

105TH CONGRESS  
2D SESSION

**H. R. 3150**

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**AN ACT**

To amend title 11 of the United States Code, and  
for other purposes.

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2<sup>D</sup> SESSION

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## AN ACT

To amend title 11 of the United States Code, 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; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Bankruptcy Reform Act of 1998”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—CONSUMER BANKRUPTCY PROVISIONS**

**Subtitle A—Needs-Based Bankruptcy**

Sec. 101. Needs-based bankruptcy.

Sec. 102. Adequate income shall be committed to a chapter 13 plan that pays  
unsecured creditors.

Sec. 103. Definition of inappropriate use.

Sec. 104. Debtor participation in credit counseling program.

Sec. 105. Who may be a debtor under chapter 11.

**Subtitle B—Adequate Protections for Consumers**

Sec. 111. Notice of alternatives.

Sec. 112. Debtor financial management training test program.

Sec. 113. Definitions.

Sec. 114. Disclosures.

Sec. 115. Debtor’s bill of rights.

Sec. 116. Enforcement.

Sec. 117. Sense of the Congress.

Sec. 118. Charitable contributions.

Sec. 119. Reinforce the fresh start.

Sec. 119A. Chapter 11 discharge of debts arising from tobacco-related debts.

**Subtitle C—Adequate Protections for Secured Creditors**

Sec. 121. Discouraging bad faith repeat filings.

Sec. 122. Definition of household goods.

Sec. 123. Debtor retention of personal property security.

Sec. 124. Relief from the automatic stay when the debtor does not complete in-  
tended surrender of consumer debt collateral.

Sec. 125. Giving secured creditors fair treatment in chapter 13.

Sec. 126. Prompt relief from the automatic stay in individual cases.

Sec. 127. Stopping abusive conversions from chapter 13.

Sec. 128. Restraining abusive purchases on secured credit.

Sec. 129. Fair valuation of collateral.

Sec. 130. Protection of holders of claims secured by debtor’s principal resi-  
dence.

Sec. 131. Aircraft equipment and vessels.

**Subtitle D—Adequate Protections for Unsecured Creditors**

Sec. 141. Debts incurred to pay nondischargeable debts.

Sec. 142. Credit extensions on the eve of bankruptcy presumed nondischarge-  
able.

- Sec. 143. Fraudulent debts are nondischargeable in chapter 13 cases.
- Sec. 144. Applying the codebtor stay only when it protects the debtor.
- Sec. 145. Debts for alimony, maintenance, and support.
- Sec. 146. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 147. Other exceptions to discharge.
- Sec. 148. Fees arising from certain ownership interests.
- Sec. 149. Protection of child support and alimony.
- Sec. 150. Adequate protection for investors.
- Sec. 151. Higher priority for debts for alimony, maintenance, and support.

#### Subtitle E—Adequate Protections for Lessors

- Sec. 161. Giving debtors the ability to keep leased personal property by assumption.
- Sec. 162. Adequate protection of lessors and purchase money secured creditors.
- Sec. 163. Adequate protection for lessors.

#### Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

- Sec. 171. Extend period between bankruptcy discharges.

#### Subtitle G—Exemptions

- Sec. 181. Exemptions.
- Sec. 182. Limitation.

### TITLE II—BUSINESS BANKRUPTCY PROVISIONS

#### Subtitle A—General Provisions

- Sec. 201. Limitation relating to the use of fee examiners.
- Sec. 202. Sharing of compensation.
- Sec. 203. Chapter 12 made permanent law.
- Sec. 204. Meetings of creditors and equity security holders.
- Sec. 205. Creditors' and equity security holders' committees.
- Sec. 206. Postpetition disclosure and solicitation.
- Sec. 207. Preferences.
- Sec. 208. Venue of certain proceedings.
- Sec. 209. Period for filing plan under chapter 11.
- Sec. 210. Period for filing plan under chapter 12.
- Sec. 211. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or reinsurance in the United States.
- Sec. 212. Rejection of executory contracts affecting intellectual property rights to recordings of artistic performance.
- Sec. 213. Unexpired leases of nonresidential real property.
- Sec. 214. Definition of disinterested person.
- Sec. 215. Defaults based on nonmonetary obligations.

#### Subtitle B—Specific Provisions

#### CHAPTER 1—SMALL BUSINESS BANKRUPTCY

- Sec. 231. Definitions.
- Sec. 232. Flexible rules for disclosure statement and plan.
- Sec. 233. Standard form disclosure statement and plan.
- Sec. 234. Uniform national reporting requirements.

- Sec. 235. Uniform reporting rules and forms for small business cases.
- Sec. 236. Duties in small business cases.
- Sec. 237. Plan filing and confirmation deadlines.
- Sec. 238. Plan confirmation deadline.
- Sec. 239. Prohibition against extension of time.
- Sec. 240. Duties of the United States trustee and bankruptcy administrator.
- Sec. 241. Scheduling conferences.
- Sec. 242. Serial filer provisions.
- Sec. 243. Expanded grounds for dismissal or conversion and appointment of trustee.
- Sec. 244. Study of operation of title 11 of the United States Code with respect to small businesses.

#### CHAPTER 2—SINGLE ASSET REAL ESTATE

- Sec. 251. Single asset real estate defined.
- Sec. 252. Payment of interest.

#### TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 301. Petition and proceedings related to petition.
- Sec. 302. Applicability of other sections to chapter 9.

#### TITLE IV—BANKRUPTCY ADMINISTRATION

##### Subtitle A—General Provisions

- Sec. 401. Adequate preparation time for creditors before the meeting of creditors in individual cases.
- Sec. 402. Creditor representation at first meeting of creditors.
- Sec. 403. Filing proofs of claim.
- Sec. 404. Audit procedures.
- Sec. 405. Giving creditors fair notice in chapter 7 and 13 cases.
- Sec. 406. Debtor to provide tax returns and other information.
- Sec. 407. Dismissal for failure to file schedules timely or provide required information.
- Sec. 408. Adequate time to prepare for hearing on confirmation of the plan.
- Sec. 409. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 410. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
- Sec. 411. Jurisdiction of courts of appeals.
- Sec. 412. Establishment of official forms.
- Sec. 413. Elimination of certain fees payable in chapter 11 bankruptcy cases.
- Sec. 414. Study of bankruptcy impact of credit extended to dependent students.

##### Subtitle B—Data Provisions

- Sec. 441. Improved bankruptcy statistics.
- Sec. 442. Uniform rules for the collection of bankruptcy data.
- Sec. 443. Sense of the Congress regarding availability of bankruptcy data.

#### TITLE V—TAX PROVISIONS

- Sec. 501. Treatment of certain liens.
- Sec. 502. Enforcement of child and spousal support.
- Sec. 503. Effective notice to Government.
- Sec. 504. Notice of request for a determination of taxes.
- Sec. 505. Rate of interest on tax claims.

- Sec. 506. Tolling of priority of tax claim time periods.  
 Sec. 507. Assessment defined.  
 Sec. 508. Chapter 13 discharge of fraudulent and other taxes.  
 Sec. 509. Chapter 11 discharge of fraudulent taxes.  
 Sec. 510. Stay of tax proceedings.  
 Sec. 511. Periodic payment of taxes in chapter 11 cases.  
 Sec. 512. Avoidance of statutory tax liens prohibited.  
 Sec. 513. Payment of taxes in the conduct of business.  
 Sec. 514. Tardily filed priority tax claims.  
 Sec. 515. Income tax returns prepared by tax authorities.  
 Sec. 516. Discharge of the estate's liability for unpaid taxes.  
 Sec. 517. Requirement to file tax returns to confirm chapter 13 plans.  
 Sec. 518. Standards for tax disclosure.  
 Sec. 519. Setoff of tax refunds.

#### TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 601. Amendment to add a chapter 6 to title 11, United States Code.  
 Sec. 602. Amendments to other chapters in title 11, United States Code.

#### TITLE VII—MISCELLANEOUS

- Sec. 701. Technical amendments.  
 Sec. 702. Application of amendments.

1                   **TITLE I—CONSUMER**  
 2                   **BANKRUPTCY PROVISIONS**  
 3                   **Subtitle A—Needs-Based**  
 4                   **Bankruptcy**

5 **SEC. 101. NEEDS-BASED BANKRUPTCY.**

6           Title 11, United States Code, is amended—

7                   (1) in section 101 as follows:

8                           (A) by inserting after paragraph (10) the  
 9                   following:

10                   “(10A) ‘current monthly total income’ means  
 11                   the average monthly income from all sources derived  
 12                   which the debtor, or in a joint case, the debtor and  
 13                   the debtor’s spouse, receive without regard to wheth-  
 14                   er it is taxable income, in the six months preceding

1 the date of determination, and includes any amount  
2 paid by anyone other than the debtor or, in a joint  
3 case, the debtor and the debtor's spouse, on a regu-  
4 lar basis to the household expenses of the debtor or  
5 the debtor's dependents and, in a joint case, the  
6 debtor's spouse if not otherwise a dependent;"; and

7 (B) by inserting after paragraph (40) the  
8 following:

9 "(40A) 'national median family income' and  
10 'national median household income for 1 earner'  
11 shall mean during any calendar year, the national  
12 median family income and the national median  
13 household income for 1 earner which the Bureau of  
14 the Census has reported as of January 1 of such cal-  
15 endar year for the most recent previous calendar  
16 year;";

17 (2) in section 104(b)(1) by striking "109(e)"  
18 and inserting "subsections (b), (e), and (h) of sec-  
19 tion 109";

20 (3) in section 109(b)—

21 (A) in paragraph (2) by striking "or" at  
22 the end;

23 (B) in paragraph (3) by striking the period  
24 and inserting "; or"; and

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

1           “(4) an individual or, in a joint case, an indi-  
2           vidual and such individual’s spouse, who have in-  
3           come available to pay creditors as determined under  
4           subsection (h).”;

5           (4) by adding at the end of section 109 the fol-  
6           lowing:

7           “(h)(1) An individual or, in a joint case, an individual  
8           and such individual’s spouse, have income available to pay  
9           creditors if the individual, or, in a joint case, the individual  
10          and the individual’s spouse combined, as of the date of  
11          the order for relief, have—

12           “(A) current monthly total income of not less  
13           than the highest national median family income re-  
14           ported for a family of equal or lesser size or, in the  
15           case of a household of 1 person, of not less than the  
16           national median household income for 1 earner, as  
17           of the date of the order for relief;

18           “(B) projected monthly net income greater than  
19           \$50; and

20           “(C) projected monthly net income sufficient to  
21           repay twenty percent or more of unsecured nonprior-  
22           ity claims during a five-year repayment plan.

23           “(2) Projected monthly net income shall be sufficient  
24          under paragraph (1)(C) if, when multiplied by 60 months,

1 it equals or exceeds 20 percent of the total amount sched-  
2 uled as payable to unsecured nonpriority creditors.

3 “(3) ‘Projected monthly net income’ means current  
4 monthly total income less—

5 “(A) the expense allowances under the applica-  
6 ble National Standards, Local Standards and Other  
7 Necessary Expenses allowance (excluding payments  
8 for debts), issued by the Internal Revenue Service,  
9 for the debtor, the debtor’s dependents, and, in a  
10 joint case, the debtor’s spouse if not otherwise a de-  
11 pendent, in the area in which the debtor resides as  
12 determined by the Internal Revenue Service allow-  
13 ance for such expenses in effect as of the date of the  
14 order for relief;

15 “(B) the average monthly payment on account  
16 of secured creditors, which shall be calculated as the  
17 total of all amounts scheduled as contractually pay-  
18 able to secured creditors in each month of the 60  
19 months following the date of the petition by the  
20 debtor, or, in a joint case, by the debtor and the  
21 debtor’s spouse combined, and dividing that total by  
22 60 months; and

23 “(C) the average monthly payment on account  
24 of priority creditors, which shall be calculated as the  
25 total amount of debts entitled to priority, reasonably

1 estimated by the debtor as of the date of the peti-  
2 tion, and dividing that total by 60 months.

3 “(4) In the event that the debtor establishes extraor-  
4 dinary circumstances that require allowance for additional  
5 expenses or adjustment of current monthly total income,  
6 projected monthly net income for purposes of this section  
7 shall be the amount calculated under paragraph (3) less  
8 such additional expenses or income adjustment as such ex-  
9 traordinary circumstances require.

10 “(A) This paragraph shall not apply unless the  
11 debtor files with the petition—

12 “(i) a written statement that this para-  
13 graph applies in determining the debtor’s eligi-  
14 bility for relief under chapter 7 of this title;

15 “(ii) if adjustment of current monthly total  
16 income is claimed, an explanation of any income  
17 that has been lost in the 6 months preceding  
18 the date of determination and any replacement  
19 income that has been offered or secured, or is  
20 expected, and an itemization of such lost and  
21 replacement income;

22 “(iii) if allowance for additional expenses is  
23 claimed, a list itemizing each additional expense  
24 which exceeds the expenses allowances provided  
25 under paragraph (3)(A);

1           “(iv) a detailed description of the extraor-  
2           ordinary circumstances that explain why each loss  
3           of income described under clause (ii) will not be  
4           replaced or each additional expense itemized  
5           under clause (iii) requires allowance; and

6           “(v) a sworn statement signed by the debt-  
7           or and, if the debtor is represented by counsel,  
8           by the debtor’s attorney, that the information  
9           required under this paragraph is true and cor-  
10          rect.

11          “(B) Until the trustee or any party in interest  
12          objects to the debtor’s statement that this paragraph  
13          applies and the court rejects or modifies the debtor’s  
14          statement, the projected monthly net income in the  
15          debtor’s statement shall be the projected monthly  
16          net income for the purposes of this section. If an ob-  
17          jection is filed with the court within 60 days after  
18          the debtor has provided all the information required  
19          under subsections (a)(1) and (c)(1)(A) of section  
20          521, the court, after notice and hearing, shall deter-  
21          mine whether such extraordinary circumstances exist  
22          and shall establish the amount of the additional ex-  
23          pense allowance, if any. The burden of proving such  
24          extraordinary circumstances shall be on the debtor.”;

25                 (5) in section 704—

1 (A) by striking “and” at the end of para-  
2 graph (8);

3 (B) by striking the period at the end of  
4 paragraph (9) and inserting “; and”; and

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

6 “(10) with respect to an individual debtor, re-  
7 view all materials provided by the debtor under sub-  
8 sections (a)(1) and (c)(1) of section 521, investigate  
9 and verify the debtor’s projected monthly net income  
10 and within 30 days after such materials are so pro-  
11 vided—

12 “(A) file a report with the court as to  
13 whether the debtor qualifies for relief under this  
14 chapter under section 109(b)(4); and

15 “(B) if the trustee determines that the  
16 debtor does not qualify for such relief, the  
17 trustee shall provide a copy of such report to  
18 the parties in interest.”;

19 (6) in section 1302(b)—

20 (A) in paragraph (4) by striking “and” at  
21 the end;

22 (B) in paragraph (5) by striking the period  
23 and inserting a semicolon; and

24 (C) by adding at the end the following:

1           “(6) investigate and verify the debtor’s monthly  
2 net income and other information provided by the  
3 debtor pursuant to sections 521 and 1322, and pur-  
4 suant to section 111, if applicable; and

5           “(7) file annual reports with the court, with  
6 copies to holders of claims under the plan, as to  
7 whether a modification of the amount paid creditors  
8 under the plan is appropriate because of changes in  
9 the debtor’s monthly net income.”.

10 **SEC. 102. ADEQUATE INCOME SHALL BE COMMITTED TO A**  
11                           **CHAPTER 13 PLAN THAT PAYS UNSECURED**  
12                           **CREDITORS.**

13 Title 11, United States Code, is amended—

14           (1) in section 101 by inserting after paragraph  
15 (39) the following:

16           “(39A) ‘monthly net income’ means the amount  
17 determined by taking the current monthly total in-  
18 come of the debtor less—

19                           “(A) the expense allowances under the ap-  
20 plicable National Standards, Local Standards  
21 and Other Necessary Expenses allowance (ex-  
22 cluding payments for debts), issued by the In-  
23 ternal Revenue Service, for the debtor, the  
24 debtor’s dependents, and, in a joint case, the  
25 debtor’s spouse if not otherwise a dependent, in

1 the area in which the debtor resides as deter-  
2 mined by the Internal Revenue Service allow-  
3 ance for such expenses in effect as of the date  
4 it is being determined;

5 “(B) the average monthly payment on ac-  
6 count of secured creditors, which shall be cal-  
7 culated as of the date of determination as the  
8 total of all amounts then remaining to be paid  
9 on account of secured claims pursuant to the  
10 plan less any of such amounts to be paid from  
11 sources other than the debtor’s income, divided  
12 by the total months remaining under the plan;  
13 and

14 “(C) the average monthly payment on ac-  
15 count of priority creditors, which shall be cal-  
16 culated as the total of all amounts then remain-  
17 ing to be paid on account of priority claims pur-  
18 suant to the plan less any of such amounts to  
19 be paid from sources other than the debtor’s in-  
20 come, divided by the total months remaining  
21 under the plan;”;

22 (2) in section 104(b)(1) by striking “and  
23 523(a)(2)(C)” and inserting “523(a)(2)(C), and  
24 1325(b)(1)”; and

25 (3) by adding after section 110 the following:

1 **“§ 111. Adjustment to monthly net income**

2       “(a) Monthly net income for purposes of a plan under  
3 chapter 13 of this title shall be adjusted under this section  
4 when the debtor’s extraordinary circumstances require ad-  
5 justment as determined herein. Under this section, month-  
6 ly net income shall be determined by subtracting there-  
7 from such loss of income or additional expenses as the  
8 debtor’s extraordinary circumstances require as deter-  
9 mined under this section. This section shall not apply un-  
10 less—

11               “(1) the debtor files with the court and with the  
12 trustee at the times required in subsection (b) a  
13 statement of extraordinary circumstances as fol-  
14 lows—

15                       “(A) a written statement that this section  
16 applies in determining the debtor’s monthly net  
17 income;

18                       “(B) if applicable, an explanation of any  
19 income that has been lost in the six months  
20 preceding the date of determination and any re-  
21 placement income which has been secured or is  
22 expected, and an itemization of such lost and  
23 replacement income;

24                       “(C) if applicable, a list itemizing each ad-  
25 ditional expense which exceeds the expense al-

1 allowance provided in determining monthly net  
2 income under section 101(39A);

3 “(D) if applicable, a detailed description of  
4 the extraordinary circumstances which explains  
5 why each of the additional expenses itemized  
6 under paragraph (C) requires allowance; and

7 “(E) a sworn statement signed by the  
8 debtor and, if the debtor is represented by  
9 counsel, by the debtor’s attorney, of the amount  
10 of monthly net income that the debtor has pur-  
11 suant to this subsection and that the informa-  
12 tion provided under this subsection is true and  
13 correct; and

14 “(2) until the trustee or any party in interest  
15 objects to the debtor’s request that this section be  
16 applied and the court rejects or modifies the debtor’s  
17 statement, the monthly net income in the debtor’s  
18 statement shall be the monthly net income for the  
19 purposes of the debtor’s plan. If an objection is filed  
20 with the court within the times provided in sub-  
21 section (b), the court, after notice and hearing, shall  
22 determine whether such extraordinary circumstances  
23 asserted by the debtor exist and establish the  
24 amount of the loss of income and such additional ex-  
25 pense allowance, if any. The burden of proving such

1 extraordinary circumstances and the amount of the  
2 loss of income and the additional expense allowance,  
3 if any, shall be on the debtor. The court may award  
4 to the party that prevails with respect to such objec-  
5 tion a reasonable attorney’s fee and costs incurred  
6 by the prevailing party in connection with such ob-  
7 jection if the court finds that the position of the  
8 nonprevailing party was not substantially justified,  
9 but the court shall not award such fee or such costs  
10 if special circumstances make the award unjust.

11 “(b) For the purposes of chapter 13 of this title, the  
12 statement of extraordinary circumstances shall be filed  
13 with the court and served on the trustee on or before 45  
14 days before each anniversary of the confirmation of the  
15 plan in order to be applicable during the next year of the  
16 plan. Any objection thereto shall be filed 30 days after  
17 the statement is filed with the trustee. Whenever a state-  
18 ment is timely filed with the trustee, the trustee shall give  
19 notice to creditors that such statement has been filed and  
20 the amount of monthly net income stated therein within  
21 15 days of receipt of the statement.”;

22 (4) in section 1322(a)—

23 (A) by striking “and” at the end of para-  
24 graph (2);

1 (B) by striking the period at the end of  
2 paragraph (3) and inserting “; and”; and

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

4 “(4) state, under penalties of perjury, the  
5 amount of monthly net income, which may be as ad-  
6 justed under section 111, if applicable, of this title  
7 and the amount of monthly net income which will be  
8 paid per month to unsecured nonpriority creditors  
9 under the plan.”; and

10 (5) by amending section 1325(b)(1)(B) to read  
11 as follows:

12 “(B) the plan provides—

13 “(i) that payments to unsecured nonprior-  
14 ity creditors who are not insiders shall equal or  
15 exceed \$50 in each month of the plan;

16 “(ii) that during the applicable commit-  
17 ment period beginning on the date that the first  
18 payment is due under the plan, the total  
19 amount of monthly net income received by the  
20 debtor shall be paid to unsecured nonpriority  
21 creditors under the plan less only payments  
22 pursuant to section 1326(b); the ‘applicable  
23 commitment period’ shall be not less than 5  
24 years if the debtor’s current monthly total in-  
25 come is not less than the highest national me-

1           dian family income reported for a family of  
2           equal or lesser size or, in the case of a house-  
3           hold of 1 person, is not less than the national  
4           median household income for 1 earner, as of  
5           the date of confirmation of the plan and shall  
6           be not less than 3 years if the debtor’s current  
7           monthly total income is less than the highest  
8           national median family income reported for a  
9           family of equal or lesser size or, in the case of  
10          a household of 1 person, is less than the na-  
11          tional median household income for 1 earner, as  
12          of the date of confirmation of the plan;

13                 “(iii) that the amount payable to each  
14           class of unsecured nonpriority claims under the  
15           plan shall be increased or decreased during the  
16           plan proportionately to the extent the debtor’s  
17           monthly net income during the plan increases  
18           or decreases as reasonably determined by the  
19           trustee, subject to section 111 of this title, no  
20           less frequently than as of each anniversary of  
21           the confirmation of the plan based on monthly  
22           net income as of 45 days before such anniver-  
23           sary; and

24                 “(iv) nothing in subparagraph (i) or (ii)  
25           shall prevent the payment of obligations de-

1           scribed in section 507(a)(7) at the times pro-  
2           vided for in the plan, and the plan shall specify  
3           how payments to other creditors under subpara-  
4           graph (ii) will be accordingly adjusted.”; and  
5           (6) by striking section 1325(b)(2).

6 **SEC. 103. DEFINITION OF INAPPROPRIATE USE.**

7           Section 707(b) of title 11, United States Code, is  
8 amended to read as follows:

9           “(b)(1) After notice and a hearing, the court—

10           “(A) on its own motion or on the motion of the  
11           United States trustee or any party in interest, shall  
12           dismiss a case filed by an individual debtor under  
13           this chapter; or

14           “(B) with the debtor’s consent, convert the case  
15           to a case under chapter 13 of this title;

16 if the court finds that the granting of relief would be an  
17 inappropriate use of the provisions of this chapter.

18           “(2) The court shall determine that inappropriate use  
19 of the provisions of this chapter exists if—

20           “(A) the debtor is excluded from this chapter  
21           pursuant to section 109 of this title; or

22           “(B) the totality of the circumstances of the  
23           debtor’s financial situation demonstrates such inap-  
24           propriate use.

1           “(3) In the case of a motion filed by a party in inter-  
2 est other than the trustee or United States trustee under  
3 paragraph (1) that is denied by the court, the court shall  
4 award against the moving party a reasonable attorney’s  
5 fee and costs that the debtor incurred in opposing the mo-  
6 tion if the court finds that the position of the moving party  
7 was not substantially justified, but the court shall not  
8 award such fee and costs if special circumstances would  
9 make the award unjust.

10           “(4)(A) If a trustee appointed under this title or the  
11 United States Trustee files a motion under this subsection  
12 and the case is subsequently dismissed or converted to an-  
13 other chapter, the court shall award to such party in inter-  
14 est a reasonable attorney’s fee and costs incurred in con-  
15 nection with such motion, payable by the debtor, unless  
16 the court finds that awarding such fee and costs would  
17 impose an unreasonable hardship on the debtor, consider-  
18 ing the debtor’s conduct.

19           “(B) The signature of the debtor’s attorney on any  
20 petition, pleading, motion, or other paper filed with the  
21 court in the case of the debtor shall constitute a certificate  
22 that the attorney has—

23                   “(i) performed a reasonable investigation into  
24           the circumstances that gave rise to the petition,

1 schedules, and statement of financial affairs or the  
2 pleading, as applicable; and

3 “(ii) determined that the petition schedules,  
4 and statement of financial affairs or the pleading, as  
5 applicable, including the choice of this chapter—

6 “(I) is well grounded in fact; and

7 “(II) is warranted by existing law or a  
8 good-faith argument for the extension, modi-  
9 fication, or reversal of existing law and does not  
10 constitute an inappropriate use of the provi-  
11 sions of this chapter.

12 “(C) If the court finds that the attorney for the debt-  
13 or signed a paper in violation of subparagraph (B), at a  
14 minimum, the court shall order—

15 “(i) the assessment of an appropriate civil pen-  
16 alty against the attorney for the debtor; and

17 “(ii) the payment of the civil penalty to the  
18 trustee or the United States Trustee.”.

19 **SEC. 104. DEBTOR PARTICIPATION IN CREDIT COUNSELING**  
20 **PROGRAM.**

21 (a) WHO MAY BE A DEBTOR.—Section 109 of title  
22 11, United States Code, as amended by section 102, is  
23 amended by adding at the end the following:

24 “(i)(1) Subject to paragraph (2) and notwithstanding  
25 any other provision of this section, an individual may not

1 be a debtor under this title unless such individual has,  
2 during the 90-day period preceding the date of filing of  
3 the petition, made a good-faith attempt to create a debt  
4 repayment plan, through a credit counseling program of-  
5 fered through credit counseling services described in sec-  
6 tion 342(b)(2) that has been approved by—

7           “(A) the United States trustee; or

8           “(B) the bankruptcy administrator for the dis-  
9        trict in which the petition is filed.

10       “(2) The United States trustee or bankruptcy admin-  
11        istrator may not approve a program for inclusion on the  
12        list under paragraph (1) unless the counseling service of-  
13        fering the program offers the program without charge, or  
14        at an appropriately reduced charge, if payment of the reg-  
15        ular charge would impose a hardship on the debtor or the  
16        debtor’s dependents.

17       “(3) The United States trustee or bankruptcy admin-  
18        istrator shall designate any geographical areas in the  
19        United States trustee region or judicial district, as the  
20        case may be, as to which the United States trustee or  
21        bankruptcy administrator has determined that credit  
22        counseling services needed to comply with this subsection  
23        are not available or are too geographically remote for debt-  
24        ors residing within the designated geographical areas. The  
25        clerk of the bankruptcy court for each judicial district

1 shall maintain a list of the designated areas within the  
2 district.

3 “(4) The clerk shall exclude a particular counseling  
4 service from the list maintained under section 342(b)(2)  
5 of this title if the United States trustee or bankruptcy ad-  
6 ministrator orders that the counseling service not be in-  
7 cluded in the list.

8 “(5) The court may waive the requirement specified  
9 in paragraph (1) if—

10 “(A) no credit counseling services are available  
11 as designated under paragraphs (2) and (3);

12 “(B) the providers of credit counseling services  
13 available in the district are unable or unwilling to  
14 provide such services to the debtor in a timely man-  
15 ner; or

16 “(C) foreclosure, garnishment, attachment,  
17 eviction, levy of execution, or similar claim enforce-  
18 ment procedure that would have deprived the indi-  
19 vidual of property had commenced before the debtor  
20 could complete a good-faith attempt to create such  
21 a repayment plan.

22 “(6) A debtor who is subject to the exemption under  
23 paragraph (5)(C) shall be required to make a good-faith  
24 attempt to create a debt repayment plan outside the judi-  
25 cial system in the manner prescribed in paragraph (1)

1 during the 30-day period beginning on the date of filing  
2 of the petition of that debtor.

3 “(7) A debtor shall be exempted from the bad faith  
4 presumption for repeat filing under section 362(c) of title  
5 11 if the case is dismissed due to the creation of a debt  
6 repayment plan.

7 “(8) Only the United States trustee may make a mo-  
8 tion for dismissal on the ground that the debtor did not  
9 comply with this subsection.”.

10 (b) DEBTOR’S DUTIES.—Section 521 of title 11,  
11 United States Code, as amended by sections 406 and 407,  
12 is amended by adding at the end the following:

13 “(g)(1) In addition to the requirements under sub-  
14 section (a), an individual debtor shall file with the court—

15 “(A) a certificate from the credit counseling  
16 services that provided the debtor services under sec-  
17 tion 109(i), or a verified statement by the debtor as  
18 to why such attempt was not required under section  
19 109(i) or other substantial evidence of a good-faith  
20 attempt to create a debt repayment plan outside the  
21 bankruptcy system in the manner prescribed in sec-  
22 tion 109(i); and

23 “(B) a copy of the debt repayment plan, if any,  
24 developed under section 109(i) through the credit  
25 counseling service referred to in paragraph (1).

1 “(2) Only the United States trustee may make a mo-  
2 tion for dismissal on the ground that the debtor did not  
3 comply with this subsection.”.

4 **SEC. 105. WHO MAY BE A DEBTOR UNDER CHAPTER 11.**

5 Section 109(d) of title 11, United States Code, is  
6 amended by inserting “, or a person described in sub-  
7 section (b)(4),” after “chapter 7”.

8 **Subtitle B—Adequate Protections**  
9 **for Consumers**

10 **SEC. 111. NOTICE OF ALTERNATIVES.**

11 (a) Section 342(b) of title 11, United States Code,  
12 is amended to read as follows:

13 “(b)(1) Before the commencement of a case under  
14 this title by an individual whose debts are primarily con-  
15 sumer debts, the individual shall be given or obtain (as  
16 required to be certified under section 521(a)(1)(B)(viii))  
17 a written notice that is prescribed by the United States  
18 trustee for the district in which the petition is filed pursu-  
19 ant to section 586 of title 28 and that contains the follow-  
20 ing:

21 “(A) A brief description of chapters 7, 11, 12,  
22 and 13 of this title and the general purpose, bene-  
23 fits, and costs of proceeding under each of such  
24 chapters.

1           “(B) A brief description of services that may be  
2           available to the individual from an independent non-  
3           profit debt counselling service.

4           “(C) The name, address, and telephone number  
5           of each nonprofit debt counselling service (if any)—

6                   “(i)(I) with an office located in the district  
7                   in which the petition is filed; or

8                   “(II) that offers toll-free telephone commu-  
9                   nication to debtors in such district; and

10                   “(ii) that offers its services to debtors  
11                   without charge, or at an appropriately reduced  
12                   charge if payment of any regular charge would  
13                   impose a hardship on the debtor or a dependent  
14                   of the debtor.

15           “(2) Any such nonprofit debt counselling service that  
16 registers with the clerk of the bankruptcy court on or be-  
17 fore December 10 of the preceding year shall be included  
18 in such list unless the chief bankruptcy judge of the dis-  
19 trict or on the motion of the United States trustee and,  
20 after notice to the debt counselling service and opportunity  
21 for a hearing, for good cause, orders that such debt coun-  
22 selling service shall not be so listed.

23           “(3) The clerk shall make such notice available to in-  
24 dividuals whose debts are primarily consumer debts.”.

1 (b) Section 586(a) of title 28, United States Code,  
2 is amended—

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

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

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

8 “(7) on or before January 1 of each calendar  
9 year, and also within 30 days of any change in the  
10 nonprofit debt counselling services registered with  
11 the bankruptcy court, prescribe and make available  
12 on request the notice described in section 342(b)(1)  
13 of title 11 for each district included in the region.”.

14 **SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING**  
15 **TEST PROGRAM.**

16 (a) DEVELOPMENT OF FINANCIAL MANAGEMENT  
17 AND TRAINING CURRICULUM AND MATERIALS.—The Di-  
18 rector of the Executive Office for United States Trustees  
19 (in this section referred to as the “Director”) shall consult  
20 with a wide range of individuals who are experts in the  
21 field of debtor education, including trustees who are ap-  
22 pointed under chapter 13 of title 11 of the United States  
23 Code and who operate financial management education  
24 programs for debtors, and shall develop a financial man-  
25 agement training curriculum and materials that can be

1 used to educate individual debtors on how to better man-  
2 age their finances.

3 (b) TEST—(1) The Director shall select 3 judicial dis-  
4 tricts of the United States in which to test the effective-  
5 ness of the financial management training curriculum and  
6 materials developed under subsection (a).

7 (2) For a 1-year period beginning not later than 180  
8 days after the date of the enactment of this Act, such cur-  
9 riculum and materials shall be made available by the Di-  
10 rector, directly or indirectly, on request to individual debt-  
11 ors in cases filed in such 1-year period under chapter 7  
12 or 13 of title 11 of the United States Code.

13 (3) The bankruptcy courts in each of such districts  
14 may require individual debtors in such cases to undergo  
15 such financial management training as a condition to re-  
16 ceiving a discharge in such case.

17 (c) EVALUATION.—(1) During the 1-year period re-  
18 ferred to in subsection (b), the Director shall evaluate the  
19 effectiveness of—

20 (A) the financial management training curricu-  
21 lum and materials developed under subsection (a);  
22 and

23 (B) a sample of existing consumer education  
24 programs such as those described in the Report of  
25 the National Bankruptcy Review Commission (Octo-

1 ber 20, 1997) that are representative of consumer  
2 education programs carried out by the credit indus-  
3 try, by trustees serving under chapter 13 of title 11  
4 of the United States Code, and by consumer coun-  
5 selling groups.

6 (2) Not later than 3 months after concluding such  
7 evaluation, the Director shall submit a report to the  
8 Speaker of the House of Representatives and the Presi-  
9 dent pro tempore of the Senate, for referral to the appro-  
10 priate committees of the Congress, containing the findings  
11 of the Director regarding the effectiveness of such curricu-  
12 lum, such materials, and such programs.

13 **SEC. 113. DEFINITIONS.**

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

16 (1) by inserting after paragraph (3) the follow-  
17 ing:

18 “(3A) ‘assisted person’ means any person whose  
19 debts consist primarily of consumer debts and whose  
20 non-exempt assets are less than \$150,000;”;

21 (2) by inserting after paragraph (4) the follow-  
22 ing:

23 “(4A) ‘bankruptcy assistance’ means any goods  
24 or services sold or otherwise provided to an assisted  
25 person with the express or implied purpose of pro-

1       viding information, advice, counsel, document prepa-  
2       ration or filing, or attendance at a creditors' meeting  
3       or appearing in a proceeding on behalf of another or  
4       providing legal representation with respect to a pro-  
5       ceeding under this title;” and

6               (3) by inserting after paragraph (12A) the fol-  
7       lowing:

8               “(12B) ‘debt relief counselling agency’ means  
9       any person who provides any bankruptcy assistance  
10      to an assisted person in return for the payment of  
11      money or other valuable consideration, or who is a  
12      bankruptcy petition preparer pursuant to section  
13      110 of this title, but does not include any person  
14      that is any of the following or an officer, director,  
15      employee or agent thereof—

16              “(A) any nonprofit organization which is  
17              exempt from taxation under section 501(c)(3)  
18              of the Internal Revenue Code of 1986;

19              “(B) any creditor of the person to the ex-  
20              tent the creditor is assisting the person to re-  
21              structure any debt owed by the person to the  
22              creditor; or

23              “(C) any depository institution (as defined  
24              in section 3 of the Federal Deposit Insurance  
25              Act) or any Federal credit union or State credit

1 union (as those terms are defined in section  
2 101 of the Federal Credit Union Act), or any  
3 affiliate or subsidiary of such a depository insti-  
4 tution or credit union;”.

5 (b) CONFORMING AMENDMENT.—In section  
6 104(b)(1) by inserting “101(3),” after “sections”.

7 **SEC. 114. DISCLOSURES.**

8 (a) DISCLOSURES.—Subchapter II of chapter 5 of  
9 title 11, United States Code, is amended by adding at the  
10 end the following:

11 **“§ 526. Disclosures**

12 “(a) A debt relief counselling agency providing bank-  
13 ruptcy assistance to an assisted person shall provide the  
14 following notices to the assisted person:

15 “(1) the written notice required under section  
16 342(b)(1) of this title; and

17 “(2) to the extent not covered in the written no-  
18 tice described in paragraph (1) of this section and  
19 no later than three business days after the first date  
20 on which a debt relief counselling agency first offers  
21 to provide any bankruptcy assistance services to an  
22 assisted person, a clear and conspicuous written no-  
23 tice advising assisted persons of the following—

24 “(A) all information the assisted person is  
25 required to provide with a petition and there-

1 after during a case under this title must be  
2 complete, accurate and truthful;

3 “(B) all assets and all liabilities must be  
4 completely and accurately disclosed in the docu-  
5 ments filed to commence the case, and the re-  
6 placement value of each asset as defined in sec-  
7 tion 506 of this title must be stated in those  
8 documents where requested after reasonable in-  
9 quiry to establish such value;

10 “(C) current monthly total income, pro-  
11 jected monthly net income and, in a chapter 13  
12 case, monthly net income must be stated after  
13 reasonable inquiry; and

14 “(D) that information an assisted person  
15 provides during their case may be audited pur-  
16 suant to this title and that failure to provide  
17 such information may result in dismissal of the  
18 proceeding under this title or other sanction in-  
19 cluding, in some instances, criminal sanctions.

20 “(b) A debt relief counselling agency providing bank-  
21 ruptcy assistance to an assisted person shall provide each  
22 assisted person at the same time as the notices required  
23 under subsection (a)(1) with the following statement, to  
24 the extent applicable, or one substantially similar. The  
25 statement shall be clear and conspicuous and shall be in

1 a single document separate from other documents or no-  
2 tices provided to the assisted person:

3 “‘IMPORTANT INFORMATION ABOUT BANK-  
4 RUPTCY ASSISTANCE SERVICES FROM AN AT-  
5 TORNEY OR BANKRUPTCY PETITION PREPARER

6 “‘If you decide to seek bankruptcy relief, you can  
7 represent yourself, you can hire an attorney to represent  
8 you, or you can get help in some localities from a bank-  
9 ruptcy petition preparer who is not an attorney. THE  
10 LAW REQUIRES AN ATTORNEY OR BANKRUPTCY  
11 PETITION PREPARER TO GIVE YOU A WRITTEN  
12 CONTRACT SPECIFYING WHAT THE ATTORNEY  
13 OR BANKRUPTCY PETITION PREPARER WILL DO  
14 FOR YOU AND HOW MUCH IT WILL COST. Ask to  
15 see the contract before you hire anyone.

16 “‘The following information helps you understand  
17 what must be done in a routine bankruptcy case to help  
18 you evaluate how much service you need. Although bank-  
19 ruptcy can be complex, many cases are routine.

20 “‘Before filing a bankruptcy case, either you or your  
21 attorney should analyze your eligibility for different forms  
22 of debt relief made available by the Bankruptcy Code and  
23 which form of relief is most likely to be beneficial for you.  
24 Be sure you understand the relief you can obtain and its  
25 limitations. To file a bankruptcy case, documents called

1 a Petition, Schedules and Statement of Financial Affairs,  
2 as well as in some cases a Statement of Intention need  
3 to be prepared correctly and filed with the bankruptcy  
4 court. You will have to pay a filing fee to the bankruptcy  
5 court. Once your case starts, you will have to attend the  
6 required first meeting of creditors where you may be ques-  
7 tioned by a court official called a “trustee” and by credi-  
8 tors.

9 “If you choose to file a chapter 7 case, you may be  
10 asked by a creditor to reaffirm a debt. You may want help  
11 deciding whether to do so.

12 “If you choose to file a chapter 13 case in which  
13 you repay your creditors what you can afford over three  
14 to seven years, you may also want help with preparing  
15 your chapter 13 plan and with the confirmation hearing  
16 on your plan which will be before a bankruptcy judge.

17 “If you select another type of relief under the Bank-  
18 ruptcy Code other than chapter 7 or chapter 13, you will  
19 want to find out what needs to be done from someone fa-  
20 miliar with that type of relief.

21 “Your bankruptcy case may also involve litigation.  
22 You are generally permitted to represent yourself in litiga-  
23 tion in bankruptcy court, but only attorneys, not bank-  
24 ruptcy petition preparers, can give you legal advice.’.

1       “(c) Except to the extent the debt relief counselling  
2 agency provides the required information itself after rea-  
3 sonably diligent inquiry of the assisted person or others  
4 so as to obtain such information reasonably accurately for  
5 inclusion on the petition, schedules or statement of finan-  
6 cial affairs, a debt relief counselling agency providing  
7 bankruptcy assistance to an assisted person, to the extent  
8 permitted by nonbankruptcy law, shall provide each as-  
9 sisted person at the time required for the notice required  
10 under subsection (a)(1) reasonably sufficient information  
11 (which may be provided orally or in a clear and conspicu-  
12 ous writing) to the assisted person on how to provide all  
13 the information the assisted person is required to provide  
14 under this title pursuant to section 521, including—

15               “(1) how to value assets at replacement value,  
16       determine current monthly total income, projected  
17       monthly income and, in a chapter 13 case, net  
18       monthly income, and related calculations;

19               “(2) how to complete the list of creditors, in-  
20       cluding how to determine what amount is owed and  
21       what address for the creditor should be shown; and

22               “(3) how to determine what property is exempt  
23       and how to value exempt property at replacement  
24       value as defined in section 506 of this title.

1 “(d) A debt relief counselling agency shall maintain  
2 a copy of the notices required under subsection (a) of this  
3 section for two years after the later of the date on which  
4 the notice is given the assisted person.”.

5 (b) CONFORMING AMENDMENT.—The table of sec-  
6 tion for chapter 5 of title 11, United States Code, is  
7 amended by inserting after the item relating to section  
8 525 the following:

“526. Disclosures.”.

9 **SEC. 115. DEBTOR’S BILL OF RIGHTS.**

10 (a) DEBTOR’S BILL OF RIGHTS.—Subchapter II of  
11 chapter 5 of title 11, United States Code, as amended by  
12 section 114, is amended by adding at the end the follow-  
13 ing:

14 **“§ 527. Debtor’s bill of rights**

15 “(a) A debt relief counselling agency shall—

16 “(1) no later than three business days after the  
17 first date on which a debt relief counselling agency  
18 provides any bankruptcy assistance services to an  
19 assisted person, execute a written contract with the  
20 assisted person specifying clearly and conspicuously  
21 the services the agency will provide the assisted per-  
22 son and the basis on which fees or charges will be  
23 made for such services and the terms of payment,  
24 and give the assisted person a copy of the fully exe-

1 cuted and completed contract in a form the person  
2 can keep;

3 “(2) disclose in any advertisement of bank-  
4 ruptcy assistance services or of the benefits of bank-  
5 ruptcy directed to the general public (whether in  
6 general media, seminars or specific mailings, tele-  
7 phonic or electronic messages or otherwise) that the  
8 services or benefits are with respect to proceedings  
9 under this title, clearly and conspicuously using the  
10 following statement: ‘We are a debt relief counselling  
11 agency. We help people file Bankruptcy petitions to  
12 obtain relief under the Bankruptcy Code.’ or a sub-  
13 stantially similar statement. An advertisement shall  
14 be of bankruptcy assistance services if it describes or  
15 offers bankruptcy assistance with a chapter 13 plan,  
16 regardless of whether chapter 13 is specifically men-  
17 tioned, including such statements as ‘federally super-  
18 vised repayment plan’ or ‘Federal debt restructuring  
19 help’ or other similar statements which would lead  
20 a reasonable consumer to believe that help with  
21 debts was being offered when in fact in most cases  
22 the help available is bankruptcy assistance with a  
23 chapter 13 plan; and

24 “(3) if an advertisement directed to the general  
25 public indicates that the debt relief counselling agen-

1       cy provides assistance with respect to credit defaults,  
2       mortgage foreclosures, lease eviction proceedings, ex-  
3       cessive debt, debt collection pressure, or inability to  
4       pay any consumer debt, disclose conspicuously in  
5       that advertisement that the assistance is with re-  
6       spect to or may involve proceedings under this title,  
7       using the following statement: “We are a debt relief  
8       counselling agency. We help people file Bankruptcy  
9       petitions to obtain relief under the Bankruptcy  
10      Code.” or a substantially similar statement.

11      “(b) A debt relief counselling agency shall not—

12              “(1) fail to perform any service which the debt  
13              relief counseling agency has told the assisted person  
14              or prospective assisted person the agency would pro-  
15              vide that person in connection with the preparation  
16              for or activities during a proceeding under this title;

17              “(2) make any statement, or counsel or advise  
18              any assisted person to make any statement in any  
19              document filed in a proceeding under this title,  
20              which is untrue and misleading or which upon the  
21              exercise of reasonable care, should be known by the  
22              debt relief counselling agency to be untrue or mis-  
23              leading;

24              “(3) misrepresent to any assisted person or pro-  
25              spective assisted person, directly or indirectly, af-

1       firmatively or by material omission, what services  
 2       the debt relief counselling agency can reasonably ex-  
 3       pect to provide that person, or the benefits an as-  
 4       sisted person may obtain or the difficulties the per-  
 5       son may experience if the person seeks relief in a  
 6       proceeding pursuant to this title; or

7               “(4) advise an assisted person or prospective  
 8       assisted person to incur more debt in contemplation  
 9       of that person filing a proceeding under this title or  
 10       in order to pay an attorney or bankruptcy petition  
 11       preparer fee or charge for services performed as part  
 12       of preparing for or representing a debtor in a pro-  
 13       ceeding under this title.”.

14       (b) CONFORMING AMENDMENT.—The table of sec-  
 15       tion for chapter 5 of title 11, United States Code, as  
 16       amended by section 114, is amended by inserting after the  
 17       item relating to section 526, the following:

“527. Debtor’s bill of rights.”.

18       **SEC. 116. ENFORCEMENT.**

19       (a) ENFORCEMENT.—Subchapter II of chapter 5 of  
 20       title 11, United States Code, as amended by sections 114  
 21       and 115, is amended by adding at the end the following:

22       **“§ 528. Debt relief counselling agency enforcement**

23       “(a) ASSISTED PERSON WAIVERS INVALID.—Any  
 24       waiver by any assisted person of any protection or right  
 25       provided by or under section 526 or 527 of this title shall

1 be void and may not be enforced by any Federal or State  
2 court or any other person.

3 “(b) NONCOMPLIANCE.—

4 “(1) Any contract between a debt relief counsel-  
5 ling agency and an assisted person for bankruptcy  
6 assistance which does not comply with the require-  
7 ments of section 526 or 527 of this title shall be  
8 treated as void and may not be enforced by any Fed-  
9 eral or State court or by any other person.

10 “(2) Any debt relief counselling agency which  
11 has been found, after notice and hearing, to have—

12 “(A) failed to comply with any provision of  
13 section 526 or 527 with respect to a bankruptcy  
14 case or related proceeding of an assisted per-  
15 son;

16 “(B) provided bankruptcy assistance to an  
17 assisted person in a case or related proceeding  
18 which is dismissed or converted in lieu of dis-  
19 missal under section 707 of this title or because  
20 of a failure to file bankruptcy papers, including  
21 papers specified in section 521 of this title; or

22 “(C) negligently or intentionally dis-  
23 regarded the requirements of this title or the  
24 Federal Rules of Bankruptcy Procedure appli-  
25 cable to such debt relief counselling agency

1 shall be liable to the assisted person in the  
2 amount of any fees and charges in connection  
3 with providing bankruptcy assistance to such  
4 person which the debt relief counselling agency  
5 has already been paid on account of that pro-  
6 ceeding and if the case has not been closed, the  
7 court may in addition require the debt relief  
8 counselling agency to continue to provide bank-  
9 ruptcy assistance services in the pending case to  
10 the assisted person without further fee or  
11 charge or upon such other terms as the court  
12 may order.

13 “(3) In addition to such other remedies as are  
14 provided under State law, whenever the chief law en-  
15 forcement officer of a State, or an official or agency  
16 designated by a State, has reason to believe that any  
17 person has violated or is violating section 526 or 527  
18 of this title, the State—

19 “(A) may bring an action to enjoin such  
20 violation;

21 “(B) may bring an action on behalf of its  
22 residents to recover the actual damages of as-  
23 sisted persons arising from such violation, in-  
24 cluding any liability under paragraph (2); and

1           “(C) in the case of any successful action  
2           under subparagraph (A) or (B), shall be award-  
3           ed the costs of the action and reasonable attor-  
4           ney fees as determined by the court.

5           “(4) The United States District Court for any  
6           district located in the State shall have concurrent ju-  
7           risdiction of any action under subparagraph (A) or  
8           (B) of paragraph (3).

9           “(5) Notwithstanding any other provision of  
10          Federal law, if the court, on its own motion or on  
11          the motion of the United States trustee, finds that  
12          a person intentionally violated section 526 or 527 of  
13          this title, or engaged in a clear and consistent pat-  
14          tern or practice of violating section 526 or 527 of  
15          this title, the court may—

16                 “(A) enjoin the violation of such section; or

17                 “(B) impose an appropriate civil penalty  
18                 against such person.

19          “(c) RELATION TO STATE LAW.—This section and  
20          sections 526 and 527 shall not annul, alter, affect or ex-  
21          empt any person subject to those sections from complying  
22          with any law of any State except to the extent that such  
23          law is inconsistent with those sections, and then only to  
24          the extent of the inconsistency.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-  
 2 tion for chapter 5 of title 11, United States Code, as  
 3 amended by sections 114 and 115, is amended by inserting  
 4 after the item relating to section 527, the following:

“528. Debt relief counselling agency enforcement.”.

5 **SEC. 117. SENSE OF THE CONGRESS.**

6 It is the sense of the Congress that States should de-  
 7 velop curricula relating to the subject of personal finance,  
 8 designed for use in elementary and secondary schools.

9 **SEC. 118. CHARITABLE CONTRIBUTIONS.**

10 (a) DEFINITIONS.—Section 548(d) of title 11, United  
 11 States Code, is amended by adding at the end the follow-  
 12 ing:

13 “(3) In this section, the term ‘charitable contribution’  
 14 means a charitable contribution as defined in section  
 15 170(c) of the Internal Revenue Code of 1986, if such con-  
 16 tribution—

17 “(A) is made by a natural person; and

18 “(B) consists of—

19 “(i) a financial instrument (as defined in  
 20 section 731(c)(2)(C) of the Internal Revenue  
 21 Code of 1986); or

22 “(ii) cash.

23 “(4) In this section, the term ‘qualified religious or  
 24 charitable entity or organization’ means—

1           “(A) an entity described in section 170(c)(1) of  
2 the Internal Revenue Code of 1986; or

3           “(B) an entity or organization described in sec-  
4 tion 170(c)(2) of the Internal Revenue Code of  
5 1986.”.

6           (b) TREATMENT OF PREPETITION QUALIFIED CHAR-  
7 ITABLE CONTRIBUTIONS.—

8           (1) IN GENERAL.—Section 548(a) of title 11,  
9 United States Code, is amended—

10                   (A) by inserting “(1)” after “(a)”;

11                   (B) by striking “(1) made” and inserting  
12 “(A) made”;

13                   (C) by striking “(2)(A)” and inserting  
14 “(B)(i)”;

15                   (D) by striking “(B)(i)” and inserting  
16 “(ii)(I)”;

17                   (E) by striking “(ii) was” and inserting  
18 “(II) was”;

19                   (F) by striking “(iii)” and inserting  
20 “(III)”;

21                   (G) by adding at the end the following:

22           “(2) A transfer of a charitable contribution to a  
23 qualified religious or charitable entity or organization shall  
24 not be considered to be a transfer covered under para-  
25 graph (1)(B) in any case in which—

1           “(A) the amount of such contribution, together  
2           with any other such contribution, does not exceed 15  
3           percent of the gross annual income of the debtor for  
4           the year in which the transfer of the contribution is  
5           made; or

6           “(B) the contribution made by a debtor exceed-  
7           ed the percentage amount of gross annual income  
8           specified in subparagraph (A), if the transfer was  
9           consistent with the practices of the debtor in making  
10          charitable contributions.”.

11           (2) TRUSTEE AS LIEN CREDITOR AND AS SUC-  
12          CESSOR TO CERTAIN CREDITORS AND PUR-  
13          CHASERS.—Section 544(b) of title 11, United States  
14          Code, is amended—

15                   (A) by striking “(b) The trustee” and in-  
16                   serting “(b)(1) Except as provided in paragraph  
17                   (2), the trustee”; and

18                   (B) by adding at the end the following:

19          “(2) Paragraph (1) shall not apply to a transfer of  
20          a charitable contribution (as defined in section 548(d)(3)  
21          of this title) that is not covered under section  
22          548(a)(1)(B) of this title by reason of section 548(a)(2)  
23          of this title. Any claim by any person to recover a trans-  
24          ferred contribution described in the preceding sentence

1 under Federal or State law in a Federal or State court  
2 shall be preempted by the commencement of the case.”.

3 (3) CONFORMING AMENDMENTS.—Section 546  
4 of title 11, United States Code, is amended—

5 (A) in subsection (e)—

6 (i) by striking “548(a)(2)” and insert-  
7 ing “548(a)(1)(B)”; and

8 (ii) by striking “548(a)(1)” and in-  
9 serting “548(a)(1)(A)”;

10 (B) in subsection (f)—

11 (i) by striking “548(a)(2)” and insert-  
12 ing “548(a)(1)(B)”; and

13 (ii) by striking “548(a)(1)” and in-  
14 serting “548(a)(1)(A)”;

15 (C) in the first subsection (g)—

16 (i) by striking “section 548(a)(1)”  
17 and inserting “section 548(a)(1)(A)”; and

18 (ii) by striking “548(a)(2)” and in-  
19 serting “548(a)(1)(B)”.

20 (c) TREATMENT OF POST-PETITION CHARITABLE  
21 CONTRIBUTIONS UNDER CHAPTER 7.—Section 707 of  
22 title 11, United States Code, is amended by adding at the  
23 end the following:

24 “(c) In making a determination whether to dismiss  
25 a case under this section, the court may not take into con-

1 sideration whether a debtor has made, or continues to  
2 make, charitable contributions (that meet the definition  
3 of ‘charitable contribution’ under section 548(d)(3)) to  
4 any qualified religious or charitable entity or organization  
5 (as defined in section 548(d)(4)).”.

6 (d) TREATMENT OF POST-PETITION CHARITABLE  
7 CONTRIBUTIONS UNDER CHAPTER 13.—Section 111 of  
8 title 11, United States Code, as added by section 102, is  
9 amended by adding at the end the following:

10 “(c) For purposes of subsection (a), charitable con-  
11 tributions (that meet the definition of ‘charitable contribu-  
12 tion’ under section 548(d)(3)) to any qualified religious  
13 or charitable entity or organization (defined in section  
14 548(d)(4)), but not to exceed 15 percent of the debtor’s  
15 gross income for the year in which such contributions are  
16 made, shall be considered to be additional expenses of the  
17 debtor required by extraordinary circumstances.”.

18 (e) RULE OF CONSTRUCTION.—Nothing in the  
19 amendments made by this section is intended to limit the  
20 applicability of the Religious Freedom Restoration Act of  
21 1993 (42 U.S.C. 2000bb et seq.).

22 **SEC. 119. REINFORCE THE FRESH START.**

23 (a) RESTORATION OF AN EFFECTIVE DISCHARGE.—  
24 Section 523(a)(17) of title 11, United States Code, is  
25 amended—

1           (1) by striking “by a court” and inserting “on  
2 a prisoner by any court”,

3           (2) by striking “section 1915(b) or (f)” and in-  
4 sserting “subsection (b) or (f)(2) of section 1915”,  
5 and

6           (3) by inserting “(or a similar non-Federal  
7 law)” after “title 28” each place it appears.

8           (b) PROTECTION OF RETIREMENT FUNDS IN BANK-  
9 RUPTCY.—Section 522 of title 11, United States Code, is  
10 amended—

11           (1) in subsection (b)(2)—

12                 (A) in subparagraph (A) by striking “and”  
13 at the end;

14                 (B) in subparagraph (B) by striking the  
15 period at the end and inserting “; and”; and

16                 (C) by adding at the end the following:

17                     “(C) retirement funds to the extent exempt  
18 from taxation under section 401, 403, 408, 414,  
19 457, or 501(a) of the Internal Revenue Code of  
20 1986.”; and

21           (2) in subsection (d) by adding at the end the  
22 following:

23                     “(12) Retirement funds to the extent exempt  
24 from taxation under 401, 403, 408, 414, 457, or  
25 501(a) of the Internal Revenue Code of 1986.”.

1           (c) EFFECTIVE PROTECTION FOR UTILITY SERVICE  
2 IN THE WAKE OF DEREGULATION.—Section 366 of title  
3 11, United States Code, is amended by adding at the end  
4 the following:

5           “(c) For the purposes of this section, the term ‘util-  
6 ity’ includes any provider of gas, electric, telephone, tele-  
7 communication, cable television, satellite communication,  
8 water, or sewer service, whether or not such service is a  
9 regulated monopoly.”.

10 **SEC. 119A. CHAPTER 11 DISCHARGE OF DEBTS ARISING**  
11 **FROM TOBACCO-RELATED DEBTS.**

12           Section 1141(d) of title 11, United States Code, is  
13 amended by adding at the end the following:

14           “(5) The confirmation of a plan does not discharge  
15 a debtor that is a corporation from any debt arising from  
16 a judicial, administrative, or other action or proceeding  
17 that is—

18                   “(A) related to the consumption or consumer  
19 purchase of a tobacco product; and

20                   “(B) based in whole or in part on false pre-  
21 tensions, a false representation, or actual fraud.”.

1     **Subtitle C—Adequate Protections**  
2                     **for Secured Creditors**

3     **SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.**

4             Section 362(c) of title 11, United States Code, is  
5 amended—

6                     (1) in paragraph (1) by striking “and” at the  
7 end;

8                     (2) in paragraph (2) by striking the period at  
9 the end and inserting a semicolon; and

10                    (3) by adding at the end the following new  
11 paragraphs:

12                    “(3) If a single or joint case is filed by or  
13 against an individual debtor under chapter 7, 11, or  
14 13, and if a single or joint case of that debtor was  
15 pending within the previous 1-year period but was  
16 dismissed, other than a case refiled under a chapter  
17 other than chapter 7 after dismissal under section  
18 707(b) of this title, the stay under subsection (a)  
19 with respect to any action taken with respect to a  
20 debt or property securing such debt or with respect  
21 to any lease will terminate with respect to the debtor  
22 on the 30th day after the filing of the later case.  
23 Upon motion by a party in interest for continuation  
24 of the automatic stay and upon notice and a hear-  
25 ing, the court may extend the stay in particular

1 cases as to any or all creditors (subject to such con-  
2 ditions or limitations as the court may then impose)  
3 after notice and a hearing completed before the expi-  
4 ration of the 30-day period only if the party in inter-  
5 est demonstrates that the filing of the later case is  
6 in good faith as to the creditors to be stayed. A case  
7 is presumptively filed not in good faith (but such  
8 presumption may be rebutted by clear and convinc-  
9 ing evidence to the contrary)—

10 “(A) as to all creditors if—

11 “(i) more than 1 previous case under  
12 any of chapters 7, 11, or 13 in which the  
13 individual was a debtor was pending within  
14 such 1-year period;

15 “(ii) a previous case under any of  
16 chapters 7, 11, or 13 in which the individ-  
17 ual was a debtor was dismissed within  
18 such 1-year period, after the debtor failed  
19 to file or amend the petition or other docu-  
20 ments as required by this title or the court  
21 without substantial excuse (but mere inad-  
22 vertence or negligence shall not be sub-  
23 stantial excuse unless the dismissal was  
24 caused by the negligence of the debtor’s at-  
25 torney), failed to provide adequate protec-

1           tion as ordered by the court, or failed to  
2           perform the terms of a plan confirmed by  
3           the court; or

4           “(iii) there has not been a substantial  
5           change in the financial or personal affairs  
6           of the debtor since the dismissal of the  
7           next most previous case under any of chap-  
8           ters 7, 11, or 13 of this title, or any other  
9           reason to conclude that the later case will  
10          be concluded, if a case under chapter 7 of  
11          this title, with a discharge, and if a chap-  
12          ter 11 or 13 case, a confirmed plan which  
13          will be fully performed;

14          “(B) as to any creditor that commenced an  
15          action under subsection (d) in a previous case  
16          in which the individual was a debtor if, as of  
17          the date of dismissal of that case, that action  
18          was still pending or had been resolved by termi-  
19          nating, conditioning, or limiting the stay as to  
20          actions of that creditor.

21          “(4) If a single or joint case is filed by or  
22          against an individual debtor under this title, and if  
23          2 or more single or joint cases of that debtor were  
24          pending within the previous year but were dismissed,  
25          other than a case refiled under section 707(b) of this

1 title, the stay under subsection (a) will not go into  
2 effect upon the filing of the later case. On request  
3 of a party in interest, the court shall promptly enter  
4 an order confirming that no stay is in effect. If a  
5 party in interest requests within 30 days of the fil-  
6 ing of the later case, the court may order the stay  
7 to take effect in the case as to any or all creditors  
8 (subject to such conditions or limitations as the  
9 court may impose), after notice and hearing, only if  
10 the party in interest demonstrates that the filing of  
11 the later case is in good faith as to the creditors to  
12 be stayed. A stay imposed pursuant to the preceding  
13 sentence will be effective on the date of entry of the  
14 order allowing the stay to go into effect. A case is  
15 presumptively not filed in good faith (but such pre-  
16 sumption may be rebutted by clear and convincing  
17 evidence to the contrary)—

18 “(A) as to all creditors if—

19 “(i) 2 or more previous cases under  
20 this title in which the individual was a  
21 debtor were pending within the 1-year pe-  
22 riod;

23 “(ii) a previous case under this title in  
24 which the individual was a debtor was dis-  
25 missed within the time period stated in

1           this paragraph after the debtor failed to  
2           file or amend the petition or other docu-  
3           ments as required by this title or the court  
4           without substantial excuse (but mere inad-  
5           vertence or negligence shall not be sub-  
6           stantial excuse unless the dismissal was  
7           caused by the negligence of the debtor’s at-  
8           torney), failed to pay adequate protection  
9           as ordered by the court, or failed to per-  
10          form the terms of a plan confirmed by the  
11          court; or

12                 “(iii) there has not been a substantial  
13                 change in the financial or personal affairs  
14                 of the debtor since the dismissal of the  
15                 next most previous case under this title, or  
16                 any other reason to conclude that the later  
17                 case will not be concluded, if a case under  
18                 chapter 7, with a discharge, and if a case  
19                 under chapter 11 or 13, with a confirmed  
20                 plan that will be fully performed; or

21                 “(B) as to any creditor that commenced an  
22                 action under subsection (d) in a previous case  
23                 in which the individual was a debtor if, as of  
24                 the date of dismissal of that case, that action  
25                 was still pending or had been resolved by termi-

1           nating, conditioning, or limiting the stay as to  
2           action of that creditor.

3           “(5)(A) If a request is made for relief from the  
4           stay under subsection (a) with respect to real or per-  
5           sonal property of any kind, and such request is  
6           granted in whole or in part, the court may order in  
7           addition that the relief so granted shall be in rem  
8           either for a definite period not less than 1 year or  
9           indefinitely. After the issuance of such an order, the  
10          stay under subsection (a) shall not apply to any  
11          property subject to such an in rem order in any case  
12          of the debtor under this title. If such an order so  
13          provides, such stay shall also not apply in any pend-  
14          ing or later-filed case of any entity under this title  
15          that claims or has an interest in the subject property  
16          other than those entities identified in the court’s  
17          order.

18          “(B) The court shall cause any order entered  
19          pursuant to this paragraph with respect to real  
20          property to be recorded in the applicable real prop-  
21          erty records, which recording shall constitute notice  
22          to all parties having or claiming an interest in such  
23          real property for purpose of this section.



1 as to which a creditor has an allowed claim for the  
2 purchase price secured in whole or in part by an in-  
3 terest in that personal property unless, in the case  
4 of an individual debtor, the debtor takes 1 of the fol-  
5 lowing actions within 30 days after the first meeting  
6 of creditors under section 341(a)—

7 “(A) enters into an agreement with the  
8 creditor pursuant to section 524(c) of this title  
9 with respect to the claim secured by such prop-  
10 erty; or

11 “(B) redeems such property from the secu-  
12 rity interest pursuant to section 722 of this  
13 title.

14 “If the debtor fails to so act within the 30-day pe-  
15 riod, the personal property affected shall no longer  
16 be property of the estate, and the creditor may take  
17 whatever action as to such property as is permitted  
18 by applicable nonbankruptcy law, unless the court  
19 determines on the motion of the trustee, and after  
20 notice and a hearing, that such property is of con-  
21 sequential value or benefit to the estate.”; and

22 (2) in section 722 by inserting “in full at the  
23 time of redemption” before the period at the end.

1 **SEC. 124. RELIEF FROM THE AUTOMATIC STAY WHEN THE**  
2 **DEBTOR DOES NOT COMPLETE INTENDED**  
3 **SURRENDER OF CONSUMER DEBT COLLAT-**  
4 **ERAL.**

5 Title 11, United States Code, is amended as fol-  
6 lows—

7 (1) in section 362—

8 (A) by striking “(e), and (f)” in subsection  
9 (c) and inserting in lieu thereof “(e), (f), and  
10 (h)”;

11 (B) by redesignating subsection (h) as sub-  
12 section (i) and by inserting after subsection (g)  
13 the following:

14 “(h) In an individual case pursuant to chapter 7, 11,  
15 or 13 the stay provided by subsection (a) is terminated  
16 with respect to property of the estate securing in whole  
17 or in part a claim, or subject to an unexpired lease, if  
18 the debtor fails within the applicable time set by section  
19 521(a)(2) of this title—

20 “(1) to file timely any statement of intention  
21 required under section 521(a)(2) of this title with  
22 respect to that property or to indicate therein that  
23 the debtor will either surrender the property or re-  
24 tain it and, if retaining it, either redeem the prop-  
25 erty pursuant to section 722 of this title, reaffirm  
26 the debt it secures pursuant to section 524(c) of this

1 title, or assume the unexpired lease pursuant to sec-  
2 tion 365(p) of this title if the trustee does not do  
3 so, as applicable; or

4 “(2) to take timely the action specified in that  
5 statement of intention, as it may be amended before  
6 expiration of the period for taking action, unless the  
7 statement of intention specifies reaffirmation and  
8 the creditor refuses to reaffirm on the original con-  
9 tract terms;

10 unless the court determines on the motion of the trustee,  
11 and after notice and a hearing, that such property is of  
12 consequential value or benefit to the estate.”;

13 (2) in section 521, as amended by sections 104,  
14 406, and 407—

15 (A) in paragraph (2) by striking “con-  
16 sumer”;

17 (B) in paragraph (2)(B)—

18 (i) by striking “forty-five days after  
19 the filing of a notice of intent under this  
20 section” and inserting “30 days after the  
21 first date set for the meeting of creditors  
22 under section 341(a)”;

23 (ii) by striking “forty-five day” the  
24 second place it appears and inserting “30-  
25 day”;

1 (C) in paragraph (2)(C) by inserting “ex-  
2 cept as provided in section 362(h)” before the  
3 semicolon; and

4 (D) by adding at the end the following:

5 “(h) If the debtor fails timely to take the action speci-  
6 fied in subsection (a)(6) of this section, or in paragraphs  
7 (1) and (2) of section 362(h) of this title, with respect  
8 to property which a lessor or bailor owns and has leased,  
9 rented, or bailed to the debtor or as to which a creditor  
10 holds a security interest not otherwise voidable under sec-  
11 tion 522(f), 544, 545, 547, 548, or 549, nothing in this  
12 title shall prevent or limit the operation of a provision in  
13 the underlying lease or agreement which has the effect of  
14 placing the debtor in default under such lease or agree-  
15 ment by reason of the occurrence, pendency, or existence  
16 of a proceeding under this title or the insolvency of the  
17 debtor. Nothing in this subsection shall be deemed to jus-  
18 tify limiting such a provision in any other circumstance.”.

19 **SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT**  
20 **IN CHAPTER 13.**

21 Section 1325(a)(5)(B)(i) of title 11, United States  
22 Code, is amended to read as follows:

23 “(i) the plan provides that the holder of  
24 such claim retain the lien securing such claim  
25 until the earlier of payment of the underlying

1 debt determined under nonbankruptcy law or  
2 discharge under section 1328, and that if the  
3 case under this chapter is dismissed or con-  
4 verted without completion of the plan, such lien  
5 shall also be retained by such holder to the ex-  
6 tent recognized by applicable nonbankruptcy  
7 law; and”.

8 **SEC. 126. PROMPT RELIEF FROM THE AUTOMATIC STAY IN**  
9 **INDIVIDUAL CASES.**

10 Section 362(e) of title 11, United States Code, is  
11 amended by inserting at the end the following:

12 “Notwithstanding the foregoing, in the case of an individ-  
13 ual filing under chapter 7, 11, or 13, the stay under sub-  
14 section (a) shall terminate 60 days after a request under  
15 subsection (d) of this section, unless—

16 “(1) a final decision is rendered by the court  
17 within such 60-day period; or

18 “(2) such 60-day period is extended either by  
19 agreement of all parties in interest or by the court  
20 for a specific time which the court finds is required  
21 by compelling circumstances as described in findings  
22 made by the court.”.

1 **SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**  
2 **TER 13.**

3 Section 348(f)(1) of title 11, United States Code, is  
4 amended—

5 (1) by striking in subparagraph (B) “in the  
6 converted case, with allowed secured claims” and in-  
7 serting in lieu thereof “only in a case converted to  
8 chapter 11 or 12 but not in one converted to chapter  
9 7, with allowed secured claims in cases under chap-  
10 ters 11 and 12”; and

11 (2) in subparagraph (A) by striking “and” at  
12 the end;

13 (3) in subparagraph (B) by striking the period  
14 and inserting “; and”; and

15 (4) by adding at the end the following:

16 “(C) with respect to a case converted from  
17 chapter 13, the claim of any creditor holding secu-  
18 rity as of the date of the petition shall continue to  
19 be secured by that security unless the full amount  
20 of that claim determined under applicable nonbank-  
21 ruptcy law has been paid in full as of the date of  
22 conversion, notwithstanding any valuation or deter-  
23 mination of the amount of an allowed secured claim  
24 made for the purposes of the case under chapter of  
25 this title. Unless a prebankruptcy default has been  
26 fully cured pursuant to the plan at the time of con-

1 version, in any proceeding under this title or other-  
2 wise, the default shall have the effect given under  
3 applicable nonbankruptcy law.”.

4 **SEC. 128. RESTRAINING ABUSIVE PURCHASES ON SECURED**  
5 **CREDIT.**

6 Section 506 of title 11, United States Code, is  
7 amended by adding at the end the following:

8 “(e) In an individual case under chapter 7, 11, 12,  
9 or 13—

10 “(1) subsection (a) shall not apply to an al-  
11 lowed claim to the extent attributable in whole or in  
12 part to the purchase price of personal property ac-  
13 quired by the debtor within 180 days of the filing of  
14 the petition, except for the purpose of applying para-  
15 graph (3) of this subsection;

16 “(2) if such allowed claim attributable to the  
17 purchase price is secured only by the personal prop-  
18 erty so acquired, the value of the personal property  
19 and the amount of the allowed secured claim shall  
20 be the sum of the unpaid principal balance of the  
21 purchase price and accrued and unpaid interest and  
22 charges at the contract rate;

23 “(3) if such allowed claim attributable to the  
24 purchase price is secured by the personal property so  
25 acquired and other property, the value of the secu-

1 rity may be determined under subsection (a), but the  
2 value of the security and the amount of the allowed  
3 secured claim shall be not less than the unpaid prin-  
4 cipal balance of the purchase price of the personal  
5 property acquired and unpaid interest and charges  
6 at the contract rate; and

7 “(4) in any subsequent case under this title  
8 that is filed by or against the debtor in the 2-year  
9 period beginning on the date the petition is filed in  
10 the original case, the value of the personal property  
11 and the amount of the allowed secured claim shall  
12 be deemed to be not less than the amount provided  
13 under paragraphs (2) and (3).”.

14 **SEC. 129. FAIR VALUATION OF COLLATERAL.**

15 Section 506(a) of title 11, United States Code, is  
16 amended by adding at the end the following:

17 “In the case of an individual debtor under chapters 7 and  
18 13, such value with respect to personal property securing  
19 an allowed claim shall be determined based on the replace-  
20 ment value of such property as of the date of filing the  
21 petition without deduction for costs of sale or marketing.  
22 With respect to property acquired for personal, family, or  
23 household purpose, replacement value shall mean the price  
24 a retail merchant would charge for property of that kind

1 considering the age and condition of the property at the  
2 time value is determined.”.

3 **SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED**

4 **BY DEBTOR’S PRINCIPAL RESIDENCE.**

5 Title 11, United States Code, is amended—

6 (1) in section 101 by inserting after paragraph  
7 (13) the following:

8 “(13A) ‘debtor’s principal residence’ means a  
9 residential structure including incidental property  
10 when the structure contains 1 to 4 units, whether or  
11 not that structure is attached to real property, and  
12 includes, without limitation, an individual condomin-  
13 ium or cooperative unit or mobile or manufactured  
14 home or trailer;

15 “(13B) ‘incidental property’ means property in-  
16 cidental to such residence including, without limita-  
17 tion, property commonly conveyed with a principal  
18 residence where the real estate is located, window  
19 treatments, carpets, appliances and equipment lo-  
20 cated in the residence, and easements, appur-  
21 tenances, fixtures, rents, royalties, mineral rights, oil  
22 and gas rights, escrow funds and insurance pro-  
23 ceeds;”;

24 (2) in section 362(b)—

1 (A) in paragraph (17) by striking “or” at  
2 the end thereof;

3 (B) in paragraph (18) by striking the pe-  
4 riod at the end and inserting “; or”; and

5 (C) by inserting after paragraph (18) the  
6 following:

7 “(19) under subsection (a), until a prepetition  
8 default is cured fully in a case under chapter 13 of  
9 this title by actual payment of all arrears as re-  
10 quired by the plan, of the postponement, continu-  
11 ation or other similar delay of a prepetition fore-  
12 closure proceeding or sale in accordance with appli-  
13 cable nonbankruptcy law, but nothing herein shall  
14 imply that such postponement, continuation or other  
15 similar delay is a violation of the stay under sub-  
16 section (a).”; and

17 (3) by amending section 1322(b)(2) to read as  
18 follows:

19 “(2) modify the rights of holders of secured  
20 claims, other than a claim secured primarily by a se-  
21 curity interest in property used as the debtor’s prin-  
22 cipal residence at any time during 180 days prior to  
23 the filing of the petition, or of holders of unsecured  
24 claims, or leave unaffected the rights of holders of  
25 any class of claims;”.

1 **SEC. 131. AIRCRAFT EQUIPMENT AND VESSELS.**

2 Section 1110(a)(1) of title 11, United States Code,  
3 is amended—

4 (1) in subparagraph (A) by striking “that be-  
5 come due on or after the date of the order”;

6 (2) in subparagraph (B)—

7 (A) in clause (i) by striking “and” at the  
8 end; and

9 (B) in clause (ii)—

10 (i) by inserting “and within such 60-  
11 day period” after “order”; and

12 (ii) in subclause (II) by striking the  
13 period at the end and inserting “; and”;  
14 and

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

16 “(iii) that occurs after the date of the  
17 order and such 60-day period is cured in ac-  
18 cordance with the terms of such security agree-  
19 ment, lease, or conditional sale contract.”.

20 **Subtitle D—Adequate Protections**  
21 **for Unsecured Creditors**

22 **SEC. 141. DEBTS INCURRED TO PAY NONDISCHARGEABLE**  
23 **DEBTS.**

24 (a) **PRIORITY OF CLAIMS FOR DEBTS INCURRED TO**  
25 **PAY NONDISCHARGEABLE DEBTS.**—Section 507(a) of

1 title 11, United States Code, is amended by adding at the  
2 end the following:

3           “(10) Tenth, remaining allowed unsecured  
4 claims for debts that are nondischargeable under  
5 section 523(a)(19), but which shall be payable under  
6 this paragraph in the higher order of priority (if  
7 any) as the respective claims paid by incurring such  
8 debts.”.

9           (b) NONDISCHARGEABILITY OF DEBTS INCURRED TO  
10 PAY NONDISCHARGEABLE DEBTS.—Section 523(a) of  
11 title 11, United States Code, is amended—

12           (1) in paragraph (17) by striking “or” at the  
13 end;

14           (2) in paragraph (18) by striking the period  
15 and inserting “; or”; and

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

17           “(19) incurred to pay a debt that is non-  
18 dischargeable by reason of any other provision of  
19 this subsection or section 727, 1141, 1228(a),  
20 1228(b), or 1328(b), except for any debt incurred to  
21 pay such a nondischargeable debt in any case in  
22 which—

23           “(A)(i) the debtor who paid the non-  
24 dischargeable debt is a single custodial parent

1           who has 1 or more dependent children at the  
2           time of the order for relief; or

3           “(ii) there is an allowed claim for alimony  
4           to, maintenance for, or support of a spouse,  
5           former spouse, or child of the debtor payable  
6           under a judicial or administrative order to such  
7           spouse or child (but not to any other person)  
8           which was unpaid as of the date of the petition;  
9           and

10           “(B) the creditor is unable to demonstrate  
11           that the debtor intentionally incurred the debt  
12           to pay the debt which is nondischargeable;”.

13 **SEC. 142. CREDIT EXTENSIONS ON THE EVE OF BANK-**  
14 **RUPTCY PRESUMED NONDISCHARGEABLE.**

15           Section 523(a)(2)(C) of title 11, United States Code,  
16 is amended to read as follows:

17           “(C) for purposes of subparagraph (A),  
18           consumer debts owed to a single creditor, ex-  
19           cluding debts incurred for necessities that do  
20           not exceed \$250 in the aggregate, incurred by  
21           an individual debtor on or within 90 days be-  
22           fore the order for relief under this title are pre-  
23           sumed to be nondischargeable.”.

1 **SEC. 143. FRAUDULENT DEBTS ARE NONDISCHARGEABLE**  
2 **IN CHAPTER 13 CASES.**

3 Section 1328(a)(2) of title 11, United States Code,  
4 is amended—

5 (1) by inserting “(2), (3)(B), (4),” after “para-  
6 graph”; and

7 (2) by inserting “(6),” after “(5),”.

8 **SEC. 144. APPLYING THE CODEBTOR STAY ONLY WHEN IT**  
9 **PROTECTS THE DEBTOR.**

10 Section 1301(b) of title 11, United States Code, is  
11 amended—

12 (1) by inserting “(1)” after “(b)”; and

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

14 “(2) When the debtor did not receive the consider-  
15 ation for the claim held by a creditor, the stay provided  
16 by subsection (a) does not apply to such creditor, notwith-  
17 standing subsection (c), to the extent the creditor proceeds  
18 against the individual which received such consideration  
19 or against property not in the possession of the debtor  
20 which secures such claim, but this subsection shall not  
21 apply if the debtor is primarily obligated to pay the credi-  
22 tor in whole or in part with respect to the claim under  
23 a legally binding separation agreement, divorce decree, or  
24 other order of a court of record, with respect to such indi-  
25 vidual or the person who has possession of such property.

1       “(3) When the debtor’s plan provides that the debt-  
2 or’s interest in personal property subject to a lease as to  
3 which the debtor is the lessee will be surrendered or aban-  
4 doned or no payments will be made under the plan on ac-  
5 count of the debtor’s obligations under the lease, the stay  
6 provided by subsection (a) shall terminate as of the date  
7 of confirmation of the plan notwithstanding subsection  
8 (c).”.

9 **SEC. 145. DEBTS FOR ALIMONY, MAINTENANCE, AND SUP-**  
10 **PORT.**

11       (a) **NONDISCHARGEABILITY.**—Title 11, United  
12 States Code, is amended—

13             (1) in section 523(a)(18)—

14                 (A) by inserting “(including interest)”  
15 after “law”; and

16                 (B) in subparagraph (A) by striking “and”  
17 at the end and inserting “or”; and

18             (2) in section 1328(a)(2) by striking “or (9)”  
19 and inserting “(9), or (18)”.

20       (b) **AUTOMATIC STAY.**—Section 362(b) of title 11,  
21 United States Code, as amended by section 130, is amend-  
22 ed—

23             (1) in paragraph (19) by striking “or” at the  
24 end;

1           (2) in paragraph (19) by striking the period at  
2           the end and inserting a semicolon; and

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

4           “(20) under subsection (a) with respect to the  
5           withholding of income pursuant to an order as speci-  
6           fied in section 466(b) of the Social Security Act; or

7           “(21) under subsection (a) with respect to the  
8           withholding, suspension, or restriction of drivers’ li-  
9           censes, professional and occupational licenses, and  
10          recreational licenses pursuant to State law as speci-  
11          fied in section 466(a)(15) of the Social Security Act  
12          or with respect to the reporting of overdue support  
13          owed by an absent parent to any consumer reporting  
14          agency as specified in section 466(a)(7) of the Social  
15          Security Act.”.

16          (c) CONTINUED LIABILITY OF PROPERTY.—Section  
17          522(c) of title 11, United States Code, is amended by  
18          striking “section 523(a)(1) or 523(a)(5)” and inserting  
19          “paragraph (1), (5), or (18) of section 523(a)”.

20          (d) PRIORITY OF CLAIMS.—Section 507(a) of title  
21          11, United States Code, as amended by section 141, is  
22          amended—

23                 (1) in the matter preceding paragraph (1) by  
24                 inserting before the colon the following:

1 “, except that, notwithstanding any other provision of this  
2 title, any expense or claim entitled to priority under para-  
3 graph (3) shall have first priority over any other expense  
4 or claim that has priority under any other provision of  
5 this subsection”;

6 (2) in paragraph (10) by striking “(10) Tenth”  
7 and inserting “(11) Eleventh”;

8 (3) in paragraph (9) by striking “(9) Ninth”  
9 and inserting “(10) Tenth”;

10 (4) in paragraph (8) by striking “(8) Eighth ”  
11 and inserting “(9) Ninth”; and

12 (5) by inserting after paragraph (7) the follow-  
13 ing:

14 “(8) Eighth, allowed unsecured claims for debts  
15 that are nondischargeable under section  
16 523(a)(18).”.

17 (e) CONTENTS OF PLANS.—Section 1322(b)(1) of  
18 title 11, United States Code, is amended by striking the  
19 semicolon at the end and inserting the following:

20 “and provide for the payment of any claim entitled  
21 to priority under section 507(a)(3) of this title be-  
22 fore the payment of any other claim entitled to pri-  
23 ority under section 507(a), notwithstanding the pri-  
24 orities established under section 507(a);”.

1 (f) CONFIRMATION OF PLANS.—Title 11 of the  
2 United States Code is amended—

3 (1) in section 1129(a) by adding at the end the  
4 following:

5 “(14) If the debtor is required by a judicial or  
6 administrative order to pay alimony to, maintenance  
7 for, or support of a spouse, former spouse, or child  
8 of the debtor, the debtor has paid all amounts pay-  
9 able under such order for alimony, maintenance, or  
10 support that are due after the date the petition is  
11 filed.”;

12 (2) in section 1225(a)—

13 (A) in paragraph (5) by striking “and” at  
14 the end;

15 (B) in paragraph (6) by striking the period  
16 at the end and inserting “; and”; and

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

18 “(7) the debtor is required by a judicial or ad-  
19 ministrative order to pay alimony to, maintenance  
20 for, or support of a spouse, former spouse, or child  
21 of the debtor, the debtor has paid all amounts pay-  
22 able under such order for alimony, maintenance, or  
23 support that are due after the date the petition is  
24 filed.”; and

25 (3) in section 1325(a)—

1 (A) in paragraph (5) by striking “and” at  
2 the end;

3 (B) in paragraph (6) by striking the period  
4 at the end and inserting “; and”; and

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

6 “(7) if the debtor is required by a judicial or  
7 administrative order to pay alimony to, maintenance  
8 for, or support of a spouse, former spouse, or child  
9 of the debtor, the debtor has paid all amounts pay-  
10 able under such order for alimony, maintenance, or  
11 support that are due after the date the petition is  
12 filed.”.

13 (g) DISCHARGE.—Title 11 United States Code is  
14 amended—

15 (1) in section 1228(a) by inserting “and only  
16 after a debtor who is required by a judicial or ad-  
17 ministrative order to pay alimony to, maintenance  
18 for, or support of a spouse, former spouse, or child  
19 of the debtor, certifies that all amounts payable  
20 under such order for alimony, maintenance, or sup-  
21 port that are due after the date the petition is filed  
22 have been paid,” after “this title,”; and

23 (2) in section 1328(a) by inserting “and only  
24 after a debtor who is required by a judicial or ad-  
25 ministrative order to pay alimony to, maintenance

1 for, or support of a spouse, former spouse, or child  
2 of the debtor, certifies that all amounts payable  
3 under such order for alimony, maintenance, or sup-  
4 port that are due after the date the petition is filed  
5 have been paid,” after “plan,” the 1st place it ap-  
6 pears.

7 (h) CONFORMING AMENDMENTS.—Section 456(b) of  
8 the Social Security Act (42 U.S.C. 656(b)) is amended—

9 (1) by inserting “, including interest,” after  
10 “Code)”;

11 (2) by striking “and” and inserting “or”; and

12 (3) by striking “released by a discharge” and  
13 inserting “dischargeable”.

14 **SEC. 146. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**  
15 **ALIMONY, MAINTENANCE, AND SUPPORT.**

16 Section 523(a)(5) of title 11, United States Code, is  
17 amended to read as follows:

18 “(5) to a spouse, former spouse, or child of the  
19 debtor for alimony to, maintenance for, or support  
20 of such spouse or child, or to a spouse, former  
21 spouse, or child of the debtor, to the extent such  
22 debt is the result of a property settlement agree-  
23 ment, a hold harmless agreement, or any other type  
24 of debt that is not in the nature of alimony, mainte-  
25 nance, or support in connection with or incurred by

1 the debtor in the course of a separation agreement,  
2 divorce decree, any modifications thereof, or other  
3 order of a court of record, determination made in  
4 accordance with State or territorial law by a govern-  
5 mental unit, but not to the extent that such debt is  
6 assigned to another entity, voluntarily, by operation  
7 of law, or otherwise (other than debts assigned pur-  
8 suant to section 408(a)(3) of the Social Security  
9 Act, or such debt that has been assigned to the Fed-  
10 eral government, or to a State or political subdivi-  
11 sion of such State, or the creditor's attorney);”.

12 **SEC. 147. OTHER EXCEPTIONS TO DISCHARGE.**

13 Section 523 of title 11, United States Code, is  
14 amended—

15 (1) by striking subsection (a)(15), as added by  
16 section 304(e)(1) of Public Law 103–394;

17 (2) in subsection (a)(7) by inserting “an order  
18 of disgorgement or restitution obtained by a govern-  
19 mental unit,” after “such debt is for”; and

20 (3) in subsection (c)(1) by striking “(6), or  
21 (15)” and inserting “or (6)”.

22 **SEC. 148. FEES ARISING FROM CERTAIN OWNERSHIP IN-**  
23 **TERESTS.**

24 (a) EXCEPTION TO DISCHARGE.—Section 523(a)(16)  
25 of title 11, United States Code, is amended—

1           (1) by striking “dwelling” the 1st place it ap-  
2           pears;

3           (2) by striking “ownership or” and inserting  
4           “ownership,”;

5           (3) by striking “housing” the 1st place it ap-  
6           pears; and

7           (4) by striking “but only” and all that follows  
8           through “such period,” and inserting “or a lot in a  
9           homeowners association, for as long as the debtor or  
10          the trustee has a legal, equitable, or possessory own-  
11          ership interest in such unit, such corporation, or  
12          such lot,”.

13          (b) EXECUTORY CONTRACTS.—Section 365 of title  
14          11, United States Code, as amended by section 161, is  
15          amended by adding at the end the following:

16          “(q) A debt of a kind described in section 523(a)(16)  
17          of this title shall not be considered to be a debt arising  
18          from an executory contract.”

19          **SEC. 149. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

20          (a) AMENDMENT.—Title 11 of the United States  
21          Code, as amended by section 116, is amended by inserting  
22          after section 528 the following:

1 **“§ 529. Protection of child support and alimony pay-**  
2 **ments after discharge**

3 “Notwithstanding the provisions of the constitution  
4 or law of any State providing a different priority, any  
5 debts of the individual who has received a discharge under  
6 this title to a spouse, former spouse, or child for alimony  
7 to, maintenance for, or support of such spouse or child,  
8 in connection with a separation agreement, divorce decree,  
9 or other order of a court of record, determination made  
10 in accordance with State or territorial law by a govern-  
11 mental unit, or property settlement agreement, but not to  
12 the extent that such debt—

13 “(1) is assigned to another entity, voluntarily,  
14 by operation of law, or otherwise; or

15 “(2) includes a liability designated as alimony,  
16 maintenance, or support, unless such liability is ac-  
17 tually in the nature of alimony, maintenance, or sup-  
18 port,

19 shall have priority in payment and collection over a credi-  
20 tor’s claim which is not discharged in the individual’s case  
21 pursuant to paragraph (2), (4), or (19) of section 523(a)  
22 of this title, but such priority shall not affect the priority  
23 of any consensual lien, mortgage, or security interest se-  
24 curing such creditor’s claim except with respect to any  
25 property of the debtor acquired after the date of the filing  
26 of the petition. A creditor that receives a payment, or col-

1 lects money or property, in satisfaction of all or part of  
2 any debt excepted from discharge under paragraph (2),  
3 (4), or (14) of section 523(a) of this title shall not later  
4 than 20 days after receiving such payment or collecting  
5 such money or property, distribute such payment, such  
6 money, or such property ratably to individuals who then  
7 hold debts entitled to priority under section 507(a)(3) of  
8 this title. Not later than 2 years after receiving such pay-  
9 ment or collecting such money or property, such creditor  
10 shall make the distribution required by this section to all  
11 individuals whose identity is known to such creditor at the  
12 time of distribution.”.

13 (b) CONFORMING AMENDMENT.—The table of sec-  
14 tions of chapter 5 of title 11, United States Code, as  
15 amended by section 116, is amended by inserting after the  
16 item relating to section 528 the following:

“529. Protection of child support and alimony payments after discharge.”.

17 **SEC. 150. ADEQUATE PROTECTION FOR INVESTORS.**

18 (a) DEFINITION.—Section 101 of title 11, United  
19 States Code, is amended by inserting after paragraph (48)  
20 the following:

21 “(48A) ‘securities self regulatory organization’  
22 means either a securities association registered with  
23 the Securities and Exchange Commission pursuant  
24 to section 15A of the Securities Exchange Act of  
25 1934 or a national securities exchange registered

1 with the Securities and Exchange Commission pur-  
2 suant to section 6 of the Securities Exchange Act of  
3 1934;”.

4 (b) AUTOMATIC STAY.—Section 362(b) of title 11,  
5 United States Code, as amended by sections 130 and 146,  
6 is amended—

7 (1) in paragraph (20) by striking “or” at the  
8 end;

9 (2) in paragraph (21) by striking the period at  
10 the end and inserting “; or”; and

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

12 “(22) under subsection (a) of this section, of  
13 the commencement or continuation of an investiga-  
14 tion or action by a securities self regulatory organi-  
15 zation to enforce such organization’s regulatory  
16 power; of the enforcement of an order or decision,  
17 other than for monetary sanctions, obtained in an  
18 action by the securities self regulatory organization  
19 to enforce such organization’s regulatory power; or  
20 of any act taken by the securities self regulatory or-  
21 ganization to delist, delete, or refuse to permit  
22 quotation of any stock that does not meet applicable  
23 regulatory requirements.”.

1 **SEC. 151. HIGHER PRIORITY FOR DEBTS FOR ALIMONY,**  
2 **MAINTENANCE, AND SUPPORT.**

3 Section 507(a) of title 11, United States Code, is  
4 amended—

5 (1) by striking paragraph (7);

6 (2) in paragraph (6) by striking “(6) Sixth”  
7 and inserting “(7) Seventh”;

8 (3) in paragraph (5) by striking “(5) Fifth”  
9 and inserting “(6) Sixth”;

10 (4) in paragraph (4) by striking “(4) Fourth”  
11 and inserting “(5) Fifth”;

12 (5) in paragraph (3) by striking “(3) Third”  
13 and inserting “(4) Fourth”; and

14 (6) by inserting after paragraph (2) the follow-  
15 ing:

16 “(3) Third, allowed claims for debts to a  
17 spouse, former spouse, or child of the debtor for ali-  
18 mony to, maintenance for, or support of such spouse  
19 or child, in connection with a separation agreement,  
20 divorce decree or other order of a court of record,  
21 determination made in accordance with State or ter-  
22 ritorial law by a governmental unit, or property set-  
23 tlement agreement, but not to the extent that such  
24 debt—

25 “(A) is assigned to another entity, volun-  
26 tarily, by operation of law, or otherwise; or

1           “(B) includes a liability designed as ali-  
2           mony, maintenance, or support, unless such li-  
3           ability is actually in the nature of alimony,  
4           maintenance, or support.”.

5           **Subtitle E—Adequate Protections**  
6           **for Lessors**

7           **SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED**  
8           **PERSONAL PROPERTY BY ASSUMPTION.**

9           Section 365 of title 11, United States Code, is  
10          amended by adding at the end the following:

11          “(p)(1) If a lease of personal property is rejected or  
12          not timely assumed by the trustee under subsection (d),  
13          the leased property is no longer property of the estate and  
14          the stay under section 362(a) of this title is automatically  
15          terminated.

16          “(2) In the case of an individual under chapter 7,  
17          the debtor may notify the creditor in writing that the debt-  
18          or desires to assume the lease. Upon being so notified,  
19          the creditor may, at its option, notify the debtor that it  
20          is willing to have the lease assumed by the debtor and  
21          may condition such assumption on cure of any outstanding  
22          default on terms set by the lessor. If within 30 days of  
23          such notice the debtor notifies the lessor in writing that  
24          the lease is assumed, the liability under the lease will be  
25          assumed by the debtor and not by the estate. The stay

1 under section 362 of this title and the injunction under  
2 section 524(a)(2) of this title shall not be violated by noti-  
3 fication of the debtor and negotiation of cure under this  
4 subsection.

5 “(3) In a case under chapter 11 of this title in which  
6 the debtor is an individual and in a case under chapter  
7 13 of this title, if the debtor is the lessee with respect  
8 to personal property and the lease is not assumed in the  
9 plan confirmed by the court, the lease is deemed rejected  
10 as of the conclusion of the hearing on confirmation. If the  
11 lease is rejected, the stay under section 362 of this title  
12 and any stay under section 1301 is automatically termi-  
13 nated with respect to the property subject to the lease.”.

14 **SEC. 162. ADEQUATE PROTECTION OF LESSORS AND PUR-**  
15 **CHASE MONEY SECURED CREDITORS.**

16 Title 11, United States Code, is amended by adding  
17 after section 1307 the following:

18 **“§ 1307A. Adequate protection in chapter 13 cases**

19 “(a)(1) On or before 30 days after the filing of a case  
20 under this chapter, the debtor shall make cash payments  
21 in the amount described below to any lessor of personal  
22 property and to any creditor holding a claim secured by  
23 personal property to the extent such claim is attributable  
24 to the purchase of such property by the debtor. The debtor

1 or the plan shall continue such payments until the earlier  
2 of—

3           “(A) the time at which the creditor begins to  
4 receive actual payments under the plan; or

5           “(B) the debtor relinquishes possession of such  
6 property to the lessor or creditor, or to any third  
7 party acting under claim of right, as applicable.

8           “(2) Such cash payments shall be in the amount of  
9 any weekly, biweekly, monthly or other periodic payment  
10 scheduled as payable under the contract between the debt-  
11 or and creditor; shall be paid at the times at which such  
12 payments are scheduled to be made; and shall not include  
13 any arrearages, penalties, or default or delinquency  
14 charges. Such payments shall be deemed to be adequate  
15 protection payments under section 362 of this title.

16           “(b) The court may, after notice and hearing, change  
17 the amount and timing of the adequate protection pay-  
18 ment under subsection (a), but in no event shall it be pay-  
19 able less frequently than monthly or in an amount less  
20 than the reasonable depreciation of such property month  
21 to month.

22           “(c) Notwithstanding section 1326(b) of this title, if  
23 a confirmed plan provides for payments to a creditor or  
24 lessor described in subsection (a) and provides that pay-  
25 ments to such creditor or lessor under the plan will be

1 deferred until payment of amounts described in section  
2 1326(b) of this title, the payments required hereunder  
3 shall nonetheless be continued in addition to plan pay-  
4 ments until actual payments to the creditor begin under  
5 the plan.

6       “(d) Notwithstanding sections 362, 542, and 543 of  
7 this title, a lessor or creditor described in subsection (a)  
8 may retain possession of property described in subsection  
9 (a) which was obtained rightfully prior to the date of filing  
10 of the petition until the first such adequate protection pay-  
11 ment is received by the lessor or creditor. Such retention  
12 of possession and any acts reasonably related thereto shall  
13 not violate the stay imposed under section 362(a) of this  
14 title, nor any obligations imposed under section 542 or  
15 543 of this title.

16       “(e) On or before 60 days after the filing of a case  
17 under this chapter, a debtor retaining possession of per-  
18 sonal property subject to a lease or securing a claim attrib-  
19 utable in whole or in part to the purchase price of that  
20 property shall provide each creditor or lessor reasonable  
21 evidence of the maintenance of any required insurance  
22 coverage with respect to the use or ownership of such  
23 property and continue to do so for so long as the debtor  
24 retains possession of such property.”.

1 **SEC. 163. ADEQUATE PROTECTION FOR LESSORS.**

2 Section 362(b)(10) of title 11, United States Code,  
3 is amended by striking “nonresidential”.

4 **Subtitle F—Bankruptcy Relief Less**  
5 **Frequently Available for Repeat**  
6 **Filers**

7 **SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DIS-**  
8 **CHARGES.**

9 Title 11, United States Code, is amended—

10 (1) in section 727(a)(8) by striking “six” and  
11 inserting “10”; and

12 (2) in section 1328 by adding at the end the  
13 following:

14 “(f) Notwithstanding subsections (a) and (b), the  
15 court shall not grant a discharge of all debts provided for  
16 by the plan or disallowed under section 502 of this title  
17 if the debtor has received a discharge in any case filed  
18 under this title within 5 years of the order for relief under  
19 this chapter.”.

20 **Subtitle G—Exemptions**

21 **SEC. 181. EXEMPTIONS.**

22 Section 522(b)(2)(A) of title 11, United States Code,  
23 is amended—

24 (1) by striking “180” and inserting “365”; and

25 (2) by striking “, or for a longer portion of  
26 such 180-day period than in any other place”.

1 **SEC. 182. LIMITATION.**

2 Section 522 of title 11, United States Code, is  
3 amended—

4 (1) in subsection (b)(2)(A) by inserting “sub-  
5 ject to subsection (n),” before “any property”; and

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

7 “(n) For purposes of subsection (b)(2)(A) and not-  
8 withstanding subsection (a), the value of an interest in—

9 “(1) real or personal property that the debtor  
10 or a dependent of the debtor uses as a residence;

11 “(2) a cooperative that owns property that the  
12 debtor or a dependent of the debtor uses as a resi-  
13 dence; or

14 “(3) a burial plot for the debtor or a dependent  
15 of the debtor;

16 shall be reduced to the extent such value is attributable  
17 to any portion of any property that the debtor disposed  
18 of in the 365-day period ending of the date of the filing  
19 of the petition, with the intent to hinder, delay, or defraud  
20 a creditor and that the debtor could not exempt, or that  
21 portion that the debtor could not exempt, under subsection  
22 (b) if on such date the debtor had held the property so  
23 disposed of.”.

1                   **TITLE II—BUSINESS**  
2                   **BANKRUPTCY PROVISIONS**  
3                   **Subtitle A—General Provisions**

4 **SEC. 201. LIMITATION RELATING TO THE USE OF FEE**  
5                   **EXAMINERS.**

6           Section 330 of title 11, United States Code, is  
7 amended by adding at the end the following:

8           “(e) A person appointed to examine a request for  
9 compensation or reimbursement payable under this section  
10 may not be paid on the basis of the amount of any reduc-  
11 tion recommended by such person in the amount or rate  
12 of such compensation or such reimbursement.”.

13 **SEC. 202. SHARING OF COMPENSATION.**

14           Section 504 of title 11, United States Code, is  
15 amended by adding at the end the following:

16           “(e) This section shall not apply with respect to shar-  
17 ing, or agreeing to share, compensation with a bona fide  
18 public service attorney referral program that operates in  
19 accordance with non-Federal law regulating attorney re-  
20 ferral services and with rules of professional responsibility  
21 applicable to attorney acceptance of referrals.”.

22 **SEC. 203. CHAPTER 12 MADE PERMANENT LAW.**

23           Section 302(f) of the Bankruptcy Judges, United  
24 States Trustees, and Family Farmer Bankruptcy Act of  
25 1986 (11 U.S.C. 1201 note) is repealed.

1 **SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY**  
2 **HOLDERS.**

3 Section 341 of title 11, United States Code, is  
4 amended by adding at the end the following:

5 “(e) Notwithstanding subsections (a) and (b), the  
6 court, on the request of a party in interest and after notice  
7 and a hearing, for cause may order that the United States  
8 trustee not convene a meeting of creditors or equity secu-  
9 rity holders if the debtor has filed a plan as to which the  
10 debtor solicited acceptances prior to the commencement  
11 of the case.”.

12 **SEC. 205. CREDITORS’ AND EQUITY SECURITY HOLDERS’**  
13 **COMMITTEES.**

14 Section 1102(b) of title 11, United States Code, is  
15 amended by adding at the end the following:

16 “(3)(A) The court on its own motion or, subject to  
17 subparagraph (B), on request of a party in interest, and  
18 after notice and a hearing, may order a change in member-  
19 ship of a committee appointed under subsection (a) if nec-  
20 essary to ensure adequate representation of creditors or  
21 of equity security holders.

22 “(B) A request to change the membership of a com-  
23 mittee appointed under subsection (a) may be made under  
24 subparagraph (A) by a party in interest only after such  
25 request is submitted to and denied by the United States  
26 trustee.”.

1 **SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.**

2 Section 1125 of title 11, United States Code, is  
3 amended by adding at the end the following:

4 “(g) Notwithstanding subsection (b), an acceptance  
5 or rejection of the plan may be solicited from a holder  
6 of a claim or interest if such solicitation complies with ap-  
7 plicable nonbankruptcy law and if such holder was solie-  
8 ited before the commencement of the case in a manner  
9 complying with applicable nonbankruptcy law.”.

10 **SEC. 207. PREFERENCES.**

11 Section 547(c) of title 11, United States Code, is  
12 amended—

13 (1) by amending paragraph (2) to read as fol-  
14 lows:

15 “(2) to the extent that such transfer was in  
16 payment of a debt incurred by the debtor in the or-  
17 dinary course of business or financial affairs of the  
18 debtor and the transferee, and such transfer was—

19 “(A) made in the ordinary course of busi-  
20 ness or financial affairs of the debtor and the  
21 transferee; or

22 “(B) made according to ordinary business  
23 terms;”;

24 (2) in paragraph (7) by striking “or” at the  
25 end;

1           (3) in paragraph (8) by striking the period at  
2           the end and inserting “; or”; and

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

4           “(9) if, in a case filed by a debtor whose debts  
5           are not primarily consumer debts, the aggregate  
6           value of all property that constitutes or is affected  
7           by such transfer is less than \$5000.”.

8   **SEC. 208. VENUE OF CERTAIN PROCEEDINGS.**

9           Section 1409(b) of title 28, United States Code, is  
10          amended by inserting “, or a nonconsumer debt against  
11          a noninsider of less than \$10,000,” after “\$5,000”.

12   **SEC. 209. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

13          Section 1121(d) of title 11, United States Code, is  
14          amended—

15                 (1) by striking “On” and inserting “(1) Subject  
16                 to paragraph (1), on”; and

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

18                 “(2)(A) Such 120-day period may not be extended  
19                 beyond a date that is 18 months after the date of the order  
20                 for relief under this chapter.

21                 “(B) Such 180-day period may not be extended be-  
22                 yond a date that is 20 months after the date of the order  
23                 for relief under this chapter.”.

1 **SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 12.**

2 (a) EXTENSION OF PERIOD.—Section 1221 of title  
3 11, United States Code, is amended by inserting “to any  
4 period not later than 150 days after the order for relief”  
5 after “period”.

6 (b) RELIEF FROM THE STAY.—Section 362(d) of  
7 title 11, United States Code, is amended—

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

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

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

13 “(4) with respect to a stay of an act against  
14 property under subsection (a) of a debtor in a case  
15 under chapter 12, by a creditor whose claim is se-  
16 cured by an interest in such property, unless the  
17 debtor has filed a plan in accordance with section  
18 1221.”.

19 (c) SPECIAL TREATMENT OF SECURED CLAIMS.—(1)  
20 Chapter 12 of title 11, United States Code, is amended  
21 by inserting after section 1231 the following:

22 **“§ 1232. Special treatment of secured claims**

23 “(a)(1) A claim secured by a lien on property of the  
24 estate shall be allowed or disallowed under section 502 of  
25 this title the same as if the holder of such claim had re-

1 course against the debtor on account of such claim, wheth-  
2 er or not such holder has such recourse, unless—

3 “(A) subject to paragraph (2), the holder of  
4 such claim elects to apply subsection (b); or

5 “(B) such holder does not have such recourse,  
6 and such property is sold under section 363 of this  
7 title or is to be sold under the plan.

8 “(2) A holder of a claim may not elect to apply sub-  
9 section (b) if—

10 “(A) such claim is of inconsequential value; or

11 “(B) the holder of a claim has recourse against  
12 the debtor on account of such claim, and such prop-  
13 erty is sold under section 363 of this title or is to  
14 be sold under the plan.

15 “(b) If such an election is made to apply this sub-  
16 section, then notwithstanding section 506(a) of this title,  
17 such claim is a secured claim to the extent such claim is  
18 allowed.”.

19 (2) The table of sections of chapter 12 of title 11,  
20 United States Code, is amended by inserting after the  
21 item relating to section 1231 the following:

“1232. Special treatment of secured claims.”.

1 **SEC. 211. CASES ANCILLARY TO FOREIGN PROCEEDINGS**  
2 **INVOLVING FOREIGN INSURANCE COMPA-**  
3 **NIES THAT ARE ENGAGED IN THE BUSINESS**  
4 **OF INSURANCE OR REINSURANCE IN THE**  
5 **UNITED STATES.**

6 Section 304 of title 11, United States Code, is  
7 amended—

8 (1) in subsection (b) by striking “provisions of  
9 subsection (c)” and inserting “subsections (c) and  
10 (d)”; and

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

12 “(d) The court may not grant to a foreign representa-  
13 tive of the estate of an insurance company that is not or-  
14 ganized under the law of a State and that is engaged in  
15 the business of insurance, or reinsurance, in the United  
16 States relief under subsection (b) with respect to property  
17 that is—

18 “(1) a deposit required by a State law relating  
19 to insurance or reinsurance;

20 “(2) a multibeneficiary trust required by a  
21 State law relating to insurance or reinsurance to  
22 protect holders of insurance policies issued in the  
23 United States or to protect holders or claimants  
24 against such policies; or

25 “(3) a multibeneficiary trust authorized by a  
26 State law relating to insurance or reinsurance to

1 allow a person engaged in the business of insurance  
2 in the United States—

3 “(A) to cede reinsurance to such an insur-  
4 ance company; and

5 “(B) to treat so ceded reinsurance as an  
6 asset, or deduction from liability, in financial  
7 statements of such person.”.

8 **SEC. 212. REJECTION OF EXECUTORY CONTRACTS AFFECT-**  
9 **ING INTELLECTUAL PROPERTY RIGHTS TO**  
10 **RECORDINGS OF ARTISTIC PERFORMANCE.**

11 Section 365(n) of title 11, United States Code, is  
12 amended at the end the following:

13 “(5) Where the court finds that a personal serv-  
14 ices contract is property of the estate, the trustee  
15 may not reject an executory contract for personal  
16 services in which advances are paid for the creation  
17 of copyrighted sound recordings in the future if a  
18 material purpose for commencing a case under this  
19 title is to reject such contract, unless, absent such  
20 rejection, economic rehabilitation of the debtor’s fi-  
21 nances, including such contract, cannot be  
22 achieved.”.

1 **SEC. 213. UNEXPIRED LEASES OF NONRESIDENTIAL REAL**  
2 **PROPERTY.**

3 Section 365(d)(4) of title 11, United States Code, is  
4 amended to read as follows:

5 “(4) In a case under any chapter of this title, if the  
6 trustee does not assume or reject an unexpired lease of  
7 nonresidential real property under which the debtor is the  
8 lessee before the earlier of (A) 120 days after the date  
9 of the order for relief, or (B) the entry of an order con-  
10 firming a plan, then such lease is deemed rejected, and  
11 the trustee shall immediately surrender such nonresiden-  
12 tial real property to the lessor but in no event shall such  
13 time period exceed 120 days. Notwithstanding the imme-  
14 diately preceding sentence, and provided no plan has been  
15 confirmed, upon motion of the trustee, and after notice  
16 and a hearing, the court may within such 120-day period  
17 extend the 120-day period by a period not to exceed 150  
18 days, contingent upon written consent of the affected les-  
19 sor or with the approval of the court, and provided the  
20 trustee has timely performed all post-petition lease obliga-  
21 tions, but in no circumstance shall such period extend be-  
22 yond the earlier of (i) 270 days from the date of the order  
23 for relief or (ii) the entry of an order approving a dislo-  
24 sure statement, without the consent of the lessor.”.

1 **SEC. 214. DEFINITION OF DISINTERESTED PERSON.**

2 Section 101(14) of title 11, United States Code, is  
3 amended to read as follows:

4 “(14) ‘disinterested person’ means a person  
5 that—

6 “(A) is not a creditor, an equity security  
7 holder, or an insider;

8 “(B) is not and was not, within 2 years be-  
9 fore the date of the filing of the petition, a di-  
10 rector, officer, or employee of the debtor; and

11 “(C) does not have an interest materially  
12 adverse to the interest of the estate or of any  
13 class of creditors or equity security holders, by  
14 reason of any direct or indirect relationship to,  
15 connection with, or interest in, the debtor, or  
16 for any other reason;”.

17 **SEC. 215. DEFAULTS BASED ON NONMONETARY OBLIGA-**  
18 **TIONS.**

19 (a) EXECUTORY CONTRACTS AND UNEXPIRED  
20 LEASES.—Section 365 of title 11, United States Code, is  
21 amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1)(A) by striking the  
24 semicolon at the end and inserting the follow-  
25 ing:

1 “other than a default that is a breach of a provision  
2 relating to—

3 “(i) the satisfaction of any provision (other  
4 than a penalty rate or penalty provision) relat-  
5 ing to a default arising from any failure to per-  
6 form nonmonetary obligations under an unex-  
7 pired lease of real property, if it is impossible  
8 for the trustee to cure such default by perform-  
9 ing nonmonetary acts at and after the time of  
10 assumption; or

11 “(ii) the satisfaction of any provision  
12 (other than a penalty rate or penalty provision)  
13 relating to a default arising from any failure to  
14 perform nonmonetary obligations under an ex-  
15 ecutory contract, if it is impossible for the  
16 trustee to cure such default by performing non-  
17 monetary acts at and after the time of assump-  
18 tion and if the court determines, based on the  
19 equities of the case, that this subparagraph  
20 should not apply with respect to such default;”;  
21 and

22 (B) by amending paragraph (2)(D) to read  
23 as follows:

24 “(D) the satisfaction of any penalty rate or  
25 penalty provision relating to a default arising from

1 a failure to perform nonmonetary obligations under  
2 an executory contract or under an unexpired lease of  
3 real or personal property.”;

4 (2) in subsection (c)—

5 (A) in paragraph (2) by adding “or” at the  
6 end;

7 (B) in paragraph (3) by striking “; or” at  
8 the end and inserting a period; and

9 (C) by striking paragraph (4);

10 (3) in subsection (d)—

11 (A) by striking paragraphs (5) through  
12 (9); and

13 (B) by redesignating paragraph (10) as  
14 paragraph(5); and

15 (4) in subsection (f)(1) by striking “; except  
16 that” and all that follows through the end of the  
17 paragraph and inserting a period.

18 (b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Sec-  
19 tion 1124(2) of title 11, United States Code, is amend-  
20 ed—

21 (1) in subparagraph (A) by inserting “or of a  
22 kind that section 365(b)(1)(A) of this title expressly  
23 does not require to be cured” before the semicolon  
24 at the end;

1 (2) in subparagraph (C) by striking “and” at  
2 the end;

3 (3) by redesignating subparagraph (D) as sub-  
4 paragraph (E); and

5 (4) by inserting after subparagraph (C) the fol-  
6 lowing:

7 “(D) if such claim or such interest arises  
8 from any failure to perform a nonmonetary ob-  
9 ligation, compensates the holder of such claim  
10 or such interest (other than the debtor or an in-  
11 sider) for any actual pecuniary loss incurred by  
12 such holder as a result of such failure; and”.

## 13 **Subtitle B—Specific Provisions**

### 14 **CHAPTER 1—SMALL BUSINESS**

#### 15 **BANKRUPTCY**

##### 16 **SEC. 231. DEFINITIONS.**

17 (a) DEFINITIONS.—Section 101 of title 11, United  
18 States Code, is amended by striking paragraph (51C) and  
19 inserting the following:

20 “(51C) ‘small business case’ means a case filed  
21 under chapter 11 of this title in which the debtor is  
22 a small business debtor;

23 “(51D) ‘small business debtor’ means—

24 “(A) a person (including affiliates of such  
25 person that are also debtors under this title)

1 that has aggregate noncontingent, liquidated se-  
2 cured and unsecured debts as of the date of the  
3 petition or the order for relief in an amount not  
4 more than \$5,000,000 (excluding debts owed to  
5 1 or more affiliates or insiders); or

6 “(B) a debtor of the kind described in  
7 paragraph (51B) but without regard to the  
8 amount of such debtor’s debts,

9 except that if a group of affiliated debtors has ag-  
10 gregate noncontingent liquidated secured and unse-  
11 cured debts greater than \$5,000,000 (excluding debt  
12 owed to 1 or more affiliates or insiders), then no  
13 member of such group is a small business debtor;”.

14 (b) CONFORMING AMENDMENT.—Section 1102(a)(3)  
15 of title 11, United States Code, is amended by inserting  
16 “debtor” after “small business”.

17 **SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT**  
18 **AND PLAN.**

19 Section 1125(f) of title 11, United States Code, is  
20 amended to read as follows:

21 “(f) Notwithstanding subsection (b), in a small busi-  
22 ness case—

23 “(1) in determining whether a disclosure state-  
24 ment provides adequate information, the court shall  
25 consider the complexity of the case, the benefit of

1 additional information to creditors and other parties  
2 in interest, and the cost of providing additional in-  
3 formation;

4 “(2) the court may determine that the plan  
5 itself provides adequate information and that a sepa-  
6 rate disclosure statement is not necessary;

7 “(3) the court may approve a disclosure state-  
8 ment submitted on standard forms approved by the  
9 court or adopted pursuant to section 2075 of title  
10 28; and

11 “(4)(A) the court may conditionally approve a  
12 disclosure statement subject to final approval after  
13 notice and a hearing;

14 “(B) acceptances and rejections of a plan may  
15 be solicited based on a conditionally approved disclo-  
16 sure statement if the debtor provides adequate infor-  
17 mation to each holder of a claim or interest that is  
18 solicited, but a conditionally approved disclosure  
19 statement shall be mailed not less than 20 days be-  
20 fore the date of the hearing on confirmation of the  
21 plan; and

22 “(C) the hearing on the disclosure statement  
23 may be combined with the hearing on confirmation  
24 of a plan.”.

1 **SEC. 233. STANDARD FORM DISCLOSURE STATEMENT AND**  
2 **PLAN.**

3 The Advisory Committee on Bankruptcy Rules of the  
4 Judicial Conference of the United States shall, within a  
5 reasonable period of time after the date of the enactment  
6 of this Act, propose for adoption standard form disclosure  
7 statements and plans of reorganization for small business  
8 debtors (as defined in section 101) of title 11, United  
9 States Code, as amended by this Act), designed to achieve  
10 a practical balance between—

11 (1) the reasonable needs of the courts, the  
12 United States trustee or bankruptcy administrator,  
13 creditors, and other parties in interest for reason-  
14 ably complete information; and

15 (2) economy and simplicity for debtors.

16 **SEC. 234. UNIFORM NATIONAL REPORTING REQUIRE-**  
17 **MENTS.**

18 (a) REPORTING REQUIRED.—(1) Title 11 of the  
19 United States Code is amended by inserting after section  
20 307 the following:

21 **“§ 308. Debtor reporting requirements**

22 “A small business debtor shall file periodic financial  
23 and other reports containing information including—

24 “(1) the debtor’s profitability, that is, approxi-  
25 mately how much money the debtor has been earn-

1 ing or losing during current and recent fiscal peri-  
2 ods;

3 “(2) reasonable approximations of the debtor’s  
4 projected cash receipts and cash disbursements over  
5 a reasonable period;

6 “(3) comparisons of actual cash receipts and  
7 disbursements with projections in prior reports;

8 “(4) whether the debtor is—

9 “(A) in compliance in all material respects  
10 with postpetition requirements imposed by this  
11 title and the Federal Rules of Bankruptcy Pro-  
12 cedure; and

13 “(B) timely filing tax returns and paying  
14 taxes and other administrative claims when due,  
15 and, if not, what the failures are and how, at  
16 what cost, and when the debtor intends to rem-  
17 edy such failures; and

18 “(5) such other matters as are in the best inter-  
19 ests of the debtor and creditors, and in the public  
20 interest in fair and efficient procedures under chap-  
21 ter 11 of this title.”.

22 (2) The table of sections of chapter 3 of title 11,  
23 United States Code, is amended by inserting after the  
24 item relating to section 307 the following:

“308. Debtor reporting requirements.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect 60 days after the date on  
3 which rules are prescribed pursuant to section 2075, title  
4 28, United States Code to establish forms to be used to  
5 comply with section 308 of title 11, United States Code,  
6 as added by subsection (a).

7 **SEC. 235. UNIFORM REPORTING RULES AND FORMS FOR**  
8 **SMALL BUSINESS CASES.**

9 (a) PROPOSAL OF RULES AND FORMS.—The Advi-  
10 sory Committee on Bankruptcy Rules of the Judicial Con-  
11 ference of the United States shall propose for adoption  
12 amended Federal Rules of Bankruptcy Procedure and Of-  
13 ficial Bankruptcy Forms to be used by small business  
14 debtors to file periodic financial and other reports contain-  
15 ing information, including information relating to—

16 (1) the debtor's profitability;

17 (2) the debtor's cash receipts and disburse-  
18 ments; and

19 (3) whether the debtor is timely filing tax re-  
20 turns and paying taxes and other administrative  
21 claims when due.

22 (b) PURPOSE.—The rules and forms proposed under  
23 subsection (a) shall be designed to achieve a practical bal-  
24 ance between—

1           (1) the reasonable needs of the bankruptcy  
2 court, the United States trustee or bankruptcy ad-  
3 ministrator, creditors, and other parties in interest  
4 for reasonably complete information;

5           (2) the small business debtor’s interest that re-  
6 quired reports be easy and inexpensive to complete;  
7 and

8           (3) the interest of all parties that the required  
9 reports help the small business debtor to understand  
10 its financial condition and plan its future.

11 **SEC. 236. DUTIES IN SMALL BUSINESS CASES.**

12       (a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the  
13 United States Code is amended by inserting after section  
14 1114 the following:

15 **“§ 1115. Duties of trustee or debtor in possession in**  
16 **small business cases**

17       “In a small business case, a trustee or the debtor in  
18 possession, in addition to the duties provided in this title  
19 and as otherwise required by law, shall—

20           “(1) append to the voluntary petition or, in an  
21 involuntary case, file within 3 days after the date of  
22 the order for relief—

23                   “(A) its most recent balance sheet, state-  
24 ment of operations, cash-flow statement, Fed-  
25 eral income tax return; or

1           “(B) a statement made under penalty of  
2           perjury that no balance sheet, statement of op-  
3           erations, or cash-flow statement has been pre-  
4           pared and no Federal tax return has been filed;

5           “(2) attend, through its senior management  
6           personnel and counsel, meetings scheduled by the  
7           court or the United States trustee, including initial  
8           debtor interviews, scheduling conferences, and meet-  
9           ings of creditors convened under section 341 of this  
10          title;

11          “(3) timely file all schedules and statements of  
12          financial affairs, unless the court, after notice and a  
13          hearing, grants an extension, which shall not extend  
14          such time period to a date later than 30 days after  
15          the date of the order for relief, absent extraordinary  
16          and compelling circumstances;

17          “(4) file all postpetition financial and other re-  
18          ports required by the Federal Rules of Bankruptcy  
19          Procedure or by local rule of the district court;

20          “(5) subject to section 363(c)(2), maintain in-  
21          surance customary and appropriate to the industry;

22          “(6)(A) timely file tax returns;

23          “(B) subject to section 363(c)(2), timely pay all  
24          administrative expense tax claims, except those

1 being contested by appropriate proceedings being  
2 diligently prosecuted; and

3 “(C) subject to section 363(c)(2), establish 1 or  
4 more separate deposit accounts not later than 10  
5 business days after the date of order for relief (or  
6 as soon thereafter as possible if all banks contacted  
7 decline the business) and deposit therein, not later  
8 than 1 business day after receipt thereof, all taxes  
9 payable for periods beginning after the date the case  
10 is commenced that are collected or withheld by the  
11 debtor for governmental units; and

12 “(7) allow the United States trustee or bank-  
13 ruptcy administrator, or its designated representa-  
14 tive, to inspect the debtor’s business premises,  
15 books, and records at reasonable times, after reason-  
16 able prior written notice, unless notice is waived by  
17 the debtor.”.

18 (b) TECHNICAL AMENDMENT.—The table of sections  
19 of chapter 11, United States Code, is amended by insert-  
20 ing after the item relating to section 1114 the following:

“1115. Duties of trustee or debtor in possession in small business cases.”.

21 **SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.**

22 Section 1121(e) of title 11, United States Code, is  
23 amended to read as follows:

24 “(e) In a small business case—

1           “(1) only the debtor may file a plan until after  
2           90 days after the date of the order for relief, unless  
3           shortened on request of a party in interest made  
4           during the 90-day period, or unless extended as pro-  
5           vided by this subsection, after notice and hearing the  
6           court, for cause, orders otherwise;

7           “(2) the plan, and any necessary disclosure  
8           statement, shall be filed not later than 90 days after  
9           the date of the order for relief; and

10           “(3) the time periods specified in paragraphs  
11           (1) and (2), and the time fixed in section 1129(e)  
12           of this title, within which the plan shall be confirmed  
13           may be extended only if—

14           “(A) the debtor, after providing notice to  
15           parties in interest (including the United States  
16           trustee), demonstrates by a preponderance of  
17           the evidence that it is more likely than not that  
18           the court will confirm a plan within a reason-  
19           able time;

20           “(B) a new deadline is imposed at the time  
21           the extension is granted; and

22           “(C) the order extending time is signed be-  
23           fore the existing deadline has expired.”.

1 **SEC. 238. PLAN CONFIRMATION DEADLINE.**

2 Section 1129 of title 11, United States Code, is  
3 amended by adding at the end the following:

4 “(e) In a small business case, the plan shall be con-  
5 firmed not later than 150 days after the date of the order  
6 for relief unless such 150-day period is extended as pro-  
7 vided in section 1121(e)(3) of this title.”.

8 **SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.**

9 Section 105(d) of title 11, United States Code, is  
10 amended—

11 (1) in paragraph (2)(B)(vi) by striking the pe-  
12 riod at the end and inserting “; and”; and

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

14 “(3) in a small business case, not extend the  
15 time periods specified in sections 1121(e) and  
16 1129(e) of this title except as provided in section  
17 1121(e)(3) of this title.”.

18 **SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND**  
19 **BANKRUPTCY ADMINISTRATOR.**

20 (a) DUTIES OF THE UNITED STATES TRUSTEE.—  
21 Section 586(a) of title 28, United States Code, as amend-  
22 ed by section 111, is amended—

23 (1) in paragraph (3)—

24 (A) in subparagraph (G) by striking “and”  
25 at the end;

1 (B) by redesignating subparagraph (H) as  
2 subparagraph (I); and

3 (C) by inserting after subparagraph (G)  
4 the following:

5 “(H) in small business cases (as defined in  
6 section 101 of title 11), performing the addi-  
7 tional duties specified in title 11 pertaining to  
8 such cases;”;

9 (2) in paragraph (6) by striking “and” at the  
10 end;

11 (3) in paragraph (7) by striking the period at  
12 the end and inserting “; and”; and

13 (4) by inserting after paragraph (7) the follow-  
14 ing:

15 “(8) in each of such small business cases—

16 “(A) conduct an initial debtor interview as  
17 soon as practicable after the entry of order for  
18 relief but before the first meeting scheduled  
19 under section 341(a) of title 11 at which time  
20 the United States trustee shall begin to inves-  
21 tigate the debtor’s viability, inquire about the  
22 debtor’s business plan, explain the debtor’s obli-  
23 gations to file monthly operating reports and  
24 other required reports, attempt to develop an

1           agreed scheduling order, and inform the debtor  
2           of other obligations;

3           “(B) when determined to be appropriate  
4           and advisable, visit the appropriate business  
5           premises of the debtor and ascertain the state  
6           of the debtor’s books and records and verify  
7           that the debtor has filed its tax returns; and

8           “(C) review and monitor diligently the  
9           debtor’s activities, to identify as promptly as  
10          possible whether the debtor will be unable to  
11          confirm a plan; and

12          “(9) in cases in which the United States trustee  
13          finds material grounds for any relief under section  
14          1112 of title 11, the United States trustee shall  
15          apply promptly to the court for relief.”.

16          (b) DUTIES OF THE BANKRUPTCY ADMINIS-  
17          TRATOR.—In a small business case (as defined in section  
18          101 of title 11 of the United States Code), the bankruptcy  
19          administrator shall perform the duties specified in section  
20          586(a)(6) of title 28 of the United States Code.

21          **SEC. 241. SCHEDULING CONFERENCES.**

22          Section 105(d) of title 11, United States Code, is  
23          amended—

24                  (1) in the matter preceding paragraph (1) by  
25          striking “, may”;

1           (2) by amending paragraph (1) to read as fol-  
2           lows:

3           “(1) shall hold such status conferences as are  
4           necessary to further the expeditious and economical  
5           resolution of the case; and”;

6           (3) in paragraph (2) by striking “unless incon-  
7           sistent with another provision of this title or with  
8           applicable Federal Rules of Bankruptcy Procedure,”  
9           and inserting “may”.

10 **SEC. 242. SERIAL FILER PROVISIONS.**

11           Section 362 of title 11, United States Code, is  
12           amended—

13           (1) in subsection (i) as so redesignated by sec-  
14           tion 124—

15                   (A) by striking “An” and inserting “(1)  
16           Except as provided in paragraph (2), an”;

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

18           “(2) If such violation is based on an action taken by  
19           an entity in the good-faith belief that subsection (h) ap-  
20           plies to the debtor, then recovery under paragraph (1)  
21           against such entity shall be limited to actual damages.”;  
22           and

23           (2) by inserting after subsection (i), as redesign-  
24           nated by section 124, the following:

1       “(j) The filing of a petition under chapter 11 of this  
2 title operates as a stay of the acts described in subsection  
3 (a) only in an involuntary case involving no collusion by  
4 the debtor with creditors and in which the debtor—

5           “(1) is a debtor in a small business case pend-  
6 ing at the time the petition is filed;

7           “(2) was a debtor in a small business case  
8 which was dismissed for any reason by an order that  
9 became final in the 2-year period ending on the date  
10 of the order for relief entered with respect to the pe-  
11 tition;

12           “(3) was a debtor in a small business case in  
13 which a plan was confirmed in the 2-year period  
14 ending on the date of the order for relief entered  
15 with respect to the petition; or

16           “(4) is an entity that has succeeded to substan-  
17 tially all of the assets or business of a small business  
18 debtor described in subparagraph (A), (B), or (C);  
19 unless the debtor proves, by a preponderance of the  
20 evidence, that the filing of such petition resulted  
21 from circumstances beyond the control of the debtor  
22 not foreseeable at the time the case then pending  
23 was filed; and that it is more likely than not that  
24 the court will confirm a feasible plan, but not a liq-  
25 uidating plan, within a reasonable time.”.

1 **SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CON-**  
2 **VERSION AND APPOINTMENT OF TRUSTEE.**

3 (a) EXPANDED GROUNDS FOR DISMISSAL OR CON-  
4 VERSION.—Section 1112(b) of title 11, United States  
5 Code, is amended to read as follows:

6 “(b)(1) Except as provided in paragraph (2), in sub-  
7 section (c), and in section 1104(a)(3) of this title, on re-  
8 quest of a party in interest, and after notice and a hear-  
9 ing, the court shall convert a case under this chapter to  
10 a case under chapter 7 of this title or dismiss a case under  
11 this chapter, whichever is in the best interest of creditors  
12 and the estate, if the movant establishes cause.

13 “(2) The relief provided in paragraph (1) shall not  
14 be granted if the debtor or another party in interest ob-  
15 jects and establishes, by a preponderance of the evidence  
16 that—

17 “(A) it is more likely than not that a plan will  
18 be confirmed within a time as fixed by this title or  
19 by order of the court entered pursuant to section  
20 1121(e)(3), or within a reasonable time if no time  
21 has been fixed; and

22 “(B) if the reason is an act or omission of the  
23 debtor that—

24 “(i) there exists a reasonable justification  
25 for the act or omission; and

1           “(ii) the act or omission will be cured with-  
2           in a reasonable time fixed by the court not to  
3           exceed 30 days after the court decides the mo-  
4           tion, unless the movant expressly consents to a  
5           continuance for a specific period of time, or  
6           compelling circumstances beyond the control of  
7           the debtor justify an extension.

8           “(3) For purposes of this subsection, cause in-  
9           cludes—

10           “(A) substantial or continuing loss to or dimi-  
11           nution of the estate;

12           “(B) gross mismanagement of the estate;

13           “(C) failure to maintain appropriate insurance;

14           “(D) unauthorized use of cash collateral harm-  
15           ful to 1 or more creditors;

16           “(E) failure to comply with an order of the  
17           court;

18           “(F) failure timely to satisfy any filing or re-  
19           porting requirement established by this title or by  
20           any rule applicable to a case under this chapter;

21           “(G) failure to attend the meeting of creditors  
22           convened under section 341(a) of this title or an ex-  
23           amination ordered under rule 2004 of the Federal  
24           Rules of Bankruptcy Procedure;

1           “(H) failure timely to provide information or  
2 attend meetings reasonably requested by the United  
3 States trustee;

4           “(I) failure timely to pay taxes due after the  
5 date of the order for relief or to file tax returns due  
6 after the order for relief;

7           “(J) failure to file a disclosure statement, or to  
8 file or confirm a plan, within the time fixed by this  
9 title or by order of the court;

10           “(K) failure to pay any fees or charges required  
11 under chapter 123 of title 28;

12           “(L) revocation of an order of confirmation  
13 under section 1144 of this title;

14           “(M) inability to effectuate substantial con-  
15 summation of a confirmed plan;

16           “(N) material default by the debtor with re-  
17 spect to a confirmed plan; and

18           “(O) termination of a plan by reason of the oc-  
19 currence of a condition specified in the plan.

20           “(4) The court shall commence the hearing on any  
21 motion under this subsection not later than 30 days after  
22 filing of the motion, and shall decide the motion within  
23 15 days after commencement of the hearing, unless the  
24 movant expressly consents to a continuance for a specific  
25 period of time or compelling circumstances prevent the

1 court from meeting the time limits established by this  
2 paragraph.”.

3 (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF  
4 TRUSTEE.—Section 1104(a) of title 11, United States  
5 Code, is amended—

6 (1) in paragraph (1) by striking “or” at the  
7 end;

8 (2) in paragraph (2) by striking the period at  
9 the end and inserting “; or”; and

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

11 “(3) if grounds exist to convert or dismiss the  
12 case under section 1112 of this title, but the court  
13 determines that the appointment of a trustee is in  
14 the best interests of creditors and the estate.”.

15 **SEC. 244. STUDY OF OPERATION OF TITLE 11 OF THE**  
16 **UNITED STATES CODE WITH RESPECT TO**  
17 **SMALL BUSINESSES.**

18 Not later than 2 years after the date of the enact-  
19 ment of this Act, the Small Business Administration, in  
20 consultation with the Attorney General, the Director of  
21 the Administrative Office of United States Trustees, and  
22 the Director of the Administrative Office of the United  
23 States Courts, shall—

24 (1) conduct a study to determine—

1 (A) the internal and external factors that  
2 cause small businesses to become debtors in  
3 cases under title 11 of the United States Code  
4 and that cause certain small businesses to suc-  
5 cessfully complete cases under chapter 11 of  
6 such title; and

7 (B) how Federal laws relating to bank-  
8 ruptcy can be made more effective and efficient  
9 in assisting small businesses to remain viable;  
10 and

11 (2) submit to the Speaker of the House of Rep-  
12 resentatives and the President pro tempore of the  
13 Senate a report summarizing such study.

## 14 **CHAPTER 2—SINGLE ASSET REAL ESTATE**

### 15 **SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.**

16 Section 101(51B) of title 11, United States Code, is  
17 amended to read as follows:

18 “(51B) ‘single asset real estate’ means undevel-  
19 oped real property or other real property constitut-  
20 ing a single property or project, other than residen-  
21 tial real property with fewer than 4 residential units,  
22 on which is located a single development or project  
23 which property or project generates substantially all  
24 of the gross income of a debtor and on which no  
25 substantial business is being conducted by a debtor,

1 or by a commonly controlled group of entities all of  
2 which are concurrently debtors in a case under chap-  
3 ter 11 of this title, other than the business of oper-  
4 ating the real property and activities incidental  
5 thereto;”.

6 **SEC. 252. PAYMENT OF INTEREST.**

7 Section 362(d)(3) of title 11, United States Code, is  
8 amended—

9 (1) by inserting “or 30 days after the court de-  
10 termines that the debtor is subject to this para-  
11 graph, whichever is later” after “90-day period”;  
12 and

13 (2) by amending subparagraph (B) to read as  
14 follows:

15 “(B) the debtor has commenced monthly  
16 payments (which payments may, in the debtor’s  
17 sole discretion, notwithstanding section  
18 363(c)(2) of this title, be made from rents or  
19 other income generated before or after the com-  
20 mencement of the case by or from the property)  
21 to each creditor whose claim is secured by such  
22 real estate (other than a claim secured by a  
23 judgment lien or by an unmatured statutory  
24 lien), which payments are in an amount equal  
25 to interest at the then-applicable nondefault

1 contract rate of interest on the value of the  
2 creditor's interest in the real estate; or”.

3 **TITLE III—MUNICIPAL**  
4 **BANKRUPTCY PROVISIONS**

5 **SEC. 301. PETITION AND PROCEEDINGS RELATED TO**  
6 **PETITION.**

7 (a) TECHNICAL AMENDMENT RELATING TO MUNICI-  
8 PALITIES.—Section 921(d) of title 11, United States  
9 Code, is amended by inserting “notwithstanding section  
10 301(b)” before the period at the end.

11 (b) CONFORMING AMENDMENT.—Section 301 of title  
12 11, United States Code, is amended—

13 (1) by inserting “(a)” before “A voluntary”;  
14 and

15 (2) by amending the last sentence to read as  
16 follows:

17 “(b) The commencement of a voluntary case under  
18 a chapter of this title constitutes an order for relief under  
19 such chapter.”.

20 **SEC. 302. APPLICABILITY OF OTHER SECTIONS TO**  
21 **CHAPTER 9.**

22 Section 901 of title 11, United States Code, is  
23 amended—

24 (1) by inserting “555, 556,” after “553,”; and

25 (2) by inserting “559, 560,” after “557,”.

1                   **TITLE IV—BANKRUPTCY**  
2                   **ADMINISTRATION**  
3           **Subtitle A—General Provisions**

4   **SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS**  
5                   **BEFORE THE MEETING OF CREDITORS IN IN-**  
6                   **DIVIDUAL CASES.**

7           Section 341(a) of title 11, United States Code, is  
8 amended by inserting after the first sentence the follow-  
9 ing: “If the debtor is an individual in a voluntary case  
10 under chapter 7, 11, or 13, the meeting of creditors shall  
11 not be convened earlier than 60 days (or later than 90  
12 days) after the date of the order for relief, unless the  
13 court, after notice and hearing, determines unusual cir-  
14 cumstances justify an earlier meeting.”.

15   **SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING**  
16                   **OF CREDITORS.**

17           Section 341(e) of title 11, United States Code, is  
18 amended by inserting after the first sentence the follow-  
19 ing: “Notwithstanding any local court rule, provision of  
20 a State constitution, any other State or Federal nonbank-  
21 ruptcy law, or other requirement that representation at  
22 the meeting of creditors under subsection (a) be by an at-  
23 torney, a creditor holding a consumer debt or its rep-  
24 resentatives (which representatives may include an entity  
25 or an employee of an entity and may be a representative

1 for more than 1 creditor) shall be permitted to appear at  
2 and participate in the meeting of creditors in a case under  
3 chapter 7 or 13 either alone or in conjunction with an  
4 attorney for the creditor. Nothing in this subsection shall  
5 be construed to require any creditor to be represented by  
6 an attorney at any meeting of creditors.”.

7 **SEC. 403. FILING PROOFS OF CLAIM.**

8 Section 501 of title 11, United States Code, is  
9 amended by adding at the end the following:

10 “(e) In a case under chapter 7 or 13, a proof of claim  
11 or interest is deemed filed under this section for any claim  
12 or interest that appears in the schedules filed under sec-  
13 tion 521(a)(1) of this title, except a claim or interest that  
14 is scheduled as disputed, contingent, or unliquidated.”.

15 **SEC. 404. AUDIT PROCEDURES.**

16 (a) AMENDMENT.—Section 586 of title 28, United  
17 States Code, as amended by sections 111 and 240, is  
18 amended—

19 (1) by amending subsection (a)(6) to read as  
20 follows:

21 “(6) make such reports as the Attorney General  
22 directs, including the results of audits performed  
23 under subsection (f),”;

24 (2) by inserting at the end the following:

1       “(f)(1) The Attorney General shall establish proce-  
2       dures for the auditing of the accuracy and completeness  
3       of petitions, schedules, and other information which the  
4       debtor is required to provide under sections 521 and 1322,  
5       and, if applicable, section 111, of title 11 in individual  
6       cases filed under chapter 7 or 13 of such title. Such audits  
7       shall be in accordance with generally accepted auditing  
8       standards and performed by independent certified public  
9       accountants or independent licensed public accountants.  
10      Such procedures shall—

11               “(A) establish a method of selecting appropriate  
12               qualified persons to contract with the United States  
13               trustee to perform such audits;

14               “(B) establish a method of randomly selecting  
15               cases to be audited according to generally accepted  
16               audit standards, provided that no less than 1 out of  
17               every 100 cases in each Federal judicial district shall  
18               be selected for audit;

19               “(C) require audits for schedules of income and  
20               expenses which reflect higher than average variances  
21               from the statistical norm of the district in which the  
22               schedules were filed;

23               “(D) establish procedures for reporting the re-  
24               sults of such audits and any material misstatement  
25               of income, expenditures or assets of a debtor to the

1 Attorney General, the United States Attorney and  
2 the court, as appropriate, and for providing public  
3 information no less than annually on the aggregate  
4 results of such audits including the percentage of  
5 cases, by district, in which a material misstatement  
6 of income or expenditures is reported; and

7 “(E) establish procedures for fully funding such  
8 audits.

9 “(2) The United States trustee for each district is  
10 authorized to contract with auditors to perform audits in  
11 cases designated by the United States trustee according  
12 to the procedures established under paragraph (1) of this  
13 subsection.

14 “(3) According to procedures established under para-  
15 graph (1), upon request of a duly appointed auditor, the  
16 debtor shall cause the accounts, papers, documents, finan-  
17 cial records, files and all other papers, things or property  
18 belonging to the debtor as the auditor requests and which  
19 are reasonably necessary to facilitate an audit to be made  
20 available for inspection and copying.

21 “(4) The report of each such audit shall be filed with  
22 the court, the Attorney General, and the United States  
23 Attorney, as required under procedures established by the  
24 Attorney General under paragraph (1). If a material  
25 misstatement of income or expenditures or of assets is re-

1 ported, a statement specifying such misstatement shall be  
 2 filed with the court and the United States trustee shall  
 3 give notice thereof to the creditors in the case and, in an  
 4 appropriate case, in the opinion of the United States trust-  
 5 ee, requires investigation with respect to possible criminal  
 6 violations, the United States Attorney for the district.”.

7 (b) EFFECTIVE DATE.—The amendments made by  
 8 this section shall take effect 18 months after the date of  
 9 the enactment of this Act.

10 **SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7**  
 11 **AND 13 CASES.**

12 Section 342 of title 11, United States Code, is  
 13 amended—

14 (1) in subsection (c)—

15 (A) by striking “, but the failure of such  
 16 notice to contain such information shall not in-  
 17 validate the legal effect of such notice”; and

18 (B) by adding the following at the end:

19 “If the credit agreement between the debtor and the credi-  
 20 tor or the last communication before the filing of the peti-  
 21 tion in a voluntary case from the creditor to a debtor who  
 22 is an individual states an account number of the debtor  
 23 which is the current account number of the debtor with  
 24 respect to any debt held by the creditor against the debtor,  
 25 the debtor shall include such account number in any notice

1 to the creditor required to be given under this title. If the  
2 creditor has specified to the debtor an address at which  
3 the creditor wishes to receive correspondence regarding  
4 the debtor's account, any notice to the creditor required  
5 to be given by the debtor under this title shall be given  
6 at such address. For the purposes of this section, 'notice'  
7 shall include, but shall not be limited to, any correspond-  
8 ence from the debtor to the creditor after the commence-  
9 ment of the case, any statement of the debtor's intention  
10 under section 521(a)(2) of this title, notice of the com-  
11 mencement of any proceeding in the case to which the  
12 creditor is a party, and any notice of the hearing under  
13 section 1324.'";

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

15 “(d) At any time, a creditor in a case of an individual  
16 debtor under chapter 7 or 13 may file with the court and  
17 serve on the debtor a notice of the address to be used to  
18 notify the creditor in that case. Five days after receipt  
19 of such notice, if the court or the debtor is required to  
20 give the creditor notice, such notice shall be given at that  
21 address.

22 “(e) An entity may file with the court a notice stating  
23 its address for notice in cases under chapters 7 and 13.  
24 After 30 days following the filing of such notice, any notice  
25 in any case filed under chapter 7 or 13 given by the court

1 shall be to that address unless specific notice is given  
2 under subsection (d) with respect to a particular case.

3 “(f) Notice given to a creditor other than as provided  
4 in this section shall not be effective notice until it has been  
5 brought to the attention of the creditor. If the creditor  
6 has designated a person or department to be responsible  
7 for receiving notices concerning bankruptcy cases and has  
8 established reasonable procedures so that bankruptcy no-  
9 tices received by the creditor will be delivered to such de-  
10 partment or person, notice will not be brought to the at-  
11 tention of the creditor until received by such person or  
12 department. No sanction under section 362(h) of this title  
13 or any other sanction which a court may impose on ac-  
14 count of violations of the stay under section 362(a) of this  
15 title or failure to comply with section 542 or 543 of this  
16 title may be imposed on any action of the creditor unless  
17 the action takes place after the creditor has received notice  
18 of the commencement of the case effective under this sec-  
19 tion.”.

20 **SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER**  
21 **INFORMATION.**

22 Section 521 of title 11, United States Code, is  
23 amended—

24 (1) by inserting “(a)” before “The”;

1           (2) by amending paragraph (1) to read as fol-  
2       lows:

3           “(1) file—

4                   “(A) a list of creditors, and

5                   “(B) unless the court orders otherwise—

6                           “(i) a schedule of assets and liabil-  
7       ities;

8                           “(ii) a schedule of current income and  
9       current expenditures;

10                           “(iii) a statement of the debtor’s fi-  
11       nancial affairs;

12                           “(iv) copies of all payment advices or  
13       other evidence of payment, if any, received  
14       by the debtor from any employer of the  
15       debtor in the period 60 days prior to the  
16       filing of the petition;

17                           “(v) a statement of the amount of  
18       projected monthly net income, itemized to  
19       show how calculated;

20                           “(vi) if applicable, any statement  
21       under paragraphs (3) and (4) of section  
22       109(h);

23                           “(vii) a statement disclosing any rea-  
24       sonably anticipated increase in income or  
25       expenditures over the next 12 months; and

1 “(viii) a certificate, if applicable—

2 “(I) of an attorney whose name  
3 is on the petition as the attorney for  
4 the debtor, or of any bankruptcy peti-  
5 tion preparer who signed the petition  
6 pursuant to section 110(b)(1) of this  
7 title, indicating that such attorney or  
8 bankruptcy petition preparer delivered  
9 to the debtor any notice required by  
10 section 342(b)(1) of this title; or

11 “(II) if no attorney for the debt-  
12 or is indicated and no bankruptcy pe-  
13 tition preparer signed the petition of  
14 the debtor, that such notice was ob-  
15 tained and read by the debtor;”;

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

17 “(b) At any time, a creditor in a case of an individual  
18 debtor under chapter 7 or 13 may file with the court and  
19 serve on the debtor notice that the creditor requests the  
20 petition, schedules, and statement of financial affairs filed  
21 by the debtor in the case. At any time, a creditor in a  
22 case under chapter 13 of this title may file with the court  
23 and serve on the debtor notice that the creditor requests  
24 the plan filed by the debtor in the case. Within 10 days  
25 of the first such request in a case under this subsection

1 for the petition, schedules, and statement of financial af-  
2 fairs and the first such request for the plan under this  
3 subsection, the debtor shall serve on that creditor a con-  
4 formed copy of the requested documents or plan and any  
5 amendments thereto as of that date, and shall thereafter  
6 promptly serve on that creditor at the time filed with the  
7 court—

8           “(1) any requested document or plan which is  
9           not filed with the court at the time requested; and

10           “(2) any amendment to any requested docu-  
11           ment or plan.

12           “(c)(1) An individual debtor in a case under chapter  
13 7 or 13 shall provide to the United States trustee—

14           “(A) copies of all Federal tax returns (including  
15           any schedules and attachments) filed by the debtor  
16           for the 3 most recent tax years preceding the order  
17           for relief;

18           “(B) at the time the debtor files them with the  
19           Commissioner of Internal Revenue, all Federal tax  
20           returns (including any schedules and attachments)  
21           for the debtor’s tax years ending while such case is  
22           pending; and

23           “(C) at the time the debtor files them with the  
24           Commissioner of Internal Revenue, all amendments

1 to the tax returns (including schedules and attach-  
2 ments) described in subparagraphs (A) and (B).

3 “(2)(A) The United States trustee shall make such  
4 Federal tax returns (including schedules, attachments,  
5 and amendments) available to any party in interest for  
6 inspection and copying not later than 10 days after receiv-  
7 ing a request by such party.

8 “(B) If the United States trustee does not comply  
9 with subparagraph (A), on the motion of such party, the  
10 court shall issue an order compelling the United States  
11 trustee to comply with subparagraph (A).

12 “(d) A debtor in a case under chapter 13 of this title  
13 shall file, from a time which is the later of 90 days after  
14 the close of the debtor’s tax year or 1 year after the order  
15 for relief unless a plan has then been confirmed, and  
16 thereafter on or before 45 days before each anniversary  
17 of the confirmation of the plan until the case is closed,  
18 a statement subject to the penalties of perjury by the debt-  
19 or of the debtor’s income and expenditures in the preced-  
20 ing tax year and monthly net income, showing how cal-  
21 culated. Such statement shall disclose the amount and  
22 sources of income of the debtor, the identity of any per-  
23 sons responsible with the debtor for the support of any  
24 dependents of the debtor, and any persons who contrib-  
25 uted and the amount contributed to the household in

1 which the debtor resides. Such tax returns, amendments  
2 and statement of income and expenditures shall be avail-  
3 able to the United States trustee, any bankruptcy admin-  
4 istrator, any trustee and any party in interest for inspec-  
5 tion and copying.”.

6 **SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES**  
7 **TIMELY OR PROVIDE REQUIRED INFORMA-**  
8 **TION.**

9 Section 521 of title 11, United States Code, as  
10 amended by section 406, is amended by adding at the end  
11 the following:

12 “(e) Notwithstanding section 707(a) of this title, if  
13 an individual debtor in a voluntary case under chapter 7  
14 or 13 fails to provide all of the information required under  
15 subsections (a)(1) and (c)(1)(A) within 45 days after the  
16 filing of the petition, the case shall be automatically dis-  
17 missed effective on the 46th day after the filing of the  
18 petition without the need for any order of court, but any  
19 party in interest may request the court to enter an order  
20 dismissing the case and the court shall, if so requested,  
21 enter an order of dismissal within 5 days of such request.  
22 Upon request of the debtor made within 45 days after the  
23 filing of the petition, the court may allow the debtor up  
24 to an additional 15 days to provide the information re-

1 quired under subsections (a)(1) and (c)(1)(A) if the court  
2 finds compelling justification for doing so.

3 “(f) If an individual debtor in a case under chapter  
4 7 or 13 fails to perform any of the duties imposed by sub-  
5 sections (b), (c)(1)(B), (c)(1)(C), and (d), any party in  
6 interest may request that the court order the debtor to  
7 comply. Within 10 days of such request the court shall  
8 order that the debtor do so within a period of time set  
9 by the court no longer than 30 days. If the debtor does  
10 not comply with that order within the period of time set  
11 by the court, the court shall, on request of any party in  
12 interest certifying that the debtor has not so complied,  
13 enter an order dismissing the case within 5 days of such  
14 request.”.

15 **SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON**  
16 **CONFIRMATION OF THE PLAN.**

17 Section 1324 of title 11, United States Code, is  
18 amended—

19 (1) by striking “After” and inserting the follow-  
20 ing:

21 “(a) Except as provided in subsection (b) and after”;  
22 and

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

24 “(b) The hearing on confirmation of the plan may  
25 be held not earlier than 20 days, and not later than 45

1 days, after the meeting of creditors under section 341(a)  
2 of this title.”.

3 **SEC. 409. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**

4 **IN CERTAIN CASES.**

5 Title 11, United States Code, is amended—

6 (1) by amending section 1322(d) to read as fol-  
7 lows:

8 “(d) If the current monthly total income of the debtor  
9 and in a joint case, the debtor and the debtor’s spouse  
10 combined, is not less than the highest national median  
11 family income reported for a family of equal or lesser size  
12 or, in the case of a household of 1 person, not less than  
13 the national median household income for 1 earner, the  
14 plan may not provide for payments over a period that is  
15 longer than 5 years, unless the court, for cause, approves  
16 a longer period, but the court may not approve a period  
17 that exceeds 7 years. If the current monthly total income  
18 of the debtor or in a joint case, the debtor and the debtor’s  
19 spouse combined, is less than the highest national median  
20 family income reported for a family of equal or lesser size,  
21 or in the case of a household of 1 person less than the  
22 national median household income for 1 earner, the plan  
23 may not provide for payments over a period that is longer  
24 than 3 years, unless the court, for cause, approves a longer

1 period, but the court may not approve a period that is  
2 longer than 5 years.”;

3 (2) in section 1329—

4 (A) by striking in subsection (c) “three  
5 years” and inserting “the applicable commit-  
6 ment period under section 1325(b)(1)(B)(ii)”  
7 and by striking “five years” and inserting  
8 “maximum duration period”; and

9 (B) by inserting at the end of subsection  
10 (c) the following:

11 “The maximum duration period shall be 5 years if the cur-  
12 rent monthly total income of the debtor, and in a joint  
13 case, the debtor and the debtor’s spouse combined, is not  
14 less than the highest national median family income re-  
15 ported for a family of equal or lesser size or, in the case  
16 of a household of 1 person, not less than the national me-  
17 dian household income for 1 earner, as of the date of the  
18 modification and shall be 3 years if the current monthly  
19 total income is less than the highest national median fam-  
20 ily income reported for a family of equal or lesser size or,  
21 in the case of a household of 1 person, less than the na-  
22 tional median household income for 1 earner as of the date  
23 of the modification.”.

1 **SEC. 410. SENSE OF THE CONGRESS REGARDING EXPAN-**  
2 **SION OF RULE 9011 OF THE FEDERAL RULES**  
3 **OF BANKRUPTCY PROCEDURE.**

4 It is the sense of the Congress that rule 9011 of the  
5 Federal Rules of Bankruptcy Procedure (11 U.S.C. App)  
6 should be modified to include a requirement that all docu-  
7 ments (including schedules), signed and unsigned, submit-  
8 ted to the court or to a trustee by debtors who represent  
9 themselves and debtors who are represented by an attor-  
10 ney be submitted only after the debtor or the debtor's at-  
11 torney has made reasonable inquiry to verify that the in-  
12 formation contained in such documents is well grounded  
13 in fact, and is warranted by existing law or a good-faith  
14 argument for the extension, modification, or reversal of  
15 existing law.

16 **SEC. 411. JURISDICTION OF COURTS OF APPEALS.**

17 (a) JURISDICTION.—Title 28 of the United States  
18 Code is amended—

19 (1) by striking section 158;

20 (2) by inserting after section 1292 the follow-  
21 ing:

22 **“§ 1293. Bankruptcy appeals**

23 “The courts of appeals (other the United States  
24 Court of Appeals for the Federal Circuit) shall have juris-  
25 diction of appeals from the following:

1           “(1) Final orders and judgments of bankruptcy  
2 courts entered under—

3           “(A) section 157(b) of this title in core  
4 proceedings arising under title 11, or arising in  
5 or related to a case under title 11; or

6           “(B) section 157(c)(2) of this title in pro-  
7 ceedings referred to such courts.

8           “(2) Final orders and judgments of district  
9 courts entered under section 157 of this title in—

10           “(A) core proceedings arising under title  
11 11, or arising in or related to a case under title  
12 11; or

13           “(B) proceedings that are not core pro-  
14 ceedings, but that are otherwise related to a  
15 case under title 11.

16           “(3) Orders and judgments of bankruptcy  
17 courts or district courts entered under section 105  
18 of title 11, or the refusal to enter an order or judg-  
19 ment under such section.

20           “(4) Orders of bankruptcy courts or district  
21 courts entered under section 1104(a) or 1121(d) of  
22 title 11, or the refusal to enter an order under such  
23 section.

24           “(5) An interlocutory order of a bankruptcy  
25 court or district court entered in a case under title

1 11, in a proceeding arising under title 11, or in a  
2 proceeding arising in or related to a case under title  
3 11, if—

4 “(A) such court is of the opinion that—

5 “(i) such order involves a controlling  
6 question of law as to which there is sub-  
7 stantial ground for difference of opinion;  
8 and

9 “(ii) an immediate appeal from such  
10 order may materially advance the ultimate  
11 termination of such case or such proceed-  
12 ing; or

13 “(B) the court of appeals that would have  
14 jurisdiction of an appeal of a final order entered  
15 in such case or such proceeding permits, in its  
16 discretion, appeal to be taken from such inter-  
17 locutory order.”; and

18 (3) in—

19 (A) the table of sections for chapter 6 by  
20 striking the item relating to section 158; and

21 (B) the table of sections for chapter 83 by  
22 inserting after the item relating to section 1292  
23 the following:

“1293. Bankruptcy appeals.”.

24 (b) CONFORMING AMENDMENTS.—(1) Section 305(c)  
25 of title 11, the United States Code, is amended by striking

1 “158(d), 1291, or 1292” and inserting “1291, 1292, or  
2 1293”.

3 (2) Title 28, United States Code, is amended—

4 (A) in subsections (b)(1) and (c)(2) of section  
5 157 by striking “section 158” and inserting “section  
6 1293”;

7 (B) in section 1334(d) by striking “158(d),  
8 1291, or 1292” and inserting “1291, 1292, or  
9 1293”; and

10 (C) in section 1452(b) by striking “158(d),  
11 1291, or 1292” and inserting “1291, 1292, or  
12 1293”.

13 **SEC. 412. ESTABLISHMENT OF OFFICIAL FORMS.**

14 The Judicial Conference of the United States shall  
15 establish official forms to facilitate compliance with the  
16 amendments made by sections 101 and 102.

17 **SEC. 413. ELIMINATION OF CERTAIN FEES PAYABLE IN**  
18 **CHAPTER 11 BANKRUPTCY CASES.**

19 (a) AMENDMENTS.—Section 1930(a)(6) of title 28,  
20 United States Code, is amended—

21 (1) in the 1st sentence by striking “until the  
22 case is converted or dismissed, whichever occurs  
23 first”; and

24 (2) in the 2d sentence—

1 (A) by striking “The” and inserting “Until  
2 the plan is confirmed or the case is converted  
3 (whichever occurs first) the”; and

4 (B) by striking “less than \$300,000;” and  
5 inserting “less than \$300,000. Until the case is  
6 converted, dismissed, or closed (whichever oc-  
7 curs first and without regard to confirmation of  
8 the plan) the fee shall be”.

9 (b) DELAYED EFFECTIVE DATE.—The amendments  
10 made by subsection (a) shall take effect on October 1,  
11 1999.

12 **SEC. 414. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**  
13 **TENDED TO DEPENDENT STUDENTS.**

14 Not later than 1 year after the date of the enactment  
15 of this Act, the Comptroller General of the United States  
16 shall—

17 (1) conduct a study regarding the impact that  
18 the extension of credit to individuals who are—

19 (A) claimed as dependents for purposes of  
20 the Internal Revenue Code of 1986; and

21 (B) enrolled in post-secondary educational  
22 institutions,

23 has on the rate of cases filed under title 11 of the  
24 United States Code; and

1           (2) submit to the Speaker of the House of Rep-  
2           resentatives and the President pro tempore of the  
3           Senate a report summarizing such study.

## 4           **Subtitle B—Data Provisions**

### 5   **SEC. 441. IMPROVED BANKRUPTCY STATISTICS.**

6           (a) AMENDMENT.—Title 28, United States Code, is  
7           amended by adding after section 158 the following new  
8           section:

#### 9   **“§ 159. Bankruptcy statistics**

10          “The Director of the Executive Office for United  
11          States Trustees shall compile statistics regarding individ-  
12          ual debtors with primarily consumer debts seeking relief  
13          under chapters 7, 11, and 13 of title 11. The Executive  
14          Office for United States Trustees shall compile such sta-  
15          tistics, in such form as shall be determined by such Office,  
16          in consultation with the Administrative Office of the  
17          United States Courts, and make them public, and report  
18          annually to the Congress on the information collected, and  
19          on its analysis thereof, no later than October 31 of each  
20          year. Such compilation shall be itemized by chapter of title  
21          11, shall be presented in the aggregate and for each dis-  
22          trict, and shall include the following:

23                 “(1) Total assets and total liabilities of such  
24                 debtors, and in each category of assets and liabil-  
25                 ities, as reported in the schedules prescribed pursu-

1 ant to section 2075 of this title and filed by such  
2 debtors.

3 “(2) The current monthly total income, pro-  
4 jected monthly net income, and average income and  
5 average expenses of such debtors as reported on the  
6 schedules and statements the debtor has filed under  
7 sections 111, 521, and 1322 of title 11.

8 “(3) The aggregate amount of debt discharged  
9 in the reporting period, determined as the difference  
10 between the total amount of debt and obligations of  
11 a debtor reported on the schedules and the amount  
12 of such debt reported in categories which are pre-  
13 dominantly nondischargeable.

14 “(4) The average time between the filing of the  
15 petition and the closing of the case.

16 “(5) The number of cases in the reporting pe-  
17 riod in which a reaffirmation was filed and the total  
18 number of reaffirmations filed in that period, and of  
19 those cases in which a reaffirmation was filed, the  
20 number in which the debtor was not represented by  
21 an attorney, and of those the number of cases in  
22 which the reaffirmation was approved by the court.

23 “(6) With respect to cases filed under chapter  
24 13 of title 11—



1           “(2) periodic reports by debtors in possession or  
2           trustees, as the case may be, in cases under chapter  
3           11 of title 11.

4           “(b) REPORTS.—All reports referred to in subsection  
5 (a) shall be designed (and the requirements as to place  
6 and manner of filing shall be established) so as to facili-  
7 tate compilation of data and maximum possible access of  
8 the public, both by physical inspection at 1 or more central  
9 filing locations, and by electronic access through the Inter-  
10 net or other appropriate media.

11          “(c) REQUIRED INFORMATION.—The information re-  
12 quired to be filed in the reports referred to in subsection  
13 (b) shall be that which is in the best interests of debtors  
14 and creditors, and in the public interest in reasonable and  
15 adequate information to evaluate the efficiency and practi-  
16 cality of the Federal bankruptcy system. In issuing rules  
17 proposing the forms referred to in subsection (a), the At-  
18 torney General shall strike the best achievable practical  
19 balance between—

20           “(1) the reasonable needs of the public for in-  
21 formation about the operational results of the Fed-  
22 eral bankruptcy system; and

23           “(2) economy, simplicity, and lack of undue  
24 burden on persons with a duty to file reports.

1       “(d) FINAL REPORTS.—Final reports proposed for  
2 adoption by trustees under chapters 7, 12, and 13 of title  
3 11 shall, in addition to such other matters as are required  
4 by law or as the Attorney General in the discretion of the  
5 Attorney General, shall propose, include with respect to  
6 a case under such title—

7           “(1) information about the length of time the  
8 case was pending;

9           “(2) assets abandoned;

10          “(3) assets exempted;

11          “(4) receipts and disbursements of the estate;

12          “(5) expenses of administration;

13          “(6) claims asserted;

14          “(7) claims allowed; and

15          “(8) distributions to claimants and claims dis-  
16 charged without payment,

17 in each case by appropriate category and, in cases under  
18 chapters 12 and 13 of title 11, date of confirmation of  
19 the plan, each modification thereto, and defaults by the  
20 debtor in performance under the plan.

21       “(e) PERIODIC REPORTS.—Periodic reports proposed  
22 for adoption by trustees or debtors in possession under  
23 chapter 11 of title 11 shall, in addition to such other mat-  
24 ters as are required by law or as the Attorney General,

1 in the discretion of the Attorney General, shall propose,  
2 include—

3           “(1) information about the standard industry  
4 classification, published by the Department of Com-  
5 merce, for the businesses conducted by the debtor;

6           “(2) length of time the case has been pending;

7           “(3) number of full-time employees as at the  
8 date of the order for relief and at end of each re-  
9 porting period since the case was filed;

10           “(4) cash receipts, cash disbursements and  
11 profitability of the debtor for the most recent period  
12 and cumulatively since the date of the order for re-  
13 lief;

14           “(5) compliance with title 11, whether or not  
15 tax returns and tax payments since the date of the  
16 order for relief have been timely filed and made;

17           “(6) all professional fees approved by the court  
18 in the case for the most recent period and cumula-  
19 tively since the date of the order for relief (sepa-  
20 rately reported, in for the professional fees incurred  
21 by or on behalf of the debtor, between those that  
22 would have been incurred absent a bankruptcy case  
23 and those not); and

24           “(7) plans of reorganization filed and confirmed  
25 and, with respect thereto, by class, the recoveries of

1 the holders, expressed in aggregate dollar values  
2 and, in the case of claims, as a percentage of total  
3 claims of the class allowed.”.

4 (b) TECHNICAL AMENDMENT.—The table of sections  
5 of chapter 39 of title 28, United States Code, is amended  
6 by adding at the end the following:

“589b. Bankruptcy data.”.

7 **SEC. 443. SENSE OF THE CONGRESS REGARDING AVAIL-**  
8 **ABILITY OF BANKRUPTCY DATA.**

9 It is the sense of the Congress that—

10 (1) the national policy of the United States  
11 should be that all data held by bankruptcy clerks in  
12 electronic form, to the extent such data reflects only  
13 public records (as defined in section 107 of title 11  
14 of the United States Code), should be released in a  
15 usable electronic form in bulk to the public subject  
16 to such appropriate privacy concerns and safeguards  
17 as the Judicial Conference of the United States may  
18 determine; and

19 (2) there should be established a bankruptcy  
20 data system in which—

21 (A) a single set of data definitions and  
22 forms are used to collect data nationwide; and

23 (B) data for any particular bankruptcy  
24 case are aggregated in the same electronic  
25 record.

# 1           **TITLE V—TAX PROVISIONS**

## 2   **SEC. 501. TREATMENT OF CERTAIN LIENS.**

3           (a) TREATMENT OF CERTAIN LIENS.—Section 724  
4 of title 11, United States Code, is amended—

5                   (1) in subsection (b), in the matter preceding  
6 paragraph (1), by inserting “(other than to the ex-  
7 tent that there is a properly perfected unavoidable  
8 tax lien arising in connection with an ad valorem tax  
9 on real or personal property of the estate)” after  
10 “under this title”;

11                   (2) in subsection (b)(2), after “507(a)(1)”, in-  
12 sert “(except that such expenses, other than claims  
13 for wages, salaries, or commissions which arise after  
14 the filing of a petition, shall be limited to expenses  
15 incurred under chapter 7 of this title and shall not  
16 include expenses incurred under chapter 11 of this  
17 title)”; and

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

19           “(e) Before subordinating a tax lien on real or per-  
20 sonal property of the estate, the trustee shall—

21                   “(1) exhaust the unencumbered assets of the  
22 estate; and

23                   “(2) in a manner consistent with section 506(c)  
24 of this title, recover from property securing an al-  
25 lowed secured claim the reasonable, necessary costs

1 and expenses of preserving or disposing of that prop-  
2 erty.

3 “(f) Notwithstanding the exclusion of ad valorem tax  
4 liens set forth in this section and subject to the require-  
5 ments of subsection (e)—

6 “(1) claims for wages, salaries, and commis-  
7 sions that are entitled to priority under section  
8 507(a)(3) of this title; or

9 “(2) claims for contributions to an employee  
10 benefit plan entitled to priority under section  
11 507(a)(4) of this title,

12 may be paid from property of the estate which secures  
13 a tax lien, or the proceeds of such property.”.

14 (b) DETERMINATION OF TAX LIABILITY.—Section  
15 505(a)(2) of title 11, United States Code, is amended—

16 (1) in subparagraph (A), by striking “or” at  
17 the end;

18 (2) in subparagraph (B), by striking the period  
19 at the end and inserting “; or”; and

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

21 “(C) the amount or legality of any amount aris-  
22 ing in connection with an ad valorem tax on real or  
23 personal property of the estate, if the applicable pe-  
24 riod for contesting or redetermining that amount

1 under any law (other than a bankruptcy law) has ex-  
2 pired.”.

3 **SEC. 502. ENFORCEMENT OF CHILD AND SPOUSAL SUP-**  
4 **PORT.**

5 Section 522(c)(1) of title 11, United States Code, is  
6 amended to read as follows:

7 “(1) a debt of a kind specified in paragraph (1)  
8 or (5) of section 523(a) of this title, and such prop-  
9 erty shall be liable for a debt of a kind specified in  
10 such paragraph (5) notwithstanding any State law  
11 to the contrary;”.

12 **SEC. 503. EFFECTIVE NOTICE TO GOVERNMENT.**

13 (a) EFFECTIVE NOTICE TO GOVERNMENTAL  
14 UNITS.—Section 342 of title 11, United States Code, as  
15 amended by section 405, is amended by adding at the end  
16 the following:

17 “(g) If a debtor lists a governmental unit as a credi-  
18 tor in a list or schedule, any notice required to be given  
19 by the debtor under this title, any rule, any applicable law,  
20 or any order of the court, shall identify the department,  
21 agency, or instrumentality through which the debtor is in-  
22 debted. The debtor shall identify (with information such  
23 as a taxpayer identification number, loan, account or con-  
24 tract number, or real estate parcel number, where applica-  
25 ble), and describe the underlying basis for the govern-

1 mental unit’s claim. If the debtor’s liability to a govern-  
2 mental unit arises from a debt or obligation owed or in-  
3 curred by another individual, entity, or organization, or  
4 under a different name, the debtor shall identify such indi-  
5 vidual, entity, organization, or name.

6 “(h) The clerk shall keep and update quarterly, in  
7 the form and manner as the Director of the Administra-  
8 tive Office of the United States Courts prescribes, and  
9 make available to debtors, a register in which a govern-  
10 mental unit may designate a safe harbor mailing address  
11 for service of notice in cases pending in the district. A  
12 governmental unit may file a statement with the clerk des-  
13 ignating a safe harbor address to which notices are to be  
14 sent, unless such governmental unit files a notice of  
15 change of address.”.

16 (b) ADOPTION OF RULES PROVIDING NOTICE.—The  
17 Advisory Committee on Bankruptcy Rules of the Judicial  
18 Conference shall, within a reasonable period of time after  
19 the date of the enactment of this Act, propose for adoption  
20 enhanced rules for providing notice to State, Federal, and  
21 local government units that have regulatory authority over  
22 the debtor or which may be creditors in the debtor’s case.  
23 Such rules shall be reasonably calculated to ensure that  
24 notice will reach the representatives of the governmental  
25 unit, or subdivision thereof, who will be the proper persons

1 authorized to act upon the notice. At a minimum, the rules  
2 should require that the debtor—

3 (1) identify in the schedules and the notice, the  
4 subdivision, agency, or entity in respect of which  
5 such notice should be received;

6 (2) provide sufficient information (such as case  
7 captions, permit numbers, taxpayer identification  
8 numbers, or similar identifying information) to per-  
9 mit the governmental unit or subdivision thereof, en-  
10 titled to receive such notice, to identify the debtor or  
11 the person or entity on behalf of which the debtor  
12 is providing notice where the debtor may be a suc-  
13 cessor in interest or may not be the same as the per-  
14 son or entity which incurred the debt or obligation;  
15 and

16 (3) identify, in appropriate schedules, served to-  
17 gether with the notice, the property in respect of  
18 which the claim or regulatory obligation may have  
19 arisen, if any, the nature of such claim or regulatory  
20 obligation and the purpose for which notice is being  
21 given.

22 (c) EFFECT OF FAILURE OF NOTICE.—Section 342  
23 of title 11, United States Code, as amended by subsection  
24 (a) and section 405, is amended by adding at the end the  
25 following:

1       “(i)(1) A notice that does not comply with sub-  
2 sections (d) and (e) shall have no effect unless the debtor  
3 demonstrates, by clear and convincing evidence, that time-  
4 ly notice was given in a manner reasonably calculated to  
5 satisfy the requirements of this section was given, and  
6 that—

7           “(A) either the notice was timely sent to the  
8 safe harbor address provided in the register main-  
9 tained by the clerk of the district in which the case  
10 was pending for such purposes; or

11           “(B) no safe harbor address was provided in  
12 such list for the governmental unit and that an offi-  
13 cer of the governmental unit who is responsible for  
14 the matter or claim had actual knowledge of the case  
15 in sufficient time to act.

16       “(2) No sanction under section 362(h) of this title  
17 or any other sanction which a court may impose on ac-  
18 count of violations of the stay under section 362(a) of this  
19 title or failure to comply with section 542 or 543 of this  
20 title may be imposed unless the action takes place after  
21 notice of the commencement of the case as required by  
22 this section has been received.”.

1 **SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF**  
2 **TAXES.**

3 Section 505(b) of title 11, United States Code, is  
4 amended by striking “Unless” at the beginning of the sec-  
5 ond sentence thereof and inserting “If the request is made  
6 in the manner designated by the governmental unit and  
7 unless”.

8 **SEC. 505. RATE OF INTEREST ON TAX CLAIMS.**

9 Chapter 5 of title 11, United States Code, is amended  
10 by adding at the end the following:

11 **“§ 511. Rate of interest on tax claims**

12 “Notwithstanding any provision of this title that re-  
13 quires the payment of interest on a claim, if interest is  
14 required to be paid on a tax claim, the rate of interest  
15 shall be as follows:

16 “(1) In the case of ad valorem tax claims,  
17 whether secured or unsecured, other unsecured tax  
18 claims where interest is required to be paid under  
19 section 726(a)(5) of this title and secured tax claims  
20 the rate shall be determined under applicable non-  
21 bankruptcy law.

22 “(2) In the case of unsecured claims for taxes  
23 arising before the date of the order for relief and  
24 paid under a plan of reorganization, the minimum  
25 rate of interest to be applied during the period after  
26 the filing of the petition shall be the Federal short-

1 term rate rounded to the nearest full percent, deter-  
2 mined under section 1274(d) of the Internal Reve-  
3 nue Code of 1986, for the calendar month in which  
4 the plan is confirmed, plus 3 percentage points.”.

5 **SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME**  
6 **PERIODS.**

7 Section 507(a)(9)(A) of title 11, United States Code,  
8 as so redesignated, is amended—

9 (1) in clause (i) by inserting after “petition”  
10 and before the semicolon “, plus any time, plus 6  
11 months, during which the stay of proceedings was in  
12 effect in a prior case under this title”; and

13 (2) amend clause (ii) to read as follows:

14 “(ii) assessed within 240 days before  
15 the date of the filing of the petition, exclu-  
16 sive of—

17 “(I) any time plus 30 days dur-  
18 ing which an offer in compromise with  
19 respect of such tax, was pending or in  
20 effect during such 240-day period;

21 “(II) any time plus 30 days dur-  
22 ing which an installment agreement  
23 with respect of such tax was pending  
24 or in effect during such 240-day pe-  
25 riod, up to 1 year; and

1                   “(III) any time plus 6 months  
2                   during which a stay of proceedings  
3                   against collections was in effect in a  
4                   prior case under this title during such  
5                   240-day period.”.

6 **SEC. 507. ASSESSMENT DEFINED.**

7           (a) ASSESSMENT DEFINED FOR PRIORITY PUR-  
8 POSES.—Section 101 of title 11, United States Code, is  
9 amended by inserting after paragraph (2) the following:

10                   “(3) ‘assessment’—

11                           “(A) for purposes of State and local taxes,  
12                           means that point in time when all actions re-  
13                           quired have been taken so that thereafter a tax-  
14                           ing authority may commence an action to col-  
15                           lect the tax; and

16                           “(B) for Federal tax purposes has the  
17                           meaning given such term in the Internal Reve-  
18                           nue Code of 1986,

19                   and ‘assessed’ and ‘assessable’ shall be interpreted  
20                   in light of the definition of assessment in this para-  
21                   graph;”.

22           (b) ASSESSMENT DEFINED FOR THE STAY OF PRO-  
23 CEEDINGS.—Section 362(b)(9)(D) of title 11, United  
24 States Code, is amended by inserting after “the making  
25 of an assessment” the following: “as defined by applicable

1 nonbankruptcy law notwithstanding the definition of an  
2 ‘assessment’ elsewhere in this title”.

3 **SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**  
4 **OTHER TAXES.**

5 Section 1328(a)(2) of title 11, United States Code,  
6 is amended by inserting “(1),” after “paragraph”.

7 **SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

8 Section 1141(d) of title 11, United States Code, as  
9 amended by section 119A, is amended by adding at the  
10 end the following:

11 “(6) Notwithstanding the provisions of paragraph  
12 (1), the confirmation of a plan does not discharge a debtor  
13 which is a corporation from any debt for a tax or customs  
14 duty with respect to which the debtor made a fraudulent  
15 return or willfully attempted in any manner to evade or  
16 defeat such tax.”.

17 **SEC. 510. STAY OF TAX PROCEEDINGS.**

18 (a) SECTION 362 STAY LIMITED TO PREPETITION  
19 TAXES.—Section 362(a)(8) of title 11, United States  
20 Code, is amended by striking the period at the end and  
21 inserting “, in respect of a tax liability for a taxable period  
22 ending before the order for relief.”.

23 (b) APPEAL OF TAX COURT DECISIONS PER-  
24 MITTED.—Section 362(b)(9) of title 11, United States  
25 Code, is amended—

1 (1) in subparagraph (C) by striking “or” at the  
2 end;

3 (2) in subparagraph (D) by striking the period  
4 at the end and inserting “; or”; and

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

6 “(E) the appeal of a decision by a court or  
7 administrative tribunal which determines a tax  
8 liability of the debtor without regard to whether  
9 such determination was made prepetition or  
10 postpetition.”.

11 **SEC. 511. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**

12 **CASES.**

13 Section 1129(a)(9) of title 11, United States Code,  
14 is amended—

15 (1) in subparagraph (B) by striking “and” at  
16 the end; and

17 (2) in subparagraph (C)—

18 (A) by striking “deferred cash payments,  
19 over a period not exceeding six years after the  
20 date of assessment of such claim,” and insert-  
21 ing “regular installment payments in cash, but  
22 in no case with a balloon provision, and no  
23 more than three months apart, beginning no  
24 later than the effective date of the plan and  
25 ending on the earlier of five years after the pe-

1           tition date or the last date payments are to be  
2           made under the plan to unsecured creditors,”;

3           (B) by striking the period at the end and  
4           inserting “; and”; and

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

6           “(D) with respect to a secured claim which  
7           would be described in section 507(a)(8) of this  
8           title but for its secured status, the holder of  
9           such claim will receive on account of such claim  
10          cash payments of not less than is required in  
11          subparagraph (C) and over a period no greater  
12          than is required in such subparagraph.”.

13 **SEC. 512. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**  
14 **ITED.**

15          Section 545(2) of title 11, United States Code, is  
16          amended by striking the semicolon at the end and insert-  
17          ing “, except where such purchaser is a purchaser de-  
18          scribed in section 6323 of the Internal Revenue Code of  
19          1986 or similar provision of State or local law;”.

20 **SEC. 513. PAYMENT OF TAXES IN THE CONDUCT OF**  
21 **BUSINESS.**

22          (a) **PAYMENT OF TAXES REQUIRED.**—Section 960 of  
23          title 28, United States Code, is amended—

24                 (1) by inserting “(a)” before “Any”; and

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

1       “(b) Such taxes shall be paid when due in the conduct  
2 of such business unless—

3               “(1) the tax is a property tax secured by a lien  
4 against property that is abandoned within a reason-  
5 able time after the lien attaches, by the trustee of  
6 a bankruptcy estate, pursuant to section 554 of title  
7 11; or

8               “(2) payment of the tax is excused under a spe-  
9 cific provision of title 11.

10       “(c) In a case pending under chapter 7 of title 11,  
11 payment of a tax may be deferred until final distribution  
12 is made under section 726 of title 11 if—

13               “(1) the tax was not incurred by a trustee duly  
14 appointed under chapter 7 of title 11; or

15               “(2) before the due date of the tax, the court  
16 has made a finding of probable insufficiency of  
17 funds of the estate to pay in full the administrative  
18 expenses allowed under section 503(b) of title 11  
19 that have the same priority in distribution under  
20 section 726(b) of title 11 as such tax.”.

21       (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—  
22 Section 503(b)(1)(B) of title 11, United States Code, is  
23 amended in clause (i) by inserting after “estate,” and be-  
24 fore “except” the following: “whether secured or unse-

1 cured, including property taxes for which liability is in rem  
2 only, in personam or both.”.

3 (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE  
4 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of  
5 title 11, United States Code, is amended by adding at the  
6 end the following:

7 “(D) notwithstanding the requirements of sub-  
8 section (a) of this section, a governmental unit shall  
9 not be required to file a request for the payment of  
10 a claim described in subparagraph (B) or (C);”.

11 (d) PAYMENT OF TAXES AND FEES AS SECURED  
12 CLAIMS.—Section 506 of title 11, United States Code, is  
13 amended—

14 (1) in subsection (b) by inserting “or State  
15 statute” after “agreement”; and

16 (2) in subsection (c) by inserting “, including  
17 the payment of all ad valorem property taxes in re-  
18 spect of the property” before the period at the end.

19 **SEC. 514. TARDILY FILED PRIORITY TAX CLAIMS.**

20 Section 726(a)(1) of title 11, United States Code, is  
21 amended by striking “before the date on which the trustee  
22 commences distribution under this section” and inserting  
23 “on or before the earlier of 10 days after the mailing to  
24 creditors of the summary of the trustee’s final report or

1 the date on which the trustee commences final distribution  
2 under this section”.

3 **SEC. 515. INCOME TAX RETURNS PREPARED BY TAX**  
4 **AUTHORITIES.**

5 Section 523(a)(1)(B) of title 11, United States Code,  
6 is amended—

7 (1) by inserting “or equivalent report or no-  
8 tice,” after “a return,”;

9 (2) in clause (i)—

10 (A) by inserting “or given” after “filed”;

11 and

12 (B) by striking “or” at the end;

13 (3) in clause (ii)—

14 (A) by inserting “or given” after “filed”;

15 and

16 (B) by inserting “, report, or notice” after  
17 “return”; and

18 (4) by adding at the end the following:

19 “(iii) for purposes of this subsection,  
20 a return—

21 “(I) must satisfy the require-  
22 ments of applicable nonbankruptcy  
23 law, and includes a return prepared  
24 pursuant to section 6020(a) of the In-  
25 ternal Revenue Code of 1986, or simi-

1 lar State or local law, or a written  
2 stipulation to a judgment entered by a  
3 nonbankruptcy tribunal, but does not  
4 include a return made pursuant to  
5 section 6020(b) of the Internal Reve-  
6 nue Code of 1986, or similar State or  
7 local law; and

8 “(II) must have been filed in a  
9 manner permitted by applicable non-  
10 bankruptcy law; or”.

11 **SEC. 516. DISCHARGE OF THE ESTATE’S LIABILITY FOR UN-**  
12 **PAID TAXES.**

13 Section 505(b) of title 11, United States Code, is  
14 amended in the second sentence by inserting “the estate,”  
15 after “misrepresentation,”.

16 **SEC. 517. REQUIREMENT TO FILE TAX RETURNS TO CON-**  
17 **FIRM CHAPTER 13 PLANS.**

18 (a) **FILING OF PREPETITION TAX RETURNS RE-**  
19 **QUIRED FOR PLAN CONFIRMATION.**—Section 1325(a) of  
20 title 11, United States Code, as amended by section 146,  
21 is amended—

22 (1) in paragraph (6) by striking “and” at the  
23 end;

24 (2) in paragraph (7) by striking the period at  
25 the end and inserting “; and”; and

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

2 “(8) if the debtor has filed all Federal, State,  
3 and local tax returns as required by section 1308 of  
4 this title.”.

5 (b) ADDITIONAL TIME PERMITTED FOR FILING TAX  
6 RETURNS.—(1) Chapter 13 of title 11, United States  
7 Code, is amended by adding at the end the following:

8 **“§ 1308. Filing of prepetition tax returns**

9 “(a) On or before the day prior to the day on which  
10 the first meeting of the creditors is convened under section  
11 341(a) of this title, the debtor shall have filed with appro-  
12 priate tax authorities all tax returns for all taxable periods  
13 ending in the 6-year period ending on the date of filing  
14 of the petition.

15 “(b) If the tax returns required by subsection (a)  
16 have not been filed by the date on which the first meeting  
17 of creditors is convened under section 341(a) of this title,  
18 the trustee may continue such meeting for a reasonable  
19 period of time, to allow the debtor additional time to file  
20 any unfiled returns, but such additional time shall be no  
21 more than—

22 “(1) for returns that are past due as of the  
23 date of the filing of the petition, 120 days from such  
24 date;

1           “(2) for returns which are not past due as of  
2           the date of the filing of the petition, the later of 120  
3           days from such date or the due date for such re-  
4           turns under the last automatic extension of time for  
5           filing such returns to which the debtor is entitled,  
6           and for which request has been timely made, accord-  
7           ing to applicable nonbankruptcy law; and

8           “(3) upon notice and hearing, and order en-  
9           tered before the lapse of any deadline fixed accord-  
10          ing to this subsection, where the debtor dem-  
11          onstrates, by clear and convincing evidence, that the  
12          failure to file the returns as required is because of  
13          circumstances beyond the control of the debtor, the  
14          court may extend the deadlines set by the trustee as  
15          provided in this subsection for—

16                 “(A) a period of no more than 30 days for  
17                 returns described in paragraph (1) of this sub-  
18                 section; and

19                 “(B) for no more than the period of time  
20                 ending on the applicable extended due date for  
21                 the returns described in paragraph (2).

22          “(c) For purposes of this section only, a return in-  
23          cludes a return prepared pursuant to section 6020 (a) or  
24          (b) of the Internal Revenue Code of 1986 or similar State

1 or local law, or a written stipulation to a judgment entered  
2 by a nonbankruptcy tribunal.”.

3 (2) The table of sections of chapter 13 of title 11,  
4 United States Code, is amended by inserting after the  
5 item relating to section 1307 the following:

“1308. Filing of prepetition tax returns.”.

6 (c) DISMISSAL OR CONVERSION ON FAILURE TO  
7 COMPLY.—Section 1307 of title 11, United States Code,  
8 is amended—

9 (1) by redesignating subsections (e) and (f) as  
10 subsections (f) and (g), respectively; and

11 (2) by inserting after subsection (d) the follow-  
12 ing:

13 “(e) Upon the failure of the debtor to file tax returns  
14 under section 1308 of this title, on request of a party in  
15 interest or the United States trustee and after notice and  
16 a hearing, the court shall dismiss a case or convert a case  
17 under this chapter to a case under chapter 7 of this title,  
18 whichever is in the best interests of creditors and the es-  
19 tate.”.

20 (d) TIMELY FILED CLAIMS.—Section 502(b)(9) of  
21 title 11, United States Code, is amended by striking the  
22 period at the end and inserting “, and except that in a  
23 case under chapter 13 of this title, a claim of a govern-  
24 mental unit for a tax in respect of a return filed under  
25 section 1308 of this title shall be timely if it is filed on

1 or before 60 days after such return or returns were filed  
2 as required.”.

3 (e) RULES FOR OBJECTIONS TO CLAIMS AND TO  
4 CONFIRMATION.—It is the sense of the Congress that the  
5 Advisory Committee on Bankruptcy Rules of the Judicial  
6 Conference should, within a reasonable period of time  
7 after the date of the enactment of this Act, propose for  
8 adoption amended Federal Rules of Bankruptcy Proce-  
9 dure which provide that—

10 (1) notwithstanding the provisions of Rule  
11 3015(f), in cases under chapter 13 of title 11,  
12 United States Code, a governmental unit may object  
13 to the confirmation of a plan on or before 60 days  
14 after the debtor files all tax returns required under  
15 sections 1308 and 1325(a)(7) of title 11, United  
16 States Code; and

17 (2) in addition to the provisions of Rule 3007,  
18 in a case under chapter 13 of title 11, United States  
19 Code, no objection to a tax in respect of a return re-  
20 quired to be filed under such section 1308 shall be  
21 filed until such return has been filed as required.

22 **SEC. 518. STANDARDS FOR TAX DISCLOSURE.**

23 Section 1125(a) of title 11, United States Code, is  
24 amended in paragraph (1)—

1           (1) by inserting after “records,” the following:  
2           “including a full discussion of the potential material  
3           Federal, State, and local tax consequences of the  
4           plan to the debtor, any successor to the debtor, and  
5           a hypothetical investor domiciled in the State in  
6           which the debtor resides or has its principal place of  
7           business typical of the holders of claims or interests  
8           in the case,”;

9           (2) by inserting “such” after “enable”; and

10           (3) by striking “reasonable” where it appears  
11           after “hypothetical” and by striking “typical of hold-  
12           ers of claims or interests” after “investor”.

13 **SEC. 519. SETOFF OF TAX REFUNDS.**

14           Section 362(b) of title 11, United States Code, as  
15           amended by sections 130, 146, and 150 is amended—

16           (1) in paragraph (21) by striking “or”;

17           (2) in paragraph (22) by striking the period at  
18           the end and inserting “; or”; and

19           (3) by inserting after paragraph (22) (as so re-  
20           designated) the following:

21           “(23) under subsection (a) of the setoff of an  
22           income tax refund, by a governmental unit, in re-  
23           spect of a taxable period which ended before the  
24           order for relief against an income tax liability for a

1 taxable period which also ended before the order for  
2 relief, unless—

3 “(A) prior to such setoff, an action to de-  
4 termine the amount or legality of such tax li-  
5 ability under section 505(a) was commenced; or

6 “(B) where the setoff of an income tax re-  
7 fund is not permitted because of a pending ac-  
8 tion to determine the amount or legality of a  
9 tax liability, the governmental unit may hold  
10 the refund pending the resolution of the ac-  
11 tion.”.

12 **TITLE VI—ANCILLARY AND**  
13 **OTHER CROSS-BORDER CASES**

14 **SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11,**  
15 **UNITED STATES CODE.**

16 (a) IN GENERAL.—Title 11, United States Code, is  
17 amended by inserting after chapter 5 the following:

18 **“CHAPTER 6—ANCILLARY AND OTHER**  
19 **CROSS-BORDER CASES**

“Sec.

“601. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“602. Definitions.

“603. International obligations of the United States.

“604. Commencement of ancillary case.

“605. Authorization to act in a foreign country.

“606. Public policy exception.

“607. Additional assistance.

“608. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND  
CREDITORS TO THE COURT

- “609. Right of direct access.
- “610. Limited jurisdiction.
- “611. Commencement of bankruptcy case under section 301 or 303.
- “612. Participation of a foreign representative in a case under this title.
- “613. Access of foreign creditors to a case under this title.
- “614. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING  
AND RELIEF

- “615. Application for recognition of a foreign proceeding.
- “616. Presumptions concerning recognition.
- “617. Order recognizing a foreign proceeding.
- “618. Subsequent information.
- “619. Relief that may be granted upon petition for recognition of a foreign proceeding.
- “620. Effects of recognition of a foreign main proceeding.
- “621. Relief that may be granted upon recognition of a foreign proceeding.
- “622. Protection of creditors and other interested persons.
- “623. Actions to avoid acts detrimental to creditors.
- “624. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND  
FOREIGN REPRESENTATIVES

- “625. Cooperation and direct communication between the court and foreign courts or foreign representatives.
- “626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
- “627. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

- “628. Commencement of a case under this title after recognition of a foreign main proceeding.
- “629. Coordination of a case under this title and a foreign proceeding.
- “630. Coordination of more than 1 foreign proceeding.
- “631. Presumption of insolvency based on recognition of a foreign main proceeding.
- “632. Rule of payment in concurrent proceedings.

**1 “§ 601. Purpose and scope of application**

2       “(a) The purpose of this chapter is to incorporate the  
3 Model Law on Cross-Border Insolvency so as to provide  
4 effective mechanisms for dealing with cases of cross-border  
5 insolvency with the objectives of—

6               “(1) cooperation between—

1           “(A) United States courts, United States  
2           Trustees, trustees, examiners, debtors, and  
3           debtors in possession; and

4           “(B) the courts and other competent au-  
5           thorities of foreign countries involved in cross-  
6           border insolvency cases;

7           “(2) greater legal certainty for trade and in-  
8           vestment;

9           “(3) fair and efficient administration of cross-  
10          border insolvencies that protects the interests of all  
11          creditors, and other interested entities, including the  
12          debtor;

13          “(4) protection and maximization of the value  
14          of the debtor’s assets; and

15          “(5) facilitation of the rescue of financially  
16          troubled businesses, thereby protecting investment  
17          and preserving employment.

18          “(b) This chapter applies where—

19                 “(1) assistance is sought in the United States  
20                 by a foreign court or a foreign representative in con-  
21                 nection with a foreign proceeding;

22                 “(2) assistance is sought in a foreign country in  
23                 connection with a case under this title;

1           “(3) a foreign proceeding and a case under this  
2 title with respect to the same debtor are taking place  
3 concurrently; or

4           “(4) creditors or other interested persons in a  
5 foreign country have an interest in requesting the  
6 commencement of, or participating in, a case or pro-  
7 ceeding under this title.

8           “(c) This chapter does not apply to—

9           “(1) a proceeding concerning an entity identi-  
10 fied by exclusion in subsection 109(b);

11           “(2) an individual, or to an individual and such  
12 individual’s spouse, who have debts within the limits  
13 specified in under section 109(e) and who are citi-  
14 zens of the United States or aliens lawfully admitted  
15 for permanent residence in the United States; or

16           “(3) an entity subject to a proceeding under the  
17 Securities Investor Protection Act, a stockbroker  
18 subject to subchapter III of chapter 7 of this title,  
19 or a commodity broker subject to subchapter IV of  
20 chapter 7 of this title.

21           “SUBCHAPTER I—GENERAL PROVISIONS

22           “§ 602. **Definitions**

23           “For the purposes of this chapter, the term—

24           “(1) ‘debtor’ means an entity that is the subject  
25 of a foreign proceeding;

1           “(2) ‘establishment’ means any place of oper-  
2           ations where the debtor carries out a nontransitory  
3           economic activity;

4           “(3) ‘foreign court’ means a judicial or other  
5           authority competent to control or supervise a foreign  
6           proceeding;

7           “(4) ‘foreign main proceeding’ means a foreign  
8           proceeding taking place in the country where the  
9           debtor has the center of its main interests;

10           “(5) ‘foreign nonmain proceeding’ means a for-  
11           eign proceeding, other than a foreign main proceed-  
12           ing, taking place in a country where the debtor has  
13           an establishment;

14           “(6) ‘trustee’ includes a trustee, a debtor in  
15           possession in a case under any chapter of this title,  
16           or a debtor under chapters 9 or 13 of this title; and

17           “(7) ‘within the territorial jurisdiction of the  
18           United States’ when used with reference to property  
19           of a debtor refers to tangible property located within  
20           the territory of the United States and intangible  
21           property deemed under applicable nonbankruptcy  
22           law to be located within that territory, including any  
23           property subject to attachment or garnishment that  
24           may properly be seized or garnished by an action in  
25           a Federal or State court in the United States.

1 **“§ 603. International obligations of the United States**

2 “To the extent that this chapter conflicts with an ob-  
3 ligation of the United States arising out of any treaty or  
4 other form of agreement to which it is a party with 1 or  
5 more other countries, the requirements of the treaty or  
6 agreement prevail.

7 **“§ 604. Commencement of ancillary case**

8 “A case under this chapter is commenced by the filing  
9 of a petition for recognition of a foreign proceeding under  
10 section 615.

11 **“§ 605. Authorization to act in a foreign country**

12 “A trustee or another entity (including an examiner)  
13 authorized by the court may be authorized by the court  
14 to act in a foreign country on behalf of an estate created  
15 under section 541. An entity authorized to act under this  
16 section may act in any way permitted by the applicable  
17 foreign law.

18 **“§ 606. Public policy exception**

19 “Nothing in this chapter prevents the court from re-  
20 fusing to take an action governed by this chapter if the  
21 action would be manifestly contrary to the public policy  
22 of the United States.

23 **“§ 607. Additional assistance**

24 “(a) Subject to the specific limitations stated else-  
25 where in this chapter the court, upon recognition of a for-  
26 eign proceeding, to provide additional assistance to a for-

1 eign representative under this title or under other laws  
2 of the United States.

3 “(b) In determining whether to provide additional as-  
4 sistance under this title or under other laws of the United  
5 States, the court shall consider whether such additional  
6 assistance, consistent with the principles of comity, will  
7 reasonably assure—

8 “(1) just treatment of all holders of claims  
9 against or interests in the debtor’s property;

10 “(2) protection of claim holders in the United  
11 States against prejudice and inconvenience in the  
12 processing of claims in such foreign proceeding;

13 “(3) prevention of preferential or fraudulent  
14 dispositions of property of the debtor;

15 “(4) distribution of proceeds of the debtor’s  
16 property substantially in accordance with the order  
17 prescribed by this title; and

18 “(5) if appropriate, the provision of an oppor-  
19 tunity for a fresh start for the individual that such  
20 foreign proceeding concerns.

21 **“§ 608. Interpretation**

22 “In interpreting this chapter, the court shall consider  
23 its international origin, and the need to promote an appli-  
24 cation of this chapter that is consistent with the applica-  
25 tion of similar statutes adopted by foreign jurisdictions.

1 “SUBCHAPTER II—ACCESS OF FOREIGN REP-  
2 RESENTATIVES AND CREDITORS TO THE  
3 COURT

4 “§ 609. **Right of direct access**

5 “(a) A foreign representative is entitled to commence  
6 a case under section 604 by filing a petition for recogni-  
7 tion under section 615, and upon recognition, to apply di-  
8 rectly to other Federal and State courts for appropriate  
9 relief in those courts.

10 “(b) Upon recognition, and subject to section 610,  
11 a foreign representative has the capacity to sue and be  
12 sued, and shall be subject to the laws of the United States  
13 of general applicability.

14 “(c) Subject to section 610 of this title, a foreign rep-  
15 resentative is subject to laws of general application.

16 “(d) Recognition under this chapter is prerequisite to  
17 the granting of comity or cooperation to a foreign rep-  
18 resentative in any State or Federal court in the United  
19 States. Any request for comity or cooperation by a foreign  
20 representative in any court shall be accompanied by a  
21 sworn statement setting forth whether recognition under  
22 section 615 has been sought and the status of any such  
23 petition.

24 “(e) Upon denial of recognition under this chapter,  
25 the court may issue appropriate orders necessary to pre-

1 vent an attempt to obtain comity or cooperation from  
2 courts in the United States without such recognition.

3 **“§ 610. Limited jurisdiction**

4 “The sole fact that a foreign representative files a  
5 petition under section 615 does not subject the foreign  
6 representative to the jurisdiction of any court in the  
7 United States for any other purpose.

8 **“§ 611. Commencement of case under section 301 or**  
9 **303**

10 “(a) Upon recognition, a foreign representative may  
11 commence—

12 “(1) an involuntary case under section 303; or

13 “(2) a voluntary case under section 301 or 302,  
14 if the foreign proceeding is a foreign main proceed-  
15 ing.

16 “(b) The petition commencing a case under sub-  
17 section (a) of this section must be accompanied by a state-  
18 ment describing the petition for recognition and its cur-  
19 rent status. The court where the petition for recognition  
20 has been filed must be advised of the foreign representa-  
21 tive’s intent to commence a case under subsection (a) of  
22 this section prior to such commencement.

1 **“§ 612. Participation of a foreign representative in a**  
2 **case under this title**

3 “Upon recognition of a foreign proceeding, the for-  
4 eign representative in that proceeding is entitled to par-  
5 ticipate as a party in interest in a case regarding the debt-  
6 or under this title.

7 **“§ 613. Access of foreign creditors to a case under**  
8 **this title**

9 “(a) Foreign creditors have the same rights regarding  
10 the commencement of, and participation in, a case under  
11 this title as domestic creditors.

12 “(b)(1) Subsection (a) of this section does not change  
13 or codify present law as to the priority of claims under  
14 section 507 or 726 of this title, except that the claim of  
15 a foreign creditor under those sections shall not be given  
16 a lower priority than that of general unsecured claims  
17 without priority solely because the holder of such claim  
18 is a foreign creditor.

19 “(2)(A) Subsection (a) of this section and paragraph  
20 (1) of this subsection do not change or codify present law  
21 as to the allowability of foreign revenue claims or other  
22 foreign public law claims in a proceeding under this title.

23 “(B) Allowance and priority as to a foreign tax claim  
24 or other foreign public law claim shall be governed by any  
25 applicable tax treaty of the United States, under the con-  
26 ditions and circumstances specified therein.

1 **“§ 614. Notification to foreign creditors concerning a**  
2 **case under this title**

3 “(a) Whenever in a case under this title notice is to  
4 be given to creditors generally or to any class or category  
5 of creditors, such notice shall also be given to the known  
6 creditors generally, or to creditors in the notified class or  
7 category, that do not have addresses in the United States.  
8 The court may order that appropriate steps be taken with  
9 a view to notifying any creditor whose address is not yet  
10 known.

11 “(b) Such notification to creditors with foreign ad-  
12 dresses described in subsection (a) shall be given individ-  
13 ually, unless the court considers that, under the cir-  
14 cumstances, some other form of notification would be  
15 more appropriate. No letters rogatory or other similar for-  
16 mality is required.

17 “(c) When a notification of commencement of a case  
18 is to be given to foreign creditors, the notification shall—

19 “(1) indicate the time period for filing proofs of  
20 claim and specify the place for their filing;

21 “(2) indicate whether secured creditors need to  
22 file their proofs of claim; and

23 “(3) contain any other information required to  
24 be included in such a notification to creditors pursu-  
25 ant to this title and the orders of the court.



1       “(c) A petition for recognition shall also be accom-  
2 panied by a statement identifying all foreign proceedings  
3 with respect to the debtor that are known to the foreign  
4 representative.

5       “(d) The documents referred to in paragraphs (1)  
6 and (2) of subsection (b) must be translated into English.  
7 The court may require a translation into English of addi-  
8 tional documents.

9       **“§ 616. Presumptions concerning recognition**

10       “(a) If the decision or certificate referred to in section  
11 615(b) indicates that the foreign proceeding is a foreign  
12 proceeding within the meaning of section 101(23) and that  
13 the person or body is a foreign representative within the  
14 meaning of section 101(24), the court is entitled to so pre-  
15 sume.

16       “(b) The court is entitled to presume that documents  
17 submitted in support of the petition for recognition are  
18 authentic, whether or not they have been legalized.

19       “(c) In the absence of evidence to the contrary, the  
20 debtor’s registered office, or habitual residence in the case  
21 of an individual, is presumed to be the center of the debt-  
22 or’s main interests.

1 **“§ 617. Order recognizing a foreign proceeding**

2 “(a) Subject to section 606, after notice and a hear-  
3 ing an order recognizing a foreign proceeding shall be en-  
4 tered if—

5 “(1) the foreign proceeding is a foreign main  
6 proceeding or foreign nonmain proceeding within the  
7 meaning of section 602;

8 “(2) the foreign representative applying for rec-  
9 ognition is a person or body within the meaning of  
10 section 101(24); and

11 “(3) the petition meets the requirements of sec-  
12 tion 615.

13 “(b) The foreign proceeding shall be recognized—

14 “(1) as a foreign main proceeding if it is taking  
15 place in the country where the debtor has the center  
16 of its main interests; or

17 “(2) as a foreign nonmain proceeding if the  
18 debtor has an establishment within the meaning of  
19 section 602 in the foreign country where the pro-  
20 ceeding is pending.

21 “(c) A petition for recognition of a foreign proceeding  
22 shall be decided upon at the earliest possible time. Entry  
23 of an order recognizing a foreign proceeding shall con-  
24 stitute recognition under this chapter.

25 “(d) The provisions of this subchapter do not prevent  
26 modification or termination of recognition if it is shown

1 that the grounds for granting it were fully or partially  
2 lacking or have ceased to exist, but in considering such  
3 action the court shall give due weight to possible prejudice  
4 to parties that have relied upon the granting of recogni-  
5 tion. The case under this chapter may be closed in the  
6 manner prescribed for a case under section 350.

7 **“§ 618. Subsequent information**

8 “From the time of filing the petition for recognition  
9 of the foreign proceeding, the foreign representative shall  
10 file with the court promptly a notice of change of status  
11 concerning—

12 “(1) any substantial change in the status of the  
13 foreign proceeding or the status of the foreign rep-  
14 resentative’s appointment; and

15 “(2) any other foreign proceeding regarding the  
16 debtor that becomes known to the foreign represent-  
17 ative.

18 **“§ 619. Relief that may be granted upon petition for**  
19 **recognition of a foreign proceeding**

20 “(a) From the time of filing a petition for recognition  
21 until the petition is decided upon, the court may, at the  
22 request of the foreign representative, where relief is ur-  
23 gently needed to protect the assets of the debtor or the  
24 interests of the creditors, grant relief of a provisional na-  
25 ture, including—

1           “(1) staying execution against the debtor’s as-  
2           sets;

3           “(2) entrusting the administration or realiza-  
4           tion of all or part of the debtor’s assets located in  
5           the United States to the foreign representative or  
6           another person authorized by the court, including an  
7           examiner, in order to protect and preserve the value  
8           of assets that, by their nature or because of other  
9           circumstances, are perishable, susceptible to devalu-  
10          ation or otherwise in jeopardy; and

11          “(3) any relief referred to in paragraph (3),  
12          (4), or (7) of section 621(a).

13          “(b) Unless extended under section 621(a)(6), the re-  
14          lief granted under this section terminates when the peti-  
15          tion for recognition is decided upon.

16          “(c) It is a ground for denial of relief under this sec-  
17          tion that such relief would interfere with the administra-  
18          tion of a foreign main proceeding.

19          “(d) The court may not enjoin a police or regulatory  
20          act of a governmental unit, including a criminal action or  
21          proceeding, under this section.

22          “(e) The standards, procedures, and limitations ap-  
23          plicable to an injunction shall apply to relief under this  
24          section.

1 **“§ 620. Effects of recognition of a foreign main pro-**  
2 **ceeding**

3 “(a) Upon recognition of a foreign proceeding that  
4 is a foreign main proceeding—

5 “(1) section 362 applies with respect to the  
6 debtor and that property of the debtor that is within  
7 the territorial jurisdiction of the United States; and

8 “(2) transfer, encumbrance, or any other dis-  
9 position of an interest of the debtor in property  
10 within the territorial jurisdiction of the United  
11 States is restrained as and to the extent that is pro-  
12 vided for property of an estate under sections 363,  
13 549, and 552.

14 Unless the court orders otherwise, the foreign representa-  
15 tive may operate the debtor’s business and may exercise  
16 the powers of a trustee under section 549, subject to sec-  
17 tions 363 and 552.

18 “(b) The scope, and the modification or termination,  
19 of the stay and restraints referred to in subsection (a) of  
20 this section are subject to the exceptions and limitations  
21 provided in subsections (b), (c), and (d) of section 362,  
22 subsections (b) and (c) of section 363, and sections 552,  
23 555 through 557, 559, and 560.

24 “(c) Subsection (a) of this section does not affect the  
25 right to commence individual actions or proceedings in a

1 foreign country to the extent necessary to preserve a claim  
2 against the debtor.

3 “(d) Subsection (a) of this section does not affect the  
4 right of a foreign representative or an entity to file a peti-  
5 tion commencing a case under this title or the right of  
6 any party to file claims or take other proper actions in  
7 such a case.

8 **“§ 621. Relief that may be granted upon recognition**  
9 **of a foreign proceeding**

10 “(a) Upon recognition of a foreign proceeding, wheth-  
11 er main or nonmain, where necessary to effectuate the  
12 purpose of this chapter and to protect the assets of the  
13 debtor or the interests of the creditors, the court may, at  
14 the request of the foreign representative, grant any appro-  
15 priate relief, including—

16 “(1) staying the commencement or continuation  
17 of individual actions or individual proceedings con-  
18 cerning the debtor’s assets, rights, obligations or li-  
19 abilities to the extent they have not been stayed  
20 under section 620(a);

21 “(2) staying execution against the debtor’s as-  
22 sets to the extent it has not been stayed under sec-  
23 tion 620(a);

24 “(3) suspending the right to transfer, encumber  
25 or otherwise dispose of any assets of the debtor to

1 the extent this right has not been suspended under  
2 section 620(a);

3 “(4) providing for the examination of witnesses,  
4 the taking of evidence or the delivery of information  
5 concerning the debtor’s assets, affairs, rights, obliga-  
6 tions or liabilities;

7 “(5) entrusting the administration or realiza-  
8 tion of all or part of the debtor’s assets within the  
9 territorial jurisdiction of the United States to the  
10 foreign representative or another person, including  
11 an examiner, authorized by the court;

12 “(6) extending relief granted under section  
13 619(a); and

14 “(7) granting any additional relief that may be  
15 available to a trustee, except for relief available  
16 under sections 522, 544, 545, 547, 548, 550, and  
17 724(a).

18 “(b) Upon recognition of a foreign proceeding, wheth-  
19 er main or nonmain, the court may, at the request of the  
20 foreign representative, entrust the distribution of all or  
21 part of the debtor’s assets located in the United States  
22 to the foreign representative or another person, including  
23 an examiner, authorized by the court, provided that the  
24 court is satisfied that the interests of creditors in the  
25 United States are sufficiently protected.

1 “(c) In granting relief under this section to a rep-  
2 resentative of a foreign nonmain proceeding, the court  
3 must be satisfied that the relief relates to assets that,  
4 under the law of the United States, should be adminis-  
5 tered in the foreign nonmain proceeding or concerns infor-  
6 mation required in that proceeding.

7 “(d) The court may not enjoin a police or regulatory  
8 act of a governmental unit, including a criminal action or  
9 proceeding, under this section.

10 “(e) The standards, procedures, and limitations ap-  
11 plicable to an injunction shall apply to relief under para-  
12 graphs (1), (2), (3), and (6) of subsection (a).

13 **“§ 622. Protection of creditors and other interested**  
14 **persons**

15 “(a) The court may grant relief under section 619  
16 or 621, or may modify or terminate relief under subsection  
17 (c) of this section, only if the interests of the creditors  
18 and other interested persons or entities, including the  
19 debtor, are sufficiently protected.

20 “(b) The court may subject relief granted under sec-  
21 tion 619 or 621, or the operation of the debtor’s business  
22 under section 620(a)(2) of this title, to conditions it con-  
23 siders appropriate, including the giving of security or the  
24 filing of a bond.

1       “(c) The court may, at the request of the foreign rep-  
2       resentative or an entity affected by relief granted under  
3       section 619 or 621, or at its own motion, modify or termi-  
4       nate such relief.

5       “(d) Section 1104(d) shall apply to the appointment  
6       of an examiner under this chapter. Any examiner shall  
7       comply with the qualification requirements imposed on a  
8       trustee by section 322.

9       **“§ 623. Actions to avoid acts detrimental to creditors**

10       “(a) Upon recognition of a foreign proceeding, the  
11       foreign representative has standing in a pending case  
12       under another chapter of this title to initiate actions under  
13       sections 522, 544, 545, 547, 548, 550, and 724(a).

14       “(b) When the foreign proceeding is a foreign  
15       nonmain proceeding, the court must be satisfied that an  
16       action under subsection (a) of this section relates to assets  
17       that, under United States law, should be administered in  
18       the foreign nonmain proceeding.

19       **“§ 624. Intervention by a foreign representative**

20       “Upon recognition of a foreign proceeding, the for-  
21       eign representative may intervene in any proceedings in  
22       a State or Federal court in the United States in which  
23       the debtor is a party.

1 “SUBCHAPTER IV—COOPERATION WITH FOR-  
2 EIGN COURTS AND FOREIGN REPRESENTA-  
3 TIVES

4 **“§ 625. Cooperation and direct communication be-**  
5 **tween the court and foreign courts or for-**  
6 **oreign representatives**

7 “(a) Consistent with section 601, the court shall co-  
8 operate to the maximum extent possible with foreign  
9 courts or foreign representatives, either directly or  
10 through the trustee.

11 “(b) The court is entitled to communicate directly  
12 with, or to request information or assistance directly from,  
13 foreign courts or foreign representatives, subject to the  
14 rights of parties in interest to notice and participation.

15 **“§ 626. Cooperation and direct communication be-**  
16 **tween the trustee and foreign courts or**  
17 **foreign representatives**

18 “(a) Consistent with section 601, the trustee or other  
19 person, including an examiner, authorized by the court,  
20 shall, subject to the supervision of the court, cooperate to  
21 the maximum extent possible with foreign courts or for-  
22 eign representatives.

23 “(b) The trustee or other person, including an exam-  
24 iner, authorized by the court is entitled, subject to the su-

1 pervision of the court, to communicate directly with for-  
2 eign courts or foreign representatives.

3 **“§ 627. Forms of cooperation**

4 “Cooperation referred to in sections 625 and 626  
5 may be implemented by any appropriate means, includ-  
6 ing—

7 “(1) appointment of a person or body, including  
8 an examiner, to act at the direction of the court;

9 “(2) communication of information by any  
10 means considered appropriate by the court;

11 “(3) coordination of the administration and su-  
12 pervision of the debtor’s assets and affairs;

13 “(4) approval or implementation of agreements  
14 concerning the coordination of proceedings; and

15 “(5) coordination of concurrent proceedings re-  
16 garding the same debtor.

17 **“SUBCHAPTER V—CONCURRENT PROCEEDINGS**

18 **“§ 628. Commencement of a case under this title after**  
19 **recognition of a foreign main proceeding**

20 “After recognition of a foreign main proceeding, a  
21 case under another chapter of this title may be commenced  
22 only if the debtor has assets in the United States. The  
23 effects of that case shall be restricted to the assets of the  
24 debtor that are within the territorial jurisdiction of the  
25 United States and, to the extent necessary to implement

1 cooperation and coordination under sections 625, 626, and  
2 627, to other assets of the debtor that are within the juris-  
3 diction of the court under sections 541(a) of this title, and  
4 1334(e) of title 28, to the extent that such other assets  
5 are not subject to the jurisdiction and control of a foreign  
6 proceeding that has been recognized under this chapter.

7 **“§ 629. Coordination of a case under this title and a**  
8 **foreign proceeding**

9 “Where a foreign proceeding and a case under an-  
10 other chapter of this title are taking place concurrently  
11 regarding the same debtor, the court shall seek coopera-  
12 tion and coordination under sections 625, 626, and 627,  
13 and the following shall apply:

14 “(1) When the case in the United States is tak-  
15 ing place at the time the petition for recognition of  
16 the foreign proceeding is filed—

17 “(A) any relief granted under sections 619  
18 or 621 must be consistent with the relief grant-  
19 ed in the case in the United States; and

20 “(B) even if the foreign proceeding is rec-  
21 ognized as a foreign main proceeding, section  
22 620 does not apply.

23 “(2) When a case in the United States under  
24 this title commences after recognition, or after the

1 filing of the petition for recognition, of the foreign  
2 proceeding—

3 “(A) any relief in effect under sections 619  
4 or 621 shall be reviewed by the court and shall  
5 be modified or terminated if inconsistent with  
6 the case in the United States; and

7 “(B) if the foreign proceeding is a foreign  
8 main proceeding, the stay and suspension re-  
9 ferred to in section 620(a) shall be modified or  
10 terminated if inconsistent with the relief grant-  
11 ed in the case in the United States.

12 “(3) In granting, extending, or modifying relief  
13 granted to a representative of a foreign nonmain  
14 proceeding, the court must be satisfied that the re-  
15 lief relates to assets that, under the law of the  
16 United States, should be administered in the foreign  
17 nonmain proceeding or concerns information re-  
18 quired in that proceeding.

19 “(4) In achieving cooperation and coordination  
20 under sections 628 and 629, the court may grant  
21 any of the relief authorized under section 305.

22 **“§ 630. Coordination of more than 1 foreign proceed-**  
23 **ing**

24 “In matters referred to in section 601, with respect  
25 to more than 1 foreign proceeding regarding the debtor,

1 the court shall seek cooperation and coordination under  
2 sections 625, 626, and 627, and the following shall apply:

3           “(1) Any relief granted under section 619 or  
4           621 to a representative of a foreign nonmain pro-  
5           ceeding after recognition of a foreign main proceed-  
6           ing must be consistent with the foreign main pro-  
7           ceeding.

8           “(2) If a foreign main proceeding is recognized  
9           after recognition, or after the filing of a petition for  
10          recognition, of a foreign nonmain proceeding, any  
11          relief in effect under section 619 or 621 shall be re-  
12          viewed by the court and shall be modified or termi-  
13          nated if inconsistent with the foreign main proceed-  
14          ing.

15          “(3) If, after recognition of a foreign nonmain  
16          proceeding, another foreign nonmain proceeding is  
17          recognized, the court shall grant, modify, or termi-  
18          nate relief for the purpose of facilitating coordina-  
19          tion of the proceedings.

20 **“§ 631. Presumption of insolvency based on recogni-**  
21 **tion of a foreign main proceeding**

22          “‘In the absence of evidence to the contrary, recogni-  
23          tion of a foreign main proceeding is for the purpose of  
24          commencing a proceeding under section 303, proof that  
25          the debtor is generally not paying its debts.

1 **“§ 632. Rule of payment in concurrent proceedings**

2 “Without prejudice to secured claims or rights in  
3 rem, a creditor who has received payment with respect to  
4 its claim in a foreign proceeding pursuant to a law relating  
5 to insolvency may not receive a payment for the same  
6 claim in a case under any other chapter of this title re-  
7 garding the debtor, so long as the payment to other credi-  
8 tors of the same class is proportionately less than the pay-  
9 ment the creditor has already received.”.

10 (b) CLERICAL AMENDMENT.—The table of chapters  
11 for title 11, United States Code, is amended by inserting  
12 after the item relating to chapter 5 the following:

**“6. Ancillary and Other Cross-Border Cases ..... 601”.**

13 **SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**  
14 **UNITED STATES CODE.**

15 (a) APPLICABILITY OF CHAPTERS.—Section 103 of  
16 title 11, United States Code, is amended—

17 (1) in subsection (a), by inserting before the pe-  
18 riod the following: “and this chapter, sections 307,  
19 555 through 557, 559, and 560 apply in a case  
20 under chapter 6”; and

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

22 “(j) Chapter 6 applies only in a case under that chap-  
23 ter, except that section 605 applies to trustees and to any  
24 other entity authorized by the court, including an exam-  
25 iner, under chapters 7, 11, and 12, to debtors in posses-

1 sion under chapters 11 and 12, and to debtors or trustees  
2 under chapters 9 and 13 who are authorized to act under  
3 section 605.”.

4 (b) DEFINITIONS.—Section 101 of title 11, United  
5 States Code, is amended by striking paragraphs (23) and  
6 (24) and inserting the following:

7 “(23) ‘foreign proceeding’ means a collective ju-  
8 dicial or administrative proceeding in a foreign state,  
9 including an interim proceeding, pursuant to a law  
10 relating to insolvency in which proceeding the assets  
11 and affairs of the debtor are subject to control or  
12 supervision by a foreign court, for the purpose of re-  
13 organization or liquidation;

14 “(24) ‘foreign representative’ means a person  
15 or body, including a person or body appointed on an  
16 interim basis, authorized in a foreign proceeding to  
17 administer the reorganization or the liquidation of  
18 the debtor’s assets or affairs or to act as a rep-  
19 resentative of the foreign proceeding;”.

20 (c) AMENDMENTS TO TITLE 28, UNITED STATES  
21 CODE.—

22 (1) PROCEDURES.—Section 157(b)(2) of title  
23 28, United States Code, is amended—

24 (A) in subparagraph (N), by striking  
25 “and” at the end;

1 (B) in subparagraph (O), by striking the  
2 period at the end and inserting “; and”; and

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

4 “(P) recognition of foreign proceedings and  
5 other matters under chapter 6 of title 11.”.

6 (2) BANKRUPTCY CASES AND PROCEEDINGS.—  
7 Section 1334(c)(1) of title 28, United States Code,  
8 is amended by striking “Nothing in” and inserting  
9 “Except with respect to a case under chapter 6 of  
10 title 11, nothing in”.

11 (3) DUTIES OF TRUSTEES.—Section 586(a)(3)  
12 of title 28, United States Code, is amended by in-  
13 sserting “6,” after “chapter”.

## 14 **TITLE VII—MISCELLANEOUS**

### 15 **SEC. 701. TECHNICAL AMENDMENTS.**

16 Title 11 of the United States Code is amended—

17 (1) in section 109(b)(2) by striking “subsection  
18 (c) or (d) of”;

19 (2) in section 541(b)(4) by adding “or” at the  
20 end; and

21 (3) in section 552(b)(1) by striking “product”  
22 each place it appears and inserting “products”.

### 23 **SEC. 702. APPLICATION OF AMENDMENTS.**

24 Except as otherwise provided in this Act, the amend-  
25 ments made by this this Act shall apply only with respect

- 1 to cases commenced under title 11 of the United States
- 2 Code after the date of the enactment of this Act.

Passed the House of Representatives June 10, 1998.

Attest:

*Clerk.*