “; and”; and

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

24 “(10) if, with respect to an individual debtor,  
25 there is a claim for support of a child of the debtor

1 or a custodial parent of such child entitled to receive  
2 priority under section 507(a)(1), provide the applica-  
3 ble notification specified in subsection (c).”; and

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

5 “(c)(1) In any case described in subsection (a)(10),  
6 the trustee shall—

7 “(A)(i) notify in writing the holder of the claim  
8 of the right of that holder to use the services of a  
9 State child support enforcement agency established  
10 under sections 464 and 466 of the Social Security  
11 Act (42 U.S.C. 654 and 666, respectively) for the  
12 State in which the holder resides; and

13 “(ii) include in the notice under this paragraph  
14 the address and telephone number of the child sup-  
15 port enforcement agency; and

16 “(B)(i) notify in writing the State child support  
17 agency of the State in which the holder of the claim  
18 resides of the claim;

19 “(ii) include in the notice under this paragraph  
20 the name, address, and telephone number of the  
21 holder of the claim; and

22 “(iii) at such time as the debtor is granted a  
23 discharge under section 727, notify the holder of  
24 that claim and the State child support agency of the  
25 State in which that holder resides of—

1 “(I) the granting of the discharge;

2 “(II) the last recent known address of the  
3 debtor; and

4 “(III) with respect to the debtor’s case, the  
5 name of each creditor that holds a claim—

6 “(aa) that is not discharged under  
7 paragraph (2), (4), or (14A) of section  
8 523(a); or

9 “(bb) that was reaffirmed by the debt-  
10 or under section 524(c).

11 “(2)(A) If, after receiving a notice under paragraph  
12 (1)(B)(iii), a holder of a claim or a State child support  
13 agency is unable to locate the debtor that is the subject  
14 of the notice, that party may request from a creditor de-  
15 scribed in paragraph (1)(B)(iii)(III) (aa) or (bb) the last  
16 known address of the debtor.

17 “(B) Notwithstanding any other provision of law, a  
18 creditor that makes a disclosure of a last known address  
19 of a debtor in connection with a request made under sub-  
20 paragraph (A) shall not be liable to the debtor or any  
21 other person by reason of making that disclosure.”.

22 (b) DUTIES OF TRUSTEE UNDER CHAPTER 13.—  
23 Section 1302 of title 11, United States Code, as amended  
24 by section 102(b) of this Act, is amended—

25 (1) in subsection (b)—

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

3 (B) in paragraph (5), by striking the pe-  
4 riod and inserting “; and”; and

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

6 “(6) if, with respect to an individual debtor,  
7 there is a claim for support of a child of the debtor  
8 or a custodial parent of such child entitled to receive  
9 priority under section 507(a)(1), provide the applica-  
10 ble notification specified in subsection (d).”; and

11 (s) by adding at the end the following:

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

14 “(A)(i) notify in writing the holder of the claim  
15 of the right of that holder to use the services of a  
16 State child support enforcement agency established  
17 under sections 464 and 466 of the Social Security  
18 Act (42 U.S.C. 654 and 666, respectively) for the  
19 State in which the holder resides; and

20 “(ii) include in the notice under this paragraph  
21 the address and telephone number of the child sup-  
22 port enforcement agency; and

23 “(B)(i) notify in writing the State child support  
24 agency of the State in which the holder of the claim  
25 resides of the claim; and



1           “(ii) include in the notice under this paragraph  
2           the name, address, and telephone number of the  
3           holder of the claim;

4           “(iii) at such time as the debtor is granted a  
5           discharge under section 1328, notify the holder of  
6           the claim and the State child support agency of the  
7           State in which that holder resides of—

8                   “(I) the granting of the discharge;

9                   “(II) the last recent known address of the  
10           debtor; and

11                   “(III) with respect to the debtor’s case, the  
12           name of each creditor that holds a claim—

13                           “(aa) that is not discharged under  
14                           paragraph (2), (4), or (14A) of section  
15                           523(a); or

16                           “(bb) that was reaffirmed by the debt-  
17                           or under section 524(c).

18           “(2)(A) If, after receiving a notice under paragraph  
19 (1)(B)(iii), a holder of a claim or a State child support  
20 agency is unable to locate the debtor that is the subject  
21 of the notice, that party may request from a creditor de-  
22 scribed in paragraph (1)(B)(iii)(III) (aa) or (bb) the last  
23 known address of the debtor.

24           “(B) Notwithstanding any other provision of law, a  
25 creditor that makes a disclosure of a last known address

1 of a debtor in connection with a request made under sub-  
2 paragraph (A) shall not be liable to the debtor or any  
3 other person by reason of making that disclosure.”.

## 4           **Subtitle C—Other Consumer** 5                           **Protections**

### 6 **SEC. 221. DEFINITIONS.**

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

9                   (1) by inserting after paragraph (3) the fol-  
10           lowing:

11                           “(3A) ‘assisted person’ means any person whose  
12           debts consist primarily of consumer debts and whose  
13           nonexempt assets are less than \$150,000;”;

14                   (2) by inserting after paragraph (4) the fol-  
15           lowing:

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

24                   (3) by inserting after paragraph (12A) the fol-  
25           lowing:

1           “(12B) ‘debt relief agency’ means any person  
2 who provides any bankruptcy assistance to an as-  
3 sisted person in return for the payment of money or  
4 other valuable consideration, or who is a bankruptcy  
5 petition preparer under section 110, but does not in-  
6 clude any person that is any of the following or an  
7 officer, director, employee, or agent thereof—

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

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

15           “(C) any depository institution (as defined  
16 in section 3 of the Federal Deposit Insurance  
17 Act (12 U.S.C. 1813)) or any Federal credit  
18 union or State credit union (as those terms are  
19 defined in section 101 of the Federal Credit  
20 Union Act (12 U.S.C. 1751)), or any affiliate  
21 or subsidiary of such a depository institution or  
22 credit union;”.

23           (b) CONFORMING AMENDMENT.—Section 104(b)(1)  
24 of title 11, United States Code, is amended by inserting  
25 “101(3),” after “sections”.

1 **SEC. 222. DISCLOSURES.**

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

5 **“§ 526. 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).

11 “(2) To the extent not covered in the written  
12 notice described in paragraph (1) and not later than  
13 3 business days after the first date on which a debt  
14 relief agency first offers to provide any bankruptcy  
15 assistance services to an assisted person, a clear and  
16 conspicuous written notice advising assisted persons  
17 that—

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 shall be  
21 complete, accurate, and truthful;

22 “(B) all assets and all liabilities shall 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, shall be stated in those documents if

1 requested after reasonable inquiry to establish  
2 such value;

3 “(C) total current monthly income, pro-  
4 jected monthly net income and, in a case under  
5 chapter 13, monthly net income shall be stated  
6 after reasonable inquiry; and

7 “(D) information an assisted person pro-  
8 vides during the case of that person may be au-  
9 dited under this title and the failure to provide  
10 such information may result in dismissal of the  
11 proceeding under this title or other sanction in-  
12 cluding, in some instances, criminal sanctions.

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

21 “‘IMPORTANT INFORMATION ABOUT BANK-  
22 RUPTCY ASSISTANCE SERVICES FROM AN AT-  
23 TORNEY OR BANKRUPTCY PETITION PREPARER

24 “‘If you decide to seek bankruptcy relief, you can  
25 represent yourself, you can hire an attorney to represent

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

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

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

1 tioned by a court official called a “trustee” and by credi-  
2 tors.

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

7 “If you choose to file a chapter 13 case in which  
8 you repay your creditors what you can afford over 3 to  
9 5 years, you may also want help with preparing your chap-  
10 ter 13 plan and with the confirmation hearing on your  
11 plan which will be before a bankruptcy judge.

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

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

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

1 assisted person, to the extent permitted by nonbankruptcy  
2 law, shall provide each assisted person at the time re-  
3 quired for the notice required under subsection (a)(1) rea-  
4 sonably sufficient information (which may be provided  
5 orally or in a clear and conspicuous writing) to the as-  
6 sisted person on how to provide all the information the  
7 assisted person is required to provide under this title pur-  
8 suant to section 521, including—

9           “(1) how to value assets at replacement value,  
10 determine total current monthly income, projected  
11 monthly income and, in a case under chapter 13, net  
12 monthly income, and related calculations;

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

16           “(3) how to—

17                   “(A) determine what property is exempt;  
18 and

19                   “(B) value exempt property at replacement  
20 value, as defined in section 506.

21           “(d) A debt relief agency shall maintain a copy of  
22 the notices required under subsection (a) of this section  
23 for a period of 2 years after the latest date on which the  
24 notice is given the assisted person.”.



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  
 4 525 the following:

“526. Disclosures.”.

5 **SEC. 223. DEBTOR’S BILL OF RIGHTS.**

6 (a) DEBTOR’S BILL OF RIGHTS.—Subchapter II of  
 7 chapter 5 of title 11, United States Code, as amended by  
 8 section 222 of this Act, is amended by adding at the end  
 9 the following:

10 **“§ 527. Debtor’s bill of rights**

11 “(a)(1) A debt relief agency shall—

12 “(A) not later than 5 business days after the  
 13 first date on which a debt relief agency provides any  
 14 bankruptcy assistance services to an assisted person,  
 15 but before that assisted person’s petition under this  
 16 title is filed—

17 “(i) execute a written contract with the as-  
 18 sisted person specifying clearly and conspicu-  
 19 ously the services the agency will provide the  
 20 assisted person and the basis on which fees or  
 21 charges will be made for such services and the  
 22 terms of payment; and

23 “(ii) give the assisted person a copy of the  
 24 fully executed and completed contract in a form  
 25 the person is able to retain;

1           “(B) disclose in any advertisement of bank-  
2           ruptcy assistance services or of the benefits of bank-  
3           ruptcy directed to the general public (whether in  
4           general media, seminars or specific mailings, tele-  
5           phonic or electronic messages, or otherwise) that the  
6           services or benefits are with respect to proceedings  
7           under this title, clearly and conspicuously using the  
8           statement: ‘We are a debt relief agency. We help  
9           people file bankruptcy petitions to obtain relief  
10          under the Bankruptcy Code.’ or a substantially simi-  
11          lar statement; and

12           “(C) if an advertisement directed to the general  
13          public indicates that the debt relief agency provides  
14          assistance with respect to credit defaults, mortgage  
15          foreclosures, lease eviction proceedings, excessive  
16          debt, debt collection pressure, or inability to pay any  
17          consumer debt, disclose conspicuously in that adver-  
18          tisement that the assistance is with respect to or  
19          may involve proceedings under this title, using the  
20          following statement: ‘We are a debt relief agency.  
21          We help people file bankruptcy petitions to obtain  
22          relief under the Bankruptcy Code.’ or a substantially  
23          similar statement.

24           “(2) For purposes of paragraph (1)(B), an advertise-  
25          ment shall be of bankruptcy assistance services if that ad-

1 vertisement describes or offers bankruptcy assistance with  
2 a plan under chapter 12, without regard to whether chap-  
3 ter 13 is specifically mentioned. A statement such as ‘fed-  
4 erally supervised repayment plan’ or ‘Federal debt restruc-  
5 turing help’ or any other similar statement that would lead  
6 a reasonable consumer to believe that help with debts is  
7 being offered when in fact in most cases the help available  
8 is bankruptcy assistance with a plan under chapter 13 is  
9 a statement covered under the preceding sentence.

10 “(b) A debt relief agency shall not—

11 “(1) fail to perform any service that the debt  
12 relief agency has told the assisted person or prospec-  
13 tive assisted person the agency would provide that  
14 person in connection with the preparation for or ac-  
15 tivities during a proceeding under this title;

16 “(2) make any statement, or counsel or advise  
17 any assisted person to make any statement in any  
18 document filed in a proceeding under this title,  
19 that—

20 “(A) is untrue and misleading; or

21 “(B) upon the exercise of reasonable care,  
22 should be known by the debt relief agency to be  
23 untrue or misleading;

24 “(3) misrepresent to any assisted person or pro-  
25 spective assisted person, directly or indirectly, af-

1       firmatively or by material omission, what services  
2       the debt relief agency may reasonably expect to pro-  
3       vide that person, or the benefits an assisted person  
4       may obtain or the difficulties the person may experi-  
5       ence if the person seeks relief in a proceeding under  
6       this title; or

7               “(4) advise an assisted person or prospective  
8       assisted person to incur more debt in contemplation  
9       of that person filing a proceeding under this title or  
10      in order to pay an attorney or bankruptcy petition  
11      preparer fee or charge for services performed as part  
12      of preparing for or representing a debtor in a pro-  
13      ceeding under this title.”.

14      (b) CONFORMING AMENDMENT.—The table of sec-  
15      tions for chapter 5 of title 11, United States Code, as  
16      amended by section 222 of this Act, is amended by insert-  
17      ing after the item relating to section 526 of title 11,  
18      United States Code, the following:

“527. Debtor’s bill of rights.”.

19      **SEC. 224. ENFORCEMENT.**

20      (a) ENFORCEMENT.—Subchapter II of chapter 5 of  
21      title 11, United States Code, as amended by section 223  
22      of this Act, is amended by adding at the end the following:

23      **“§ 528. Debt relief agency enforcement**

24      “(a) Any waiver by any assisted person of any protec-  
25      tion or right provided by or under section 526 or 527 shall

1 be void and may not be enforced by any Federal or State  
2 court or any other person.

3 “(b)(1) Any contract between a debt relief agency  
4 and an assisted person for bankruptcy assistance that does  
5 not comply with the material requirements of section 526  
6 or 527 shall be treated as void and may not be enforced  
7 by any Federal or State court or by any other person.

8 “(2) Any debt relief agency that has been found, after  
9 notice and hearing, to have—

10 “(A) negligently failed to comply with any pro-  
11 vision of section 526 or 527 with respect to a bank-  
12 ruptcy case or related proceeding of an assisted per-  
13 son;

14 “(B) provided bankruptcy assistance to an as-  
15 sisted person in a case or related proceeding which  
16 is dismissed or converted because the debt relief  
17 agency’s negligent failure to file bankruptcy papers,  
18 including papers specified in section 521; or

19 “(C) negligently or intentionally disregarded the  
20 material requirements of this title or the Federal  
21 Rules of Bankruptcy Procedure applicable to such  
22 debt relief agency shall be liable to the assisted per-  
23 son in the amount of any fees and charges in con-  
24 nection with providing bankruptcy assistance to such

1 person that the debt relief agency has already been  
2 paid on account of that proceeding.

3 “(3) In addition to such other remedies as are pro-  
4 vided under State law, whenever the chief law enforcement  
5 officer of a State, or an official or agency designated by  
6 a State, has reason to believe that any person has violated  
7 or is violating section 526 or 527, the State—

8 “(A) may bring an action to enjoin such viola-  
9 tion;

10 “(B) may bring an action on behalf of its resi-  
11 dents to recover the actual damages of assisted per-  
12 sons arising from such violation, including any liabil-  
13 ity under paragraph (2); and

14 “(C) in the case of any successful action under  
15 subparagraph (A) or (B), shall be awarded the costs  
16 of the action and reasonable attorney fees as deter-  
17 mined by the court.

18 “(4) The United States District Court for any district  
19 located in the State shall have concurrent jurisdiction of  
20 any action under subparagraph (A) or (B) of paragraph  
21 (3).

22 “(5) Notwithstanding any other provision of Federal  
23 law, if the court, on its own motion or on the motion of  
24 the United States trustee, finds that a person intentionally  
25 violated section 526 or 527, or engaged in a clear and

1 consistent pattern or practice of violating section 526 or  
 2 527, the court may—

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

4           “(B) impose an appropriate civil penalty  
 5 against such person.

6           “(c) This section and sections 526 and 527 shall not  
 7 annul, alter, affect, or exempt any person subject to those  
 8 sections from complying with any law of any State except  
 9 to the extent that such law is inconsistent with those sec-  
 10 tions, and then only to the extent of the inconsistency.”.

11           (b) CONFORMING AMENDMENT.—The table of sec-  
 12 tions for chapter 5 of title 11, United States Code, as  
 13 amended by section 223 of this Act, is amended by insert-  
 14 ing after the item relating to section 527 of title 11,  
 15 United States Code, the following:

“528. Debt relief agency enforcement.”.

16 **SEC. 225. SENSE OF CONGRESS.**

17           It is the sense of Congress that States should develop  
 18 curricula relating to the subject of personal finance, de-  
 19 signed for use in elementary and secondary schools.

20 **SEC. 226. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED**  
 21 **STATES CODE.**

22           (a) Section 507(a) of title 11, United States Code,  
 23 as amended by section 211 of this Act, is amended by in-  
 24 serting after paragraph (9) the following:

1           “(10) Tenth, allowed claims for death or per-  
2           sonal injuries resulting from the operation of a  
3           motor vehicle or vessel if such operation was unlaw-  
4           ful because the debtor was intoxicated from using al-  
5           cohol, a drug, or another substance.”.

6           (b) Section 523(a)(9) of title 11, United States Code,  
7           is amended by inserting “or vessel” after “vehicle”.

8           **TITLE III—DISCOURAGING**  
9           **BANKRUPTCY ABUSE**

10       **SEC. 301. REINFORCEMENT OF THE FRESH START.**

11       Section 523(a)(17) of title 11, United States Code,  
12       is amended—

13           (1) by striking “by a court” and inserting “on  
14           a prisoner by any court”,

15           (2) by striking “section 1915(b) or (f)” and in-  
16           serting “subsection (b) or (f)(2) of section 1915”,  
17           and

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

20       **SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.**

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

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



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

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

4           “(3) if a single or joint case is filed by or  
5 against an individual debtor under chapter 7, 11, or  
6 13, and if a single or joint case of the debtor was  
7 pending within the preceding 1-year period but was  
8 dismissed, other than a case refiled under a chapter  
9 other than chapter 7 after dismissal under section  
10 707(b)—

11           “(A) the stay under subsection (a) with re-  
12 spect to any action taken with respect to a debt  
13 or property securing such debt or with respect  
14 to any lease will terminate with respect to the  
15 debtor on the 30th day after the filing of the  
16 later case;

17           “(B) upon motion by a party in interest  
18 for continuation of the automatic stay and upon  
19 notice and a hearing, the court may extend the  
20 stay in particular cases as to any or all credi-  
21 tors (subject to such conditions or limitations  
22 as the court may then impose) after notice and  
23 a hearing completed before the expiration of the  
24 30-day period only if the party in interest dem-

1           onstrates that the filing of the later case is in  
2           good faith as to the creditors to be stayed; and

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

7           “(i) as to all creditors, if—

8           “(I) more than 1 previous case  
9           under any of chapter 7, 11, or 13 in  
10          which the individual was a debtor was  
11          pending within the preceding 1-year  
12          period;

13          “(II) a previous case under any  
14          of chapter 7, 11, or 13 in which the  
15          individual was a debtor was dismissed  
16          within such 1-year period, after the  
17          debtor failed to—

18          “(aa) file or amend the peti-  
19          tion or other documents as re-  
20          quired by this title or the court  
21          without substantial excuse (but  
22          mere inadvertence or negligence  
23          shall not be a substantial excuse  
24          unless the dismissal was caused

1 by the negligence of the debtor’s  
2 attorney);

3 “(bb) provide adequate pro-  
4 tection as ordered by the court;  
5 or

6 “(cc) perform the terms of a  
7 plan confirmed by the court; or

8 “(III) there has not been a sub-  
9 stantial change in the financial or per-  
10 sonal affairs of the debtor since the  
11 dismissal of the next most previous  
12 case under chapter 7, 11, or 13 of  
13 this title, or any other reason to con-  
14 clude that the later case will be  
15 concluded—

16 “(aa) if a case under chap-  
17 ter 7 of this title, with a dis-  
18 charge; or

19 “(bb) if a case under chap-  
20 ter 11 or 13 of this title, with a  
21 confirmed plan which will be fully  
22 performed; and

23 “(ii) as to any creditor that com-  
24 menced an action under subsection (d) in  
25 a previous case in which the individual was

1 a debtor if, as of the date of dismissal of  
2 such case, that action was still pending or  
3 had been resolved by terminating, condi-  
4 tioning, or limiting the stay as to actions  
5 of such creditor; and

6 “(4)(A)(i) if a single or joint case is filed by or  
7 against an individual debtor under this title, and if  
8 2 or more single or joint cases of the debtor were  
9 pending within the previous year but were dismissed,  
10 other than a case refiled under section 707(b), the  
11 stay under subsection (a) shall not go into effect  
12 upon the filing of the later case; and

13 “(ii) on request of a party in interest, the court  
14 shall promptly enter an order confirming that no  
15 stay is in effect;

16 “(B) if, within 30 days after the filing of the  
17 later case, a party in interest requests the court may  
18 order the stay to take effect in the case as to any  
19 or all creditors (subject to such conditions or limita-  
20 tions as the court may impose), after notice and  
21 hearing, only if the party in interest demonstrates  
22 that the filing of the later case is in good faith as  
23 to the creditors to be stayed;

1           “(C) a stay imposed under subparagraph (B)  
2 shall be effective on the date of entry of the order  
3 allowing the stay to go into effect; and

4           “(D) for purposes of subparagraph (B), a case  
5 is presumptively not filed in good faith (but such  
6 presumption may be rebutted by clear and con-  
7 vincing evidence to the contrary)—

8           “(i) as to all creditors if—

9           “(I) 2 or more previous cases under  
10 this title in which the individual was a  
11 debtor were pending within the 1-year pe-  
12 riod;

13           “(II) a previous case under this title  
14 in which the individual was a debtor was  
15 dismissed within the time period stated in  
16 this paragraph after the debtor failed to  
17 file or amend the petition or other docu-  
18 ments as required by this title or the court  
19 without substantial excuse (but mere inad-  
20 vertence or negligence shall not be sub-  
21 stantial excuse unless the dismissal was  
22 caused by the negligence of the debtor’s at-  
23 torney), failed to pay adequate protection  
24 as ordered by the court, or failed to per-

1 form the terms of a plan confirmed by the  
2 court; or

3 “(III) there has not been a substan-  
4 tial change in the financial or personal af-  
5 fairs of the debtor since the dismissal of  
6 the next most previous case under this  
7 title, or any other reason to conclude that  
8 the later case will not be concluded, if a  
9 case under chapter 7, with a discharge,  
10 and if a case under chapter 11 or 13, with  
11 a confirmed plan that will be fully per-  
12 formed; or

13 “(ii) as to any creditor that commenced an  
14 action under subsection (d) in a previous case  
15 in which the individual was a debtor if, as of  
16 the date of dismissal of such case, such action  
17 was still pending or had been resolved by termi-  
18 nating, conditioning, or limiting the stay as to  
19 action of such creditor.”.

20 **SEC. 303. CURBING ABUSIVE FILINGS.**

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

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

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

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

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

10                   “(A) transfer of all or part ownership of,  
11                   or other interest in, the real property without  
12                   the consent of the secured creditor or court ap-  
13                   proval; or

14                   “(B) multiple bankruptcy filings affecting  
15                   the real property.

16 If recorded in compliance with applicable State laws gov-  
17 erning notices of interests or liens in real property, an  
18 order entered under this subsection shall be binding in any  
19 other case under this title purporting to affect the real  
20 property filed not later than 2 years after that recording,  
21 except that a debtor in a subsequent case may move for  
22 relief from such order based upon changed circumstances  
23 or for good cause shown, after notice and a hearing.”.

1 (b) AUTOMATIC STAY.—Section 362(b) of title 11,  
2 United States Code, as amended by section 213 of this  
3 Act, is amended—

4 (1) in paragraph (19), by striking “or” at the  
5 end;

6 (2) in paragraph (20), by striking the period at  
7 the end; and

8 (3) by inserting after paragraph (20) the fol-  
9 lowing:

10 “(21) under subsection (a), of any act to en-  
11 force any lien against or security interest in real  
12 property following the entry of an order under sec-  
13 tion 362(d)(4) as to that property in any prior bank-  
14 ruptcy case for a period of 2 years after entry of  
15 such an order, except that the debtor, in a subse-  
16 quent case, may move the court for relief from such  
17 order based upon changed circumstances or for  
18 other good cause shown, after notice and a hearing;  
19 or

20 “(22) under subsection (a), of any act to en-  
21 force any lien against or security interest in real  
22 property—

23 “(A) if the debtor is ineligible under sec-  
24 tion 109(g) to be a debtor in a bankruptcy case;  
25 or



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

5 **SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY**  
6           **SECURITY.**

7           Title 11, United States Code, is amended—

8           (1) in section 521(a), as so redesignated—

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

11                (B) in paragraph (5), by striking the pe-  
12           riod at the end and inserting “; and”; and

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

14                “(6) in an individual case under chapter 7 of  
15           this title, not retain possession of personal property  
16           as to which a creditor has an allowed claim for the  
17           purchase price secured in whole or in part by an in-  
18           terest in that personal property unless, in the case  
19           of an individual debtor, the debtor within 45 days  
20           after the first meeting of creditors under section  
21           341(a)—

22                “(A) enters into an agreement with the  
23           creditor under section 524(e) with respect to  
24           the claim secured by such property; or

1           “(B) redeems such property from the secu-  
2           rity interest under section 722.”; and

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

4           “(b) If the debtor fails to so act within the 45-day  
5           period specified in subsection (a)(6), the personal property  
6           affected shall no longer be property of the estate, and the  
7           creditor may take whatever action as to such property as  
8           is permitted by applicable nonbankruptcy law, unless the  
9           court determines on the motion of the trustee, and after  
10          notice and a hearing, that such property is of consequen-  
11          tial value or benefit to the estate.”; and

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

14 **SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE**  
15                                   **DEBTOR DOES NOT COMPLETE INTENDED**  
16                                   **SURRENDER OF CONSUMER DEBT COLLAT-**  
17                                   **ERAL.**

18          Title 11, United States Code, is amended—

19          (1) in section 362—

20                               (A) in subsection (e), by striking “(e), and  
21                               (f)” and inserting “(e), (f), and (h)”;

22                               (B) by redesignating subsection (h), as  
23                               amended by section 227 of this Act, as sub-  
24                               section (j) and by inserting after subsection (g)  
25                               the following:

1       “(h)(1) Subject to paragraph (2), in an individual  
2 case under chapter 7, 11, or 13 the stay provided by sub-  
3 section (a) is terminated with respect to property of the  
4 estate securing in whole or in part a claim, or subject to  
5 an unexpired lease, if the debtor fails within the applicable  
6 period of time set by section 521(a)(2) to—

7               “(A) file timely any statement of intention re-  
8 quired under section 521(a)(2) with respect to that  
9 property or to indicate therein that the debtor—

10                       “(i) will either surrender the property or  
11 retain the property; and

12                       “(ii) if retaining the property, will, as  
13 applicable—

14                               “(I) redeem the property under sec-  
15 tion 722;

16                               “(II) reaffirm the debt the property  
17 secures under section 524(c); or

18                               “(III) assume the unexpired lease  
19 under section 365(p) if the trustee does  
20 not do so; or

21               “(B) take timely the action specified in that  
22 statement of intention, as the statement may be  
23 amended before expiration of the period for taking  
24 action, unless the statement of intention specifies re-

1 affirmation and the creditor refuses to reaffirm on  
2 the original contract terms.

3 “(2) Paragraph (1) shall not apply if the court deter-  
4 mines on the motion of the trustee, and after notice and  
5 a hearing, that such property is of consequential value or  
6 benefit to the estate.”; and

7 (2) in section 521, as amended by section 304  
8 of this Act—

9 (A) in subsection (a)(2), as redesignated—

10 (i) by striking “consumer”;

11 (ii) in subparagraph (B)—

12 (I) by striking “forty-five days  
13 after the filing of a notice of intent  
14 under this section” and inserting “30  
15 days after the first date set for the  
16 meeting of creditors under section  
17 341(a)”;

18 (II) by striking “forty-five day  
19 period” and inserting “30-day pe-  
20 riod”;

21 (iii) in subparagraph (C), by inserting  
22 “except as provided in section 362(h)” be-  
23 fore the semicolon; and

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

1       “(c) If the debtor fails timely to take the action speci-  
 2 fied in subsection (a)(6), or in paragraph (1) or (2) of  
 3 section 362(h), with respect to property which a lessor or  
 4 bailor owns and has leased, rented, or bailed to the debtor  
 5 or as to which a creditor holds a security interest not oth-  
 6 erwise voidable under section 522(f), 544, 545, 547, 548,  
 7 or 549, nothing in this title shall prevent or limit the oper-  
 8 ation of a provision in the underlying lease or agreement  
 9 that has the effect of placing the debtor in default under  
 10 that lease or agreement by reason of the occurrence, pend-  
 11 ency, or existence of a proceeding under this title or the  
 12 insolvency of the debtor. Nothing in this subsection shall  
 13 be deemed to justify limiting such a provision in any other  
 14 circumstance.”.

15 **SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT**

16 **IN CHAPTER 13.**

17       (a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title  
 18 11, United States Code, is amended to read as follows:

19               “(i) the plan provides that—

20                       “(I) the holder of such claim retain  
 21 the lien securing such claim until the ear-  
 22 lier of—

23                               “(aa) the payment of the under-  
 24 lying debt determined under nonbank-  
 25 ruptcy law; or

1                   “(bb) discharge under section  
2                   1328; and

3                   “(II) if the case under this chapter is  
4                   dismissed or converted without completion  
5                   of the plan, such lien shall also be retained  
6                   by such holder to the extent recognized by  
7                   applicable nonbankruptcy law; and”.

8           (b) RESTORING THE FOUNDATION FOR SECURED  
9 CREDIT.—Section 1325(a) of title 11, United States Code,  
10 is amended by adding at the end the following flush sen-  
11 tence:

12 “For purposes of paragraph (5), section 506 shall not  
13 apply to a claim described in that paragraph if the debt  
14 that is the subject of the claim was incurred within the  
15 5-year period preceding the filing of the petition and the  
16 collateral for that debt consists of a motor vehicle (as de-  
17 fined in section 30102 of title 49) acquired for the per-  
18 sonal use of the debtor, or if collateral for that debt con-  
19 sists of any other thing of value, if the debt was incurred  
20 during the 6-month period preceding that filing.”.

21           (c) DEFINITIONS.—Section 101 of title 11, United  
22 States Code, as amended by section 221 of this Act, is  
23 amended—

24                   (1) by inserting after paragraph (13) the fol-  
25                   lowing:

1 “(13A) ‘debtor’s principal residence’—

2 “(A) means a residential structure, includ-  
3 ing incidental property, without regard to  
4 whether that structure is attached to real prop-  
5 erty; and

6 “(B) includes an individual condominium  
7 or cooperative unit;” and

8 (2) by inserting after paragraph (27), the fol-  
9 lowing:

10 “(27A) ‘incidental property’ means, with re-  
11 spect to a debtor’s principal residence—

12 “(A) property commonly conveyed with a  
13 principal residence in the area where the real  
14 estate is located;

15 “(B) all easements, rights, appurtenances,  
16 fixtures, rents, royalties, mineral rights, oil or  
17 gas rights or profits, water rights, escrow  
18 funds, or insurance proceeds; and

19 “(C) all replacements or additions;”.

20 **SEC. 307. EXEMPTIONS.**

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

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

24 (2) by striking “, or for a longer portion of  
25 such 180-day period than in any other place”.

1 **SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EX-**  
2 **EMPTION.**

3 Section 522 of title 11, United States Code, as  
4 amended by section 307 of this Act, is amended—

5 (1) in subsection (b)(2)(A), by inserting “sub-  
6 ject to subsection (n),” before “any property”; and

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

8 “(n) For purposes of subsection (b)(2)(A), and not-  
9 withstanding subsection (a), the value of an interest in—

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

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

15 “(3) a burial plot for the debtor or a dependent  
16 of the debtor;

17 shall be reduced to the extent such value is attributable  
18 to any portion of any property that the debtor disposed  
19 of in the 730-day period ending on the date of the filing  
20 of the petition, with the intent to hinder, delay, or defraud  
21 a creditor and that the debtor could not exempt, or that  
22 portion that the debtor could not exempt, under subsection  
23 (b) if on such date the debtor had held the property so  
24 disposed of.”.



1 **SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER**  
2 **13 CASES.**

3 (a) STOPPING ABUSIVE CONVERSIONS FROM CHAP-  
4 TER 13.—Section 348(f)(1) of title 11, United States  
5 Code, is amended—

6 (1) in subparagraph (A), by striking “and” at  
7 the end;

8 (2) in subparagraph (B)—

9 (A) by striking “in the converted case,  
10 with allowed secured claims” and inserting  
11 “only in a case converted to chapter 11 or 12  
12 but not in a case converted to chapter 7, with  
13 allowed secured claims in cases under chapters  
14 11 and 12”; and

15 (B) by striking the period and inserting “;  
16 and”; and

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

18 “(C) with respect to cases converted from chap-  
19 ter 13—

20 “(i) the claim of any creditor holding secu-  
21 rity as of the date of the petition shall continue  
22 to be secured by that security unless the full  
23 amount of such claim determined under appli-  
24 cable nonbankruptcy law has been paid in full  
25 as of the date of conversion, notwithstanding  
26 any valuation or determination of the amount

1 of an allowed secured claim made for the pur-  
2 poses of the chapter 13 proceeding; and

3 “(ii) unless a prebankruptcy default has  
4 been fully cured under the plan at the time of  
5 conversion, in any proceeding under this title or  
6 otherwise, the default shall have the effect given  
7 under applicable nonbankruptcy law.”.

8 (b) GIVING DEBTORS THE ABILITY TO KEEP  
9 LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section  
10 365 of title 11, United States Code, is amended by adding  
11 at the end the following:

12 “(p)(1) If a lease of personal property is rejected or  
13 not timely assumed by the trustee under subsection (d),  
14 the leased property is no longer property of the estate and  
15 the stay under section 362(a) is automatically terminated.

16 “(2)(A) In the case of an individual under chapter  
17 7, the debtor may notify the creditor in writing that the  
18 debtor desires to assume the lease. Upon being so notified,  
19 the creditor may, at its option, notify the debtor that it  
20 is willing to have the lease assumed by the debtor and  
21 may condition such assumption on cure of any outstanding  
22 default on terms set by the contract.

23 “(B) If within 30 days after notice is provided under  
24 subparagraph (A), the debtor notifies the lessor in writing

1 that the lease is assumed, the liability under the lease will  
2 be assumed by the debtor and not by the estate.

3 “(C) The stay under section 362 and the injunction  
4 under section 524(a)(2) shall not be violated by notifica-  
5 tion of the debtor and negotiation of cure under this sub-  
6 section.

7 “(3) In a case under chapter 11 of this title in which  
8 the debtor is an individual and in a case under chapter  
9 13 of this title, if the debtor is the lessee with respect  
10 to personal property and the lease is not assumed in the  
11 plan confirmed by the court, the lease is deemed rejected  
12 as of the conclusion of the hearing on confirmation. If the  
13 lease is rejected, the stay under section 362 and any stay  
14 under section 1301 is automatically terminated with re-  
15 spect to the property subject to the lease.”.

16 (c) ADEQUATE PROTECTION OF LESSORS AND PUR-  
17 CHASE MONEY SECURED CREDITORS.—

18 (1) IN GENERAL.—Subchapter I of chapter 13  
19 of title 11, United States Code, is amended by in-  
20 serting after section 1307 the following:

21 **“§ 1308. Adequate protection in chapter 13 cases**

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

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

2           “(ii) any creditor holding a claim secured by  
3           personal property to the extent that the claim is at-  
4           tributable to the purchase of that property by the  
5           debtor.

6           “(B) The debtor or the plan shall continue making  
7           the adequate protection payments until the earlier of the  
8           date on which—

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

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

13                 “(I) the lessor or creditor; or

14                 “(II) any third party acting under claim of  
15          right.

16          “(2) The payments referred to in paragraph (1)(A)  
17          shall be the contract amount.

18          “(b)(1) Subject to the limitations under paragraph  
19          (2), the court may, after notice and hearing, change the  
20          amount, and timing of the dates of payment, of payments  
21          made under subsection (a).

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

24          “(B) The amount of payments referred to in para-  
25          graph (1) shall not be less than the amount of any weekly,

1 biweekly, monthly, or other periodic payment schedules as  
2 payable under the contract between the debtor and cred-  
3 itor.

4 “(c) Notwithstanding section 1326(b), the payments  
5 referred to in subsection (a)(1)(A) shall be continued in  
6 addition to plan payments under a confirmed plan until  
7 actual payments to the creditor begin under that plan, if  
8 the confirmed plan provides for—

9 “(1) payments to a creditor or lessor described  
10 in subsection (a)(1); and

11 “(2) the deferral of payments to such creditor  
12 or lessor under the plan until the payment of  
13 amounts described in section 1326(b).

14 “(d) Notwithstanding sections 362, 542, and 543, a  
15 lessor or creditor described in subsection (a) may retain  
16 possession of property described in that subsection that  
17 was obtained in accordance with applicable law before the  
18 date of filing of the petition until the first payment under  
19 subsection (a)(1)(A) is received by the lessor or creditor.

20 “(e) On or before the date that is 60 days after the  
21 filing of a case under this chapter, a debtor retaining pos-  
22 session of personal property subject to a lease or securing  
23 a claim attributable in whole or in part to the purchase  
24 price of such property shall provide each creditor or lessor  
25 reasonable evidence of the maintenance of any required

1 insurance coverage with respect to the use or ownership  
 2 of such property and continue to do so for so long as the  
 3 debtor retains possession of such property.”.

4 (2) CLERICAL AMENDMENT.—The table of sec-  
 5 tions for chapter 13 of title 11, United States Code,  
 6 is amended, in the matter relating to subchapter I,  
 7 by inserting after the item relating to section 1307  
 8 the following:

“1308. Adequate protection in chapter 13 cases.”.

9 **SEC. 310. LIMITATION ON LUXURY GOODS.**

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

12 “(C)(i) for purposes of subparagraph (A)—

13 “(I) consumer debts owed to a single cred-  
 14 itor and aggregating more than \$250 for luxury  
 15 goods or services incurred by an individual  
 16 debtor on or within 90 days before the order for  
 17 relief under this title are presumed to be non-  
 18 dischargeable; and

19 “(II) cash advances aggregating more than  
 20 \$750 that are extensions of consumer credit  
 21 under an open end credit plan obtained by an  
 22 individual debtor on or within 70 days before  
 23 the order for relief under this title, are pre-  
 24 sumed to be nondischargeable; and

25 “(ii) for purposes of this subparagraph—

1           “(I) the term ‘extension of credit under an  
2           open end credit plan’ means an extension of  
3           credit under an open end credit plan, within the  
4           meaning of the Consumer Credit Protection Act  
5           (15 U.S.C. 1601 et seq.);

6           “(II) the term ‘open end credit plan’ has  
7           the meaning given that term under section 103  
8           of Consumer Credit Protection Act (15 U.S.C.  
9           1602); and

10           “(III) the term ‘luxury goods or services’  
11           does not include goods or services reasonably  
12           necessary for the support or maintenance of the  
13           debtor or a dependent of the debtor.”.

14 **SEC. 311. AUTOMATIC STAY.**

15           Section 362(b) of title 11, United States Code, as  
16           amended by section 303(b) of this Act, is amended—

17           (1) in paragraph (21), by striking “or” at the  
18           end;

19           (2) in paragraph (22), by striking the period at  
20           the end and inserting a semicolon; and

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

23           “(23) under subsection (a)(3), of the continu-  
24           ation of any eviction, unlawful detainer action, or  
25           similar proceeding by a lessor against a debtor in-

1       volving residential real property in which the debtor  
2       resides as a tenant under a rental agreement;

3           “(24) under subsection (a)(3), of the com-  
4       mencement of any eviction, unlawful detainer action,  
5       or similar proceeding by a lessor against a debtor in-  
6       volving residential real property in which the debtor  
7       resides as a tenant under a rental agreement that  
8       has terminated under the lease agreement or appli-  
9       cable State law; or

10           “(25) under subsection (a)(3), of eviction ac-  
11       tions based on endangerment to property or person  
12       or the use of illegal drugs.”.

13   **SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY**  
14           **DISCHARGES.**

15       Title 11, United States Code, is amended—

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

18           (2) in section 1328, by adding at the end the  
19       following:

20       “(f) Notwithstanding subsections (a) and (b), the  
21       court shall not grant a discharge of all debts provided for  
22       by the plan or disallowed under section 502 if the debtor  
23       has received a discharge in any case filed under this title  
24       within 5 years before the order for relief under this chap-  
25       ter.”.



1 **SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND AN-**  
2 **Tiques.**

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

5 “(4)(A) Subject to subparagraph (B), for pur-  
6 poses of paragraph (1)(B), the term ‘household  
7 goods’ means—

8 “(i) clothing;

9 “(ii) furniture;

10 “(iii) appliances;

11 “(iv) 1 radio;

12 “(v) 1 television;

13 “(vi) 1 VCR;

14 “(vii) linens;

15 “(viii) china;

16 “(ix) crockery;

17 “(x) kitchenware;

18 “(xi) educational materials and educational  
19 equipment primarily for the use of minor de-  
20 pendent children of the debtor, but only 1 per-  
21 sonal computer only if used primarily for the  
22 education or entertainment of such minor chil-  
23 dren;

24 “(xii) medical equipment and supplies;

1           “(xiii) furniture exclusively for the use of  
2           minor children, or elderly or disabled depend-  
3           ents of the debtor; and

4           “(xiv) personal effects (including wedding  
5           rings and the toys and hobby equipment of  
6           minor dependent children) of the debtor and the  
7           dependents of the debtor.

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

10           “(i) works of art (unless by or of the debt-  
11           or or the dependents of the debtor);

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

14           “(iii) items acquired as antiques;

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

16           “(v) a computer (except as otherwise pro-  
17           vided for in this section), motor vehicle (includ-  
18           ing a tractor or lawn tractor), boat, or a motor-  
19           ized recreational device, conveyance, vehicle,  
20           watercraft, or aircraft.”.

21 **SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE**  
22 **DEBTS.**

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

1           “(14A)(A) incurred to pay a debt that is non-  
2 dischargeable by reason of section 727, 1141,  
3 1228(a), 1228(b), or 1328(b), or any other provision  
4 of this subsection, if the debtor incurred the debt to  
5 pay such a nondischargeable debt with the intent to  
6 discharge in bankruptcy the newly created debt;

7           “(B) except that all debts incurred to pay non-  
8 dischargeable debts shall be presumed to be non-  
9 dischargeable debts if incurred within 70 days before  
10 the filing of the petition (except that, in any case in  
11 which there is an allowed claim under section 502  
12 for child support or spousal support entitled to pri-  
13 ority under section 507(a)(1) and that was filed in  
14 a timely manner, debts that would otherwise be pre-  
15 sumed to be nondischargeable debts by reason of  
16 this subparagraph shall be treated as dischargeable  
17 debts);”.

18           (b) DISCHARGE UNDER CHAPTER 13.

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

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

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

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

11           (a) NOTICE.—Section 342 of title 11, United States  
12 Code, is amended—

13           (1) in subsection (c)—

14                           (A) by inserting “(1)” after “(c)”; and

15                           (B) by striking “, but the failure of such  
16           notice to contain such information shall not in-  
17           validate the legal effect of such notice”; and

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

19           “(d) At any time, a creditor, in a case of an individual  
20 debtor under chapter 7 or 13, may file with the court and  
21 serve on the debtor a notice of the address to be used to  
22 notify the creditor in that case. Five days after receipt  
23 of such notice, if the court or the debtor is required to  
24 give the creditor notice, such notice shall be given at that  
25 address.

1           “(e) An entity may file with the court a notice stating  
2 its address for notice in cases under chapters 7 and 13.  
3 After 30 days following the filing of such notice, any notice  
4 in any case filed under chapter 7 or 13 given by the court  
5 shall be to that address unless specific notice is given  
6 under subsection (d) with respect to a particular case.

7           “(f)(1) Notice given to a creditor other than as pro-  
8 vided in this section shall not be effective notice until that  
9 notice has been brought to the attention of the creditor.  
10 If the creditor designates a person or department to be  
11 responsible for receiving notices concerning bankruptcy  
12 cases and establishes reasonable procedures so that bank-  
13 ruptcy notices received by the creditor are to be delivered  
14 to such department or person, notice shall not be consid-  
15 ered to have been brought to the attention of the creditor  
16 until received by such person or department.

17           “(2) No sanction under section 362(h) or any other  
18 sanction that a court may impose on account of violations  
19 of the stay under section 362(a) or failure to comply with  
20 section 542 or 543 may be imposed on any action of the  
21 creditor unless the action takes place after the creditor  
22 has received notice of the commencement of the case effec-  
23 tive under this section.”.

1 (b) DEBTOR'S DUTIES.—Section 521 of title 11,  
2 United States Code, as amended by section 305 of this  
3 Act, is amended—

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

6 “(1) file—

7 “(A) a list of creditors; and

8 “(B) unless the court orders otherwise—

9 “(i) a schedule of assets and liabil-  
10 ities;

11 “(ii) a schedule of current income and  
12 current expenditures;

13 “(iii) a statement of the debtor’s fi-  
14 nancial affairs and, if applicable, a  
15 certificate—

16 “(I) of an attorney whose name  
17 is on the petition as the attorney for  
18 the debtor or any bankruptcy petition  
19 preparer signing the petition under  
20 section 110(b)(1) indicating that such  
21 attorney or bankruptcy petition pre-  
22 parer delivered to the debtor any no-  
23 tice required by section 342(b); or

24 “(II) if no attorney for the debt-  
25 or is indicated and no bankruptcy pe-

1           tition preparer signed the petition, of  
2           the debtor that such notice was ob-  
3           tained and read by the debtor;

4           “(iv) copies of any Federal tax re-  
5           turns, including any schedules or attach-  
6           ments, filed by the debtor for the 3-year  
7           period preceding the order for relief;

8           “(v) copies of all payment advices or  
9           other evidence of payment, if any, received  
10          by the debtor from any employer of the  
11          debtor in the period 60 days before the fil-  
12          ing of the petition;

13          “(vi) a statement of the amount of  
14          projected monthly net income, itemized to  
15          show how the amount is calculated; and

16          “(vii) a statement disclosing any rea-  
17          sonably anticipated increase in income or  
18          expenditures over the 12-month period fol-  
19          lowing the date of filing;”;

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

21           “(d)(1) At any time, a creditor, in the case of an indi-  
22          vidual under chapter 7 or 13, may file with the court no-  
23          tice that the creditor requests the petition, schedules, and  
24          a statement of affairs filed by the debtor in the case and

1 the court shall make those documents available to the  
2 creditor who requests those documents.

3 “(2)(A) At any time, a creditor in a case under chap-  
4 ter 13 may file with the court notice that the creditor re-  
5 quests the plan filed by the debtor in the case.

6 “(B) The court shall make such plan available to the  
7 creditor who requests such plan—

8 “(i) at a reasonable cost; and

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

10 “(e) An individual debtor in a case under chapter 7  
11 or 13 shall file with the court—

12 “(1) at the time filed with the taxing authority,  
13 all tax returns, including any schedules or attach-  
14 ments, with respect to the period from the com-  
15 mencement of the case until such time as the case  
16 is closed;

17 “(2) at the time filed with the taxing authority,  
18 all tax returns, including any schedules or attach-  
19 ments, that were not filed with the taxing authority  
20 when the schedules under subsection (a)(1) were  
21 filed with respect to the period that is 3 years before  
22 the order for relief;

23 “(3) any amendments to any of the tax returns,  
24 including schedules or attachments, described in  
25 paragraph (1) or (2); and



1           “(4) in a case under chapter 13, a statement  
2           subject to the penalties of perjury by the debtor of  
3           the debtor’s income and expenditures in the pre-  
4           ceding tax year and monthly income, that shows how  
5           the amounts are calculated—

6                   “(A) beginning on the date that is the  
7                   later of 90 days after the close of the debtor’s  
8                   tax year or 1 year after the order for relief, un-  
9                   less a plan has been confirmed; and

10                   “(B) thereafter, on or before the date that  
11                   is 45 days before each anniversary of the con-  
12                   firmation of the plan until the case is closed.

13           “(f)(1) A statement referred to in subsection (e)(4)  
14 shall disclose—

15                   “(A) the amount and sources of income of the  
16                   debtor;

17                   “(B) the identity of any person responsible with  
18                   the debtor for the support of any dependent of the  
19                   debtor; and

20                   “(C) the identity of any person who contrib-  
21                   uted, and the amount contributed, to the household  
22                   in which the debtor resides.

23           “(2) The tax returns, amendments, and statement of  
24           income and expenditures described in paragraph (1) shall  
25           be available to the United States trustee, any bankruptcy

1 administrator, any trustee, and any party in interest for  
2 inspection and copying, subject to the requirements of  
3 subsection (f).

4 “(g)(1) Not later than 30 days after the date of en-  
5 actment of the Bankruptcy Reform Act of 1999, the Di-  
6 rector of the Administrative Office of the United States  
7 Courts shall establish procedures for safeguarding the con-  
8 fidentiality of any tax information required to be provided  
9 under this section.

10 “(2) The procedures under paragraph (1) shall in-  
11 clude restrictions on creditor access to tax information  
12 that is required to be provided under this section.

13 “(3) Not later than 1 year after the date of enact-  
14 ment of the Bankruptcy Reform Act of 1999, the Director  
15 of the Administrative Office of the United States Courts  
16 shall prepare and submit to Congress a report that—

17 “(A) assesses the effectiveness of the proce-  
18 dures under paragraph (1); and

19 “(B) if appropriate, includes proposed legisla-  
20 tion to—

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

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

1 “(h) If requested by the United States trustee or a  
2 trustee serving in the case, the debtor shall provide—

3 “(1) a document that establishes the identity of  
4 the debtor, including a driver’s license, passport, or  
5 other document that contains a photograph of the  
6 debtor; and

7 “(2) such other personal identifying information  
8 relating to the debtor that establishes the identity of  
9 the debtor.”.

10 **SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**  
11 **ULES OR PROVIDE REQUIRED INFORMATION.**

12 Section 521 of title 11, United States Code, as  
13 amended by section 315 of this Act, is amended by adding  
14 at the end the following:

15 “(i)(1) Notwithstanding section 707(a), and subject  
16 to paragraph (2), if an individual debtor in a voluntary  
17 case under chapter 7 or 13 fails to file all of the informa-  
18 tion required under subsection (a)(1) within 45 days after  
19 the filing of the petition commencing the case, the case  
20 shall be automatically dismissed effective on the 46th day  
21 after the filing of the petition.

22 “(2) With respect to a case described in paragraph  
23 (1), any party in interest may request the court to enter  
24 an order dismissing the case. If requested, the court shall

1 enter an order of dismissal not later than 5 days after  
2 such request.

3 “(3) Upon request of the debtor made within 45 days  
4 after the filing of the petition commencing a case de-  
5 scribed in paragraph (1), the court may allow the debtor  
6 an additional period of not to exceed 45 days to file the  
7 information required under subsection (a)(1) if the court  
8 finds justification for extending the period for the filing.”.

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

11 (a) HEARING.—Section 1324 of title 11, United  
12 States Code, is amended—

13 (1) by striking “After” and inserting the fol-  
14 lowing:

15 “(a) Except as provided in subsection (b) and after”;  
16 and

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

18 “(b) The hearing on confirmation of the plan may  
19 be held not later than 45 days after the meeting of credi-  
20 tors under section 341(a).”.

21 (b) FILING OF PLAN.—Section 1321 of title 11,  
22 United States Code, is amended to read as follows:

23 **“§ 1321. Filing of plan**

24 “Not later than 90 days after the order for relief  
25 under this chapter, the debtor shall file a plan, except that

1 the court may extend such period if the need for an exten-  
 2 sion is attributable to circumstances for which the debtor  
 3 should not justly be held accountable.”.

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

6 Section 1322(d) of title 11, United States Code, is  
 7 amended to read as follows:

8 “(d)(1) Except as provided in paragraph (2), the plan  
 9 may not provide for payments over a period that is longer  
 10 than 3 years.

11 “(2) The plan may provide for payments over a pe-  
 12 riod that is longer than 3 years if—

13 “(A) the plan is for a case that was converted  
 14 to a case under this chapter from a case under chap-  
 15 ter 7, in which case the plan shall provide for pay-  
 16 ments over a period of 5 years; or

17 “(B) the plan is for a case that is not described  
 18 in subparagraph (A), and the court, for cause, ap-  
 19 proves a period longer than 3 years, but not to ex-  
 20 ceed 5 years.”.

21 **SEC. 319. 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 Congress that Rule 9011 of the Fed-  
 25 eral 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—

8 (1) well grounded in fact; and

9 (2) warranted by existing law or a good-faith  
10 argument for the extension, modification, or reversal  
11 of existing law.

12 **SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL**  
13 **CASES.**

14 Section 362(e) of title 11, United States Code, is  
15 amended—

16 (1) by inserting “(1)” after “(e)”; and

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

18 “(2) Notwithstanding paragraph (1), in the case of  
19 an individual filing under chapter 7, 11, or 13, the stay  
20 under subsection (a) shall terminate on the date that is  
21 60 days after a request is made by a party in interest  
22 under subsection (d), unless—

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

1           “(B) that 60-day period is extended—  
2                   “(i) by agreement of all parties in interest;  
3           or  
4                   “(ii) by the court for such specific period  
5           of time as the court finds is required for good  
6           cause, as described in findings made by the  
7           court.”.

8   **TITLE IV—GENERAL AND SMALL**  
9       **BUSINESS BANKRUPTCY PRO-**  
10      **VISIONS**

11      **Subtitle A—General Business**  
12           **Bankruptcy Provisions**

13   **SEC. 401. ROLLING STOCK EQUIPMENT.**

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

16   **“§ 1168. Rolling stock equipment**

17       “(a)(1) The right of a secured party with a security  
18   interest in or of a lessor or conditional vendor of equip-  
19   ment described in paragraph (2) to take possession of such  
20   equipment in compliance with an equipment security  
21   agreement, lease, or conditional sale contract, and to en-  
22   force any of its other rights or remedies under such secu-  
23   rity agreement, lease, or conditional sale contract, to sell,  
24   lease, or otherwise retain or dispose of such equipment,  
25   is not limited or otherwise affected by any other provision

1 of this title or by any power of the court, except that the  
2 right to take possession and enforce those other rights and  
3 remedies shall be subject to section 362, if—

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

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

13           “(i) occurs before the date of commence-  
14 ment of the case and is an event of default  
15 therewith is cured before the expiration of such  
16 60-day period;

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

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

24           “(II) the expiration of such 60-day  
25 period; and



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

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

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

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

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

22          “(b) The trustee and the secured party, lessor, or  
23          conditional vendor whose right to take possession is pro-  
24          tected under subsection (a) may agree, subject to the

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

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

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

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

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

1 agreement is to be treated as a lease for Federal in-  
2 come tax purposes; and

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

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

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

13 **“§ 1110. Aircraft equipment and vessels**

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

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

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

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

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

23           “(iii) on or after the expiration of such 60-  
24 day period is cured in compliance with the  
25 terms of such security agreement, lease, or con-

1           ditional sale contract, if a cure is permitted  
2           under that agreement, lease, or contract.

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

4           “(A) is—

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

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

23           “(B) includes all records and documents relat-  
24           ing to such equipment that are required, under the  
25           terms of the security agreement, lease, or conditional

1 sale contract, to be surrendered or returned by the  
2 debtor in connection with the surrender or return of  
3 such equipment.

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

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

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

21 “(2) At such time as the trustee is required under  
22 paragraph (1) to surrender and return equipment de-  
23 scribed in subsection (a)(3), any lease of such equipment,  
24 and any security agreement or conditional sale contract  
25 relating to such equipment, if such security agreement or

1 conditional sale contract is an executory contract, shall be  
2 deemed rejected.

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

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

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

14 **SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.**

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

18 “(48A) ‘securities self regulatory organization’  
19 means either a securities association registered with  
20 the Securities and Exchange Commission under sec-  
21 tion 15A of the Securities Exchange Act of 1934 (15  
22 U.S.C. 78o–3) or a national securities exchange reg-  
23 istered with the Securities and Exchange Commis-  
24 sion under section 6 of the Securities Exchange Act  
25 of 1934 (15 U.S.C. 78f);”.

1 (b) AUTOMATIC STAY.—Section 362(b) of title 11,  
2 United States Code, as amended by section 311 of this  
3 Act, is amended—

4 (1) in paragraph (24), by striking “or” at the  
5 end;

6 (2) in paragraph (25), by striking the period at  
7 the end and inserting “; or”; and

8 (3) by inserting after paragraph (25) the fol-  
9 lowing:

10 “(26) under subsection (a), of—

11 “(A) the commencement or continuation of  
12 an investigation or action by a securities self  
13 regulatory organization to enforce such organi-  
14 zation’s regulatory power;

15 “(B) the enforcement of an order or deci-  
16 sion, other than for monetary sanctions, ob-  
17 tained in an action by the securities self regu-  
18 latory organization to enforce such organiza-  
19 tion’s regulatory power; or

20 “(C) any act taken by the securities self  
21 regulatory organization to delist, delete, or  
22 refuse to permit quotation of any stock that  
23 does not meet applicable regulatory require-  
24 ments.”.



1 **SEC. 403. MEETINGS OF CREDITORS AND EQUITY SECURITY**  
2 **HOLDERS.**

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

5 “(e) Notwithstanding subsections (a) and (b), the  
6 court, on the request of a party in interest and after notice  
7 and a hearing, for cause may order that the United States  
8 trustee not convene a meeting of creditors or equity secu-  
9 rity holders if the debtor has filed a plan as to which the  
10 debtor solicited acceptances prior to the commencement  
11 of the case.”.

12 **SEC. 404. PROTECTION OF REFINANCE OF SECURITY IN-**  
13 **TEREST.**

14 Subparagraphs (A), (B), and (C) of section 547(e)(2)  
15 of title 11, United States Code, are each amended by strik-  
16 ing “10” each place it appears and inserting “30”.

17 **SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED**  
18 **LEASES.**

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

21 “(4)(A) Subject to subparagraph (B), in any case  
22 under any chapter of this title, an unexpired lease of non-  
23 residential real property under which the debtor is the les-  
24 see shall be deemed rejected and the trustee shall imme-  
25 diately surrender that nonresidential real property to the

1 lessor if the trustee does not assume or reject the unex-  
 2 pired lease by the earlier of—

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

5           “(ii) the date of the entry of an order con-  
 6           firming a plan.

7           “(B) The court may extend the period determined  
 8           under subparagraph (A) only upon a motion of the les-  
 9           sor.”.

10 **SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS**

11                           **COMMITTEES.**

12           Section 1102(a)(2) of title 11, United States Code,  
 13 is amended by inserting before the first sentence the fol-  
 14 lowing: “On its own motion or on request of a party in  
 15 interest, and after notice and hearing, the court may order  
 16 a change in the membership of a committee appointed  
 17 under this subsection, if the court determines that the  
 18 change is necessary to ensure adequate representation of  
 19 creditors or equity security holders.”.

20 **SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11,**

21                           **UNITED STATES CODE.**

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

24           (1) by redesignating the second subsection des-  
 25           ignated as subsection (g) (as added by section

1 222(a) of Public Law 103–394) as subsection (i);  
2 and

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

4 “(j)(1) Notwithstanding section 545 (2) and (3), the  
5 trustee may not avoid a warehouseman’s lien for storage,  
6 transportation or other costs incidental to the storage and  
7 handling of goods.

8 “(2) The prohibition under paragraph (1) shall be ap-  
9 plied in a manner consistent with any applicable State  
10 statute that is similar to section 7–209 of the Uniform  
11 Commercial Code.”.

12 **SEC. 408. LIMITATION.**

13 Section 546(c)(1)(B) of title 11, United States Code,  
14 is amended by striking “20” and inserting “45”.

15 **SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11,**

16 **UNITED STATES CODE.**

17 Section 330(a)(3) of title 11, United States Code, is  
18 amended—

19 (1) by striking “(A) the; and inserting “(i)  
20 the”;

21 (2) by striking “(B)” and inserting “(ii)”;

22 (3) by striking “(C)” and inserting “(iii)”;

23 (4) by striking “(D)” and inserting “(iv)”;

24 (5) by striking “(E)” and inserting “(v)”;

1           (6) in subparagraph (A), by inserting “to an  
2           examiner, trustee under chapter 11, or professional  
3           person” after “awarded”; and

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

5           “(B) In determining the amount of reasonable com-  
6           pensation to be awarded a trustee, the court shall treat  
7           such compensation as a commission based on the results  
8           achieved.”.

9           **SEC. 410. POSTPETITION DISCLOSURE AND SOLICITATION.**

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

12          “(g) Notwithstanding subsection (b), an acceptance  
13          or rejection of the plan may be solicited from a holder  
14          of a claim or interest if such solicitation complies with ap-  
15          plicable nonbankruptcy law and if such holder was solici-  
16          ited before the commencement of the case in a manner  
17          complying with applicable nonbankruptcy law.”.

18          **SEC. 411. PREFERENCES.**

19          Section 547(e) of title 11, United States Code, is  
20          amended—

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

23                 “(2) to the extent that such transfer was in  
24                 payment of a debt incurred by the debtor in the or-

1 ordinary course of business or financial affairs of the  
2 debtor and the transferee, and such transfer was—

3 “(A) made in the ordinary course of busi-  
4 ness or financial affairs of the debtor and the  
5 transferee; or

6 “(B) made according to ordinary business  
7 terms;”;

8 (2) in paragraph (7) by striking “or” at the  
9 end;

10 (3) in paragraph (8) by striking the period at  
11 the end and inserting “; or”; and

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

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

17 **SEC. 412. VENUE OF CERTAIN PROCEEDINGS.**

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

21 **SEC. 413. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

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

24 (1) by striking “On” and inserting “(1) Subject  
25 to paragraph (1), on”; and

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

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

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

8 **SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP IN-**  
9 **TERESTS.**

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

12 (1) by striking “dwelling” the first place it ap-  
13 pears;

14 (2) by striking “ownership or” and inserting  
15 “ownership,”;

16 (3) by striking “housing” the first place it ap-  
17 pears; and

18 (4) by striking “but only” and all that follows  
19 through “but nothing in this paragraph” and insert-  
20 ing “or a lot in a homeowners association, for as  
21 long as the debtor or the trustee has a legal, equi-  
22 table, or possessory ownership interest in such unit,  
23 such corporation, or such lot, and until such time as  
24 the debtor or trustee has surrendered any legal, eq-  
25 uitable or possessory interest in such unit, such cor-

1       poration, or such lot, but nothing in this para-  
2       graph”.

3       **SEC. 415. CREDITOR REPRESENTATION AT FIRST MEETING**  
4                                   **OF CREDITORS.**

5       Section 341(e) of title 11, United States Code, is  
6       amended by inserting after the first sentence the fol-  
7       lowing: “Notwithstanding any local court rule, provision  
8       of a State constitution, any other Federal or State law  
9       that is not a bankruptcy law, or other requirement that  
10      representation at the meeting of creditors under sub-  
11      section (a) be by an attorney, a creditor holding a con-  
12      sumer debt or any representative of the creditor (which  
13      may include an entity or an employee of an entity and  
14      may be a representative for more than 1 creditor) shall  
15      be permitted to appear at and participate in the meeting  
16      of creditors in a case under chapter 7 or 13, either alone  
17      or in conjunction with an attorney for the creditor. Noth-  
18      ing in this subsection shall be construed to require any  
19      creditor to be represented by an attorney at any meeting  
20      of creditors.”.

21      **SEC. 416. ELIMINATION OF CERTAIN FEES PAYABLE IN**  
22                                   **CHAPTER 11 BANKRUPTCY CASES.**

23      (a) AMENDMENTS.—Section 1930(a)(6) of title 28,  
24      United States Code, is amended—

1           (1) in the first sentence by striking “until the  
2 case is converted or dismissed, whichever occurs  
3 first”; and

4           (2) in the second sentence—

5                 (A) by striking “The” and inserting “Until  
6 the plan is confirmed or the case is converted  
7 (whichever occurs first) the”; and

8                 (B) by striking “less than \$300,000;” and  
9 inserting “less than \$300,000. Until the case is  
10 converted, dismissed, or closed (whichever oc-  
11 curs first and without regard to confirmation of  
12 the plan) the fee shall be”.

13         (b) DELAYED EFFECTIVE DATE.—The amendments  
14 made by subsection (a) shall take effect on October 1,  
15 1999.

16 **SEC. 417. DEFINITION OF DISINTERESTED PERSON.**

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

19                 “(14) ‘disinterested person’ means a person  
20 that—

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

23                         “(B) is not and was not, within 2 years be-  
24 fore the date of the filing of the petition, a di-  
25 rector, officer, or employee of the debtor; and



1           “(C) does not have an interest materially  
2           adverse to the interest of the estate or of any  
3           class of creditors or equity security holders, by  
4           reason of any direct or indirect relationship to,  
5           connection with, or interest in, the debtor, or  
6           for any other reason;”.

7 **SEC. 418. FACTORS FOR COMPENSATION OF PROFES-**  
8 **SIONAL PERSONS.**

9           Section 330(a)(3) of title 11, United States Code, is  
10 amended—

11           (1) in subparagraph (D), by striking “and” at  
12           the end;

13           (2) by redesignating subparagraph (E) as sub-  
14           paragraph (F); and

15           (3) by inserting after subparagraph (D) the fol-  
16           lowing:

17           “(E) with respect to a professional person,  
18           whether the person is board certified or otherwise  
19           has demonstrated skill and experience in the bank-  
20           ruptcy field;”.

21 **SEC. 419. APPOINTMENT OF ELECTED TRUSTEE.**

22           Section 1104(b) of title 11, United States Code, is  
23 amended—

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

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

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

4 “(B) Upon the filing of a report under subparagraph  
5 (A)—

6 “(i) the trustee elected under paragraph (1)  
7 shall be considered to have been selected and ap-  
8 pointed for purposes of this section; and

9 “(ii) the service of any trustee appointed under  
10 subsection (d) shall terminate.

11 “(C) In the case of any dispute arising out of an elec-  
12 tion described in subparagraph (A), the court shall resolve  
13 the dispute.”.

## 14 **Subtitle B—Small Business** 15 **Bankruptcy Provisions**

### 16 **SEC. 421. FLEXIBLE RULES FOR DISCLOSURE STATEMENT** 17 **AND PLAN.**

18 Section 1125 of title 11, United States Code, is  
19 amended by striking subsection (f) and inserting the fol-  
20 lowing:

21 “(f) Notwithstanding subsection (b), in a small busi-  
22 ness case—

23 “(1) in determining whether a disclosure state-  
24 ment provides adequate information, the court shall  
25 consider the complexity of the case, the benefit of

1 additional information to creditors and other parties  
2 in interest, and the cost of providing additional in-  
3 formation;

4 “(2) the court may determine that the plan  
5 itself provides adequate information and that a sepa-  
6 rate disclosure statement is not necessary;

7 “(3) the court may approve a disclosure state-  
8 ment submitted on standard forms approved by the  
9 court or adopted under section 2075 of title 28; and

10 “(4)(A) the court may conditionally approve a  
11 disclosure statement subject to final approval after  
12 notice and a hearing;

13 “(B) acceptances and rejections of a plan may  
14 be solicited based on a conditionally approved disclo-  
15 sure statement if the debtor provides adequate infor-  
16 mation to each holder of a claim or interest that is  
17 solicited, but a conditionally approved disclosure  
18 statement shall be mailed not later than 20 days be-  
19 fore the date of the hearing on confirmation of the  
20 plan; and

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

1 **SEC. 422. DEFINITIONS; EFFECT OF DISCHARGE.**

2 (a) DEFINITIONS.—Section 101 of title 11, United  
3 States Code, is amended by striking paragraph (51C) and  
4 inserting the following:

5 “(51C) ‘small business case’ means a case filed  
6 under chapter 11 of this title in which the debtor is  
7 a small business debtor;

8 “(51D) ‘small business debtor’—

9 “(A) subject to subparagraph (B), means a  
10 person (including any affiliate of such person  
11 that is also a debtor under this title) that has  
12 aggregate noncontingent, liquidated secured  
13 and unsecured debts as of the date of the peti-  
14 tion or the order for relief in an amount not  
15 more than \$4,000,000 (excluding debts owed to  
16 1 or more affiliates or insiders) for a case in  
17 which the United States trustee has appointed  
18 under section 1102(a)(1) a committee of unse-  
19 cured creditors that the court has determined is  
20 sufficiently active and representative to provide  
21 effective oversight of the debtor; and

22 “(B) does not include any member of a  
23 group of affiliated debtors that has aggregate  
24 noncontingent liquidated secured and unsecured  
25 debts in an amount greater than \$4,000,000

1 (excluding debt owed to 1 or more affiliates or  
2 insiders);”.

3 (b) EFFECT OF DISCHARGE.—Section 524 of title 11,  
4 United States Code, as amended by section 204 of this  
5 Act, is amended by adding at the end the following:

6 “(j)(1) An individual who is injured by the willful fail-  
7 ure of a creditor to substantially comply with the require-  
8 ments specified in subsections (c) and (d), or by any will-  
9 ful violation of the injunction operating under subsection  
10 (a)(2), shall be entitled to recover—

11 “(A) the greater of—

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

13 “(ii) \$1,000; and

14 “(B) costs and attorneys’ fees.

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

17 (c) CONFORMING AMENDMENT.—Section 1102(a)(3)  
18 of title 11, United States Code, is amended by inserting  
19 “debtor” after “small business”.

20 **SEC. 423. STANDARD FORM DISCLOSURE STATEMENT AND**  
21 **PLAN.**

22 Within a reasonable period of time after the date of  
23 the enactment of this Act, the Advisory Committee on  
24 Bankruptcy Rules of the Judicial Conference of the  
25 United States shall propose for adoption standard form

1 disclosure statements and plans of reorganization for  
 2 small business debtors (as defined in section 101 of title  
 3 11, United States Code, as amended by this Act), designed  
 4 to achieve a practical balance between—

5           (1) the reasonable needs of the courts, the  
 6           United States trustee, creditors, and other parties in  
 7           interest for reasonably complete information; and

8           (2) economy and simplicity for debtors.

9 **SEC. 424. UNIFORM NATIONAL REPORTING REQUIRE-**  
 10 **MENTS.**

11           (a) REPORTING REQUIRED.—

12           (1) IN GENERAL.—Chapter 3 of title 11, United  
 13           States Code, is amended by inserting after section  
 14           307 the following:

15 **“§ 308. Debtor reporting requirements**

16           “(1) For purposes of this section, the term ‘profit-  
 17           ability’ means, with respect to a debtor, the amount of  
 18           money that the debtor has earned or lost during current  
 19           and recent fiscal periods.

20           “(2) A small business debtor shall file periodic finan-  
 21           cial and other reports containing information including—

22                   “(A) the debtor’s profitability;

23                   “(B) reasonable approximations of the debtor’s  
 24           projected cash receipts and cash disbursements over  
 25           a reasonable period;

1           “(C) comparisons of actual cash receipts and  
2 disbursements with projections in prior reports;

3           “(D)(i) whether the debtor is—

4                 “(I) in compliance in all material respects  
5 with postpetition requirements imposed by this  
6 title and the Federal Rules of Bankruptcy Pro-  
7 cedure; and

8                 “(II) timely filing tax returns and paying  
9 taxes and other administrative claims when due;  
10 and

11           “(ii) if the debtor is not in compliance with the  
12 requirements referred to in clause (i)(I) or filing tax  
13 returns and making the payments referred to in  
14 clause (i)(II), what the failures are and how, at what  
15 cost, and when the debtor intends to remedy such  
16 failures; and

17           “(iii) such other matters as are in the best in-  
18 terests of the debtor and creditors, and in the public  
19 interest in fair and efficient procedures under chap-  
20 ter 11 of this title.”.

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

“308. Debtor reporting requirements.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect 60 days after the date on  
3 which rules are prescribed under section 2075 of title 28,  
4 United States Code, to establish forms to be used to com-  
5 ply with section 308 of title 11, United States Code, as  
6 added by subsection (a).

7 **SEC. 425. UNIFORM REPORTING RULES AND FORMS FOR**  
8 **SMALL BUSINESS CASES.**

9 (a) PROPOSAL OF RULES AND FORMS.—The Advi-  
10 sory Committee on Bankruptcy Rules of the Judicial Con-  
11 ference of the United States shall propose for adoption  
12 amended Federal Rules of Bankruptcy Procedure and Of-  
13 ficial Bankruptcy Forms to be used by small business  
14 debtors to file periodic financial and other reports con-  
15 taining information, including information relating to—

16 (1) the debtor's profitability;

17 (2) the debtor's cash receipts and disburse-  
18 ments; and

19 (3) whether the debtor is timely filing tax re-  
20 turns and paying taxes and other administrative  
21 claims when due.

22 (b) PURPOSE.—The rules and forms proposed under  
23 subsection (a) shall be designed to achieve a practical  
24 balance among—



1           (1) the reasonable needs of the bankruptcy  
2 court, the United States trustee, creditors, and other  
3 parties in interest for reasonably complete informa-  
4 tion;

5           (2) the small business debtor’s interest that re-  
6 quired reports be easy and inexpensive to complete;  
7 and

8           (3) the interest of all parties that the required  
9 reports help the small business debtor to understand  
10 the small business debtor’s financial condition and  
11 plan the small business debtor’s future.

12 **SEC. 426. DUTIES IN SMALL BUSINESS CASES.**

13       (a) DUTIES IN CHAPTER 11 CASES.—Title 11,  
14 United States Code, is amended by inserting after section  
15 1114 the following:

16 **“§ 1115. Duties of trustee or debtor in possession in**  
17 **small business cases**

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

21           “(1) append to the voluntary petition or, in an  
22 involuntary case, file within 3 days after the date of  
23 the order for relief—

1           “(A) its most recent balance sheet, state-  
2           ment of operations, cash-flow statement, Fed-  
3           eral income tax return; or

4           “(B) a statement made under penalty of  
5           perjury that no balance sheet, statement of op-  
6           erations, or cash-flow statement has been pre-  
7           pared and no Federal tax return has been filed;

8           “(2) attend, through its senior management  
9           personnel and counsel, meetings scheduled by the  
10          court or the United States trustee, including initial  
11          debtor interviews, scheduling conferences, and meet-  
12          ings of creditors convened under section 341 unless  
13          the court waives that requirement after notice and  
14          hearing, upon a finding of extraordinary and com-  
15          pelling circumstances;

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

22          “(4) file all postpetition financial and other re-  
23          ports required by the Federal Rules of Bankruptcy  
24          Procedure or by local rule of the district court;

1           “(5) subject to section 363(c)(2), maintain in-  
2           surance customary and appropriate to the industry;

3           “(6)(A) timely file tax returns;

4           “(B) subject to section 363(c)(2), timely pay all  
5           administrative expense tax claims, except those  
6           being contested by appropriate proceedings being  
7           diligently prosecuted; and

8           “(C) subject to section 363(c)(2), establish 1 or  
9           more separate deposit accounts not later than 10  
10          business days after the date of order for relief (or  
11          as soon thereafter as possible if all banks contacted  
12          decline the business) and deposit therein, not later  
13          than 1 business day after receipt thereof, all taxes  
14          payable for periods beginning after the date the case  
15          is commenced that are collected or withheld by the  
16          debtor for governmental units, unless the court  
17          waives that requirement after notice and hearing,  
18          upon a finding of extraordinary and compelling cir-  
19          cumstances; and

20          “(7) allow the United States trustee, or a des-  
21          ignated representative of the United States trustee,  
22          to inspect the debtor’s business premises, books, and  
23          records at reasonable times, after reasonable prior  
24          written notice, unless notice is waived by the debt-  
25          or.”.

1 (b) TECHNICAL AMENDMENT.—The table of sections  
2 for chapter 11, United States Code, is amended by insert-  
3 ing after the item relating to section 1114 the following:

“1115. Duties of trustee or debtor in possession in small business cases.”.

4 **SEC. 427. PLAN FILING AND CONFIRMATION DEADLINES.**

5 Section 1121 of title 11, United States Code, is  
6 amended by striking subsection (e) and inserting the fol-  
7 lowing:

8 “(e) In a small business case—

9 “(1) only the debtor may file a plan until after  
10 90 days after the date of the order for relief, unless  
11 that period is —

12 “(A) shortened on request of a party in in-  
13 terest made during the 90-day period;

14 “(B) extended as provided by this sub-  
15 section, after notice and hearing; or

16 “(C) the court, for cause, orders otherwise;

17 “(2) the plan, and any necessary disclosure  
18 statement, shall be filed not later than 90 days after  
19 the date of the order for relief; and

20 “(3) the time periods specified in paragraphs  
21 (1) and (2), and the time fixed in section 1129(e),  
22 within which the plan shall be confirmed, may be ex-  
23 tended only if—

24 “(A) the debtor, after providing notice to  
25 parties in interest (including the United States

1 trustee), demonstrates by a preponderance of  
2 the evidence that it is more likely than not that  
3 the court will confirm a plan within a reason-  
4 able period of time;

5 “(B) a new deadline is imposed at the time  
6 the extension is granted; and

7 “(C) the order extending time is signed be-  
8 fore the existing deadline has expired.”.

9 **SEC. 428. PLAN CONFIRMATION DEADLINE.**

10 Section 1129 of title 11, United States Code, is  
11 amended by adding at the end the following:

12 “(e) In a small business case, the plan shall be con-  
13 firmed not later than 150 days after the date of the order  
14 for relief, unless such 150-day period is extended as pro-  
15 vided in section 1121(e)(3).”.

16 **SEC. 429. PROHIBITION AGAINST EXTENSION OF TIME.**

17 Section 105(d) of title 11, United States Code, is  
18 amended—

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

21 (2) in paragraph (2)(B)(vi), by striking the pe-  
22 riod at the end and inserting “; and”; and

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

1           “(3) in a small business case, not extend the  
2           time periods specified in sections 1121(e) and  
3           1129(e), except as provided in section 1121(e)(3).”.

4 **SEC. 430. DUTIES OF THE UNITED STATES TRUSTEE.**

5           Section 586(a) of title 28, United States Code, is  
6 amended—

7           (1) in paragraph (3)—

8                 (A) in subparagraph (G), by striking  
9                 “and” at the end;

10                (B) by redesignating subparagraph (H) as  
11                subparagraph (I); and

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

14                         “(H) in small business cases (as defined in  
15                         section 101 of title 11), performing the addi-  
16                         tional duties specified in title 11 pertaining to  
17                         such cases;”;

18           (2) in paragraph (5), by striking “and” at the  
19           end;

20           (3) in paragraph (6), by striking the period at  
21           the end and inserting “; and”; and

22           (4) by inserting after paragraph (6) the fol-  
23           lowing:

24                         “(7) in each of such small business cases—

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

6                   “(i) begin to investigate the debtor’s  
7 viability;

8                   “(ii) inquire about the debtor’s busi-  
9 ness plan;

10                   “(iii) explain the debtor’s obligations  
11 to file monthly operating reports and other  
12 required reports;

13                   “(iv) attempt to develop an agreed  
14 scheduling order; and

15                   “(v) inform the debtor of other obliga-  
16 tions;

17           “(B) if determined to be appropriate and  
18 advisable, visit the appropriate business prem-  
19 ises of the debtor and ascertain the state of the  
20 debtor’s books and records and verify that the  
21 debtor has filed its tax returns; and

22           “(C) review and monitor diligently the  
23 debtor’s activities, to identify as promptly as  
24 possible whether the debtor will be unable to  
25 confirm a plan; and

1           “(8) in any case in which the United States  
2 trustee finds material grounds for any relief under  
3 section 1112 of title 11, the United States trustee  
4 shall apply promptly after making that finding to  
5 the court for relief.”.

6 **SEC. 431. SCHEDULING CONFERENCES.**

7           Section 105(d) of title 11, United States Code, as  
8 amended by section 429 of this Act, is amended—

9           (1) in the matter preceding paragraph (1) by  
10 striking “, may”;

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

13           “(1) shall hold such status conferences as are  
14 necessary to further the expeditious and economical  
15 resolution of the case; and”;

16           (3) in paragraph (2), by striking “unless incon-  
17 sistent with another provision of this title or with  
18 applicable Federal Rules of Bankruptcy Procedure,”  
19 and inserting “may”.

20 **SEC. 432. SERIAL FILER PROVISIONS.**

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

23           (1) in subsection (j), as redesignated by section  
24 305(1) of this Act—



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

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

4 “(2) If such violation is based on an action taken by  
5 an entity in the good faith belief that subsection (h) ap-  
6 plies to the debtor, the recovery under paragraph (1)  
7 against such entity shall be limited to actual damages.”;  
8 and

9 (2) by inserting after subsection (j), as added  
10 by section 419 of this Act, the following:

11 “(k)(1) Except as provided in paragraph (2), the fil-  
12 ing of a petition under chapter 11 of this title operates  
13 as a stay of the acts described in subsection (a) only in  
14 an involuntary case involving no collusion by the debtor  
15 with creditors and in which the debtor—

16 “(A) is a debtor in a small business case pend-  
17 ing at the time the petition is filed;

18 “(B) was a debtor in a small business case that  
19 was dismissed for any reason by an order that be-  
20 came 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 small business case in  
24 which a plan was confirmed in the 2-year period

1 ending on the date of the order for relief entered  
2 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 small  
5 business debtor described in subparagraph (A), (B),  
6 or (C).

7 “(2) Paragraph (1) does not apply to the filing of  
8 a petition if the debtor proves by a preponderance of the  
9 evidence that—

10 “(A) the filing of that petition resulted from  
11 circumstances beyond the control of the debtor not  
12 foreseeable at the time the case then pending was  
13 filed; and

14 “(B) it is more likely than not that the court  
15 will confirm a feasible plan, but not a liquidating  
16 plan, within a reasonable period of time.”.

17 **SEC. 433. EXPANDED GROUNDS FOR DISMISSAL OR CON-**  
18 **VERSION AND APPOINTMENT OF TRUSTEE.**

19 (a) EXPANDED GROUNDS FOR DISMISSAL OR CON-  
20 VERSION.—Section 1112 of title 11, United States Code,  
21 is amended by striking subsection (b) and inserting the  
22 following:

23 “(b)(1) Except as provided in paragraph (2), in sub-  
24 section (c), and section 1104(a)(3), on request of a party  
25 in interest, and after notice and a hearing, the court shall

1 convert a case under this chapter to a case under chapter  
2 7 or dismiss a case under this chapter, whichever is in  
3 the best interest of creditors and the estate, if the movant  
4 establishes cause.

5 “(2) The relief provided in paragraph (1) shall not  
6 be granted if the debtor or another party in interest ob-  
7 jects and establishes by a preponderance of the evidence  
8 that—

9 “(A) it is more likely than not that a plan will  
10 be confirmed within—

11 “(i) a period of time fixed under this title  
12 or by order of the court entered under section  
13 1121(e)(3); or

14 “(ii) a reasonable period of time if no pe-  
15 riod of time has been fixed; and

16 “(B) if the reason is an act or omission of the  
17 debtor that—

18 “(i) there exists a reasonable justification  
19 for the act or omission; and

20 “(ii)(I) the act or omission will be cured  
21 within a reasonable period of time fixed by the  
22 court, but not to exceed 30 days after the court  
23 decides the motion, unless the movant expressly  
24 consents to a continuance for a specific period  
25 of time; or

1           “(II) compelling circumstances beyond the  
2           control of the debtor justify an extension.

3           “(3) The court shall commence the hearing on any  
4 motion under this subsection not later than 30 days after  
5 filing of the motion, and shall decide the motion within  
6 15 days after commencement of the hearing, unless the  
7 movant expressly consents to a continuance for a specific  
8 period of time or compelling circumstances prevent the  
9 court from meeting the time limits established by this  
10 paragraph.

11          “(4) For purposes of this subsection, cause  
12 includes—

13           “(A) substantial or continuing loss to or dimi-  
14 nution of the estate;

15           “(B) gross mismanagement of the estate;

16           “(C) failure to maintain appropriate insurance;

17           “(D) unauthorized use of cash collateral harm-  
18 ful to 1 or more creditors;

19           “(E) failure to comply with an order of the  
20 court;

21           “(F) failure timely to satisfy any filing or re-  
22 porting requirement established by this title or by  
23 any rule applicable to a case under this chapter;

24           “(G) failure to attend the meeting of creditors  
25 convened under section 341(a) or an examination or-

1       dered under Rule 2004 of the Federal Rules of  
2       Bankruptcy Procedure;

3           “(H) failure timely to provide information or  
4       attend meetings reasonably requested by the United  
5       States trustee;

6           “(I) failure timely to pay taxes due after the  
7       date of the order for relief or to file tax returns due  
8       after the order for relief;

9           “(J) failure to file a disclosure statement, or to  
10      file or confirm a plan, within the time fixed by this  
11      title or by order of the court;

12          “(K) failure to pay any fees or charges required  
13      under chapter 123 of title 28;

14          “(L) revocation of an order of confirmation  
15      under section 1144;

16          “(M) inability to effectuate substantial con-  
17      summation of a confirmed plan;

18          “(N) material default by the debtor with re-  
19      spect to a confirmed plan; and

20          “(O) termination of a plan by reason of the oc-  
21      currence of a condition specified in the plan.

22      “(5) The court shall commence the hearing on any  
23      motion under this subsection not later than 30 days after  
24      filing of the motion, and shall decide the motion within  
25      15 days after commencement of the hearing, unless the

1 movant expressly consents to a continuance for a specific  
2 period of time or compelling circumstances prevent the  
3 court from meeting the time limits established by this  
4 paragraph.”.

5 (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF  
6 TRUSTEE.—Section 1104(a) of title 11, United States  
7 Code, is amended—

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

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

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

13 “(3) if grounds exist to convert or dismiss the  
14 case under section 1112, but the court determines  
15 that the appointment of a trustee is in the best in-  
16 terests of creditors and the estate.”.

17 **SEC. 434. STUDY OF OPERATION OF TITLE 11, UNITED**  
18 **STATES CODE, WITH RESPECT TO SMALL**  
19 **BUSINESSES.**

20 Not later than 2 years after the date of the enact-  
21 ment of this Act, the Administrator of the Small Business  
22 Administration, in consultation with the Attorney General  
23 of the United States, the Director of the Administrative  
24 Office of United States Trustees, and the Director of the  
25 Administrative Office of the United States Courts, shall—

1 (1) conduct a study to determine—

2 (A) the internal and external factors that  
3 cause small businesses, especially sole propri-  
4 etorships, to become debtors in cases under title  
5 11, United States Code, and that cause certain  
6 small businesses to successfully complete cases  
7 under chapter 11 of such title; and

8 (B) how Federal laws relating to bank-  
9 ruptcy may be made more effective and efficient  
10 in assisting small businesses to remain viable;  
11 and

12 (2) submit to the President pro tempore of the  
13 Senate and the Speaker of the House of Representa-  
14 tives a report summarizing that study.

15 **SEC. 435. PAYMENT OF INTEREST.**

16 Section 362(d)(3) of title 11, United States Code, is  
17 amended—

18 (1) by inserting “or 30 days after the court de-  
19 termines that the debtor is subject to this para-  
20 graph, whichever is later” after “90-day period”;  
21 and

22 (2) by striking subparagraph (B) and inserting  
23 the following:

24 “(B) the debtor has commenced monthly  
25 payments that—

1 “(i) may, in the debtor’s sole discre-  
 2 tion, notwithstanding section 363(c)(2), be  
 3 made from rents or other income generated  
 4 before or after the commencement of the  
 5 case by or from the property to each cred-  
 6 itor whose claim is secured by such real es-  
 7 tate (other than a claim secured by a judg-  
 8 ment lien or by an unmatured statutory  
 9 lien); and

10 “(ii) are in an amount equal to inter-  
 11 est at the then applicable nondefault con-  
 12 tract rate of interest on the value of the  
 13 creditor’s interest in the real estate; or”.

14 **TITLE V—MUNICIPAL**  
 15 **BANKRUPTCY PROVISIONS**

16 **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**  
 17 **TION.**

18 (a) TECHNICAL AMENDMENT RELATING TO MUNICI-  
 19 PALITIES.—Section 921(d) of title 11, United States  
 20 Code, is amended by inserting “, notwithstanding section  
 21 301(b)” before the period at the end.

22 (b) CONFORMING AMENDMENT.—Section 301 of title  
 23 11, United States Code, is amended—

24 (1) by inserting “(a)” before “A voluntary”;

25 and



1 (2) by striking the last sentence and inserting  
2 the following:

3 “(b) The commencement of a voluntary case under  
4 a chapter of this title constitutes an order for relief under  
5 such chapter.”.

6 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAP-**  
7 **TER 9.**

8 Section 901 of title 11, United States Code, is  
9 amended—

10 (1) by inserting “555, 556,” after “553,”; and

11 (2) by inserting “559, 560,” after “557,”.

12 **TITLE VI—IMPROVED BANK-**  
13 **RUPTCY STATISTICS AND**  
14 **DATA**

15 **SEC. 601. AUDIT PROCEDURES.**

16 (a) AMENDMENTS.—Section 586 of title 28, United  
17 States Code, is amended—

18 (1) in subsection (a), by striking paragraph (6)  
19 and inserting the following:

20 “(6) make such reports as the Attorney General  
21 directs, including the results of audits performed  
22 under subsection (f); and”; and

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

24 “(f)(1)(A) The Attorney General shall establish pro-  
25 cedures to determine the accuracy, veracity, and complete-

1 ness of petitions, schedules, and other information which  
2 the debtor is required to provide under sections 521 and  
3 1322 of title 11, and, if applicable, section 111 of title  
4 11, in individual cases filed under chapter 7 or 13 of such  
5 title.

6 “(B) Those procedures shall—

7 “(i) establish a method of selecting appropriate  
8 qualified persons to contract to perform those au-  
9 dits;

10 “(ii) establish a method of randomly selecting  
11 cases to be audited, except that not less than 1 out  
12 of every 250 cases in each Federal judicial district  
13 shall be selected for audit;

14 “(iii) require audits for schedules of income and  
15 expenses which reflect greater than average  
16 variances from the statistical norm of the district in  
17 which the schedules were filed if those variances  
18 occur by reason of higher income or higher expenses  
19 than the statistical norm of the district in which  
20 the schedules were filed; and

21 “(iv) include procedures for providing, not less  
22 frequently than annually, public information con-  
23 cerning the aggregate results of the audits referred  
24 to in this subparagraph, including the percentage of

1 cases, by district, in which a material misstatement  
2 of income or expenditures is reported.

3 “(2) The United States trustee for each district may  
4 contract with auditors to perform audits in cases des-  
5 ignated by the United States trustee according to the pro-  
6 cedures established under paragraph (1).

7 “(3)(A) The report of each audit conducted under  
8 this subsection shall be filed with the court and trans-  
9 mitted to the United States trustee. Each report shall  
10 clearly and conspicuously specify any material  
11 misstatement of income or expenditures or of assets iden-  
12 tified by the person performing the audit. In any case  
13 where a material misstatement of income or expenditures  
14 or of assets has been reported, the clerk of the bankruptcy  
15 court shall give notice of the misstatement to the creditors  
16 in the case.

17 “(B) If a material misstatement of income or expend-  
18 itures or of assets is reported, the United States trustee  
19 shall—

20 “(i) report the material misstatement, if appro-  
21 priate, to the United States Attorney under section  
22 3057 of title 18; and

23 “(ii) if advisable, take appropriate action, in-  
24 cluding commencing an adversary proceeding to re-

1       voke the debtor’s discharge under section 727(d) of  
2       title 11.”.

3       (b) AMENDMENTS TO SECTION 521 OF TITLE 11,  
4       UNITED STATES CODE.—Paragraphs (3) and (4) of sec-  
5       tion 521(a) of title 11, United States Code, as amended  
6       by section 315 of this Act, are each amended by inserting  
7       “or an auditor appointed under section 586 of title 28”  
8       after “serving in the case” each place that term appears.

9       (c) AMENDMENTS TO SECTION 727 OF TITLE 11,  
10       UNITED STATES CODE.—Section 727(d) of title 11,  
11       United States Code, is amended—

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

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

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

17               “(4) the debtor has failed to explain  
18       satisfactorily—

19                       “(A) a material misstatement in an audit  
20       performed under section 586(f) of title 28; or

21                       “(B) a failure to make available for inspec-  
22       tion all necessary accounts, papers, documents,  
23       financial records, files, and any other papers,  
24       things, or property belonging to the debtor that

1           are requested for an audit conducted under sec-  
2           tion 586(f).”.

3           (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall take effect 18 months after the date of  
5 enactment of this Act.

6 **SEC. 602. IMPROVED BANKRUPTCY STATISTICS.**

7           (a) **AMENDMENT.**—Chapter 6 of title 28, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

10 **“§ 159. Bankruptcy statistics**

11           “(a) The clerk of each district court shall compile sta-  
12 tistics regarding individual debtors with primarily con-  
13 sumer debts seeking relief under chapters 7, 11, and 13  
14 of title 11. Those statistics shall be in a form prescribed  
15 by the Director of the Administrative Office of the United  
16 States Courts (referred to in this section as the ‘Office’).

17           “(b) The Director shall—

18                   “(1) compile the statistics referred to in sub-  
19 section (a);

20                   “(2) make the statistics available to the public;  
21 and

22                   “(3) not later than October 31, 1999, and an-  
23 nually thereafter, prepare, and submit to Congress a  
24 report concerning the information collected under

1 subsection (a) that contains an analysis of the infor-  
2 mation.

3 “(c) The compilation required under subsection (b)  
4 shall—

5 “(1) be itemized, by chapter, with respect to  
6 title 11;

7 “(2) be presented in the aggregate and for each  
8 district; and

9 “(3) include information concerning—

10 “(A) the total assets and total liabilities of  
11 the debtors described in subsection (a), and in  
12 each category of assets and liabilities, as re-  
13 ported in the schedules prescribed under section  
14 2075 and filed by those debtors;

15 “(B) the total current monthly income,  
16 projected monthly net income, and average in-  
17 come, and average expenses of those debtors as  
18 reported on the schedules and statements that  
19 each such debtor files under sections 111, 521,  
20 and 1322 of title 11;

21 “(C) the aggregate amount of debt dis-  
22 charged in the reporting period, determined as  
23 the difference between the total amount of debt  
24 and obligations of a debtor reported on the  
25 schedules and the amount of such debt reported

1 in categories which are predominantly non-  
2 dischargeable;

3 “(D) the average period of time between  
4 the filing of the petition and the closing of the  
5 case;

6 “(E) for the reporting period—

7 “(i) the number of cases in which a  
8 reaffirmation was filed; and

9 “(ii)(I) the total number of reaffirma-  
10 tions filed;

11 “(II) of those cases in which a reaffir-  
12 mation was filed, the number in which the  
13 debtor was not represented by an attorney;  
14 and

15 “(III) of the cases under each of sub-  
16 clauses (I) and (II), the number of cases in  
17 which the reaffirmation was approved by  
18 the court;

19 “(F) with respect to cases filed under  
20 chapter 13 of title 11, for the reporting  
21 period—

22 “(i)(I) the number of cases in which a  
23 final order was entered determining the  
24 value of property securing a claim in an

1 amount less than the amount of the claim;  
2 and

3 “(II) the number of final orders deter-  
4 mining the value of property securing a  
5 claim issued;

6 “(ii) the number of cases dismissed  
7 for failure to make payments under the  
8 plan; and

9 “(iii) the number of cases in which  
10 the debtor filed another case during the 6-  
11 year period preceding the date of filing;

12 “(G) the number of cases in which credi-  
13 tors were fined for misconduct and any amount  
14 of punitive damages awarded by the court for  
15 creditor misconduct; and

16 “(H) the number of cases in which sanc-  
17 tions under Rule 9011 of the Federal Rules of  
18 Bankruptcy Procedure were imposed against  
19 debtor’s counsel and damages awarded under  
20 such rule.”.

21 (b) CLERICAL AMENDMENT.—The table of sections  
22 for chapter 6 of title 28, United States Code, is amended  
23 by adding at the end the following:

“159. Bankruptcy statistics.”.



1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect 18 months after the date of  
3 enactment of this Act.

4 **SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANK-**  
5 **RUPTCY DATA.**

6 (a) AMENDMENT.—Chapter 39 of title 28, United  
7 States Code, is amended by inserting after section 589a  
8 the following:

9 **“§ 589b. Bankruptcy data**

10 “(a) Within a reasonable period of time after the ef-  
11 fective date of this section, the Attorney General of the  
12 United States shall issue rules requiring uniform forms  
13 for (and from time to time thereafter to appropriately  
14 modify and approve)—

15 “(1) final reports by trustees in cases under  
16 chapters 7, 12, and 13 of title 11; and

17 “(2) periodic reports by debtors in possession or  
18 trustees, as the case may be, in cases under chapter  
19 11 of title 11.

20 “(b) Each report referred to in subsection (a) shall  
21 be designed (and the requirements as to place and manner  
22 of filing shall be established) so as to facilitate compilation  
23 of data and maximum practicable access of the public,  
24 by—

1           “(1) physical inspection at 1 or more central fil-  
2           ing locations; and

3           “(2) electronic access through the Internet or  
4           other appropriate media.

5           “(c)(1) The information required to be filed in the  
6 reports referred to in subsection (b) shall be information  
7 that is—

8           “(A) in the best interests of debtors and credi-  
9           tors, and in the public interest; and

10           “(B) reasonable and adequate information to  
11           evaluate the efficiency and practicality of the Fed-  
12           eral bankruptcy system.

13           “(2) In issuing rules proposing the forms referred to  
14 in subsection (a), the Attorney General shall strike the  
15 best achievable practical balance between—

16           “(A) the reasonable needs of the public for in-  
17           formation about the operational results of the Fed-  
18           eral bankruptcy system; and

19           “(B) economy, simplicity, and lack of undue  
20           burden on persons with a duty to file reports.

21           “(d)(1) Final reports proposed for adoption by trust-  
22 ees under chapters 7, 12, and 13 of title 11 shall include  
23 with respect to a case under such title, by appropriate  
24 category—

1           “(A) information about the length of time the  
2 case was pending;

3           “(B) assets abandoned;

4           “(C) assets exempted;

5           “(D) receipts and disbursements of the estate;

6           “(E) expenses of administration;

7           “(F) claims asserted;

8           “(G) claims allowed; and

9           “(H) distributions to claimants and claims dis-  
10 charged without payment.

11          “(2) In cases under chapters 12 and 13 of title 11,  
12 final reports proposed for adoption by trustees shall  
13 include—

14           “(A) the date of confirmation of the plan;

15           “(B) each modification to the plan; and

16           “(C) defaults by the debtor in performance  
17 under the plan.

18          “(3) The information described in paragraphs (1)  
19 and (2) shall be in addition to such other matters as are  
20 required by law for a final report or as the Attorney Gen-  
21 eral, in the discretion of the Attorney General, may pro-  
22 pose for a final report.

23          “(e)(1) Periodic reports proposed for adoption by  
24 trustees or debtors in possession under chapter 11 of title  
25 11 shall include—

1           “(A) information about the standard industry  
2           classification, published by the Department of Com-  
3           merce, for the businesses conducted by the debtor;

4           “(B) the length of time the case has been pend-  
5           ing;

6           “(C) the number of full-time employees—

7                 “(i) as of the date of the order for relief;  
8                 and

9                 “(ii) at the end of each reporting period  
10           since the case was filed;

11           “(D) cash receipts, cash disbursements, and  
12           profitability of the debtor for the most recent period  
13           and cumulatively since the date of the order for re-  
14           lief;

15           “(E) compliance with title 11, whether or not  
16           tax returns and tax payments since the date of the  
17           order for relief have been timely filed and made;

18           “(F) all professional fees approved by the court  
19           in the case for the most recent period and cumula-  
20           tively since the date of the order for relief (sepa-  
21           rately reported, for the professional fees incurred by  
22           or on behalf of the debtor, between those that would  
23           have been incurred absent a bankruptcy case and  
24           those that would not have been so incurred); and

1           “(G) plans of reorganization filed and con-  
 2           firmed and, with respect thereto, by class, the recov-  
 3           eries of the holders, expressed in aggregate dollar  
 4           values and, in the case of claims, as a percentage of  
 5           total claims of the class allowed.

6           “(2) The information described in paragraph (1)  
 7           shall be in addition to such other matters as are required  
 8           by law for a periodic report or as the Attorney General,  
 9           in the discretion of the Attorney General, may propose for  
 10          a periodic report.”.

11          (b) **TECHNICAL AMENDMENT.**—The table of sections  
 12          for chapter 39 of title 28, United States Code, is amended  
 13          by adding at the end the following:

“589b. Bankruptcy data.”.

14          **SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY**  
 15                                  **OF BANKRUPTCY DATA.**

16          It is the sense of Congress that—

17                 (1) it should be the national policy of the  
 18                 United States that all data held by bankruptcy  
 19                 clerks in electronic form, to the extent such data re-  
 20                 flects only public records (as defined in section 107  
 21                 of title 11, United States Code), should be released  
 22                 in a usable electronic form in bulk to the public sub-  
 23                 ject to such appropriate privacy concerns and safe-  
 24                 guards as the Judicial Conference of the United  
 25                 States may determine; and

1           (2) there should be established a bankruptcy  
2 data system in which—

3           (A) a single set of data definitions and  
4 forms are used to collect data nationwide; and

5           (B) data for any particular bankruptcy  
6 case are aggregated in the same electronic  
7 record.

## 8           **TITLE VII—BANKRUPTCY TAX** 9           **PROVISIONS**

### 10       **SEC. 701. TREATMENT OF CERTAIN LIENS.**

11       (a) TREATMENT OF CERTAIN LIENS.—Section 724  
12 of title 11, United States Code, is amended—

13           (1) in subsection (b), in the matter preceding  
14 paragraph (1), by inserting “(other than to the ex-  
15 tent that there is a properly perfected unavoidable  
16 tax lien arising in connection with an ad valorem tax  
17 on real or personal property of the estate)” after  
18 “under this title”;

19           (2) in subsection (b)(2), by inserting “(except  
20 that such expenses, other than claims for wages, sal-  
21 aries, or commissions which arise after the filing of  
22 a petition, shall be limited to expenses incurred  
23 under chapter 7 of this title and shall not include ex-  
24 penses incurred under chapter 11 of this title)” after  
25 “507(a)(1)”; and

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

2 “(e) Before subordinating a tax lien on real or per-  
3 sonal property of the estate, the trustee shall—

4 “(1) exhaust the unencumbered assets of the  
5 estate; and

6 “(2) in a manner consistent with section  
7 506(c), recover from property securing an allowed  
8 secured claim the reasonable, necessary costs, and  
9 expenses of preserving or disposing of that property.

10 “(f) Notwithstanding the exclusion of ad valorem tax  
11 liens under this section and subject to the requirements  
12 of subsection (e), the following may be paid from property  
13 of the estate which secures a tax lien, or the proceeds of  
14 such property:

15 “(1) Claims for wages, salaries, and commis-  
16 sions that are entitled to priority under section  
17 507(a)(3).

18 “(2) Claims for contributions to an employee  
19 benefit plan entitled to priority under section  
20 507(a)(4).”.

21 (b) DETERMINATION OF TAX LIABILITY.—Section  
22 505(a)(2) of title 11, United States Code, is amended—

23 (1) in subparagraph (A), by striking “or” at  
24 the end;

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

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

4           “(C) the amount or legality of any amount arising  
5           in connection with an ad valorem tax on real or  
6           personal property of the estate, if the applicable period  
7           for contesting or redetermining that amount  
8           under any law (other than a bankruptcy law) has expired.”.

10 **SEC. 702. EFFECTIVE NOTICE TO GOVERNMENT.**

11           (a) EFFECTIVE NOTICE TO GOVERNMENTAL  
12 UNITS.—Section 342 of title 11, United States Code, as  
13 amended by section 315(a) of this Act, is amended by adding  
14 at the end the following:

15           “(g)(1) If a debtor lists a governmental unit as a  
16 creditor in a list or schedule, any notice required to be  
17 given by the debtor under this title, applicable rule, other  
18 provision of law, or order of the court, shall identify the  
19 department, agency, or instrumentality through which the  
20 debtor is indebted.

21           “(2) The debtor shall identify (with information such  
22 as a taxpayer identification number, loan, account or contract  
23 number, or real estate parcel number, if applicable),  
24 and describe the underlying basis for the claim of the gov-  
25 ernmental unit.



1       “(3) If the liability of the debtor to a governmental  
2 unit arises from a debt or obligation owed or incurred by  
3 another individual, entity, or organization, or under a dif-  
4 ferent name, the debtor shall identify that individual, enti-  
5 ty, organization, or name.

6       “(h) The clerk shall keep and update on a quarterly  
7 basis, in such form and manner as the Director of the  
8 Administrative Office of the United States Courts pre-  
9 scribes, a register in which a governmental unit may des-  
10 ignate or redesignate a mailing address for service of no-  
11 tice in cases pending in the district. The clerk shall make  
12 such register available to debtors.”.

13       (b) ADOPTION OF RULES PROVIDING NOTICE.—

14           (1) IN GENERAL.—Within a reasonable period  
15 of time after the date of enactment of this Act, the  
16 Advisory Committee on Bankruptcy Rules of the Ju-  
17 dicial Conference shall propose for adoption en-  
18 hanced rules for providing notice to Federal, State,  
19 and local government units that have regulatory au-  
20 thority over the debtor or that may be creditors in  
21 the debtor’s case.

22           (2) PERSONS NOTIFIED.—The rules proposed  
23 under paragraph (1) shall be reasonably calculated  
24 to ensure that notice will reach the representatives  
25 of the governmental unit (or subdivision thereof)

1 who will be the appropriate persons authorized to  
2 act upon the notice.

3 (3) RULES REQUIRED.—At a minimum, the  
4 rules under paragraph (1) should require that the  
5 debtor—

6 (A) identify in the schedules and the no-  
7 tice, the subdivision, agency, or entity with re-  
8 spect to which such notice should be received;

9 (B) provide sufficient information (such as  
10 case captions, permit numbers, taxpayer identi-  
11 fication numbers, or similar identifying infor-  
12 mation) to permit the governmental unit (or  
13 subdivision thereof) entitled to receive such no-  
14 tice to identify the debtor or the person or enti-  
15 ty on behalf of which the debtor is providing  
16 notice in any case in which—

17 (i) the debtor may be a successor in  
18 interest; or

19 (ii) may not be the same entity as the  
20 entity that incurred the debt or obligation;  
21 and

22 (C) identify, in appropriate schedules,  
23 served together with the notice—

1 (i) the property with respect to which  
2 the claim or regulatory obligation may  
3 have arisen, if applicable;

4 (ii) the nature of such claim or regu-  
5 latory obligation; and

6 (iii) the purpose for which notice is  
7 being given.

8 (c) EFFECT OF FAILURE OF NOTICE.—Section 342  
9 of title 11, United States Code, as amended by subsection  
10 (a), is amended by adding at the end the following:

11 “(i) A notice that does not comply with subsections  
12 (d) and (e) shall not be effective unless the debtor dem-  
13 onstrates by clear and convincing evidence that—

14 “(1) timely notice was given in a manner rea-  
15 sonably calculated to satisfy the requirements of this  
16 section; and

17 “(2) either—

18 “(A) the notice was timely sent to the ad-  
19 dress provided in the register maintained by the  
20 clerk of the district in which the case was pend-  
21 ing for such purposes; or

22 “(B) no address was provided in such list  
23 for the governmental unit and that an officer of  
24 the governmental unit who is responsible for the

1 matter or claim had actual knowledge of the  
2 case in sufficient time to act.”.

3 **SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF**  
4 **TAXES.**

5 The second sentence of section 505(b) of title 11,  
6 United States Code, is amended by striking “Unless” and  
7 inserting “If the request is made substantially in the man-  
8 ner designated by the governmental unit and unless”.

9 **SEC. 704. RATE OF INTEREST ON TAX CLAIMS.**

10 (a) IN GENERAL.—Subchapter I of chapter 5 of title  
11 11, United States Code, is amended by adding at the end  
12 the following:

13 **“§ 511. Rate of interest on tax claims**

14 “If any provision of this title requires the payment  
15 of interest on a tax claim or the payment of interest to  
16 enable a creditor to receive the present value of the al-  
17 lowed amount of a tax claim, the rate of interest shall be  
18 as follows:

19 “(1) In the case of secured tax claims, unse-  
20 cured ad valorem tax claims, other unsecured tax  
21 claims in which interest is required to be paid under  
22 section 726(a)(5), and administrative tax claims  
23 paid under section 503(b)(1), the rate shall be deter-  
24 mined under applicable nonbankruptcy law.

1           “(2)(A) In the case of any tax claim other than  
2           a claim described in paragraph (1), the minimum  
3           rate of interest shall be a percentage equal to the  
4           sum of—

5                     “(i) 3; plus

6                     “(ii) the Federal short-term rate rounded  
7                     to the nearest full percent, determined under  
8                     section 1274(d) of the Internal Revenue Code  
9                     of 1986.

10           “(B) In the case of any claim for Federal in-  
11           come taxes, the minimum rate of interest shall be  
12           subject to any adjustment that may be required  
13           under section 6621(d) of the Internal Revenue Code  
14           of 1986.

15           “(C) In the case of taxes paid under a con-  
16           firmed plan or reorganization under this title, the  
17           minimum rate of interest shall be determined as of  
18           the calendar month in which the plan is confirmed.”.

19           (b) CLERICAL AMENDMENT.—The table of sections  
20           for chapter 5 of title 11, United States Code, is amended  
21           by inserting after the item relating to section 510 the fol-  
22           lowing:

“511. Rate of interest on tax claims.”.

1 **SEC. 705. TOLLING OF PRIORITY OF TAX CLAIM TIME PERI-**  
2 **ODS.**

3 Section 507(a)(8)(A) of title 11, United States Code,  
4 as redesignated by section 221 of this Act, is amended—

5 (1) in clause (i), by inserting before the semi-  
6 colon at the end, the following: “, plus any time dur-  
7 ing which the stay of proceedings was in effect in a  
8 prior case under this title, plus 6 months”; and

9 (2) by striking clause (ii) and inserting the fol-  
10 lowing:

11 “(ii) assessed within 240 days before  
12 the date of the filing of the petition, exclu-  
13 sive of—

14 “(I) any time during which an  
15 offer in compromise with respect to  
16 that tax, was pending or in effect dur-  
17 ing that 240-day period, plus 30 days;

18 “(II) the lesser of—

19 “(aa) any time during which  
20 an installment agreement with  
21 respect to that tax was pending  
22 or in effect during that 240-day  
23 period, plus 30 days; or

24 “(bb) 1 year; and

25 “(III) any time during which a  
26 stay of proceedings against collections

1                   was in effect in a prior case under  
 2                   this title during that 240-day period;  
 3                   plus 6 months.”.

4 **SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

5           Section 507(a)(9)(B) of title 11, United States Code,  
 6 as redesignated by section 221 of this Act, is amended  
 7 by striking “assessed” and inserting “incurred”.

8 **SEC. 707. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**  
 9                   **OTHER TAXES.**

10          Section 1328(a)(2) of title 11, United States Code,  
 11 as amended by section 228 of this Act, is amended by in-  
 12 serting “(1),” after “paragraph”.

13 **SEC. 708. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

14          Section 1141(d) of title 11, United States Code, is  
 15 amended by adding at the end the following:

16           “(5) Notwithstanding paragraph (1), the confirma-  
 17 tion of a plan does not discharge a debtor that is a cor-  
 18 poration from any debt for a tax or customs duty with  
 19 respect to which the debtor—

20                   “(A) made a fraudulent return; or

21                   “(B) willfully attempted in any manner to  
 22 evade or defeat that tax or duty.”.

23 **SEC. 709. STAY OF TAX PROCEEDINGS.**

24          (a) **SECTION 362 STAY LIMITED TO PREPETITION**  
 25 **TAXES.**—Section 362(a)(8) of title 11, United States

1 Code, is amended by inserting before the semicolon at the  
2 end the following: “, with respect to a tax liability for a  
3 taxable period ending before the order for relief under sec-  
4 tion 301, 302, or 303”.

5 (b) APPEAL OF TAX COURT DECISIONS PER-  
6 MITTED.—Section 362(b)(9) of title 11, United States  
7 Code, is amended—

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

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

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

13 “(E) the appeal of a decision by a court or  
14 administrative tribunal which determines a tax  
15 liability of the debtor (without regard to wheth-  
16 er such determination was made prepetition or  
17 postpetition).”.

18 **SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**

19 **CASES.**

20 Section 1129(a)(9) of title 11, United States Code,  
21 is amended—

22 (1) in subparagraph (B), by striking “and” at  
23 the end; and

24 (2) in subparagraph (C), by striking “deferred  
25 cash payments, over a period not exceeding six years



1 after the date of assessment of such claim,” and all  
2 that follows through the end of the subparagraph,  
3 and inserting “regular installment payments—

4 “(i) of a total value, as of the effective  
5 date of the claim, equal to the allowed  
6 amount of such claim in cash, but in no  
7 case with a balloon payment; and

8 “(ii) beginning not later than the ef-  
9 fective date of the plan and ending on the  
10 earlier of—

11 “(I) the date that is 5 years after  
12 the date of the filing of the petition;  
13 or

14 “(II) the last date payments are  
15 to be made under the plan to unse-  
16 cured creditors; and”;

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

18 “(D) with respect to a secured claim which  
19 would otherwise meet the description on an un-  
20 secured claim of a governmental unit under sec-  
21 tion 507(a)(8), but for the secured status of  
22 that claim, the holder of that claim will receive  
23 on account of that claim, cash payments, in the  
24 same manner and over the same period, as pre-  
25 scribed in subparagraph (C).”.

1 **SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**  
2 **ITED.**

3 Section 545(2) of title 11, United States Code, is  
4 amended by striking the semicolon at the end and insert-  
5 ing “, except in any case in which a purchaser is a pur-  
6 chaser described in section 6323 of the Internal Revenue  
7 Code of 1986, or in any other similar provision of State  
8 or local law;”.

9 **SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**  
10 **NESS.**

11 (a) PAYMENT OF TAXES REQUIRED.—Section 960 of  
12 title 28, United States Code, is amended—

13 (1) by inserting “(a)” before “Any”; and

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

15 “(b) A tax under subsection (a) shall be paid when  
16 due in the conduct of business unless—

17 “(1) the tax is a property tax secured by a lien  
18 against property that is abandoned within a reason-  
19 able period of time after the lien attaches, by the  
20 trustee of a bankruptcy estate, under section 554 of  
21 title 11; or

22 “(2) payment of the tax is excused under a spe-  
23 cific provision of title 11.

24 “(c) In a case pending under chapter 7 of title 11,  
25 payment of a tax may be deferred until final distribution  
26 is made under section 726 of title 11, if—

1           “(1) the tax was not incurred by a trustee duly  
2 appointed under chapter 7 of title 11; or

3           “(2) before the due date of the tax, the court  
4 makes a finding of probable insufficiency of funds of  
5 the estate to pay in full the administrative expenses  
6 allowed under section 503(b) of title 11 that have  
7 the same priority in distribution under section  
8 726(b) of title 11 as the priority of that tax.”.

9           (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—  
10 Section 503(b)(1)(B)(i) of title 11, United States Code,  
11 is amended by inserting “whether secured or unsecured,  
12 including property taxes for which liability is in rem, in  
13 personam, or both,” before “except”.

14           (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE  
15 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of  
16 title 11, United States Code, is amended—

17           (1) in subparagraph (B), by striking “and” at  
18 the end;

19           (2) in subparagraph (C), by adding “and” at  
20 the end; and

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

22           “(D) notwithstanding the requirements of sub-  
23 section (a), a governmental unit shall not be re-  
24 quired to file a request for the payment of a claim  
25 described in subparagraph (B) or (C);”.

1 (d) PAYMENT OF TAXES AND FEES AS SECURED  
2 CLAIMS.—Section 506 of title 11, United States Code, is  
3 amended—

4 (1) in subsection (b), by inserting “or State  
5 statute” after “agreement”; and

6 (2) in subsection (c), by inserting “, including  
7 the payment of all ad valorem property taxes with  
8 respect to the property” before the period at the  
9 end.

10 **SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.**

11 Section 726(a)(1) of title 11, United States Code, is  
12 amended by striking “before the date on which the trustee  
13 commences distribution under this section;” and inserting  
14 the following: “on or before the earlier of—

15 “(A) the date that is 10 days after the  
16 mailing to creditors of the summary of the  
17 trustee’s final report; or

18 “(B) the date on which the trustee com-  
19 mences final distribution under this section;”.

20 **SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AU-**  
21 **THORITIES.**

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

24 (1) in paragraph (1)(B)—

1 (A) by inserting “or equivalent report or  
2 notice,” after “a return,”;

3 (B) in clause (i)—

4 (i) by inserting “or given” after  
5 “filed”; and

6 (ii) by striking “or” at the end; and

7 (C) in clause (ii)—

8 (i) by inserting “or given” after  
9 “filed”; and

10 (ii) by inserting “, report, or notice”  
11 after “return”; and

12 (2) by adding at the end the following flush  
13 sentences:

14 “For purposes of this subsection, the term ‘return’ means  
15 a return that satisfies the requirements of applicable non-  
16 bankruptcy law (including applicable filing requirements).

17 Such term includes a return prepared pursuant to section  
18 6020(a) of the Internal Revenue Code of 1986, or similar  
19 State or local law, or a written stipulation to a judgment

20 entered by a nonbankruptcy tribunal, but does not include

21 a return made pursuant to section 6020(b) of the Internal

22 Revenue Code of 1986, or a similar State or local law.”.

1 **SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UN-**  
2 **PAID TAXES.**

3 The second sentence of section 505(b) of title 11,  
4 United States Code, as amended by section 703 of this  
5 Act, is amended by inserting “the estate,” after “mis-  
6 representation,”.

7 **SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CON-**  
8 **FIRM CHAPTER 13 PLANS.**

9 (a) **FILING OF PREPETITION TAX RETURNS RE-**  
10 **QUIRED FOR PLAN CONFIRMATION.**—Section 1325(a) of  
11 title 11, United States Code, as amended by section 212  
12 of this Act, is amended—

13 (1) in paragraph (6), by striking “and” at the  
14 end;

15 (2) in paragraph (7), by striking the period at  
16 the end and inserting “; and”; and

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

18 “(8) if the debtor has filed all applicable Fed-  
19 eral, State, and local tax returns as required by sec-  
20 tion 1309.”.

21 (b) **ADDITIONAL TIME PERMITTED FOR FILING TAX**  
22 **RETURNS.**—

23 (1) **IN GENERAL.**—Chapter 13 of title 11,  
24 United States Code, as amended by section 309(c)  
25 of this Act, is amended by adding at the end the fol-  
26 lowing:

1 **“§ 1309. Filing of prepetition tax returns**

2       “(a) Not later than the day before the day on which  
3 the first meeting of the creditors is convened under section  
4 341(a), the debtor shall file with appropriate tax authori-  
5 ties all tax returns for all taxable periods ending during  
6 the 3-year period ending on the date of the filing of the  
7 petition.

8       “(b)(1) Subject to paragraph (2), if the tax returns  
9 required by subsection (a) have not been filed by the date  
10 on which the first meeting of creditors is convened under  
11 section 341(a), the trustee may continue that meeting for  
12 a reasonable period of time to allow the debtor an addi-  
13 tional period of time to file any unfiled returns, but such  
14 additional period of time shall not extend beyond—

15               “(A) for any return that is past due as of the  
16 date of the filing of the petition, the date that is 120  
17 days after the date of that first meeting; or

18               “(B) for any return that is not past due as of  
19 the date of the filing of the petition, the later of—

20                       “(i) the date that is 120 days after the  
21 date of that first meeting; or

22                       “(ii) the date on which the return is due  
23 under the last automatic extension of time for  
24 filing that return to which the debtor is enti-  
25 tled, and for which request has been timely

1           made, according to applicable nonbankruptcy  
2           law.

3           “(2) Upon notice and hearing, and order entered be-  
4 fore the tolling of any applicable filing period determined  
5 under this subsection, if the debtor demonstrates by clear  
6 and convincing evidence that the failure to file a return  
7 as required under this subsection is attributable to cir-  
8 cumstances beyond the control of the debtor, the court  
9 may extend the filing period established by the trustee  
10 under this subsection for—

11           “(A) a period of not more than 30 days for re-  
12 turns described in paragraph (1); and

13           “(B) a period not to extend after the applicable  
14 extended due date for a return described in para-  
15 graph (2).

16           “(c) For purposes of this section, the term ‘return’  
17 includes a return prepared pursuant to section 6020 (a)  
18 or (b) of the Internal Revenue Code of 1986, or a similar  
19 State or local law, or written stipulation to a judgment  
20 entered by a nonbankruptcy tribunal.”.

21           (2) CONFORMING AMENDMENT.—The table of sec-  
22 tions for chapter 13 of title 11, United States Code, is  
23 amended by inserting after the item relating to section  
24 1308 the following:

“1309. 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 a tax return  
9 under section 1309, on request of a party in interest or  
10 the United States trustee and after notice and a hearing,  
11 the court shall dismiss the case.”.

12          (d) TIMELY FILED CLAIMS.—Section 502(b)(9) of  
13 title 11, United States Code, is amended by inserting be-  
14 fore the period at the end the following “, and except that  
15 in a case under chapter 13 of this title, a claim of a gov-  
16 ernmental unit for a tax with respect to a return filed  
17 under section 1309 shall be timely if the claim is filed on  
18 or before the date that is 60 days after that return was  
19 filed in accordance with applicable requirements”.

20          (e) RULES FOR OBJECTIONS TO CLAIMS AND TO  
21 CONFIRMATION.—It is the sense of Congress that the Ad-  
22 visory Committee on Bankruptcy Rules of the Judicial  
23 Conference should, within a reasonable period of time  
24 after the date of enactment of this Act, propose for adop-

1 tion amended Federal Rules of Bankruptcy Procedure  
2 which provide that—

- 3           (1) notwithstanding the provisions of Rule  
4           3015(f), in cases under chapter 13 of title 11,  
5           United States Code, a governmental unit may object  
6           to the confirmation of a plan on or before the date  
7           that is 60 days after the date on which the debtor  
8           files all tax returns required under sections 1309  
9           and 1325(a)(7) of title 11, United States Code; and  
10           (2) in addition to the provisions of Rule 3007,  
11           in a case under chapter 13 of title 11, United States  
12           Code, no objection to a tax with respect to which a  
13           return is required to be filed under section 1309 of  
14           title 11, United States Code, shall be filed until such  
15           return has been filed as required.

16 **SEC. 717. STANDARDS FOR TAX DISCLOSURE.**

17           Section 1125(a)(1) of title 11, United States Code,  
18 is amended—

- 19           (1) by inserting “including a full discussion of  
20           the potential material, Federal, State, and local tax  
21           consequences of the plan to the debtor, any suc-  
22           cessor to the debtor, and a hypothetical investor  
23           domiciled in the State in which the debtor resides or  
24           has its principal place of business typical of the

1 holders of claims or interests in the case,” after  
2 “records”; and

3 (2) by striking “a hypothetical reasonable inves-  
4 tor typical of holders of claims or interests” and in-  
5 serting “such a hypothetical investor”.

6 **SEC. 718. SETOFF OF TAX REFUNDS.**

7 Section 362(b) of title 11, United States Code, as  
8 amended by section 402 of this Act, is amended—

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

11 (2) in paragraph (26), by striking the period at  
12 the end and inserting “; or”; and

13 (3) by inserting after paragraph (26) the fol-  
14 lowing:

15 “(27) under subsection (a), of the setoff of an  
16 income tax refund, by a governmental unit, with re-  
17 spect to a taxable period that ended before the order  
18 for relief against an income tax liability for a taxable  
19 period that also ended before the order for relief,  
20 unless—

21 “(A) before that setoff, an action to deter-  
22 mine the amount or legality of that tax liability  
23 under section 505(a) was commenced; or

24 “(B) in any case in which the setoff of an  
25 income tax refund is not permitted because of

1 a pending action to determine the amount or le-  
 2 gality of a tax liability, in which case the gov-  
 3 ernmental unit may hold the refund pending  
 4 the resolution of the action.”.

5 **TITLE VIII—ANCILLARY AND**  
 6 **OTHER CROSS-BORDER CASES**

7 **SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**  
 8 **UNITED STATES CODE.**

9 (a) IN GENERAL.—Title 11, United States Code, is  
 10 amended by inserting after chapter 13 the following:

11 **“CHAPTER 15—ANCILLARY AND OTHER**  
 12 **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  
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**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-bor-  
5 der insolvency with the objectives of—

6 “(1) cooperation between—

7 “(A) United States courts, United States  
8 Trustees, trustees, examiners, debtors, and  
9 debtors in possession; and

10 “(B) the courts and other competent au-  
11 thorities of foreign countries involved in cross-  
12 border insolvency cases;

13 “(2) greater legal certainty for trade and in-  
14 vestment;

1           “(3) fair and efficient administration of cross-  
2 border insolvencies that protects the interests of all  
3 creditors, and other interested entities, including the  
4 debtor;

5           “(4) protection and maximization of the value  
6 of the debtor’s assets; and

7           “(5) facilitation of the rescue of financially  
8 troubled businesses, thereby protecting investment  
9 and preserving employment.

10          “(b) This chapter applies if—

11           “(1) assistance is sought in the United States  
12 by a foreign court or a foreign representative in con-  
13 nection with a foreign proceeding;

14           “(2) assistance is sought in a foreign country in  
15 connection with a case under this title;

16           “(3) a foreign proceeding and a case under this  
17 title with respect to the same debtor are taking place  
18 concurrently; or

19           “(4) creditors or other interested persons in a  
20 foreign country have an interest in requesting the  
21 commencement of, or participating in, a case or pro-  
22 ceeding under this title.

23          “(c) This chapter does not apply to—

24           “(1) a proceeding concerning an entity identi-  
25 fied by exclusion in subsection 109(b);

1           “(2) an individual, or to an individual and such  
2 individual’s spouse, who have debts within the limits  
3 specified in section 109(e) and who are citizens of  
4 the United States or aliens lawfully admitted for  
5 permanent residence in the United States; or

6           “(3) an entity subject to a proceeding under the  
7 Securities Investor Protection Act of 1970 (84 Stat.  
8 1636 et seq.), a stockbroker subject to subchapter  
9 III of chapter 7 of this title, or a commodity broker  
10 subject to subchapter IV of chapter 7 of this title.

11       “SUBCHAPTER I—GENERAL PROVISIONS

12       “§ 1502. Definitions

13       “For the purposes of this chapter, the term—

14           “(1) ‘debtor’ means an entity that is the subject  
15 of a foreign proceeding;

16           “(2) ‘establishment’ means any place of oper-  
17 ations where the debtor carries out a nontransitory  
18 economic activity;

19           “(3) ‘foreign court’ means a judicial or other  
20 authority competent to control or supervise a foreign  
21 proceeding;

22           “(4) ‘foreign main proceeding’ means a foreign  
23 proceeding taking place in the country where the  
24 debtor has the center of its main interests;

1           “(5) ‘foreign nonmain proceeding’ means a for-  
2           eign proceeding, other than a foreign main pro-  
3           ceeding, taking place in a country where the debtor  
4           has an establishment;

5           “(6) ‘trustee’ includes a trustee, a debtor in  
6           possession in a case under any chapter of this title,  
7           or a debtor under chapter 9 of this title; and

8           “(7) ‘within the territorial jurisdiction of the  
9           United States’ when used with reference to property  
10          of a debtor refers to tangible property located within  
11          the territory of the United States and intangible  
12          property deemed under applicable nonbankruptcy  
13          law to be located within that territory, including any  
14          property subject to attachment or garnishment that  
15          may properly be seized or garnished by an action in  
16          a Federal or State court in the United States.

17   **“§ 1503. International obligations of the United States**

18          “To the extent that this chapter conflicts with an ob-  
19          ligation of the United States arising out of any treaty or  
20          other form of agreement to which it is a party with 1 or  
21          more other countries, the requirements of the treaty or  
22          agreement prevail.



1 **“§ 1504. Commencement of ancillary case**

2 “A case under this chapter is commenced by the filing  
3 of a petition for recognition of a foreign proceeding under  
4 section 1515.

5 **“§ 1505. Authorization to act in a foreign country**

6 “A trustee or another entity, including an examiner,  
7 may be authorized by the court to act in a foreign country  
8 on behalf of an estate created under section 541. An entity  
9 authorized to act under this section may act in any way  
10 permitted by the applicable foreign law.

11 **“§ 1506. Public policy exception**

12 “Nothing in this chapter prevents the court from re-  
13 fusing to take an action governed by this chapter if the  
14 action would be manifestly contrary to the public policy  
15 of the United States.

16 **“§ 1507. Additional assistance**

17 “(a) Subject to the specific limitations under other  
18 provisions of this chapter, the court, upon recognition of  
19 a foreign proceeding, may provide additional assistance to  
20 a foreign representative under this title or under other  
21 laws of the United States.

22 “(b) In determining whether to provide additional as-  
23 sistance under this title or under other laws of the United  
24 States, the court shall consider whether such additional  
25 assistance, consistent with the principles of comity, will  
26 reasonably assure—

1           “(1) just treatment of all holders of claims  
2           against or interests in the debtor’s property;

3           “(2) protection of claim holders in the United  
4           States against prejudice and inconvenience in the  
5           processing of claims in such foreign proceeding;

6           “(3) prevention of preferential or fraudulent  
7           dispositions of property of the debtor;

8           “(4) distribution of proceeds of the debtor’s  
9           property substantially in accordance with the order  
10          prescribed by this title; and

11          “(5) if appropriate, the provision of an oppor-  
12          tunity for a fresh start for the individual that such  
13          foreign proceeding concerns.

14   **“§ 1508. Interpretation**

15          “In interpreting this chapter, the court shall consider  
16          its international origin, and the need to promote an appli-  
17          cation of this chapter that is consistent with the applica-  
18          tion of similar statutes adopted by foreign jurisdictions.

19   **“SUBCHAPTER II—ACCESS OF FOREIGN REP-**  
20          **RESENTATIVES AND CREDITORS TO THE**  
21          **COURT**

22   **“§ 1509. Right of direct access**

23          “(a) A foreign representative is entitled to commence  
24          a case under section 1504 by filing a petition for recogni-  
25          tion under section 1515, and upon recognition, to apply

1 directly to other Federal and State courts for appropriate  
2 relief in those courts.

3 “(b) Upon recognition, and subject to section 1510,  
4 a foreign representative shall have the capacity to sue and  
5 be sued, and shall be subject to the laws of the United  
6 States of general applicability.

7 “(c) Subject to section 1510, a foreign representative  
8 is subject to laws of general application.

9 “(d) Recognition under this chapter is prerequisite to  
10 the granting of comity or cooperation to a foreign rep-  
11 resentative in any Federal or State court in the United  
12 States. Any request for comity or cooperation by a foreign  
13 representative in any court shall be accompanied by a  
14 sworn statement setting forth whether recognition under  
15 section 1515 has been sought and the status of any such  
16 petition.

17 “(e) Upon denial of recognition under this chapter,  
18 the court may issue appropriate orders necessary to pre-  
19 vent an attempt to obtain comity or cooperation from  
20 courts in the United States without such recognition.

21 **“§ 1510. Limited jurisdiction**

22 “The sole fact that a foreign representative files a  
23 petition under section 1515 does not subject the foreign  
24 representative to the jurisdiction of any court in the  
25 United States for any other purpose.

1 **“§ 1511. Commencement of case under section 301 or**  
2 **303**

3 “(a) Upon recognition, a foreign representative may  
4 commence—

5 “(1) an involuntary case under section 303; or

6 “(2) a voluntary case under section 301 or 302,  
7 if the foreign proceeding is a foreign main pro-  
8 ceeding.

9 “(b) The petition commencing a case under sub-  
10 section (a) must be accompanied by a statement describ-  
11 ing the petition for recognition and its current status. The  
12 court where the petition for recognition has been filed  
13 must be advised of the foreign representative’s intent to  
14 commence a case under subsection (a) prior to such com-  
15 mencement.

16 **“§ 1512. Participation of a foreign representative in a**  
17 **case under this title**

18 “Upon recognition of a foreign proceeding, the for-  
19 eign representative in that proceeding is entitled to par-  
20 ticipate as a party in interest in a case regarding the debt-  
21 or under this title.

22 **“§ 1513. Access of foreign creditors to a case under**  
23 **this title**

24 “(a) Foreign creditors have the same rights regarding  
25 the commencement of, and participation in, a case under  
26 this title as domestic creditors.

1       “(b)(1) Subsection (a) does not change or codify law  
2 in effect on the date of enactment of this chapter as to  
3 the priority of claims under section 507 or 726, except  
4 that the claim of a foreign creditor under section 507 or  
5 726 shall not be given a lower priority than that of general  
6 unsecured claims without priority solely because the holder  
7 of such claim is a foreign creditor.

8       “(2)(A) Subsection (a) and paragraph (1) do not  
9 change or codify law in effect on the date of enactment  
10 of this chapter as to the allowability of foreign revenue  
11 claims or other foreign public law claims in a proceeding  
12 under this title.

13       “(B) Allowance and priority as to a foreign tax claim  
14 or other foreign public law claim shall be governed by any  
15 applicable tax treaty of the United States, under the con-  
16 ditions and circumstances specified therein.

17       **“§ 1514. Notification to foreign creditors concerning a**  
18                               **case under this title**

19       “(a) Whenever in a case under this title notice is to  
20 be given to creditors generally or to any class or category  
21 of creditors, such notice shall also be given to the known  
22 creditors generally, or to creditors in the notified class or  
23 category, that do not have addresses in the United States.  
24 The court may order that appropriate steps be taken with

1 a view to notifying any creditor whose address is not yet  
2 known.

3 “(b) Such notification to creditors with foreign ad-  
4 dresses described in subsection (a) shall be given individ-  
5 ually, unless the court considers that, under the cir-  
6 cumstances, some other form of notification would be  
7 more appropriate. No letters rogatory or other similar for-  
8 mality is required.

9 “(c) When a notification of commencement of a case  
10 is to be given to foreign creditors, the notification shall—

11 “(1) indicate the time period for filing proofs of  
12 claim and specify the place for their filing;

13 “(2) indicate whether secured creditors need to  
14 file their proofs of claim; and

15 “(3) contain any other information required to  
16 be included in such a notification to creditors pursu-  
17 ant to this title and the orders of the court.

18 “(d) Any rule of procedure or order of the court as  
19 to notice or the filing of a claim shall provide such addi-  
20 tional time to creditors with foreign addresses as is rea-  
21 sonable under the circumstances.

1           “SUBCHAPTER III—RECOGNITION OF A  
2           FOREIGN PROCEEDING AND RELIEF

3   **“§ 1515. Application for recognition of a foreign pro-**  
4                           **ceeding**

5           “(a) A foreign representative applies to the court for  
6 recognition of the foreign proceeding in which the foreign  
7 representative has been appointed by filing a petition for  
8 recognition.

9           “(b) A petition for recognition shall be accompanied  
10 by—

11                   “(1) a certified copy of the decision com-  
12 mencing the foreign proceeding and appointing the  
13 foreign representative;

14                   “(2) a certificate from the foreign court affirm-  
15 ing the existence of the foreign proceeding and of  
16 the appointment of the foreign representative; or

17                   “(3) in the absence of evidence referred to in  
18 paragraphs (1) and (2), any other evidence accept-  
19 able to the court of the existence of the foreign pro-  
20 ceeding and of the appointment of the foreign rep-  
21 resentative.

22           “(c) A petition for recognition shall also be accom-  
23 panied by a statement identifying all foreign proceedings  
24 with respect to the debtor that are known to the foreign  
25 representative.

1       “(d) The documents referred to in paragraphs (1)  
2 and (2) of subsection (b) must be translated into English.  
3 The court may require a translation into English of addi-  
4 tional documents.

5 **“§ 1516. Presumptions concerning recognition**

6       “(a) If the decision or certificate referred to in section  
7 1515(b) indicates that the foreign proceeding is a foreign  
8 proceeding as defined in section 101 and that the person  
9 or body is a foreign representative as defined in section  
10 101, the court is entitled to so presume.

11       “(b) The court is entitled to presume that documents  
12 submitted in support of the petition for recognition are  
13 authentic, whether or not they have been legalized.

14       “(c) In the absence of evidence to the contrary, the  
15 debtor’s registered office, or habitual residence in the case  
16 of an individual, is presumed to be the center of the debt-  
17 or’s main interests.

18 **“§ 1517. Order recognizing a foreign proceeding**

19       “(a) Subject to section 1506, after notice and a hear-  
20 ing an order recognizing a foreign proceeding shall be en-  
21 tered if—

22               “(1) the foreign proceeding is a foreign main  
23 proceeding or foreign nonmain proceeding within the  
24 meaning of section 1502;



1           “(2) the foreign representative applying for rec-  
2           ognition is a person or body as defined in section  
3           101; and

4           “(3) the petition meets the requirements of sec-  
5           tion 1515.

6           “(b) The foreign proceeding shall be recognized—

7           “(1) as a foreign main proceeding if it is taking  
8           place in the country where the debtor has the center  
9           of its main interests; or

10           “(2) as a foreign nonmain proceeding if the  
11           debtor has an establishment within the meaning of  
12           section 1502 in the foreign country where the pro-  
13           ceeding is pending.

14           “(c) A petition for recognition of a foreign proceeding  
15           shall be decided upon at the earliest possible time. Entry  
16           of an order recognizing a foreign proceeding shall con-  
17           stitute recognition under this chapter.

18           “(d) The provisions of this subchapter do not prevent  
19           modification or termination of recognition if it is shown  
20           that the grounds for granting it were fully or partially  
21           lacking or have ceased to exist, but in considering such  
22           action the court shall give due weight to possible prejudice  
23           to parties that have relied upon the granting of recogni-  
24           tion. The case under this chapter may be closed in the  
25           manner prescribed for a case under section 350.

1 **“§ 1518. Subsequent information**

2 “After the the petition for recognition of the foreign  
3 proceeding is filed, the foreign representative shall file  
4 with the court promptly a notice of change of status  
5 concerning—

6 “(1) any substantial change in the status of the  
7 foreign proceeding or the status of the foreign rep-  
8 resentative’s appointment; and

9 “(2) any other foreign proceeding regarding the  
10 debtor that becomes known to the foreign represent-  
11 ative.

12 **“§ 1519. Relief that may be granted upon petition for**  
13 **recognition of a foreign proceeding**

14 “(a) Beginning on the date on which a petition for  
15 recognition is filed and ending on the date on which the  
16 petition is decided upon, the court may, at the request of  
17 the foreign representative, where relief is urgently needed  
18 to protect the assets of the debtor or the interests of the  
19 creditors, grant relief of a provisional nature, including—

20 “(1) staying execution against the debtor’s as-  
21 sets;

22 “(2) entrusting the administration or realiza-  
23 tion of all or part of the debtor’s assets located in  
24 the United States to the foreign representative or  
25 another person authorized by the court, including an  
26 examiner, in order to protect and preserve the value

1 of assets that, by their nature or because of other  
2 circumstances, are perishable, susceptible to devalu-  
3 ation, or otherwise in jeopardy; and

4 “(3) any relief referred to in paragraph (3),  
5 (4), or (7) of section 1521(a).

6 “(b) Unless extended under section 1521(a)(6), the  
7 relief granted under this section terminates when the peti-  
8 tion for recognition is decided upon.

9 “(c) It is a ground for denial of relief under this sec-  
10 tion that such relief would interfere with the administra-  
11 tion of a foreign main 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 this  
17 section.

18 **“§ 1520. Effects of recognition of a foreign main pro-**  
19 **ceeding**

20 “(a) Upon recognition of a foreign proceeding that  
21 is a foreign main proceeding—

22 “(1) section 362 applies with respect to the  
23 debtor and that property of the debtor that is within  
24 the territorial jurisdiction of the United States;

1           “(2) a transfer, an encumbrance, or any other  
2 disposition of an interest of the debtor in property  
3 within the territorial jurisdiction of the United  
4 States is restrained as and to the extent that is pro-  
5 vided for property of an estate under sections 363,  
6 549, and 552; and

7           “(3) unless the court orders otherwise, the for-  
8 eign representative may operate the debtor’s busi-  
9 ness and may exercise the powers of a trustee under  
10 section 549, subject to sections 363 and 552.

11          “(b) The scope, and the modification or termination,  
12 of the stay and restraints referred to in subsection (a) are  
13 subject to the exceptions and limitations provided in sub-  
14 sections (b), (c), and (d) of section 362, subsections (b)  
15 and (c) of section 363, and sections 552, 555 through 557,  
16 559, and 560.

17          “(c) Subsection (a) does not affect the right to com-  
18 mence individual actions or proceedings in a foreign coun-  
19 try to the extent necessary to preserve a claim against the  
20 debtor.

21          “(d) Subsection (a) does not affect the right of a for-  
22 eign representative or an entity to file a petition com-  
23 mencing a case under this title or the right of any party  
24 to file claims or take other proper actions in such a case.

1 **“§ 1521. Relief that may be granted upon recognition**  
2 **of a foreign proceeding**

3 “(a) Upon recognition of a foreign proceeding, wheth-  
4 er main or nonmain, where necessary to effectuate the  
5 purpose of this chapter and to protect the assets of the  
6 debtor or the interests of the creditors, the court may, at  
7 the request of the foreign representative, grant any appro-  
8 priate relief, including—

9 “(1) staying the commencement or continuation  
10 of individual actions or individual proceedings con-  
11 cerning the debtor’s assets, rights, obligations or li-  
12 abilities to the extent the actions or proceedings  
13 have not been stayed under section 1520(a);

14 “(2) staying execution against the debtor’s as-  
15 sets to the extent the execution has not been stayed  
16 under section 1520(a);

17 “(3) suspending the right to transfer, encumber  
18 or otherwise dispose of any assets of the debtor to  
19 the extent that right has not been suspended under  
20 section 1520(a);

21 “(4) providing for the examination of witnesses,  
22 the taking of evidence or the delivery of information  
23 concerning the debtor’s assets, affairs, rights, obliga-  
24 tions or liabilities;

25 “(5) entrusting the administration or realiza-  
26 tion of all or part of the debtor’s assets within the

1 territorial jurisdiction of the United States to the  
2 foreign representative or another person, including  
3 an examiner, authorized by the court;

4 “(6) extending relief granted under section  
5 1519(a); and

6 “(7) granting any additional relief that may be  
7 available to a trustee, except for relief available  
8 under sections 522, 544, 545, 547, 548, 550, and  
9 724(a).

10 “(b) Upon recognition of a foreign proceeding, wheth-  
11 er main or nonmain, the court may, at the request of the  
12 foreign representative, entrust the distribution of all or  
13 part of the debtor’s assets located in the United States  
14 to the foreign representative or another person, including  
15 an examiner, authorized by the court, if the court is satis-  
16 fied that the interests of creditors in the United States  
17 are sufficiently protected.

18 “(c) In granting relief under this section to a rep-  
19 resentative of a foreign nonmain proceeding, the court  
20 must be satisfied that the relief relates to assets that,  
21 under the law of the United States, should be adminis-  
22 tered in the foreign nonmain proceeding or concerns infor-  
23 mation required in that 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 para-  
6 graphs (1), (2), (3), and (6) of subsection (a).

7 **“§ 1522. Protection of creditors and other interested**  
8 **persons**

9 “(a) The court may grant relief under section 1519  
10 or 1521, or may modify or terminate relief under sub-  
11 section (c), only if the interests of the creditors and other  
12 interested entities, including the debtor, are sufficiently  
13 protected.

14 “(b) The court may subject relief granted under sec-  
15 tion 1519 or 1521, or the operation of the debtor’s busi-  
16 ness under section 1520(a)(2), to conditions that the court  
17 considers to be appropriate, including the giving of secu-  
18 rity or the filing of a bond.

19 “(c) The court may, at the request of the foreign rep-  
20 resentative or an entity affected by relief granted under  
21 section 1519 or 1521, or at its own motion, modify or  
22 terminate the relief referred to in subsection (b).

23 “(d) Section 1104(d) shall apply to the appointment  
24 of an examiner under this chapter. Any examiner shall

1 comply with the qualification requirements imposed on a  
2 trustee by section 322.

3 **“§ 1523. Actions to avoid acts detrimental to creditors**

4 “(a) Upon recognition of a foreign proceeding, the  
5 foreign representative has standing in a case concerning  
6 the debtor pending under another chapter of this title to  
7 initiate actions under sections 522, 544, 545, 547, 548,  
8 550, and 724(a).

9 “(b) In any case in which the foreign proceeding is  
10 a foreign nonmain proceeding, the court must be satisfied  
11 that an action under subsection (a) relates to assets that,  
12 under United States law, should be administered in the  
13 foreign nonmain proceeding.

14 **“§ 1524. Intervention by a foreign representative**

15 “Upon recognition of a foreign proceeding, the for-  
16 eign representative may intervene in any proceedings in  
17 a State or Federal court in the United States in which  
18 the debtor is a party.



1 “SUBCHAPTER IV—COOPERATION WITH FOR-  
2 EIGN COURTS AND FOREIGN REPRESENTA-  
3 TIVES

4 **“§ 1525. Cooperation and direct communication be-  
5 tween the court and foreign courts or for-  
6 eign representatives**

7 “(a) Consistent with section 1501, the court shall co-  
8 operate to the maximum extent possible with foreign  
9 courts or foreign representatives, either directly or  
10 through the trustee.

11 “(b) The court is entitled to communicate directly  
12 with, or to request information or assistance directly from,  
13 foreign courts or foreign representatives, subject to the  
14 rights of parties in interest to notice and participation.

15 **“§ 1526. Cooperation and direct communication be-  
16 tween the trustee and foreign courts or  
17 foreign representatives**

18 “(a) Consistent with section 1501, the trustee or  
19 other person, including an examiner, authorized by the  
20 court, shall, subject to the supervision of the court, cooper-  
21 ate to the maximum extent possible with foreign courts  
22 or foreign representatives.

23 “(b) The trustee or other person, including an exam-  
24 iner, authorized by the court is entitled, subject to the su-

1 pervision of the court, to communicate directly with for-  
2 eign courts or foreign representatives.

3 **“§ 1527. Forms of cooperation**

4 “Cooperation referred to in sections 1525 and 1526  
5 may be implemented by any appropriate means,  
6 including—

7 “(1) appointment of a person or body, including  
8 an examiner, to act at the direction of the court;

9 “(2) communication of information by any  
10 means considered appropriate by the court;

11 “(3) coordination of the administration and su-  
12 pervision of the debtor’s assets and affairs;

13 “(4) approval or implementation of agreements  
14 concerning the coordination of proceedings; and

15 “(5) coordination of concurrent proceedings re-  
16 garding the same debtor.

17 **“SUBCHAPTER V—CONCURRENT PROCEEDINGS**

18 **“§ 1528. Commencement of a case under this title**  
19 **after recognition of a foreign main pro-**  
20 **ceeding**

21 “After recognition of a foreign main proceeding, a  
22 case under another chapter of this title may be commenced  
23 only if the debtor has assets in the United States. The  
24 effects of such case shall be restricted to the assets of the  
25 debtor that are within the territorial jurisdiction of the

1 United States and, to the extent necessary to implement  
2 cooperation and coordination under sections 1525, 1526,  
3 and 1527, to other assets of the debtor that are within  
4 the jurisdiction of the court under sections 541(a), and  
5 1334(e) of title 28, to the extent that such other assets  
6 are not subject to the jurisdiction and control of a foreign  
7 proceeding that has been recognized under this chapter.

8 **“§ 1529. Coordination of a case under this title and a**  
9 **foreign proceeding**

10 “In any case in which a foreign proceeding and a case  
11 under another chapter of this title are taking place concur-  
12 rently regarding the same debtor, the court shall seek co-  
13 operation and coordination under sections 1525, 1526,  
14 and 1527, and the following shall apply:

15 “(1) If the case in the United States is taking  
16 place at the time the petition for recognition of the  
17 foreign proceeding is filed—

18 “(A) any relief granted under sections  
19 1519 or 1521 must be consistent with the relief  
20 granted in the case in the United States; and

21 “(B) even if the foreign proceeding is rec-  
22 ognized as a foreign main proceeding, section  
23 1520 does not apply.

24 “(2) If a case in the United States under this  
25 title commences after recognition, or after the filing

1 of the petition for recognition, of the foreign  
2 proceeding—

3 “(A) any relief in effect under sections  
4 1519 or 1521 shall be reviewed by the court  
5 and shall be modified or terminated if incon-  
6 sistent with the case in the United States; and

7 “(B) if the foreign proceeding is a foreign  
8 main proceeding, the stay and suspension re-  
9 ferred to in section 1520(a) shall be modified or  
10 terminated if inconsistent with the relief grant-  
11 ed in the case in the United States.

12 “(3) In granting, extending, or modifying relief  
13 granted to a representative of a foreign nonmain  
14 proceeding, the court must be satisfied that the re-  
15 lief relates to assets that, under the law of the  
16 United States, should be administered in the foreign  
17 nonmain proceeding or concerns information re-  
18 quired in that proceeding.

19 “(4) In achieving cooperation and coordination  
20 under sections 1528 and 1529, the court may grant  
21 any of the relief authorized under section 305.

22 **“§ 1530. Coordination of more than 1 foreign pro-**  
23 **ceeding**

24 “In matters referred to in section 1501, with respect  
25 to more than 1 foreign proceeding regarding the debtor,

1 the court shall seek cooperation and coordination under  
2 sections 1525, 1526, and 1527, and the following shall  
3 apply:

4           “(1) Any relief granted under section 1519 or  
5           1521 to a representative of a foreign nonmain pro-  
6           ceeding after recognition of a foreign main pro-  
7           ceeding must be consistent with the foreign main  
8           proceeding.

9           “(2) If a foreign main proceeding is recognized  
10          after recognition, or after the filing of a petition for  
11          recognition, of a foreign nonmain proceeding, any  
12          relief in effect under section 1519 or 1521 shall be  
13          reviewed by the court and shall be modified or termi-  
14          nated if inconsistent with the foreign main pro-  
15          ceeding.

16          “(3) If, after recognition of a foreign nonmain  
17          proceeding, another foreign nonmain proceeding is  
18          recognized, the court shall grant, modify, or termi-  
19          nate relief for the purpose of facilitating coordina-  
20          tion of the proceedings.

21       **“§ 1531. Presumption of insolvency based on recogni-**  
22                               **tion of a foreign main proceeding**

23          “‘In the absence of evidence to the contrary, recogni-  
24          tion of a foreign main proceeding is for the purpose of  
25          commencing a proceeding under section 303, proof that

1 the debtor is generally not paying its debts as such debts  
2 become due.

3 **“§ 1532. Rule of payment in concurrent proceedings**

4 “Without prejudice to secured claims or rights in  
5 rem, a creditor who has received payment with respect to  
6 its claim in a foreign proceeding pursuant to a law relating  
7 to insolvency may not receive a payment for the same  
8 claim in a case under any other chapter of this title re-  
9 garding the debtor, so long as the payment to other credi-  
10 tors of the same class is proportionately less than the pay-  
11 ment the creditor has already received.”.

12 (b) CLERICAL AMENDMENT.—The table of chapters  
13 for title 11, United States Code, is amended by inserting  
14 after the item relating to chapter 13 the following:

**“15. Ancillary and Other Cross-Border Cases ..... 1501”.**

15 **SEC. 802. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**  
16 **UNITED STATES CODE.**

17 (a) APPLICABILITY OF CHAPTERS.—Section 103 of  
18 title 11, United States Code, is amended—

19 (1) in subsection (a), by inserting before the pe-  
20 riod the following: “, and this chapter, sections 307,  
21 304, 555 through 557, 559, and 560 apply in a case  
22 under chapter 15”; and

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

24 “(j) Chapter 15 applies only in a case under such  
25 chapter, except that—

1           “(1) sections 1513 and 1514 apply in all cases  
2 under this title; and

3           “(2) section 1505 applies to trustees and to any  
4 other entity (including an examiner) authorized by  
5 the court under chapter 7, 11, or 12, to debtors in  
6 possession under chapter 11 or 12, and to debtors  
7 under chapter 9 who are authorized to act under  
8 section 1505.”.

9           (b) DEFINITIONS.—Paragraphs (23) and (24) of sec-  
10 tion 101 of title 11, United States Code, are amended to  
11 read as follows:

12           “(23) ‘foreign proceeding’ means a collective ju-  
13 dicial or administrative proceeding in a foreign coun-  
14 try, including an interim proceeding, pursuant to a  
15 law relating to insolvency in which proceeding the  
16 assets and affairs of the debtor are subject to con-  
17 trol or supervision by a foreign court, for the pur-  
18 pose of reorganization or liquidation;

19           “(24) ‘foreign representative’ means a person  
20 or body, including a person or body appointed on an  
21 interim basis, authorized in a foreign proceeding to  
22 administer the reorganization or the liquidation of  
23 the debtor’s assets or affairs or to act as a rep-  
24 resentative of the foreign proceeding;”.

1 (c) AMENDMENTS TO TITLE 28, UNITED STATES  
2 CODE.—

3 (1) PROCEDURES.—Section 157(b)(2) of title  
4 28, United States Code, is amended—

5 (A) in subparagraph (N), by striking  
6 “and” at the end;

7 (B) in subparagraph (O), by striking the  
8 period at the end and inserting “; and”; and

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

10 “(P) recognition of foreign proceedings and  
11 other matters under chapter 15 of title 11.”.

12 (2) BANKRUPTCY CASES AND PROCEEDINGS.—  
13 Section 1334(c)(1) of title 28, United States Code,  
14 is amended by striking “Nothing in” and inserting  
15 “Except with respect to a case under chapter 15 of  
16 title 11, nothing in”.

17 (3) DUTIES OF TRUSTEES.—Section 586(a)(3)  
18 of title 28, United States Code, is amended by in-  
19 serting “15,” after “chapter”.

20 **SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN**  
21 **CASES ANCILLARY TO FOREIGN PRO-**  
22 **CEEDINGS.**

23 Section 304 of title 11, United States Code, is  
24 amended to read as follows:



1 **“§ 304. Cases ancillary to foreign proceedings**

2 “(a) For purposes of this section—

3 “(1) the term ‘domestic insurance company’  
4 means a domestic insurance company, as such term  
5 is used in section 109(b)(2);

6 “(2) the term ‘foreign insurance company’  
7 means a foreign insurance company, as such term is  
8 used in section 109(b)(3);

9 “(3) the term ‘United States claimant’ means a  
10 beneficiary of any deposit referred to in subsection  
11 (b) or any multibeneficiary trust referred to in sub-  
12 section (b);

13 “(4) the term ‘United States creditor’ means,  
14 with respect to a foreign insurance company—

15 “(i) a United States claimant; or

16 “(ii) any business entity that operates in  
17 the United States and that is a creditor; and

18 “(5) the term ‘United States policyholder’  
19 means a holder of an insurance policy issued in the  
20 United States.

21 “(b) The court may not grant relief under chapter  
22 15 of this title with respect to any deposit, escrow, trust  
23 fund, or other security required or permitted under any  
24 applicable State insurance law or regulation for the benefit  
25 of claim holders in the United States.”.

1                   **TITLE IX—FINANCIAL**  
2                   **CONTRACT PROVISIONS**

3 **SEC. 901. BANKRUPTCY CODE AMENDMENTS.**

4           (a) DEFINITIONS OF FORWARD CONTRACT, REPUR-  
5 CHASE AGREEMENT, SECURITIES CLEARING AGENCY,  
6 SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES  
7 CONTRACT.—Title 11, United States Code, is  
8 amended—

9                   (1) in section 101—

10                           (A) in paragraph (25)—

11                                   (i) by striking “means a contract”

12                                   and inserting “means—

13                                   “(A) a contract”;

14                                   (ii) by striking “, or any combination

15                                   thereof or option thereon;” and inserting

16                                   “, or any other similar agreement;”; and

17                                   (iii) by adding at the end the fol-

18                                   lowing:

19                                   “(B) a combination of agreements or

20                                   transactions referred to in subparagraphs (A)

21                                   and (C);

22                                   “(C) an option to enter into an agreement

23                                   or transaction referred to in subparagraph (A)

24                                   or (B);

1           “(D) a master netting agreement that pro-  
2           vides for an agreement or transaction referred  
3           to in subparagraph (A), (B), or (C), together  
4           with all supplements to such master netting  
5           agreement, without regard to whether such  
6           master netting agreement provides for an  
7           agreement or transaction that is not a forward  
8           contract under this paragraph, except that such  
9           master netting agreement shall be considered to  
10          be a forward contract under this paragraph  
11          only with respect to each agreement or trans-  
12          action under such master netting agreement  
13          that is referred to in subparagraph (A), (B) or  
14          (C); or

15           “(E) a security agreement or arrangement,  
16           or other credit enhancement, directly pertaining  
17           to a contract, option, agreement, or transaction  
18           referred to in subparagraph (A), (B), (C), or  
19           (D), but not to exceed the actual value of such  
20           contract, option, agreement, or transaction on  
21           the date of the filing of the petition;”;

22           (B) by striking paragraph (47) and insert-  
23           ing the following:

24           “(47) ‘repurchase agreement’ and ‘reverse re-  
25           purchase agreement’—

1 “(A) mean—

2 “(i) an agreement, including related  
3 terms, which provides for the transfer of—

4 “(I) a certificate of deposit,  
5 mortgage related security (as defined  
6 in section 3 of the Securities Ex-  
7 change Act of 1934), mortgage loan,  
8 interest in a mortgage related security  
9 or mortgage loan, eligible bankers’ ac-  
10 ceptance, or qualified foreign govern-  
11 ment security (defined for purposes of  
12 this paragraph to mean a security  
13 that is a direct obligation of, or that  
14 is fully guaranteed by, the central  
15 government of a member of the Orga-  
16 nization for Economic Cooperation  
17 and Development); or

18 “(II) a security that is a direct  
19 obligation of, or that is fully guaran-  
20 teed by, the United States or an agen-  
21 cy of the United States against the  
22 transfer of funds by the transferee of  
23 such certificate of deposit, eligible  
24 bankers’ acceptance, security, loan, or  
25 interest;

1 with a simultaneous agreement by such  
2 transferee to transfer to the transferor  
3 thereof a certificate of deposit, eligible  
4 bankers' acceptance, security, loan, or in-  
5 terest of the kind described in subclause  
6 (I) or (II), at a date certain that is not  
7 later than 1 year after the date of the  
8 transferor's transfer or on demand, against  
9 the transfer of funds;

10 “(ii) a combination of agreements or  
11 transactions referred to in clauses (i) and  
12 (iii);

13 “(iii) an option to enter into an agree-  
14 ment or transaction referred to in clause  
15 (i) or (ii); or

16 “(iv) a master netting agreement that  
17 provides for an agreement or transaction  
18 referred to in clause (i), (ii), or (iii), to-  
19 gether with all supplements to such master  
20 netting agreement, without regard to  
21 whether such master netting agreement  
22 provides for an agreement or transaction  
23 that is not a repurchase agreement under  
24 this subparagraph, except that such master  
25 netting agreement shall be considered to be

1 a repurchase agreement under this sub-  
2 paragraph only with respect to each agree-  
3 ment or transaction under such master  
4 netting agreement that is referred to in  
5 clause (i), (ii), or (iii); or

6 “(v) a security agreement or arrange-  
7 ment, or other credit enhancement, directly  
8 pertaining to a contract referred to in  
9 clause (i), (ii), (iii), or (iv), but not to ex-  
10 ceed the actual value of such contract on  
11 the date of the filing of the petition; and

12 “(B) do not include a repurchase obliga-  
13 tion under a participation in a commercial  
14 mortgage loan;”;

15 (C) in paragraph (48) by inserting “, or  
16 exempt from such registration under such sec-  
17 tion pursuant to an order of the Securities and  
18 Exchange Commission” after “1934”; and

19 (D) by striking paragraph (53B) and in-  
20 serting the following:

21 “(53B) ‘swap agreement’—

22 “(A) means—

23 “(i) an agreement, including the  
24 terms and conditions incorporated by ref-  
25 erence in such agreement, that is—

1           “(I) an interest rate swap, op-  
2           tion, future, or forward agreement, in-  
3           cluding a rate floor, rate cap, rate col-  
4           lar, cross-currency rate swap, and  
5           basis swap;

6           “(II) a spot, same day-tomorrow,  
7           tomorrow-next, forward, or other for-  
8           eign exchange or precious metals  
9           agreement;

10           “(III) a currency swap, option,  
11           future, or forward agreement;

12           “(IV) an equity index or an eq-  
13           uity swap, option, future, or forward  
14           agreement;

15           “(V) a debt index or a debt swap,  
16           option, future, or forward agreement;

17           “(VI) a credit spread or a credit  
18           swap, option, future, or forward  
19           agreement; or

20           “(VII) a commodity index or a  
21           commodity swap, option, future, or  
22           forward agreement;

23           “(ii) an agreement or transaction that  
24           is similar to an agreement or transaction  
25           referred to in clause (i) that—

1                   “(I) is currently, or in the future  
2                   becomes, regularly entered into in the  
3                   swap market (including terms and  
4                   conditions incorporated by reference  
5                   therein); and

6                   “(II) is a forward, swap, future,  
7                   or option on a rate, currency, com-  
8                   modity, equity security, or other eq-  
9                   uity instrument, on a debt security or  
10                  other debt instrument, or on an eco-  
11                  nomic index or measure of economic  
12                  risk or value;

13                  “(iii) a combination of agreements or  
14                  transactions referred to in clauses (i) and  
15                  (ii);

16                  “(iv) an option to enter into an agree-  
17                  ment or transaction referred to in this sub-  
18                  paragraph;

19                  “(v) a master netting agreement that  
20                  provides for an agreement or transaction  
21                  referred to in clause (i), (ii), (iii), or (iv),  
22                  together with all supplements to such mas-  
23                  ter netting agreement and without regard  
24                  to whether such master netting agreement  
25                  contains an agreement or transaction de-



1           scribed in any such clause, but only with  
2           respect to each agreement or transaction  
3           referred to in any such clause that is under  
4           such master netting agreement; except that  
5           “(B) the definition under subparagraph  
6           (A) is applicable for purposes of this title only,  
7           and shall not be construed or applied so as to  
8           challenge or affect the characterization, defini-  
9           tion, or treatment of any swap agreement under  
10          any other statute, regulation, or rule, including  
11          the Securities Act of 1933, the Securities Ex-  
12          change Act of 1934, the Public Utility Holding  
13          Company Act of 1935, the Trust Indenture Act  
14          of 1939, the Investment Company Act of 1940,  
15          the Investment Advisers Act of 1940, the Secu-  
16          rities Investor Protection Act of 1970, the Com-  
17          modity Exchange Act, and the regulations pre-  
18          scribed by the Securities and Exchange Com-  
19          mission or the Commodity Futures Trading  
20          Commission.”;

21          (2) in section 741, by striking paragraph (7)  
22          and inserting the following:

23                 “(7) ‘securities contract’—

24                         “(A) means—

1           “(i) a contract for the purchase, sale,  
2           or loan of a security, a mortgage loan or  
3           an interest in a mortgage loan, a group or  
4           index of securities, or mortgage loans or  
5           interests therein (including an interest  
6           therein or based on the value thereof), or  
7           option on any of the foregoing, including  
8           an option to purchase or sell any of the  
9           foregoing;

10           “(ii) an option entered into on a na-  
11           tional securities exchange relating to for-  
12           eign currencies;

13           “(iii) the guarantee by or to a securi-  
14           ties clearing agency of a settlement of  
15           cash, securities, mortgage loans or inter-  
16           ests therein, group or index of securities,  
17           or mortgage loans or interests therein (in-  
18           cluding any interest therein or based on  
19           the value thereof), or option on any of the  
20           foregoing, including an option to purchase  
21           or sell any of the foregoing;

22           “(iv) a margin loan;

23           “(v) any other agreement or trans-  
24           action that is similar to an agreement or

1 transaction referred to in this subpara-  
2 graph;

3 “(vi) a combination of the agreements  
4 or transactions referred to in this subpara-  
5 graph;

6 “(vii) an option to enter into an  
7 agreement or transaction referred to in  
8 this subparagraph;

9 “(viii) a master netting agreement  
10 that provides for an agreement or trans-  
11 action referred to in clause (i), (ii), (iii),  
12 (iv), (v), (vi), or (vii), together with all  
13 supplements to such master netting agree-  
14 ment, without regard to whether such mas-  
15 ter netting agreement provides for an  
16 agreement or transaction that is not a se-  
17 curities contract under this subparagraph,  
18 except that such master netting agreement  
19 shall be considered to be a securities con-  
20 tract under this subparagraph only with  
21 respect to each agreement or transaction  
22 under such master netting agreement that  
23 is referred to in clause (i), (ii), (iii), (iv),  
24 (v), (vi), or (vii); or

1           “(ix) a security agreement or arrange-  
2           ment, or other credit enhancement, directly  
3           pertaining to a contract referred to in this  
4           subparagraph, but not to exceed the actual  
5           value of such contract on the date of the  
6           filing of the petition; and

7           “(B) does not include a purchase, sale, or  
8           repurchase obligation under a participation in a  
9           commercial mortgage loan;”; and

10          (3) in section 761(4)—

11           (A) by striking “or” at the end of subpara-  
12           graph (D);

13           (B) in subparagraph (E), by striking the  
14           period at the end and inserting “; and”; and

15           (C) 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) a combination of the agreements or  
20           transactions referred to in this paragraph;

21           “(H) an option to enter into an agreement  
22           or transaction referred to in this paragraph;

23           “(I) a master netting agreement that pro-  
24           vides for an agreement or transaction referred  
25           to in subparagraph (A), (B), (C), (D), (E), (F),

1 (G), or (H), together with all supplements to  
2 such master netting agreement, without regard  
3 to whether such master netting agreement pro-  
4 vides for an agreement or transaction that is  
5 not a commodity contract under this paragraph,  
6 except that such master netting agreement shall  
7 be considered to be a commodity contract under  
8 this paragraph only with respect to each agree-  
9 ment or transaction under such master netting  
10 agreement that is referred to in subparagraph  
11 (A), (B), (C), (D), (E), (F), (G), or (H); or

12 “(J) a security agreement or arrangement,  
13 or other credit enhancement, directly pertaining  
14 to a contract referred to in this paragraph, but  
15 not to exceed the actual value of such contract  
16 on the date of the filing of the petition.”.

17 (b) DEFINITIONS OF FINANCIAL INSTITUTION, FI-  
18 NANCIAL PARTICIPANT, AND FORWARD CONTRACT MER-  
19 CHANT.—Section 101 of title 11, United States Code, is  
20 amended—

21 (1) by striking paragraph (22) and inserting  
22 the following:

23 “(22) ‘financial institution’ means—

24 “(A)(i) a Federal reserve bank, or an enti-  
25 ty that is a commercial or savings bank, indus-

1 trial savings bank, savings and loan association,  
2 trust company, or receiver or conservator for  
3 such entity; and

4 “(ii) if such Federal reserve bank, receiver,  
5 or conservator or entity is acting as agent or  
6 custodian for a customer in connection with a  
7 securities contract, as defined in section 741,  
8 such customer; or

9 “(B) in connection with a securities con-  
10 tract, as defined in section 741 of this title, an  
11 investment company registered under the In-  
12 vestment Company Act of 1940;”;

13 (2) by inserting after paragraph (22) the fol-  
14 lowing:

15 “(22A) ‘financial participant’ means an entity  
16 that is a party to a securities contract, commodity  
17 contract or forward contract, or on the date of the  
18 filing of the petition, has a commodity contract (as  
19 defined in section 761) with the debtor or any other  
20 entity (other than an affiliate) of a total gross dollar  
21 value of not less than \$1,000,000,000 in notional or  
22 actual principal amount outstanding on any day dur-  
23 ing the previous 15-month period, or has gross  
24 mark-to-market positions of not less than  
25 \$100,000,000 (aggregated across counterparties) in

1 any such agreement or transaction with the debtor  
2 or any other entity (other than an affiliate) on any  
3 day during the previous 15-month period;” and

4 (3) by striking paragraph (26) and inserting  
5 the following:

6 “(26) ‘forward contract merchant’ means a  
7 Federal reserve bank, or an entity, the business of  
8 which consists in whole or in part of entering into  
9 forward contracts as or with merchants or in a com-  
10 modity, as defined or in section 761, or any similar  
11 good, article, service, right, or interest that is pres-  
12 ently or in the future becomes the subject of dealing  
13 or in the forward contract trade;”.

14 (c) DEFINITION OF MASTER NETTING AGREEMENT  
15 AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-  
16 tion 101 of title 11, United States Code, is amended by  
17 inserting after paragraph (38) the following new para-  
18 graphs:

19 “(38A) the term ‘master netting agreement’—

20 “(A) means an agreement providing for  
21 the exercise of rights, including rights of net-  
22 ting, setoff, liquidation, termination, accelera-  
23 tion, or closeout, under or in connection with 1  
24 or more contracts that are described in any 1  
25 or more of paragraphs (1) through (5) of sec-

1           tion 561(a), or any security agreement or ar-  
2           rangement or other credit enhancement related  
3           to 1 or more of the foregoing; except that

4                   “(B) if a master netting agreement con-  
5           tains provisions relating to agreements or trans-  
6           actions that are not contracts described in para-  
7           graphs (1) through (5) of section 561(a), the  
8           master netting agreement shall be deemed to be  
9           a master netting agreement only with respect  
10          to those agreements or transactions that are de-  
11          scribed in any 1 or more of the paragraphs (1)  
12          through (5) of section 561(a);

13                   “(38B) the term ‘master netting agreement  
14          participant’ means an entity that, at any time before  
15          the filing of the petition, is a party to an out-  
16          standing master netting agreement with the debt-  
17          or;”.

18          (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,  
19          COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-  
20          CHASE AGREEMENTS, AND MASTER NETTING AGREE-  
21          MENTS UNDER THE AUTOMATIC STAY.—

22                   (1) IN GENERAL.—Section 362(b) of title 11,  
23          United States Code, as amended by section 718 of  
24          this Act, 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 striking paragraph (17) and insert-  
8 ing the following:

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 a swap agreement that con-  
12 stitutes the setoff of a claim against the debtor for  
13 a payment or transfer due from the debtor under or  
14 in connection with a swap agreement against a pay-  
15 ment due to the debtor from the swap participant  
16 under or in connection with a swap agreement or  
17 against cash, securities, or other property held by,  
18 pledged to, and under the control of, or due from  
19 such swap participant to guarantee, secure, or settle  
20 a swap agreement;”;

21 (D) in paragraph (26), by striking “or” at  
22 the end;

23 (E) in paragraph (27), by striking the pe-  
24 riod at the end and inserting “; or”; and

1 (F) by inserting after paragraph (27) the  
2 following:

3 “(28) 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 1 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 section 432(2)  
3           of this Act, is amended by adding at the end the fol-  
4           lowing:

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) of subsection (b) shall not be stayed  
8           by an order of a court or administrative agency in any  
9           proceeding under this title.”.

10          (e) LIMITATION OF AVOIDANCE POWERS UNDER  
11          MASTER NETTING AGREEMENT.—Section 546 of title 11,  
12          United States Code, is amended—

13                 (1) in subsection (g) (as added by section 103  
14                 of Public Law 101–311 (104 Stat. 267 et seq.))—

15                         (A) by striking “under a swap agreement”;

16                         and

17                         (B) by striking “in connection with a swap  
18                         agreement” and inserting “under or in connec-  
19                         tion with any swap agreement”; and

20                 (2) by inserting before subsection (i) (as redes-  
21                 ignated by section 407 of this Act) the following new  
22                 subsection:

23                 “(h) Notwithstanding sections 544, 545, 547,  
24                 548(a)(2)(B), and 548(b), the trustee may not avoid a  
25                 transfer made by or to a master netting agreement partici-

1 pant under or in connection with any master netting  
2 agreement or any individual contract covered thereby that  
3 is made before the commencement of the case, and except  
4 to the extent that the trustee could otherwise avoid such  
5 a transfer made under an individual contract covered by  
6 such master netting agreement (except under section  
7 548(a)(1)(A)).”.

8 (f) FRAUDULENT TRANSFERS OF MASTER NETTING  
9 AGREEMENTS.—Section 548(d)(2) of title 11, United  
10 States Code, is amended—

11 (1) in subparagraph (C), by striking “and”;

12 (2) in subparagraph (D), by striking the period  
13 at the end and inserting “; and”; and

14 (3) by adding at the end the following new sub-  
15 paragraph:

16 “(E) a master netting agreement partici-  
17 pant that receives a transfer in connection with  
18 a master netting agreement or any individual  
19 contract covered thereby takes for value to the  
20 extent of such transfer, except, with respect to  
21 a transfer under any individual contract covered  
22 thereby, to the extent that such master netting  
23 agreement participant otherwise did not take  
24 (or is otherwise not deemed to have taken) such  
25 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 striking the section heading and insert-  
5 ing the following:

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 striking the section heading and insert-  
16 ing the following:

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 striking the section heading and insert-  
5 ing the following:

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 striking the section heading and insert-  
16 ing following:

17 **“§ 560. Contractual right to liquidate, terminate, or**  
18 **accelerate a swap agreement”;**

19 (2) in the first sentence, by striking “termi-  
20 nation of a swap agreement” and inserting “liquida-  
21 tion, termination, or acceleration of a swap agree-  
22 ment”; and

23 (3) by striking “in connection with any swap  
24 agreement” and inserting “in connection with the

1 termination, liquidation, or acceleration of a swap  
2 agreement”.

3 (k) LIQUIDATION, TERMINATION, ACCELERATION, OR  
4 OFFSET UNDER A MASTER NETTING AGREEMENT AND  
5 ACROSS CONTRACTS.—Title 11, United States Code, is  
6 amended by inserting after section 560 the following new  
7 section:

8 **“§ 561. Contractual right to terminate, liquidate, ac-**  
9 **celerate, or offset under a master netting**  
10 **agreement and across contracts**

11 “(a) Subject to subsection (b), the exercise of any  
12 contractual right, because of a condition of the kind speci-  
13 fied in section 365(e)(1), to cause the termination, liquida-  
14 tion, or acceleration of or to offset or net termination val-  
15 ues, payment amounts or other transfer obligations arising  
16 under or in connection with 1 or more (or the termination,  
17 liquidation, or acceleration of 1 or 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)(1) A party may exercise a contractual right de-  
6 scribed in subsection (a) to terminate, liquidate, or accel-  
7 erate only to the extent that such party could exercise such  
8 a right under section 555, 556, 559, or 560 for each indi-  
9 vidual contract covered by the master netting agreement  
10 in issue.

11 “(2) If a debtor is a commodity broker subject to sub-  
12 chapter IV of chapter 7 of this title—

13 “(A) a party may not net or offset an obligation  
14 to the debtor arising under, or in connection with,  
15 a commodity contract against any claim arising  
16 under, or in connection with, other instruments, con-  
17 tracts, or agreements listed in subsection (a), except  
18 to the extent that the party has no positive net eq-  
19 uity in the commodity accounts at the debtor, as cal-  
20 culated under subchapter IV; and

21 “(B) another commodity broker may not net or  
22 offset an obligation to the debtor arising under, or  
23 in connection with, a commodity contract entered  
24 into or held on behalf of a customer of the debtor  
25 against any claim arising under, or in connection



1 with, other instruments, contracts, or agreements re-  
2 ferred to in subsection (a).

3 “(c) As used in this section, the term ‘contractual  
4 right’ includes a right set forth in a rule or bylaw of a  
5 national securities exchange, a national securities associa-  
6 tion, or a securities clearing agency, a right set forth in  
7 a bylaw of a clearing organization or contract market or  
8 in a resolution of the governing board thereof, and a right,  
9 whether or not evidenced in writing, arising under com-  
10 mon law, under law merchant, or by reason of normal  
11 business practice.”.

12 (l) ANCILLARY PROCEEDINGS.—Section 304 of title  
13 11, United States Code, is amended by adding at the end  
14 the following:

15 “(d) Any provisions of this title relating to securities  
16 contracts, commodity contracts, forward contracts, repur-  
17 chase agreements, swap agreements, or master netting  
18 agreements shall apply in a case ancillary to a foreign pro-  
19 ceeding under this section or any other section of this title,  
20 so that enforcement of contractual provisions of such con-  
21 tracts and agreements in accordance with their terms—

22 “(1) shall not be stayed or otherwise limited  
23 by—

24 “(A) operation of any provision of this  
25 title; or

1           “(B) order of a court in any case under  
2           this title;

3           “(2) shall limit avoidance powers to the same  
4           extent as in a proceeding under chapter 7 or 11; and

5           “(3) shall not be limited based on the presence  
6           or absence of assets of the debtor in the United  
7           States.”.

8           (m) COMMODITY BROKER LIQUIDATIONS.—Title 11,  
9           United States Code, is amended by inserting after section  
10          766 the following:

11        **“§ 767. Commodity broker liquidation and forward**  
12                       **contract merchants, commodity brokers,**  
13                       **stockbrokers, financial institutions, secu-**  
14                       **rities clearing agencies, swap partici-**  
15                       **pants, repo participants, and master net-**  
16                       **ting agreement participants**

17           “Notwithstanding any other provision of this title,  
18           the exercise of rights by a forward contract merchant,  
19           commodity broker, stockbroker, financial institution, secu-  
20           rities clearing agency, swap participant, repo participant,  
21           or master netting agreement participant under this title  
22           shall not affect the priority of any unsecured claim it may  
23           have after the exercise of such rights.”.

1 (n) STOCKBROKER LIQUIDATIONS.—Title 11, United  
2 States Code, is amended by inserting after section 752 the  
3 following:

4 **“§ 753. Stockbroker liquidation and forward contract**  
5 **merchants, commodity brokers, stock-**  
6 **brokers, financial institutions, securities**  
7 **clearing agencies, swap participants,**  
8 **repo participants, and master netting**  
9 **agreement participants**

10 “Notwithstanding any other provision of this title,  
11 the exercise of rights by a forward contract merchant,  
12 commodity broker, stockbroker, financial institution, secu-  
13 rities clearing agency, swap participant, repo participant,  
14 financial participant, or master netting agreement partici-  
15 pant under this title shall not affect the priority of any  
16 unsecured claim it may have after the exercise of such  
17 rights.”.

18 (o) SETOFF.—Section 553 of title 11, United States  
19 Code, is amended—

20 (1) in subsection (a)(3)(C), by inserting “(ex-  
21 cept for a setoff of a kind described in section  
22 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(19), 555,  
23 556, 559, or 560)” before the period; and

1           (2) in subsection (b)(1), by striking  
2           “362(b)(14),” and inserting “362(b)(17),  
3           362(b)(19), 555, 556, 559, 560.”

4           (p) SECURITIES CONTRACTS, COMMODITY CON-  
5 TRACTS, AND FORWARD CONTRACTS.—Title 11, United  
6 States Code, is amended—

7           (1) in section 362(b)(6), by striking “financial  
8           institutions,” each place such term appears and in-  
9           serting “financial institution, financial participant”;

10           (2) in section 546(e), by inserting “financial  
11           participant” after “financial institution,”;

12           (3) in section 548(d)(2)(B), by inserting “fi-  
13           nancial participant” after “financial institution,”;

14           (4) in section 555—

15           (A) by inserting “financial participant”  
16           after “financial institution,”; and

17           (B) by inserting before the period “, a  
18           right set forth in a bylaw of a clearing organi-  
19           zation or contract market or in a resolution of  
20           the governing board thereof, and a right,  
21           whether or not in writing, arising under com-  
22           mon law, under law merchant, or by reason of  
23           normal business practice”; and

24           (5) in section 556, by inserting “, financial par-  
25           ticipant” after “commodity broker”.

1 (q) CONFORMING AMENDMENTS.—Title 11 of the  
2 United States Code is amended—

3 (1) in the table of sections for chapter 5—

4 (A) by striking the items relating to sec-  
5 tions 555 and 556 and inserting the following:

“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.”;

6 (B) by striking the items relating to sec-  
7 tions 559 and 560 and inserting the following:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase  
agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agree-  
ment.”;

8 and

9 (C) by adding after the item relating to  
10 section 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a  
master netting agreement and across contracts.”;

11 and

12 (2) in the table of sections for 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 brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

1 **SEC. 902. DAMAGE MEASURE.**

2 (a) IN GENERAL.—Title 11, United States Code, is  
3 amended—

4 (1) by inserting after section 561 the following:

5 **“§ 562. Damage measure in connection with swap**  
6 **agreements, securities contracts, forward**  
7 **contracts, commodity contracts, repur-**  
8 **chase agreements, or master netting**  
9 **agreements**

10 “If the trustee rejects a swap agreement, securities  
11 contract (as defined in section 741), forward contract,  
12 commodity contract (as defined in section 761) repurchase  
13 agreement, or master netting agreement under section  
14 365(a), or if a forward contract merchant, stockbroker,  
15 financial institution, securities clearing agency, repo par-  
16 ticipant, financial participant, master netting agreement  
17 participant, or swap participant liquidates, terminates, or  
18 accelerates such contract or agreement, damages shall be  
19 measured as of the earlier of—

20 “(1) the date of such rejection; or

21 “(2) the date of such liquidation, termination,  
22 or acceleration.”; and

1           (2) in the table of sections for chapter 5 by in-  
2           serting after the item relating to section 561 the fol-  
3           lowing:

“562. Damage measure in connection with swap agreements, securities con-  
tracts, forward contracts, commodity contracts, repurchase  
agreements, or master netting agreements.”.

4           (b) CLAIMS ARISING FROM REJECTION.—Section  
5 502(g) of title 11, United States Code, is amended—

6           (1) by inserting “(1)” after “(g)”; and

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

8           “(2) A claim for damages calculated in accordance  
9 with section 561 shall be allowed under subsection (a), (b),  
10 or (c) of this section, or disallowed under subsection (d)  
11 or (e) of this section, as if such claim had arisen before  
12 the date of the filing of the petition.”.

13 **SEC. 903. ASSET-BACKED SECURITIZATIONS.**

14           Section 541 of title 11, United States Code, is  
15 amended—

16           (1) in subsection (b), by striking “or” at the  
17 end of paragraph (4);

18           (2) by redesignating paragraph (5) of sub-  
19 section (b) as paragraph (6);

20           (3) by inserting after paragraph (4) of sub-  
21 section (b) the following new paragraph:

22           “(5) any eligible asset (or proceeds thereof), to  
23 the extent that such eligible asset was transferred by  
24 the debtor, before the date of commencement of the

1 case, to an eligible entity in connection with an  
2 asset-backed securitization, except to the extent that  
3 such asset (or proceeds or value thereof) may be re-  
4 covered by the trustee under section 550 by virtue  
5 of avoidance under section 548(a); or”;

6 (4) by adding at the end the following new sub-  
7 section:

8 “(e) For purposes of this section, the following defini-  
9 tions shall apply:

10 “(1) The term ‘asset-backed securitization’  
11 means a transaction in which eligible assets trans-  
12 ferred to an eligible entity are used as the source of  
13 payment on securities, the most senior of which are  
14 rated investment grade by 1 or more nationally rec-  
15 ognized securities rating organizations, issued by an  
16 issuer.

17 “(2) The term ‘eligible asset’ means—

18 “(A) financial assets (including interests  
19 therein and proceeds thereof), either fixed or re-  
20 volving, including residential and commercial  
21 mortgage loans, consumer receivables, trade re-  
22 ceivables, and lease receivables, that, by their  
23 terms, convert into cash within a finite time pe-  
24 riod, plus any rights or other assets designed to



1           assure the servicing or timely distribution of  
2           proceeds to security holders;

3                   “(B) cash; and

4                   “(C) securities.

5           “(3) The term ‘eligible entity’ means—

6                   “(A) an issuer; or

7                   “(B) a trust, corporation, partnership, or  
8           other entity engaged exclusively in the business  
9           of acquiring and transferring eligible assets di-  
10          rectly or indirectly to an issuer and taking ac-  
11          tions ancillary thereto.

12           “(4) The term ‘issuer’ means a trust, corpora-  
13          tion, partnership, or other entity engaged exclusively  
14          in the business of acquiring and holding eligible as-  
15          sets, issuing securities backed by eligible assets, and  
16          taking actions ancillary thereto.

17           “(5) The term ‘transferred’ means the debtor,  
18          under a written agreement, represented and war-  
19          ranted that eligible assets were sold, contributed, or  
20          otherwise conveyed with the intention of removing  
21          them from the estate of the debtor pursuant to sub-  
22          section (b)(5), irrespective, without limitation of—

23                   “(A) whether the debtor directly or indi-  
24          rectly obtained or held an interest in the issuer  
25          or in any securities issued by the issuer;

1           “(B) whether the debtor had an obligation  
2           to repurchase or to service or supervise the  
3           servicing of all or any portion of such eligible  
4           assets; or

5           “(C) the characterization of such sale, con-  
6           tribution, or other conveyance for tax, account-  
7           ing, regulatory reporting, or other purposes.”.

8 **SEC. 904. EFFECTIVE DATE; APPLICATION OF AMEND-**  
9           **MENTS.**

10          (a) **EFFECTIVE DATE.**—This title shall take effect on  
11 the date of enactment of this Act.

12          (b) **APPLICATION OF AMENDMENTS.**—The amend-  
13 ments made by this title shall apply with respect to cases  
14 commenced or appointments made under any Federal or  
15 State law after the date of enactment of this Act, but shall  
16 not apply with respect to cases commenced or appoint-  
17 ments made under any Federal or State law before the  
18 date of enactment of this Act.

19           **TITLE X—PROTECTION OF**  
20           **FAMILY FARMERS**

21 **SEC. 1001. REENACTMENT OF CHAPTER 12.**

22          (a) **REENACTMENT.**—

23           (1) **IN GENERAL.**—Chapter 12 of title 11,  
24 United States Code, as reenacted by section 149 of  
25 division C of the Omnibus Consolidated and Emer-

1 agency Supplemental Appropriations Act, 1999 (Pub-  
 2 lic Law 105–277), and amended by this Act, is reen-  
 3 acted.

4 (2) EFFECTIVE DATE.—Subsection (a) shall  
 5 take effect on April 1, 1999.

6 (b) CONFORMING AMENDMENT.—Section 302 of the  
 7 Bankruptcy, Judges, United States Trustees, and Family  
 8 Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is  
 9 amended by striking subsection (f).

10 **SEC. 1002. DEBT LIMIT INCREASE.**

11 Section 104(b) of title 11, United States Code, is  
 12 amended by adding at the end the following:

13 “(4) The dollar amount in section 101(18) shall be  
 14 adjusted at the same times and in the same manner as  
 15 the dollar amounts in paragraph (1) of this subsection,  
 16 beginning with the adjustment to be made on April 1,  
 17 2001.”

18 **SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY**  
 19 **FARMER AND SPOUSE RECEIVE OVER 50 PER-**  
 20 **CENT OF INCOME FROM FARMING OPER-**  
 21 **ATION IN YEAR PRIOR TO BANKRUPTCY.**

22 Section 101(18)(A) of title 11, United States Code,  
 23 is amended by striking “the taxable year preceding the  
 24 taxable year” and inserting “at least 1 of the 3 calendar  
 25 years preceding the year”.

1     **SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL**  
2                     **UNITS.**

3             (a) CONTENTS OF PLAN.—Section 1222(a)(2)  
4     of title 11, United States Code, is amended to read  
5     as follows:

6             “(2) provide for the full payment, in deferred  
7     cash payments, of all claims entitled to priority  
8     under section 507, unless—

9             “(A) the claim is a claim owed to a govern-  
10     mental unit that arises as a result of the sale,  
11     transfer, exchange, or other disposition of any  
12     farm asset used in the debtor’s farming oper-  
13     ation, in which case the claim shall be treated  
14     as an unsecured claim that is not entitled to  
15     priority under section 507, but the debt shall be  
16     treated in such manner only if the debtor re-  
17     ceives a discharge; or

18             “(B) the holder of a particular claim  
19     agrees to a different treatment of that claim;  
20     and”.

21             (b) SPECIAL NOTICE PROVISIONS.—Section  
22     1231(d) of title 11, United States Code, is amended  
23     by striking “a State or local governmental unit” and  
24     inserting “any governmental unit”.

1     **TITLE XI—HEALTH CARE AND**  
 2             **EMPLOYEE BENEFITS**

3     **SEC. 1101. DEFINITIONS.**

4             (a) HEALTH CARE BUSINESS DEFINED.—Section  
 5     101 of title 11, United States Code, as amended by section  
 6     1004(a) of this Act, is amended—

7                     (1) by redesignating paragraph (27A) as para-  
 8             graph (27C); and

9                     (2) inserting after paragraph (27) the following:

10                     “(27A) ‘health care business’—

11                             “(A) means any public or private entity  
 12                     (without regard to whether that entity is orga-  
 13                     nized for profit or not for profit) that is pri-  
 14                     marily engaged in offering to the general public  
 15                     facilities and services for—

16                                     “(i) the diagnosis or treatment of in-  
 17                     jury, deformity, or disease; and

18                                     “(ii) surgical, drug treatment, psy-  
 19                     chiatric or obstetric care; and

20                     “(B) includes—

21                             “(i) any—

22                                     “(I) general or specialized hos-  
 23                     pital;

24                                     “(II) ancillary ambulatory, emer-  
 25                     gency, or surgical treatment facility;

1 “(III) hospice;

2 “(IV) health maintenance organi-  
3 zation;

4 “(V) home health agency; and

5 “(VI) other health care institu-  
6 tion that is similar to an entity re-  
7 ferred to in subclause (I), (II), (III),  
8 (IV), or (V); and

9 “(ii) any long-term care facility, in-  
10 cluding any—

11 “(I) skilled nursing facility;

12 “(II) intermediate care facility;

13 “(III) assisted living facility;

14 “(IV) home for the aged;

15 “(V) domiciliary care facility; and

16 “(VI) health care institution that  
17 is related to a facility referred to in  
18 subclause (I), (II), (III), (IV), or (V),  
19 if that institution is primarily engaged  
20 in offering room, board, laundry, or  
21 personal assistance with activities of  
22 daily living and incidentals to activi-  
23 ties of daily living;”.

24 (b) HEALTH MAINTENANCE ORGANIZATION DE-  
25 FINED.—Section 101 of title 11, United States Code, as

1 amended by subsection (a), is amended by inserting after  
2 paragraph (27A) the following:

3           “(27B) ‘health maintenance organization’  
4 means any person that undertakes to provide or ar-  
5 range for basic health care services through an orga-  
6 nized system that—

7                   “(A)(i) combines the delivery and financing  
8 of health care to enrollees; and

9                   “(ii)(I) provides—

10                           “(aa) physician services directly  
11 through physicians or 1 or more groups of  
12 physicians; and

13                           “(bb) basic health care services di-  
14 rectly or under a contractual arrangement;  
15 and

16                   “(II) if reasonable and appropriate, pro-  
17 vides physician services and basic health care  
18 services through arrangements other than the  
19 arrangements referred to in clause (i); and

20                   “(B) includes any organization described  
21 in subparagraph (A) that provides, or arranges  
22 for, health care services on a prepayment or  
23 other financial basis;”.

1 (c) PATIENT.—Section 101 of title 11, United States  
2 Code, as amended by subsection (b), is amended by insert-  
3 ing after paragraph (40) the following:

4 “(40A) ‘patient’ means any person who obtains  
5 or receives services from a health care business;”.

6 (d) PATIENT RECORDS.—Section 101 of title 11,  
7 United States Code, as amended by subsection (c), is  
8 amended by inserting after paragraph (40A) the following:

9 “(40B) ‘patient records’ means any written doc-  
10 ument relating to a patient or record recorded in a  
11 magnetic, optical, or other form of electronic me-  
12 dium;”.

13 **SEC. 1102. DISPOSAL OF PATIENT RECORDS.**

14 (a) IN GENERAL.—Subchapter III of chapter 3 of  
15 title 11, United States Code, is amended by adding at the  
16 end the following:

17 **“§ 351. Disposal of patient records**

18 “If a health care business commences a case under  
19 chapter 7, 9, or 11, and the trustee does not have a suffi-  
20 cient amount of funds to pay for the storage of patient  
21 records in the manner required under applicable Federal  
22 or State law, the following requirements shall apply:

23 “(1) The trustee shall mail, by certified mail, a  
24 written request to each appropriate Federal or State



1 agency to request permission from that agency to  
2 deposit the patient records with that agency.

3 “(2) If no appropriate Federal or State agency  
4 agrees to permit the deposit of patient records re-  
5 ferred to in paragraph (1) by the date that is 60  
6 days after the trustee mails a written request under  
7 that paragraph, the trustee shall—

8 “(A) publish notice, in 1 or more appro-  
9 priate newspapers, that if those patient records  
10 are not claimed by the patient or an insurance  
11 provider (if applicable law permits the insur-  
12 ance provider to make that claim) by the date  
13 that is 60 days after the date of that notifica-  
14 tion, the trustee will destroy the patient  
15 records; and

16 “(B) during the 60-day period described in  
17 subparagraph (A), the trustee shall attempt to  
18 notify directly each patient that is the subject  
19 of the patient records concerning the patient  
20 records by mailing to the last known address of  
21 that patient an appropriate notice regarding the  
22 claiming or disposing of patient records.

23 “(3) If, after providing the notification under  
24 paragraph (2), patient records are not claimed dur-  
25 ing the 60-day period described in paragraph (2)(A)

1 or in any case in which a notice is mailed under  
2 paragraph (2)(B), during the 90-day period begin-  
3 ning on the date on which the notice is mailed, by  
4 a patient or insurance provider in accordance with  
5 that paragraph, the trustee shall destroy those  
6 records by—

7 “(A) if the records are written, shredding  
8 or burning the records; or

9 “(B) if the records are magnetic, optical,  
10 or other electronic records, by otherwise de-  
11 stroying those records so that those records  
12 cannot be retrieved.”.

13 (b) CLERICAL AMENDMENT.—The chapter analysis  
14 for chapter 3 of title 11, United States Code, is amended  
15 by inserting after the item relating to section 350 the fol-  
16 lowing:

“351. Disposal of patient records.”.

17 **SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS**  
18 **OF CLOSING A HEALTH CARE BUSINESS.**

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

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

23 (2) in paragraph (6), by striking the period at  
24 the end and inserting “; and”; and

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

1           “(7) the actual, necessary costs and expenses of  
2 closing a health care business incurred by a trustee,  
3 including any cost or expense incurred—

4                   “(A) in disposing of patient records in ac-  
5 cordance with section 351; or

6                   “(B) in connection with transferring pa-  
7 tients from the health care business that is in  
8 the process of being closed to another health  
9 care business.”.

10 **SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PA-**  
11 **TIENT ADVOCATE.**

12 (a) IN GENERAL.—

13 (1) APPOINTMENT OF OMBUDSMAN.—Sub-  
14 chapter II of chapter 3 of title 11, United States  
15 Code, is amended by inserting after section 331 the  
16 following:

17 **“§ 332. Appointment of ombudsman**

18           “(a) Not later than 30 days after a case is com-  
19 menced by a health care business under chapter 7, 9, or  
20 11, the court shall appoint an ombudsman to represent  
21 the interests of the patients of the health care business.

22           “(b) An ombudsman appointed under subsection (a)  
23 shall—

24                   “(1) monitor the quality of patient care, to the  
25 extent necessary under the circumstances, including

1 reviewing records and interviewing patients and phy-  
2 sicians;

3 “(2) not later than 60 days after the date of  
4 appointment, and not less frequently than every 60  
5 days thereafter, report to the court, at a hearing or  
6 in writing, regarding the quality of patient care at  
7 the health care business involved; and

8 “(3) if the ombudsman determines that the  
9 quality of patient care is declining significantly or is  
10 otherwise being materially compromised, notify the  
11 court by motion or written report, with notice to ap-  
12 propriate parties in interest, immediately upon mak-  
13 ing that determination.

14 “(c) An ombudsman shall maintain any information  
15 obtained by the ombudsman under this section that relates  
16 to patients (including information relating to patient  
17 records) as confidential information.”.

18 (2) CLERICAL AMENDMENT.—The chapter anal-  
19 ysis for chapter 3 of title 11, United States Code,  
20 is amended by inserting after the item relating to  
21 section 331 the following:

“332. Appointment of ombudsman.”.

22 (b) COMPENSATION OF OMBUDSMAN.—Section  
23 330(a)(1) of title 11, United States Code, is amended—

1 (1) in the matter proceeding subparagraph (A),  
2 by inserting “an ombudsman appointed under sec-  
3 tion 331, or” before “a professional person”; and

4 (2) in subparagraph (A), by inserting “ombuds-  
5 man,” before “professional person”.

6 **SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO**  
7 **TRANSFER PATIENTS.**

8 (a) IN GENERAL.—Section 704(a) of title 11, United  
9 States Code, as amended by section 219 of this Act, is  
10 amended—

11 (1) in paragraph (9), by striking “and” at the  
12 end;

13 (2) in paragraph (10), by striking the period  
14 and inserting “; and”; and

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

16 “(11) use all reasonable and best efforts to  
17 transfer patients from a health care business that is  
18 in the process of being closed to an appropriate  
19 health care business that—

20 “(A) is in the vicinity of the health care  
21 business that is closing;

22 “(B) provides the patient with services  
23 that are substantially similar to those provided  
24 by the health care business that is in the proc-  
25 ess of being closed; and

1           “(C) maintains a reasonable quality of  
2           care.”.

3           (b) CONFORMING AMENDMENT.—Section 1106(a)(1)  
4 of title 11, United States Code, is amended by striking  
5 “and 704(9)” and inserting “704(9), and 704(10)”.

6           **TITLE XII—TECHNICAL**  
7           **AMENDMENTS**

8           **SEC. 1201. DEFINITIONS.**

9           Section 101 of title 11, United States Code, as  
10 amended by section 1101 of this Act, is amended—

11           (1) by striking “In this title—” and inserting  
12           “In this title.”;

13           (2) in each paragraph, by inserting “The term”  
14 after the paragraph designation;

15           (3) in paragraph (35)(B), by striking “para-  
16 graphs (21B) and (33)(A)” and inserting “para-  
17 graphs (23) and (35)”;

18           (4) in each of paragraphs (35A) and (38), by  
19 striking “; and” at the end and inserting a period;

20           (5) in paragraph (51B)—

21           (A) by inserting “who is not a family farm-  
22 er” after “debtor” the first place it appears;

23           and

1 (B) by striking “thereto having aggregate”  
2 and all that follows through the end of the  
3 paragraph;

4 (6) by striking paragraph (54) and inserting  
5 the following:

6 “(54) The term ‘transfer’ means—

7 “(A) the creation of a lien;

8 “(B) the retention of title as a security in-  
9 terest;

10 “(C) the foreclosure of a debtor’s equity of  
11 redemption; or

12 “(D) each mode, direct or indirect, abso-  
13 lute or conditional, voluntary or involuntary, of  
14 disposing of or parting with—

15 “(i) property; or

16 “(ii) an interest in property;”;

17 (7) in each of paragraphs (1) through (35), in  
18 each of paragraphs (36) and (37), and in each of  
19 paragraphs (40) through (55) (including paragraph  
20 (54), as amended by paragraph (6) of this section),  
21 by striking the semicolon at the end and inserting a  
22 period; and

23 (8) by redesignating paragraphs (4) through  
24 (55), including paragraph (54), as amended by para-

1 graph (6) of this section, in entirely numerical se-  
2 quence.

3 **SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.**

4 Section 104 of title 11, United States Code, is  
5 amended by inserting “522(f)(3), 707(b)(5),” after  
6 “522(d),” each place it appears.

7 **SEC. 1203. EXTENSION OF TIME.**

8 Section 108(c)(2) of title 11, United States Code, is  
9 amended by striking “922” and all that follows through  
10 “or”, and inserting “922, 1201, or”.

11 **SEC. 1204. TECHNICAL AMENDMENTS.**

12 Title 11 of the United States Code is amended—

13 (1) in section 109(b)(2), by striking “subsection  
14 (c) or (d) of”;

15 (2) in section 541(b)(4), by adding “or” at the  
16 end; and

17 (3) in section 552(b)(1), by striking “product”  
18 each place it appears and inserting “products”.

19 **SEC. 1205. 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. 1206. 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. 1207. 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. 1208. 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. 1209. 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. 1210. PRIORITIES.**

19 Section 507(a) of title 11, United States Code, as  
20 amended by sections 211 and 229 of this Act, is  
21 amended—

22 (1) in paragraph (4)(B), by striking the semi-  
23 colon at the end and inserting a period; and

24 (2) in paragraph (8), by inserting “unsecured”  
25 after “allowed”.

1 **SEC. 1211. EXEMPTIONS.**

2 Section 522(g)(2) of title 11, United States Code, as  
3 amended by section 311 of this Act, is amended by strik-  
4 ing “subsection (f)(2)” and inserting “subsection  
5 (f)(1)(B)”.

6 **SEC. 1212. EXCEPTIONS TO DISCHARGE.**

7 Section 523 of title 11, United States Code, as  
8 amended by section 229 of this Act, is amended—

9 (1) as amended by section 304(e) of Public Law  
10 103–394 (108 Stat. 4133), in paragraph (15), by  
11 transferring such paragraph so as to insert it after  
12 paragraph (14) of subsection (a);

13 (2) in subsection (a)—

14 (A) in paragraph (3), by striking “or (6)”  
15 each place it appears and inserting “(6), or  
16 (15)”;

17 (B) in paragraph (9), by striking “motor  
18 vehicle or vessel” and inserting “motor vehicle,  
19 vessel, or aircraft”; and

20 (C) in paragraph (15), as so redesignated  
21 by paragraph (1) of this subsection, by insert-  
22 ing “to a spouse, former spouse, or child of the  
23 debtor and” after “(15)”; and

24 (3) in subsection (e), by striking “a insured”  
25 and inserting “an insured”.

1 **SEC. 1213. EFFECT OF DISCHARGE.**

2 Section 524(a)(3) of title 11, United States Code, is  
3 amended by striking “section 523” and all that follows  
4 through “or that” and inserting “section 523, 1228(a)(1),  
5 or 1328(a)(1), or that”.

6 **SEC. 1214. PROTECTION AGAINST DISCRIMINATORY TREAT-**  
7 **MENT.**

8 Section 525(c) of title 11, United States Code, is  
9 amended—

10 (1) in paragraph (1), by inserting “student” be-  
11 fore “grant” the second place it appears; and

12 (2) in paragraph (2), by striking “the program  
13 operated under part B, D, or E of” and inserting  
14 “any program operated under”.

15 **SEC. 1215. PROPERTY OF THE ESTATE.**

16 Section 541(b)(4)(B)(ii) of title 11, United States  
17 Code, is amended by inserting “365 or” before “542”.

18 **SEC. 1216. PREFERENCES.**

19 (a) IN GENERAL.—Section 547 of title 11, United  
20 States Code, is amended—

21 (1) in subsection (b), by striking “subsection  
22 (c)” and inserting “subsections (c) and (i)”; and

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

24 “(i) If the trustee avoids under subsection (b) a secu-  
25 rity interest given between 90 days and 1 year before the  
26 date of the filing of the petition, by the debtor to an entity

1 that is not an insider for the benefit of a creditor that  
2 is an insider, such security interest shall be considered to  
3 be avoided under this section only with respect to the cred-  
4 itor that is an insider.”.

5 (b) APPLICABILITY.—The amendments made by this  
6 section shall apply to any case that pending or commenced  
7 on or after the date of enactment of this Act.

8 **SEC. 1217. POSTPETITION TRANSACTIONS.**

9 Section 549(c) of title 11, United States Code, is  
10 amended—

11 (1) by inserting “an interest in” after “transfer  
12 of”;

13 (2) by striking “such property” and inserting  
14 “such real property”; and

15 (3) by striking “the interest” and inserting  
16 “such interest”.

17 **SEC. 1218. DISPOSITION OF PROPERTY OF THE ESTATE.**

18 Section 726(b) of title 11, United States Code, is  
19 amended by striking “1009,”.

20 **SEC. 1219. GENERAL PROVISIONS.**

21 Section 901(a) of title 11, United States Code, as  
22 amended by section 901(k) of this Act, is amended by in-  
23 serting “1123(d),” after “1123(b),”.

1 **SEC. 1220. ABANDONMENT OF RAILROAD LINE.**

2 Section 1170(e)(1) of title 11, United States Code,  
3 is amended by striking “section 11347” and inserting  
4 “section 11326(a)”.

5 **SEC. 1221. CONTENTS OF PLAN.**

6 Section 1172(c)(1) of title 11, United States Code,  
7 is amended by striking “section 11347” and inserting  
8 “section 11326(a)”.

9 **SEC. 1222. DISCHARGE UNDER CHAPTER 12.**

10 Subsections (a) and (c) of section 1228 of title 11,  
11 United States Code, are amended by striking  
12 “1222(b)(10)” each place it appears and inserting  
13 “1222(b)(9)”.

14 **SEC. 1223. BANKRUPTCY CASES AND PROCEEDINGS.**

15 Section 1334(d) of title 28, United States Code, is  
16 amended—

17 (1) by striking “made under this subsection”  
18 and inserting “made under subsection (c)”; and

19 (2) by striking “This subsection” and inserting  
20 “Subsection (c) and this subsection”.

21 **SEC. 1224. KNOWING DISREGARD OF BANKRUPTCY LAW OR**  
22 **RULE.**

23 Section 156(a) of title 18, United States Code, is  
24 amended—

25 (1) in the first undesignated paragraph—

1 (A) by inserting “(1) the term” before  
2 “bankruptcy”; and

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

5 (2) in the second undesignated paragraph—

6 (A) by inserting “(2) the term” before  
7 “document”; and

8 (B) by striking “this title” and inserting  
9 “title 11”.

10 **SEC. 1225. TRANSFERS MADE BY NONPROFIT CHARITABLE**  
11 **CORPORATIONS.**

12 (a) SALE OF PROPERTY OF ESTATE.—Section 363(d)  
13 of title 11, United States Code, is amended by striking  
14 “only” and all that follows through the end of the sub-  
15 section and inserting “only—

16 “(1) in accordance with applicable nonbank-  
17 ruptcy law that governs the transfer of property by  
18 a corporation or trust that is not a moneyed, busi-  
19 ness, or commercial corporation or trust; and

20 “(2) to the extent not inconsistent with any re-  
21 lief granted under subsection (c), (d), (e), or (f) of  
22 section 362.”.

23 (b) CONFIRMATION OF PLAN FOR REORGANIZA-  
24 TION.—Section 1129(a) of title 11, United States Code,

1 as amended by section 212 of this Act, is amended by add-  
2 ing at the end the following:

3           “(15) All transfers of property of the plan shall  
4           be made in accordance with any applicable provi-  
5           sions of nonbankruptcy law that govern the transfer  
6           of property by a corporation or trust that is not a  
7           moneyed, business, or commercial corporation or  
8           trust.”.

9           (c) TRANSFER OF PROPERTY.—Section 541 of title  
10 11, United States Code, is amended by adding at the end  
11 the following:

12           “(f) Notwithstanding any other provision of this title,  
13 property that is held by a debtor that is a corporation de-  
14 scribed in section 501(c)(3) of the Internal Revenue Code  
15 of 1986 and exempt from tax under section 501(a) of such  
16 Code may be transferred to an entity that is not such a  
17 corporation, but only under the same conditions as would  
18 apply if the debtor had not filed a case under this title.”.

19           (d) APPLICABILITY.—The amendments made by this  
20 section shall apply to a case pending under title 11, United  
21 States Code, on the date of enactment of this Act, except  
22 that the court shall not confirm a plan under chapter 11  
23 of this title without considering whether this section would  
24 substantially affect the rights of a party in interest who  
25 first acquired rights with respect to the debtor after the

1 date of the petition. The parties who may appear and be  
2 heard in a proceeding under this section include the attor-  
3 ney general of the State in which the debtor is incor-  
4 porated, was formed, or does business.

5 (e) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
6 tion shall be construed to require the court in which a  
7 case under chapter 11 is pending to remand or refer any  
8 proceeding, issue, or controversy to any other court or to  
9 require the approval of any other court for the transfer  
10 of property.

11 **SEC. 1226. PROTECTION OF VALID PURCHASE MONEY SE-**  
12 **CURITY INTERESTS.**

13 Section 547(c)(3)(B) of title 11, United States Code,  
14 is amended by striking “20” and inserting “30”.

15 **SEC. 1227. EXTENSIONS.**

16 Section 302(d)(3) of the Bankruptcy, Judges, United  
17 States Trustees, and Family Farmer Bankruptcy Act of  
18 1986 (28 U.S.C. 581 note) is amended—

19 (1) in subparagraph (A), in the matter fol-  
20 lowing clause (ii), by striking “or October 1, 2002,  
21 whichever occurs first”; and

22 (2) in subparagraph (F)—

23 (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. 1228. BANKRUPTCY JUDGESHIPS.**

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

16 (b) **TEMPORARY JUDGESHIPS.**—

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

22 (A) One additional bankruptcy judgeship  
23 for the eastern district of California.

24 (B) Four additional bankruptcy judgeships  
25 for the central district of California.

1           (C) One additional bankruptcy judgeship  
2 for the southern district of Florida.

3           (D) Two additional bankruptcy judgeships  
4 for the district of Maryland.

5           (E) One additional bankruptcy judgeship  
6 for the eastern district of Michigan.

7           (F) One additional bankruptcy judgeship  
8 for the southern district of Mississippi.

9           (G) One additional bankruptcy judgeship  
10 for the district of New Jersey.

11          (H) One additional bankruptcy judgeship  
12 for the eastern district of New York.

13          (I) One additional bankruptcy judgeship  
14 for the northern district of New York.

15          (J) One additional bankruptcy judgeship  
16 for the southern district of New York.

17          (K) One additional bankruptcy judgeship  
18 for the eastern district of Pennsylvania.

19          (L) One additional bankruptcy judgeship  
20 for the middle district of Pennsylvania.

21          (M) One additional bankruptcy judgeship  
22 for the western district of Tennessee.

23          (N) One additional bankruptcy judgeship  
24 for the eastern district of Virginia.

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

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

6                   (B) occurs 5 years or more after the ap-  
7  pointment date of a bankruptcy judge ap-  
8  pointed under paragraph (1);

9 shall not be filled.

10 (c) EXTENSIONS.—

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

22                   (A) 8 years or more after November 8,  
23  1993, with respect to the northern district of  
24  Alabama;

1 (B) 10 years or more after October 28,  
2 1993, with respect to the district of Delaware;

3 (C) 8 years or more after August 29,  
4 1994, with respect to the district of Puerto  
5 Rico;

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

9 (E) 8 years or more after November 23,  
10 1993, with respect to the eastern district of  
11 Tennessee.

12 (2) APPLICABILITY OF OTHER PROVISIONS.—  
13 All other provisions of section 3 of the Bankruptcy  
14 Judgeship Act of 1992 remain applicable to such  
15 temporary judgeship positions.

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

23 (e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—  
24 Section 156 of title 28, United States Code, is amended  
25 by adding at the end the following:

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

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

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

8 “(i) the payment for the travel expenses is  
9 paid by such bankruptcy judge from the per-  
10 sonal funds of such bankruptcy judge; and

11 “(ii) such bankruptcy judge does not re-  
12 ceive funds (including reimbursement) from the  
13 United States or any other person or entity for  
14 the payment of such travel expenses.

15 “(2) Each bankruptcy judge shall annually submit  
16 the information required under paragraph (3) to the chief  
17 bankruptcy judge for the district in which the bankruptcy  
18 judge is assigned.

19 “(3)(A) Each chief bankruptcy judge shall submit an  
20 annual report to the Director of the Administrative Office  
21 of the United States Courts on the travel expenses of each  
22 bankruptcy judge assigned to the applicable district (in-  
23 cluding the travel expenses of the chief bankruptcy judge  
24 of such district).

1       “(B) The annual report under this paragraph shall  
2 include—

3           “(i) the travel expenses of each bankruptcy  
4 judge, with the name of the bankruptcy judge to  
5 whom the travel expenses apply;

6           “(ii) a description of the subject matter and  
7 purpose of the travel relating to each travel expense  
8 identified under clause (i), with the name of the  
9 bankruptcy judge to whom the travel applies; and

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

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

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

17           “(ii) annually submit such consolidated report  
18 to Congress.

19       “(B) The consolidated report submitted under this  
20 paragraph shall include the specific information required  
21 under paragraph (3)(B), including the name of each bank-  
22 ruptcy judge with respect to clauses (i), (ii), and (iii) of  
23 paragraph (3)(B).”.

1 **TITLE XIII—GENERAL EFFEC-**  
2 **TIVE DATE; APPLICATION OF**  
3 **AMENDMENTS**

4 **SEC. 1301. EFFECTIVE DATE; APPLICATION OF AMEND-**  
5 **MENTS.**

6 (a) **EFFECTIVE DATE.**—Except as provided otherwise  
7 in this Act, this Act and the amendments made by this  
8 Act shall take effect 180 days after the date of enactment  
9 of this Act.

10 (b) **APPLICATION OF AMENDMENTS.**—The amend-  
11 ments made by this Act shall not apply with respect to  
12 cases commenced under title 11, United States Code, be-  
13 fore the effective date of this Act.

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