

117TH CONGRESS
2D SESSION

S. 3823

AN ACT

To amend title 11, United States Code, to modify the eligibility requirements for a debtor under chapter 13, 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 Threshold
3 Adjustment and Technical Corrections Act”.

4 **SEC. 2. BANKRUPTCY AMENDMENTS.**

5 (a) **DEFINITION OF SMALL BUSINESS DEBTOR.**—
6 Section 101(51D)(B) of title 11, United States Code, is
7 amended—

8 (1) in clause (i), by inserting “under this title”
9 after “affiliated debtors”; and

10 (2) in clause (iii), by striking “an issuer” and
11 all that follows and inserting “a corporation de-
12 scribed in clause (ii).”.

13 (b) **ADJUSTMENTS FOR INFLATION.**—Section 104 of
14 title 11, United States Code, is amended—

15 (1) in subsection (a), by inserting “1182(1),”
16 after “707(b),”; and

17 (2) in subsection (b), by inserting “1182(1),”
18 after “707(b),”.

19 (c) **WHO MAY BE A DEBTOR UNDER CHAPTER 13.**—
20 Section 109 of title 11, United States Code is amended
21 by striking subsection (e) and inserting the following:

22 “(e) Only an individual with regular income that
23 owes, on the date of the filing of the petition, noncontin-
24 gent, liquidated debts of less than \$2,750,000 or an indi-
25 vidual with regular income and such individual’s spouse,
26 except a stockbroker or a commodity broker, that owe, on

1 the date of the filing of the petition, noncontingent, liq-
 2 uidated debts that aggregate less than \$2,750,000 may
 3 be a debtor under chapter 13 of this title.”.

4 (d) DEFINITION OF DEBTOR.—Section 1182(1) of
 5 title 11, United States Code, is amended to read as fol-
 6 lows:

7 “(1) DEBTOR.—The term ‘debtor’—

8 “(A) subject to subparagraph (B), means a
 9 person engaged in commercial or business ac-
 10 tivities (including any affiliate of such person
 11 that is also a debtor under this title and exclud-
 12 ing a person whose primary activity is the busi-
 13 ness of owning single asset real estate) that has
 14 aggregate noncontingent liquidated secured and
 15 unsecured debts as of the date of the filing of
 16 the petition or the date of the order for relief
 17 in an amount not more than \$7,500,000 (ex-
 18 cluding debts owed to 1 or more affiliates or in-
 19 siders) not less than 50 percent of which arose
 20 from the commercial or business activities of
 21 the debtor; and

22 “(B) does not include—

23 “(i) any member of a group of affili-
 24 ated debtors under this title that has ag-
 25 gregate noncontingent liquidated secured

1 and unsecured debts in an amount greater
 2 than \$7,500,000 (excluding debt owed to 1
 3 or more affiliates or insiders);

4 “(ii) any debtor that is a corporation
 5 subject to the reporting requirements
 6 under section 13 or 15(d) of the Securities
 7 Exchange Act of 1934 (15 U.S.C. 78m,
 8 78o(d)); or

9 “(iii) any debtor that is an affiliate of
 10 a corporation described in clause (ii).”.

11 (e) TRUSTEE.—Section 1183(b)(5) of title 11, United
 12 States Code, is amended—

13 (1) by striking “possession, perform” and in-
 14 serting “possession—

15 “(A) perform”;

16 (2) in subparagraph (A), as so designated—

17 (A) by striking “, including operating the
 18 business of the debtor”; and

19 (B) by adding “and” at the end; and

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

21 “(B) be authorized to operate the business
 22 of the debtor;”.

23 (f) CONFIRMATION OF PLAN.—Section 1191(c) of
 24 title 11, United States Code, is amended by striking para-
 25 graph (3) and inserting the following:

1 “(3)(A) The debtor will be able to make all pay-
2 ments under the plan; or

3 “(B)(i) there is a reasonable likelihood that the
4 debtor will be able to make all payments under the
5 plan; and

6 “(ii) the plan provides appropriate remedies,
7 which may include the liquidation of nonexempt as-
8 sets, to protect the holders of claims or interests in
9 the event that the payments are not made.”.

10 (g) TECHNICAL CORRECTIONS TO THE BANKRUPTCY
11 ADMINISTRATION IMPROVEMENT ACT.—Section 589a of
12 title 28, United States Code is amended—

13 (1) in subsection (c) by striking “subsection
14 (a)” and inserting “subsections (a) and (f)”; and

15 (2) in subsection (f)(1)—

16 (A) in the matter preceding subparagraph
17 (A), by striking “subsections (b) and (c)” and
18 inserting “subsection (b)(5)”; and

19 (B) in subparagraph (A), by inserting
20 “needed to offset the amount” after
21 “amounts”.

22 (h) EFFECTIVE DATE; APPLICABILITY.—

23 (1) IN GENERAL.—Subsections (b) and (c) and
24 the amendments made by subsections (b) and (c)

1 shall take effect on the date of enactment of this
 2 Act.

3 (2) RETROACTIVE APPLICATION OF CERTAIN
 4 AMENDMENTS.—The amendments made by sub-
 5 sections (a), (d), (e), and (f) shall apply with respect
 6 to any case that—

7 (A) is commenced under title 11, United
 8 States Code, on or after March 27, 2020; and

9 (B) with respect to a case that was com-
 10 menced on or after March 27, 2020 and before
 11 the date of enactment of this Act, is pending on
 12 the date of enactment of this Act.

13 (3) EFFECTIVE DATE OF TECHNICAL CORREC-
 14 TIONS TO BAIA.—The amendments made by sub-
 15 section (g) shall take effect as if enacted on October
 16 1, 2021.

17 (i) SUNSETS.—

18 (1) IN GENERAL.—Effective on the date that is
 19 2 years after the date of enactment of this Act—

20 (A) subsection (e) of section 109 of title
 21 11, United States Code is amended to read as
 22 such subsection read on the day before the date
 23 of enactment of this Act; and

24 (B) section 1182(1) of title 11, United
 25 States Code, is amended to read as follows:

1 “(1) DEBTOR.—The term ‘debtor’ means a
2 small business debtor.”.

3 (2) AMOUNTS.—For purposes of applying sub-
4 section (e) of section 109 of title 11, United States
5 Code, as amended by paragraph (1)(A), the amounts
6 specified in such subsection shall be the amounts
7 that were in effect on the day before the date of en-
8 actment of this Act.

Passed the Senate April 7, 2022.

Attest:

Secretary.

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