

115TH CONGRESS  
1ST SESSION

# S. 1107

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## AN ACT

To amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bankruptcy Judgeship  
3 Act of 2017”.

4 **SEC. 2. EXTENSION OF TEMPORARY OFFICE OF BANK-**  
5 **RUPTCY JUDGES IN CERTAIN JUDICIAL DIS-**  
6 **TRICTS.**

7 (a) TEMPORARY OFFICE OF BANKRUPTCY JUDGES  
8 AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF  
9 2005.—Section 2(a)(2) of the Temporary Bankruptcy  
10 Judgeships Extension Act of 2012 (28 U.S.C. 152 note;  
11 Public Law 112–121) is amended—

12 (1) in subparagraph (A), by striking “and (H)”  
13 and inserting “(H), (I), and (J)”;

14 (2) in subparagraph (C)—

15 (A) in clause (i), by striking “6” and in-  
16 serting “11”; and

17 (B) in clause (ii), by striking “5” and in-  
18 serting “10”;

19 (3) in subparagraph (D)(i), by striking “6” and  
20 inserting “11”;

21 (4) by striking subparagraph (E) and inserting  
22 the following:

23 “(E) DISTRICT OF MARYLAND.—The 1st,  
24 2d, and 3d vacancies in the office of a bank-  
25 ruptcy judge for the district of Maryland—

1           “(i) in the case of the 1st and 2d va-  
2           cancies, occurring more than 5 years after  
3           the date of the enactment of this Act,

4           “(ii) in the case of the 3d vacancy, oc-  
5           curring more than 10 years after the date  
6           of enactment of this Act, and

7           “(iii) resulting from the death, retire-  
8           ment, resignation, or removal of a bank-  
9           ruptcy judge,  
10          shall not be filled.”;

11          (5) in subparagraph (F)(i), by striking “6” and  
12          inserting “11”;

13          (6) in subparagraph (G)(i), by striking “6” and  
14          inserting “11”;

15          (7) in subparagraph (H)(i), by striking “6” and  
16          inserting “11”; and

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

18                 “(I) DISTRICT OF NEVADA.—The 1st va-  
19                 cancy in the office of a bankruptcy judge for  
20                 the district of Nevada—

21                         “(i) occurring more than 10 years  
22                         after the date of the enactment of this Act,  
23                         and

1                   “(ii) resulting from the death, retire-  
2                   ment, resignation, or removal of a bank-  
3                   ruptcy judge,  
4                   shall not be filled.

5                   “(J) EASTERN DISTRICT OF NORTH CARO-  
6                   LINA.—The 1st vacancy in the office of a bank-  
7                   ruptcy judge for the eastern district of North  
8                   Carolina—

9                   “(i) occurring more than 10 years  
10                  after the date of the enactment of this Act,  
11                  and

12                  “(ii) resulting from the death, retire-  
13                  ment, resignation, or removal of a bank-  
14                  ruptcy judge,  
15                  shall not be filled.”.

16                  (b) TEMPORARY OFFICE OF BANKRUPTCY JUDGES  
17                  AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF  
18                  1992.—Section 2(b)(2) of the Temporary Bankruptcy  
19                  Judgeships Extension Act of 2012 (28 U.S.C. 152 note;  
20                  Public Law 112–121) is amended—

21                  (1) in subparagraph (A)(i), by striking “5” and  
22                  inserting “10”; and

23                  (2) in subparagraph (B)(i), by striking “5” and  
24                  inserting “10”.

1 **SEC. 3. TEMPORARY OFFICE OF BANKRUPTCY JUDGE AU-**  
2 **THORIZED.**

3 (a) APPOINTMENTS.—The following bankruptcy  
4 judges shall be appointed in the manner prescribed in sec-  
5 tion 152(a)(1) of title 28, United States Code, for the ap-  
6 pointment of bankruptcy judges provided for in section  
7 152(a)(2) of that title:

8 (1) Two additional bankruptcy judges for the  
9 district of Delaware.

10 (2) One additional bankruptcy judge of the  
11 middle district of Florida.

12 (3) One additional bankruptcy judge for the  
13 eastern district of Michigan.

14 (b) VACANCIES.—

15 (1) DISTRICT OF DELAWARE.—The 6th and 7th  
16 vacancies in the office of a bankruptcy judge for the  
17 district of Delaware—

18 (A) occurring more than 10 years after the  
19 date of enactment of the Temporary Bank-  
20 ruptcy Judgeships Extension Act of 2012 (28  
21 U.S.C. 152 note; Public Law 112–121); and

22 (B) resulting from the death, retirement,  
23 resignation, or removal of a bankruptcy judge,  
24 shall not be filled.

1           (2) MIDDLE DISTRICT OF FLORIDA.—The 1st  
2           vacancy in the office of a bankruptcy judge for the  
3           middle district of Florida—

4                   (A) occurring more than 5 years after the  
5           date of enactment of this Act; and

6                   (B) resulting from the death, retirement,  
7           resignation, or removal of a bankruptcy judge,  
8           shall not be filled.

9           (3) EASTERN DISTRICT OF MICHIGAN.—The 2d  
10          vacancy in the office of a bankruptcy judge for the  
11          eastern district of Michigan—

12                   (A) occurring more than 11 years after the  
13          date of enactment of the Temporary Bank-  
14          ruptcy Judgeships Extension Act of 2012 (28  
15          U.S.C. 152 note; Public Law 112–121); and

16                   (B) resulting from the death, retirement,  
17          resignation, or removal of a bankruptcy judge,  
18          shall not be filled.

19 **SEC. 4. BANKRUPTCY FEES.**

20          (a) AMENDMENTS TO TITLE 28 OF THE UNITED  
21          STATES CODE.—Section 1930(a)(6) of title 28, United  
22          States Code, is amended—

23                   (1) by striking “(6) In” and inserting “(6)(A)  
24          Except as provided in subparagraph (B), in”; and

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

1           “(B) During each of fiscal years 2018 through  
2           2022, if the balance in the United States Trustee  
3           System Fund as of September 30 of the most recent  
4           full fiscal year is less than \$200,000,000, the quar-  
5           terly fee payable for a quarter in which disburse-  
6           ments equal or exceed \$1,000,000 shall be the lesser  
7           of 1 percent of such disbursements or \$250,000.”.

8           (b) DEPOSITS OF CERTAIN FEES FOR FISCAL YEARS  
9           2018 THROUGH 2022.—Notwithstanding section 589a(b)  
10          of title 28, United States Code, for each of fiscal years  
11          2018 through 2022—

12           (1) 98 percent of the fees collected under sec-  
13          tion 1930(a)(6) of such title shall be deposited as  
14          offsetting collections to the appropriation “United  
15          States Trustee System Fund”, to remain available  
16          until expended; and

17           (2) 2 percent of the fees collected under section  
18          1930(a)(6) of such title shall be deposited in the  
19          general fund of the Treasury.

20          (c) APPLICATION OF AMENDMENTS.—The amend-  
21          ments made by this section shall apply to quarterly fees  
22          payable under section 1930(a)(6) of title 28, United  
23          States Code, as amended by this section, for disburse-  
24          ments made in any calendar quarter that begins on or  
25          after the date of enactment of this Act.

1 **SEC. 5. CLARIFICATION OF RULE ALLOWING DISCHARGE**  
2 **TO GOVERNMENTAL CLAIMS ARISING FROM**  
3 **THE DISPOSITION OF FARM ASSETS UNDER**  
4 **CHAPTER 12 BANKRUPTCIES.**

5 (a) IN GENERAL.—Subchapter II of chapter 12 of  
6 title 11, United States Code, is amended by adding at the  
7 end the following:

8 **“§ 1232. Claim by a governmental unit based on the**  
9 **disposition of property used in a farming**  
10 **operation**

11 “(a) Any unsecured claim of a governmental unit  
12 against the debtor or the estate that arises before the fil-  
13 ing of the petition, or that arises after the filing of the  
14 petition and before the debtor’s discharge under section  
15 1228, as a result of the sale, transfer, exchange, or other  
16 disposition of any property used in the debtor’s farming  
17 operation—

18 “(1) shall be treated as an unsecured claim  
19 arising before the date on which the petition is filed;

20 “(2) shall not be entitled to priority under sec-  
21 tion 507;

22 “(3) shall be provided for under a plan; and

23 “(4) shall be discharged in accordance with sec-  
24 tion 1228.

25 “(b) For purposes of applying sections 1225(a)(4),  
26 1228(b)(2), and 1229(b)(1) to a claim described in sub-



1 section (a) of this section, the amount that would be paid  
2 on such claim if the estate of the debtor were liquidated  
3 in a case under chapter 7 of this title shall be the amount  
4 that would be paid by the estate in a chapter 7 case if  
5 the claim were an unsecured claim arising before the date  
6 on which the petition was filed and were not entitled to  
7 priority under section 507.

8 “(c) For purposes of applying sections 523(a),  
9 1228(a)(2), and 1228(c)(2) to a claim described in sub-  
10 section (a) of this section, the claim shall not be treated  
11 as a claim of a kind specified in subparagraph (A) or (B)  
12 of section 523(a)(1).

13 “(d)(1) A governmental unit may file a proof of claim  
14 for a claim described in subsection (a) that arises after  
15 the date on which the petition is filed.

16 “(2) If a debtor files a tax return after the filing of  
17 the petition for a period in which a claim described in sub-  
18 section (a) arises, and the claim relates to the tax return,  
19 the debtor shall serve notice of the claim on the govern-  
20 mental unit charged with the responsibility for the collec-  
21 tion of the tax at the address and in the manner des-  
22 igned in section 505(b)(1). Notice under this paragraph  
23 shall state that the debtor has filed a petition under this  
24 chapter, state the name and location of the court in which  
25 the case under this chapter is pending, state the amount

1 of the claim, and include a copy of the filed tax return  
2 and documentation supporting the calculation of the  
3 claim.

4 “(3) If notice of a claim has been served on the gov-  
5 ernmental unit in accordance with paragraph (2), the gov-  
6 ernmental unit may file a proof of claim not later than  
7 180 days after the date on which such notice was served.  
8 If the governmental unit has not filed a timely proof of  
9 the claim, the debtor or trustee may file proof of the claim  
10 that is consistent with the notice served under paragraph  
11 (2). If a proof of claim is filed by the debtor or trustee  
12 under this paragraph, the governmental unit may not  
13 amend the proof of claim.

14 “(4) A claim filed under this subsection shall be de-  
15 termined and shall be allowed under subsection (a), (b),  
16 or (c) of section 502, or disallowed under subsection (d)  
17 or (e) of section 502, in the same manner as if the claim  
18 had arisen immediately before the date of the filing of the  
19 petition.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) IN GENERAL.—Subchapter II of chapter 12  
22 of title 11, United States Code, is amended—

23 (A) in section 1222(a)—

1 (i) in paragraph (2), by striking “un-  
2 less—” and all that follows through “the  
3 holder” and inserting “unless the holder”;

4 (ii) in paragraph (3), by striking  
5 “and” at the end;

6 (iii) in paragraph (4), by striking the  
7 period at the end and inserting “; and”;  
8 and

9 (iv) by adding at the end the fol-  
10 lowing:

11 “(5) subject to section 1232, provide for the  
12 treatment of any claim by a governmental unit of a  
13 kind described in section 1232(a).”;

14 (B) in section 1228—

15 (i) in subsection (a)—

16 (I) in the matter preceding para-  
17 graph (1)—

18 (aa) by inserting a comma  
19 after “all debts provided for by  
20 the plan”; and

21 (bb) by inserting a comma  
22 after “allowed under section 503  
23 of this title”; and

24 (II) in paragraph (2), by striking  
25 “the kind” and all that follows and in-

1                   serting “a kind specified in section  
2                   523(a) of this title, except as provided  
3                   in section 1232(c).”; and

4                   (ii) in subsection (c)(2), by inserting  
5                   “, except as provided in section 1232(c)”  
6                   before the period at the end; and

7                   (C) in section 1229(a)—

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

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

12                  (iii) by adding at the end the fol-  
13                  lowing:

14                  “(4) provide for the payment of a claim de-  
15                  scribed in section 1232(a) that arose after the date  
16                  on which the petition was filed.”.

17                  (2) TABLE OF SECTIONS.—The table of sections  
18                  for subchapter II of chapter 12 of title 11, United  
19                  States Code, is amended by adding at the end the  
20                  following:

“1232. Claim by a governmental unit based on the disposition of property used  
in a farming operation.”.

21                  (c) EFFECTIVE DATE.—The amendments made by  
22                  this section shall apply to—

23                  (1) any bankruptcy case—

1           (A) that is pending on the date of enact-  
2           ment of this Act;

3           (B) in which the plan under chapter 12 of  
4           title 11, United States Code, has not been con-  
5           firmed on the date of enactment of this Act;  
6           and

7           (C) relating to which an order of discharge  
8           under section 1228 of title 11, United States  
9           Code, has not been entered; and

10          (2) any bankruptcy case that commences on or  
11          after the date of enactment of this Act.

Passed the Senate September 5, 2017.

Attest:

*Secretary.*

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 1107**

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**AN ACT**

To amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes.