

106TH CONGRESS
1ST SESSION

S. 684

To amend title 11, United States Code, to provide for family fishermen,
and to make chapter 12 of title 11, United States Code, permanent.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 1999

Ms. COLLINS introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To amend title 11, United States Code, to provide for family
fishermen, and to make chapter 12 of title 11, United
States Code, permanent.

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. AMENDMENT TO MAKE CHAPTER 12 OF TITLE**
4 **11, UNITED STATES CODE, PERMANENT.**

5 (a) REENACTMENT.—Chapter 12 of title 11, United
6 States Code, as reenacted by section 149 of division C of
7 the Omnibus Consolidated and Emergency Supplemental
8 Appropriations Act, 1999 (Public Law 105–277), and
9 amended by this Act, is reenacted.

1 (b) EFFECTIVE DATE.—Subsection (a) shall take ef-
2 fect on April 1, 1999.

3 (c) CONFORMING AMENDMENT.—Section 302 of the
4 Bankruptcy, Judges, United States Trustees, and Family
5 Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is
6 amended by striking subsection (f).

7 **SEC. 2. FAMILY FISHERMEN.**

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

10 (1) by inserting after paragraph (7) the fol-
11 lowing:

12 “(7A) ‘commercial fishing operation’ includes—

13 “(A) the catching or harvesting of fish,
14 shrimp, lobsters, urchins, seaweed, shellfish, or
15 other aquatic species or products; and

16 “(B) aquaculture activities consisting of
17 raising for market any species or product de-
18 scribed in subparagraph (A);”;

19 “(7B) ‘commercial fishing vessel’ means a ves-
20 sel used by a fisherman to carry out a commercial
21 fishing operation;”;

22 (2) by inserting after paragraph (19) the fol-
23 lowing:

24 “(19A) ‘family fisherman’ means—

1 “(A) an individual or individual and spouse
2 engaged in a commercial fishing operation—

3 “(i) whose aggregate debts do not ex-
4 ceed \$1,500,000 and not less than 80 per-
5 cent of whose aggregate noncontingent, liq-
6 uidated debts (excluding a debt for the
7 principal residence of such individual or
8 such individual and spouse, unless such
9 debt arises out of a commercial fishing op-
10 eration), on the date the case is filed, arise
11 out of a commercial fishing operation
12 owned or operated by such individual or
13 such individual and spouse; and

14 “(ii) who receive from such commer-
15 cial fishing operation more than 50 percent
16 of such individual’s or such individual’s
17 and spouse’s gross income for the taxable
18 year preceding the taxable year in which
19 the case concerning such individual or such
20 individual and spouse was filed; or

21 “(B) a corporation or partnership—

22 “(i) in which more than 50 percent of
23 the outstanding stock or equity is held
24 by—

1 “(I) 1 family that conducts the
2 commercial fishing operation; or

3 “(II) 1 family and the relatives
4 of the members of such family, and
5 such family or such relatives conduct
6 the commercial fishing operation; and

7 “(ii)(I) more than 80 percent of the
8 value of its assets consists of assets related
9 to the commercial fishing operation;

10 “(II) its aggregate debts do not ex-
11 ceed \$1,500,000 and not less than 80 per-
12 cent of its aggregate noncontingent, liq-
13 uidated debts (excluding a debt for 1
14 dwelling which is owned by such corpora-
15 tion or partnership and which a share-
16 holder or partner maintains as a principal
17 residence, unless such debt arises out of a
18 commercial fishing operation), on the date
19 the case is filed, arise out of a commercial
20 fishing operation owned or operated by
21 such corporation or such partnership; and

22 “(III) if such corporation issues stock,
23 such stock is not publicly traded;”; and

24 (3) by inserting after paragraph (19A) the fol-
25 lowing:

1 “(19B) ‘family fisherman with regular annual
2 income’ means a family fisherman whose annual in-
3 come is sufficiently stable and regular to enable such
4 family fisherman to make payments under a plan
5 under chapter 12 of this title;”.

6 (b) WHO MAY BE A DEBTOR.—Section 109(f) of title
7 11, United States Code, is amended by inserting “or fam-
8 ily fisherman” after “family farmer”.

9 (c) CHAPTER 12.—Chapter 12 of title 11, United
10 States Code, is amended—

11 (1) in the chapter heading, by inserting “**OR**
12 **FISHERMAN**” after “**FAMILY FARMER**”;

13 (2) in section 1201, by adding at the end the
14 following:

15 “(e)(1) Notwithstanding any other provision of law,
16 for purposes of this subsection, a guarantor of a claim of
17 a creditor under this section shall be treated in the same
18 manner as a creditor with respect to the operation of a
19 stay under this section.

20 “(2) For purposes of a claim that arises from the
21 ownership or operation of a commercial fishing operation,
22 a co-maker of a loan made by a creditor under this section
23 shall be treated in the same manner as a creditor with
24 respect to the operation of a stay under this section.”;

1 (3) in section 1203, by inserting “or commer-
2 cial fishing operation” after “farm”;

3 (4) in section 1206, by striking “if the property
4 is farmland or farm equipment” and inserting “if
5 the property is farmland, farm equipment, or prop-
6 erty of a commercial fishing operation (including a
7 commercial fishing vessel)”;

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

9 **“§ 1232. Additional provisions relating to family fish-**
10 **ermen**

11 “(a)(1) Notwithstanding any other provision of law,
12 except as provided in subsection (c), with respect to any
13 commercial fishing vessel of a family fisherman, the debts
14 of that family fisherman shall be treated in the manner
15 prescribed in paragraph (2).

16 “(2)(A) For purposes of this chapter, a claim for a
17 lien described in subsection (b) for a commercial fishing
18 vessel of a family fisherman that could, but for this sub-
19 section, be subject to a lien under otherwise applicable
20 maritime law, shall be treated as an unsecured claim.

21 “(B) Subparagraph (A) applies to a claim for a lien
22 resulting from a debt of a family fisherman incurred on
23 or after the date of enactment of this chapter.

24 “(b) A lien described in this subsection is—

1 “(1) a maritime lien under subchapter III of
2 chapter 313 of title 46, United States Code, without
3 regard to whether that lien is recorded under section
4 31343 of title 46, United States Code; or

5 “(2) a lien under applicable State law (or the
6 law of a political subdivision thereof).

7 “(c) Subsection (a) shall not apply to—

8 “(1) a claim made by a member of a crew or
9 a seaman including a claim made for—

10 “(A) wages, maintenance, or cure; or

11 “(B) personal injury; or

12 “(2) a preferred ship mortgage that has been
13 perfected under subchapter II of chapter 313 of title
14 46, United States Code.

15 “(d) For purposes of this chapter, a mortgage de-
16 scribed in subsection (c)(2) shall be treated as a secured
17 claim.”.

18 (d) CLERICAL AMENDMENTS.—

19 (1) TABLE OF CHAPTERS.—In the table of
20 chapters for title 11, United States Code, the item
21 relating to chapter 12, is amended to read as fol-
22 lows:

**“12. Adjustments of Debts of a Family Farmer or Family
Fisherman with Regular Annual Income 1201”.**

23 (2) TABLE OF SECTIONS.—The table of sections
24 for chapter 12 of title 11, United States Code, is

- 1 amended by adding at the end the following new
- 2 item:

“1232. Additional provisions relating to family fishermen.”

