

112TH CONGRESS
2D SESSION

S. 2370

To amend title 11, United States Code, to make bankruptcy organization more efficient for small business debtors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Mr. WHITEHOUSE (for himself and Mr. GRASSLEY) 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 make bankruptcy organization more efficient for small business debtors, 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.**

4 This Act may be cited as the “Small Business Reor-
5 ganization Efficiency and Clarity Act”.

6 **SEC. 2. FLEXIBILITY IN CONFIRMATION.**

7 Section 1129(e) of title 11, United States Code, is
8 amended by striking “45 days” and inserting “90 days”.

1 **SEC. 3. CLARITY IN PERIODIC REPORTING REQUIREMENTS.**

2 Section 308(b) of title 11, United States Code, is
3 amended—

4 (1) in paragraph (4), by adding “and” at the
5 end;

6 (2) in paragraph (5), by striking “; and” at the
7 end and inserting a period; and

8 (3) by striking paragraph (6).

9 **SEC. 4. RETAINING PROFESSIONAL SERVICES.**

10 (a) IN GENERAL.—Section 327 of title 11, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(g) Notwithstanding subsection (a), a person is not
14 disqualified for employment under this section by a small
15 business debtor solely because such person holds a claim
16 of less than \$5,000 that arose prior to the date of com-
17 mencement of the case.”.

18 (b) ADJUSTMENTS TO DOLLAR AMOUNT.—Section
19 104 of title 11, United States Code, is amended by insert-
20 ing “327(g),” after “303(b),”.

21 **SEC. 5. ENFORCEMENT OF SMALL BUSINESS SELECTION.**

22 Section 1112(b)(4) of title 11, United States Code,
23 is amended—

24 (1) by redesignating subparagraphs (O) and
25 (P) as subparagraphs (P) and (Q), respectively; and

1 (2) by inserting after subparagraph (N) the fol-
 2 lowing:

3 “(O) failure of a small business debtor to
 4 designate itself as a small business debtor;”.

5 **SEC. 6. REPORT.**

6 Not later than 12 months after the date of enactment
 7 of this Act, the Comptroller General of the United States,
 8 in consultation with the Administrative Office of United
 9 States Courts and the Executive Office of United States
 10 Trustees, shall submit a report to Congress detailing—

11 (1) the number and percentage of all cases filed
 12 under chapter 11 of title 11, United States Code, in
 13 which the debtor is a small business debtor, as that
 14 term is defined in section 101(51D) of title 11,
 15 United States Code;

16 (2) the number of cases and rates of confirma-
 17 tions for small business debtors in cases filed under
 18 chapter 11 of title 11, United States Code, as com-
 19 pared with—

20 (A) all debtors in cases filed under that
 21 chapter 11;

22 (B) all debtors in cases filed under that
 23 chapter 11 that are not small business debtors;

24 (C) debtors in cases filed under that chap-
 25 ter 11 that—

1 (i) are not small business debtors; and

2 (ii) have less than \$5,000,000 in debt;

3 (D) debtors in cases filed under that chap-

4 ter 11 that—

5 (i) are not small business debtors; and

6 (ii) have less than \$10,000,000 in

7 debt;

8 (E) debtors in cases filed under chapter 12

9 of title 11, United States Code; and

10 (F) debtors in cases filed under that chap-

11 ter 13 that are business cases;

12 (3) the number of cases filed under chapter 11

13 of title 11, United States Code, in which the debtor

14 has less than \$2,190,000 in debt outstanding, but

15 does not designate itself a small business debtor;

16 (4) recommendations for improving the con-

17 firmation rate for small business debtors; and

18 (5) an analysis on whether the definition of the

19 term “small business debtor” should be amended to

20 include businesses with—

21 (A) less than \$5,000,000 in debt; and

22 (B) less than \$10,000,000 in debt.

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