

FAMILY FARMER BANKRUPTCY EXTENSION

MARCH 9, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GEKAS, from the Committee on the Judiciary,  
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 808]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 808) to extend for 3 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

Section 149 of title I of division C of Public Law 105-277 is amended—

(1) by striking “April 1, 1999” each place it appears and inserting “October 1, 1999”,

(2) in subsection (a)—

(A) by striking “September 30, 1998” and inserting “March 31, 1999”, and

(B) by striking “October 1, 1998” and inserting “April 1, 1999”, and

(3) by striking subsection (c).

#### SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on April 1, 1999.

Amend the title so as to read:

A bill to extend for 6 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

#### THE AMENDMENT

Inasmuch as H.R. 808 was ordered reported with a single amendment in the nature of a substitute, the contents of this report constitute an explanation of the bill as so amended.

#### PURPOSE AND SUMMARY

H.R. 808 extends the reenactment of chapter 12, a specialized form of bankruptcy relief for family farmers, for a six-month period ending on October 1, 1999.

#### BACKGROUND AND NEED FOR THE LEGISLATION

On February 23, 1999, Representative Nick Smith (R-Mich.) (for himself and Representatives George Gekas (R-Pa.), David Minge (D-Minn.), Ronnie Shows (D-Miss.), Bill Barrett (R-Neb.), James Leach (R-Iowa), J.C. Watts, Jr. (R-Okla.), Sherwood Boehlert (R-NY), and John McHugh (R-NY)) introduced H.R. 808 to extend chapter 12 of title 11 of the United States Code.

Chapter 12 is a specialized form of bankruptcy relief available only to a “family farmer with regular annual income,”<sup>1</sup> a defined term.<sup>2</sup> It permits eligible family farmers, under the supervision of a bankruptcy trustee,<sup>3</sup> to reorganize their debts pursuant to a repayment plan.<sup>4</sup> The special attributes of chapter 12 make it better suited to meet the particularized needs of family farmers in financial distress than other forms of bankruptcy relief, such as chapter 11<sup>5</sup> and chapter 13.<sup>6</sup>

Chapter 12 was enacted on a temporary seven-year basis as part of the Bankruptcy Judges, United States Trustees, and Family

<sup>1</sup> 11 U.S.C. § 109(f).

<sup>2</sup> 11 U.S.C. § 101(19).

<sup>3</sup> 11 U.S.C. § 1202.

<sup>4</sup> 11 U.S.C. § 1222.

<sup>5</sup> For example, chapter 12 is typically less complex and expensive than chapter 11, a form of bankruptcy relief generally utilized to effectuate large corporate reorganizations.

<sup>6</sup> Chapter 13, a form of bankruptcy relief for individuals seeking to reorganize their debts, limits its eligibility to debtors with debts in lower amounts than permitted for eligibility purposes under chapter 12. Cf. 11 U.S.C. §§ 109(e), 101(18).

Farmer Bankruptcy Act of 1986<sup>7</sup> in response to the farm financial crisis of the early- to mid-1980's.<sup>8</sup> It was subsequently extended on August 6, 1993 to September 30, 1998.<sup>9</sup> Last year, chapter 12 was further extended until April 1, 1999 as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.<sup>10</sup>

#### HEARINGS

No hearings were held on H.R. 808.

#### COMMITTEE CONSIDERATION

In light of the imminent April 1, 1999 sunset date for chapter 12, the bill was held at the full Committee on the Judiciary for mark-up. On March 2, 1999, the Committee met in open session and ordered favorably reported the bill H.R. 808 with amendment by a voice vote, a quorum being present.

#### VOTE OF THE COMMITTEE

1. A substitute offered by Mr. Gekas to extend chapter 12 to October 1, 1999 to the amendment offered by Ms. Baldwin to H.R. 808 to extend chapter 12 to July 1, 2001. Adopted 14 to 8.

##### AYES

Mr. Hyde  
Mr. Gekas  
Mr. Coble  
Mr. Gallegly  
Mr. Canady  
Mr. Goodlatte  
Mr. Chabot  
Mr. Barr  
Mr. Hutchinson  
Mr. Pease  
Mr. Rogan  
Mr. Graham  
Ms. Bono  
Mr. Rothman

##### NAYS

Mr. Conyers  
Mr. Nadler  
Mr. Scott  
Mr. Watt  
Ms. Jackson Lee  
Ms. Waters  
Mr. Delahunt  
Ms. Baldwin

2. An amendment, as amended by Mr. Gekas' substitute, offered by Ms. Baldwin to H.R. 808 to extend chapter 12 until October 1, 1999. Adopted 22 to 0.

<sup>7</sup>Pub. L. No. 99-554, § 255, 100 Stat. 3088, 3105 (1986).

<sup>8</sup>See *U.S. Dept. of Agriculture, Info. Bull. No. 724-09, Issues in Agricultural and Rural Finance: Do Farmers Need a Separate Chapter in the Bankruptcy Code?* (Oct. 1997). As one of the principal proponents of this legislation explained:

I doubt there will be anything that we do that will have such an immediate impact in the grassroots of our country with respect to the situation that exists in most of the heartland, and that is in the agricultural sector. . . .

You know, William Jennings Bryan in his famous speech, the Cross of Gold, almost 60 years ago [sic], stated these words: "Destroy our cities and they will spring up again as if by magic; but destroy our farms, and the grass will grow in every city in our country."

This legislation will hopefully stem the tide that we have seen so recently in the massive bankruptcies in the family farm area.

132 CONG. REC. 28,147 (1986) (statement of Rep. Mike Synar (D-Okla.)).

<sup>9</sup>Pub. L. No. 103-65, 107 Stat. 311 (1993).

<sup>10</sup>Pub. L. No. 105-277, § 149 (1998).

## AYES

## NAYS

Mr. Hyde  
 Mr. Gekas  
 Mr. Coble  
 Mr. Gallegly  
 Mr. Canady  
 Mr. Goodlatte  
 Mr. Chabot  
 Mr. Barr  
 Mr. Hutchinson  
 Mr. Pease  
 Mr. Rogan  
 Mr. Graham  
 Ms. Bono  
 Mr. Conyers  
 Mr. Nadler  
 Mr. Scott  
 Mr. Watt  
 Ms. Jackson Lee  
 Ms. Waters  
 Mr. Delahunt  
 Mr. Rothman  
 Ms. Baldwin

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 808, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 4, 1999.*

Hon. HENRY J. HYDE,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 808, a bill to extend for 6 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman, who can be reached at 226-2860.

Sincerely,

*Dan L. Crippen*

Enclosure

cc: Hon. John Conyers, Jr.,  
Ranking Minority Member.

*H.R. 808—A bill to extend for 6 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted*

CBO estimates that enacting H.R. 808 would result in no significant impact on the federal budget. Because this bill would affect both direct spending and receipts, pay-as-you-go procedures would apply, but CBO estimates that such effects would not be significant. H.R. 808 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 808 would extend for six additional months chapter 12 of Title 11 of the U.S. Code, which was created by the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554). Chapter 12, which is due to expire on April 1, 1999, specifies bankruptcy procedures available only to family farmers with regular annual income and is intended to facilitate an efficient and expeditious bankruptcy process.

Based on information from the Executive Office of the United States Trustees (U.S. Trustees), CBO expects that without the temporary extension of chapter 12, family farmers filing for bankruptcy would split their filings about evenly between chapter 11 and chapter 13. Chapter 12 has a \$200 filing fee and does not require the bankrupt party to pay quarterly fees to the government. Chapter 11, in contrast, requires an \$800 filing fee as well as quarterly filing fees. (On average, \$1,000 is collected per case.) Chapter 13 requires only a \$130 filing fee. Bankruptcy fees appear in two different places in the budget. Some of the fees are recorded as governmental receipts (revenues); others are recorded as offsetting collections to the U.S. Trustee System Fund and the Administrative Office of the United States Courts (AOUSC). The percentage of the fees allocated between these two accounts varies by chapter.

Assuming that half the annual caseload—about 500 cases—would be affected by this bill, its enactment would result in a negligible loss in revenues and a loss in offsetting collections of less

than \$500,000 in 1999. The loss of offsetting collections would reduce the amount available for spending by the U.S. Trustees and the AOUSC; however, CBO estimates that no additional appropriations would be required to replace this projected loss of fees because it would be matched by a reduction in workload associated with chapter 11 and chapter 13 cases, resulting in no net budgetary effect.

The CBO staff contact for this estimate is Susanne S. Mehlman, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8, Clause 4 of the United States Constitution.

#### SECTION-BY-SECTION ANALYSIS

*Section 1. Amendments.* This provision amends section 149 of title I of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999<sup>11</sup> to provide that chapter 12 of title 11 of the United States Code, as in effect on March 31, 1999, is reenacted for the period beginning on April 1, 1999 and ending on October 1, 1999. It also specifies that all cases commenced or pending under chapter 12 shall be conducted and determined under such chapter as if such chapter were continued in effect after October 1, 1999.

*Section 2. Effective Date.* The amendments made by H.R. 808 take effect on April 1, 1999.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

#### **SECTION 149 OF TITLE I OF DIVISION C OF THE OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999**

\* \* \* \* \*

SEC. 149. (a) Chapter 12 of title 11 of the United States Code, as in effect on [September 30, 1998] *March 31, 1999*, is hereby reenacted for the period beginning on [October 1, 1998] *April 1, 1999*, and ending on [April] *October 1, 1999*.

(b) All cases commenced or pending under chapter 12 of title 11, United States Code, as reenacted under subsection (a), and all matters and proceedings in or relating to such cases, shall be conducted and determined under such chapter as if such chapter were

<sup>11</sup>*Id.*

continued in effect after **April** *October* 1, 1999. The substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the laws applicable to such cases, matters, and proceedings as if such chapter were continued in effect after **April** *October* 1, 1999.

**[(c) This section shall take effect on October 1, 1998.]**

#### ADDITIONAL VIEWS ON H.R. 808

While we are gratified that chapter 12 of the Bankruptcy Code will be extended for an additional six months under this legislation as reported, we are disappointed that family farmers will continue to face uncertainty about the future of their legal protections under the Bankruptcy Code during this serious farm crisis.

An amendment, offered by Ms. Baldwin, that would have extended chapter 12 permanently was ruled out-of-order on a procedural technicality. A subsequent amendment, offered by Ms. Baldwin, that would have extended chapter 12 for two years was amended down to six months on a largely party-line vote.

The opposition to extending chapter 12 beyond six months is particularly inexplicable considering that chapter 12's permanent extension has strong bi-partisan support in both chambers. Our family farmers deserve to know that if they need to reorganize their debts in order to save their farm, chapter 12 will be there. With only a six-month extension, family farmers may begin to make premature decisions regarding farm bankruptcy in order to assure that the protections now in the law are available to them. There is no substantive reason to hold family farmers hostage while Congress deliberates larger bankruptcy reform.

We support this extension of chapter 12, but we are disappointed that the Majority has proved unwilling to grant to family farmers the permanent protection they need and deserve.

JOHN CONYERS, JR.  
JERROLD NADLER.  
ZOE LOFGREN.  
SHEILA JACKSON LEE.  
MAXINE WATERS.  
WILLIAM D. DELAHUNT.  
TAMMY BALDWIN.  
ANTHONY D. WEINER.