

103^D CONGRESS
2^D SESSION

S. 540

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 1994

Referred to the Committee on the Judiciary

AN ACT

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE IMPROVEMENT.—This Act may be
5 cited as the “Bankruptcy Amendments Act of 1994”.

1 (b) TABLE OF CONTENTS.—The table of contents is
 2 as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

- Sec. 101. Expedited hearing on automatic stay.
- Sec. 102. Expedited filing of plans under chapter 11.
- Sec. 103. Expedited procedure for reaffirmation of debts.
- Sec. 104. Powers of bankruptcy courts.
- Sec. 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
- Sec. 106. Definition relating to eligibility to serve on chapter 11 committees.
- Sec. 107. Increased incentive compensation for trustees.
- Sec. 108. Dollar adjustments.
- Sec. 109. Premerger notification.
- Sec. 110. Allowance of creditor committee expenses.
- Sec. 111. Judicial conference report.
- Sec. 112. Service of process in bankruptcy proceedings on an insured depository institution.
- Sec. 113. Meetings of creditors and equity security holders.
- Sec. 114. Tax assessment.
- Sec. 115. Additional trustee compensation.
- Sec. 116. Extension to certain judicial officials of life insurance rules currently applicable to Federal judges.
- Sec. 117. Settlement of claims and demands for payment.
- Sec. 118. Recommendations of the judicial conference for the appointment of bankruptcy judges.

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

- Sec. 201. Small businesses.
- Sec. 202. Single asset real estate.
- Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.
- Sec. 204. Unexpired leases of personal property in chapter 11 cases.
- Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.
- Sec. 206. Protection of security interest in post-petition rents.
- Sec. 207. Anti-alienation.
- Sec. 208. Exemption.
- Sec. 209. Indenture trustee compensation.
- Sec. 210. Payment of taxes with borrowed funds.
- Sec. 211. Return of goods.
- Sec. 212. Exception to discharge.
- Sec. 213. Proceeds of money order agreements.
- Sec. 214. Limitation on liability of noninsider transferee for avoided transfer.
- Sec. 215. Perfection of purchase-money security interest.
- Sec. 216. Airport gate leases.
- Sec. 217. Trustee duties.
- Sec. 218. Payments.
- Sec. 219. Continued perfection.
- Sec. 220. Notices to creditors.
- Sec. 221. Supplemental injunctions.
- Sec. 222. Rejection of unexpired leases of real property or timeshare interests.

- Sec. 223. Contents of plan.
- Sec. 224. Priority for independent sales representatives.
- Sec. 225. Amend Bankruptcy Code.

TITLE III—CONSUMER BANKRUPTCY ISSUES

- Sec. 301. Period for curing default relating to principal residence.
- Sec. 302. Nondischargeability of fine under chapter 13.
- Sec. 303. Impairment of exemptions.
- Sec. 304. Protection of child support and alimony.
- Sec. 305. Bankruptcy petition preparers.
- Sec. 306. Conversion or dismissal.
- Sec. 307. Contents of plan.
- Sec. 308. Stay of action against codebtor.
- Sec. 309. Exemption for household goods.
- Sec. 310. Professional fees.
- Sec. 311. Interest on interest.
- Sec. 312. Fairness to condominium and cooperative owners.
- Sec. 313. Nonavoidability of fixing of lien on tools and implements of trade, animals, and crops.
- Sec. 314. Nondischargeability of debt for money, property, services, or credit obtained by false pretense, false representation, or fraud.
- Sec. 315. Conversion of case under chapter 13.
- Sec. 316. Rent-to-own contracts.

TITLE IV—BANKRUPTCY REVIEW COMMISSION

- Sec. 401. Short title.
- Sec. 402. Establishment.
- Sec. 403. Duties of the commission.
- Sec. 404. Membership.
- Sec. 405. Compensation of the commission.
- Sec. 406. Staff of commission; experts and consultants.
- Sec. 407. Powers of the commission.
- Sec. 408. Report.
- Sec. 409. Termination.
- Sec. 410. Authorization of appropriations.

TITLE V—BANKRUPTCY FRAUD

- Sec. 501. Bankruptcy fraud.

TITLE VI—TECHNICAL CORRECTIONS

- Sec. 601. Title 11, United States Code.
- Sec. 602. Title 28, United States Code.

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 701. Severability.
- Sec. 702. Effective date; application of amendments.

TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Limitation on State taxation of certain pension income.
- Sec. 802. Protection against discriminatory treatment of applications for student loans.

Sec. 803. Chicago Housing Authority.

1 **TITLE I—IMPROVED**
 2 **BANKRUPTCY ADMINISTRATION**

3 **SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.**

4 The last sentence of section 362(e) of title 11, United
 5 States Code, is amended—

6 (1) by striking “commenced” and inserting
 7 “concluded”; and

8 (2) by inserting “, unless the 30-day period is
 9 extended with the consent of the parties in interest
 10 or for a specific time which the court finds is re-
 11 quired by compelling circumstances” before the pe-
 12 riod at the end.

13 **SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER**
 14 **11.**

15 Section 1121(d) of title 11, United States Code, is
 16 amended—

17 (1) by striking “On” and inserting “(1) Subject
 18 to paragraph (2), on”; and

19 (2) by adding at the end the following new
 20 paragraph:

21 “(2) Under paragraph (1)—

22 “(A) the 120-day period referred to in this sec-
 23 tion may not be increased beyond the 1-year period
 24 beginning on the date of the order for relief under
 25 this chapter; and

1 (A) in the matter preceding subparagraph
2 (A) by striking “such agreement” the last place
3 it appears;

4 (B) in subparagraph (A)—

5 (i) by inserting “such agreement”
6 after “(A)”;

7 (ii) by striking “and” at the end; and

8 (C) in subparagraph (B)—

9 (i) by inserting “such agreement”
10 after “(B)”;

11 (ii) by adding “and” at the end; and

12 (3) by adding at the end the following new sub-
13 paragraph:

14 “(C) the attorney fully advised the debtor
15 of the legal effect and consequences of—

16 “(i) an agreement of the kind de-
17 scribed in this subsection; and

18 “(ii) any default under such an agree-
19 ment;”.

20 (b) EFFECT OF DISCHARGE.—The third sentence of
21 section 524(d) of title 11, United States Code, is amended
22 in the matter preceding paragraph (1) by inserting “and
23 was not represented by an attorney during the course of
24 negotiating the agreement” after “this section”.

1 **SEC. 104. POWERS OF BANKRUPTCY COURTS.**

2 (a) STATUS CONFERENCES.—Section 105 of title 11,
3 United States Code, is amended by adding at the end the
4 following new subsection:

5 “(d) The court, on its own motion or on the motion
6 of any party in interest, may—

7 “(1) hold a status conference regarding any
8 case or proceeding under this title after notice to the
9 parties in interest; and

10 “(2) unless it would be inconsistent with an-
11 other provision of this title or with applicable Bank-
12 ruptcy Rules, issue an order at any such conference
13 prescribing such limitations and conditions as the
14 court deems to be appropriate to ensure that the
15 case is handled expeditiously and economically, in-
16 cluding an order that—

17 “(A) sets the date by which the debtor
18 must accept or reject an executory contract or
19 unexpired lease; or

20 “(B) in a case under chapter 11—

21 “(i) sets a date by which the debtor,
22 or the trustee if one has been appointed,
23 shall file a disclosure statement and plan;

24 “(ii) sets a date by which the debtor,
25 or the trustee if one has been appointed,
26 shall solicit acceptances of a plan;

1 “(iii) sets the date by which a party
2 in interest other than a debtor may file a
3 plan;

4 “(iv) fixes the notice to be provided
5 regarding the hearing on approval of the
6 disclosure statement;

7 “(v) provides that the hearing on ap-
8 proval of the disclosure statement may be
9 combined with the hearing on confirmation
10 of the plan; and

11 “(vi) directs the use of standard-form
12 disclosure statements, plans, or other
13 forms that have been adopted by the
14 court.”.

15 (b) ESTABLISHMENT, OPERATION, AND TERMI-
16 NATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—
17 Section 158(b) of title 28, United States Code, is amend-
18 ed—

19 (1) by striking paragraphs (3) and (4);

20 (2) by redesignating paragraph (2) as para-
21 graph (4);

22 (3) by striking paragraph (1) and inserting the
23 following new paragraphs:

24 “(1)(A) Except as provided in subparagraph (B), the
25 judicial council of a circuit shall establish a bankruptcy

1 appellate panel service composed of bankruptcy judges of
2 the districts in the circuit who are appointed by the judi-
3 cial council in accordance with paragraph (3), to hear and
4 determine, with the consent of all parties to an appeal,
5 appeals under subsection (a).

6 “(B) The judicial council of a circuit need not estab-
7 lish a bankruptcy appellate panel service if the judicial
8 council finds that—

9 “(i) there are insufficient judicial resources
10 available in the circuit;

11 “(ii) establishment of such a service would re-
12 sult in undue delay or increased cost to parties in
13 cases under title 11; or

14 “(iii)(I) other factors of sound judicial adminis-
15 tration make the creation of such a service inappro-
16 priate; and

17 “(II) bankruptcy appeals are being heard and
18 decided by the district courts in a timely manner.

19 “(2)(A)(i) A judicial council may at any time recon-
20 sider its decision to create or not to create a bankruptcy
21 appellate panel service.

22 “(ii) A decision on reconsideration under clause (i)
23 shall be submitted to the Judicial Conference of the Unit-
24 ed States within 90 days after it is made.

1 “(B) If the judicial council of a circuit finds that a
2 circumstance described in paragraph (1)(B) (i), (ii), or
3 (iii) exists, the judicial council may provide for the comple-
4 tion of the appeals then pending before a bankruptcy ap-
5 pellate panel service and the orderly termination of the
6 service.

7 “(3) Bankruptcy judges appointed under paragraph
8 (1) shall be appointed for a term of 2 years and may be
9 reappointed under that paragraph.”; and

10 (4) by inserting after paragraph (4), as redesign-
11 nated by paragraph (2), the following new para-
12 graphs:

13 “(5) An appeal to be heard under this subsection
14 shall be heard by a panel of 3 members of the bankruptcy
15 appellate panel service, except that a member of the serv-
16 ice may not hear an appeal originating in the district for
17 which the member is appointed or designated under sec-
18 tion 152.

19 “(6) Appeals may not be heard under this subsection
20 by a panel of the bankruptcy appellate panel service unless
21 the district judges for the district in which the appeals
22 occur, by majority vote, have authorized the service to
23 hear and determine appeals originating in that district.”.

1 (c) APPEALS TO BE HEARD BY BANKRUPTCY AP-
2 PELLATE PANEL SERVICE.—Section 158 of title 28, Unit-
3 ed States Code, is amended—

4 (1) in subsection (c) by striking “(c) An ap-
5 peal” and inserting the following:

6 “(c)(1) Subject to subsection (b), an appeal under
7 subsection (a) shall be heard by a 3-judge panel of the
8 bankruptcy appellate panel service established under sub-
9 section (b)(1) unless—

10 “(A) the appellant elects, at the time of filing
11 the appeal; or

12 “(B) any other party elects, not later than 30
13 days after service of notice of the appeal,
14 to have the appeal heard by the district court.

15 “(2) An appeal”.

16 (d) RULES OF PROCEDURE AND EVIDENCE; METHOD
17 OF PRESCRIBING.—Section 2073 of title 28, United
18 States Code, is amended—

19 (1) in subsection (a)(2) by striking “section
20 2072” and inserting “sections 2072 and 2075”; and

21 (2) in subsections (d) and (e) by inserting “or
22 2075” after “2072” each place it appears.

23 (f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The
24 third undesignated paragraph of section 2075 of title 28,
25 United States Code, is amended to read as follows:

1 “The Supreme Court shall transmit to Congress not
2 later than May 1 of the year in which a rule prescribed
3 under this section is to become effective a copy of the pro-
4 posed rule. The rule shall take effect no earlier than De-
5 cember 1 of the year in which it is transmitted to Congress
6 unless otherwise provided by law.”.

7 **SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINIS-**
8 **TRATOR AT MEETINGS OF CREDITORS AND**
9 **EQUITY SECURITY HOLDERS.**

10 (a) **PRESIDING OFFICER.**—A bankruptcy adminis-
11 trator appointed under section 302(d)(3)(I) of the Bank-
12 ruptcy Judges, United States Trustees, and Family Farm-
13 er Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat.
14 3123), or the bankruptcy administrator’s designee, may
15 preside at—

16 (1) a meeting of creditors convened under sec-
17 tion 341(a) of title 11, United States Code; and

18 (2) a meeting of equity security holders con-
19 vened under section 341(b) of title 11, United States
20 Code.

21 (b) **EXAMINATION OF THE DEBTOR.**—The bank-
22 ruptcy administrator or the bankruptcy administrator’s
23 designee may examine the debtor at the meeting of credi-
24 tors and may administer the oath required under section
25 343 of title 11, United States Code.

1 **SEC. 106. DEFINITION RELATING TO ELIGIBILITY TO SERVE**
2 **ON CHAPTER 11 COMMITTEES.**

3 The definition of “person” in section 101 of title 11,
4 United States Code, as amended by section 501(a), is
5 amended to read as follows:

6 “‘person’ includes an individual, partnership,
7 and corporation, but does not include a govern-
8 mental unit, except that a governmental unit that—

9 “(A) acquires an asset from a person—

10 “(i) as a result of the operation of a
11 loan guarantee agreement; or

12 “(ii) as receiver or liquidating agent
13 of a person;

14 “(B) is a guarantor of a pension benefit
15 payable by or on behalf of the debtor or an af-
16 filiate of the debtor; or

17 “(C) is the legal or beneficial owner of an
18 asset of—

19 “(i) an employee pension benefit plan
20 that is a governmental plan, as defined in
21 section 414(d) of the Internal Revenue
22 Code of 1986; or

23 “(ii) an eligible deferred compensation
24 plan, as defined in section 457(b) of the
25 Internal Revenue Code of 1986,

1 shall be considered, for purposes of section 1102, to
2 be a person with respect to such asset or such bene-
3 fit.”.

4 **SEC. 107. INCREASED INCENTIVE COMPENSATION FOR**
5 **TRUSTEES.**

6 Section 326(a) of title 11, United States Code, is
7 amended to read as follows:

8 “(a)(1) In a case under chapter 7 or 11, the court
9 may allow reasonable compensation of the trustee under
10 section 330 for the trustee’s services, payable after the
11 trustee renders such services, in an amount that does not
12 exceed—

13 “(A) the value of the funds and other property
14 disbursed or turned over by the trustee to parties in
15 interest in the case (excluding the debtor but includ-
16 ing holders of secured claims), multiplied by

17 “(B) the applicable percentage stated in para-
18 graph (2).

19 “(2) The applicable percentage stated in this para-
20 graph is the following percentage of the value of the funds
21 and other property disbursed or turned over by the trust-
22 ee:

23 “(A) 25 percent of any amount up to \$4,999.

24 “(B) 10 percent of any amount between \$5,000
25 and \$49,999 inclusive.

1 “(C) 5 percent of any amount between \$50,000
2 and \$999,999 inclusive.

3 “(D) A reasonable percentage, not to exceed 3
4 percent, of any amount greater than \$999,999.”.

5 **SEC. 108. DOLLAR ADJUSTMENTS.**

6 (a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—
7 Section 109(e) of title 11, United States Code, is amend-
8 ed—

9 (1) by striking “unsecured debts of less than
10 \$100,000 and noncontingent, liquidated, secured
11 debts of less than \$350,000” and inserting “debts of
12 less than \$1,000,000”; and

13 (2) by striking “unsecured debts that aggregate
14 less than \$100,000 and noncontingent, liquidated,
15 secured debts of less than \$350,000” and inserting
16 “debts in the aggregate of less than \$1,000,000”.

17 (b) INVOLUNTARY CASES.—Section 303(b) of title
18 11, United States Code, is amended—

19 (1) in paragraph (1) by striking “\$5,000” and
20 inserting “\$10,000”; and

21 (2) in paragraph (2) by striking “\$5,000” and
22 inserting “\$10,000”.

23 (c) PRIORITIES.—Section 507(a) of title 11, United
24 States Code, is amended—

1 (1) in paragraph (3)(B) by striking “\$2,000”
2 and inserting “\$4,000”;

3 (2) in paragraph (4)(B)(i) by striking “\$2,000”
4 and inserting “\$4,000”;

5 (3) in paragraph (5) by striking “\$2,000” and
6 inserting “\$4,000”; and

7 (4) in paragraph (6)—

8 (A) by striking “, to the extent of \$900 for
9 each such individual,”; and

10 (B) by inserting “, to the extent of \$1,800
11 for each such individual or, in the case of a de-
12 posit made jointly by 2 or more individuals with
13 respect to the same purchase, lease, or rental,
14 for each such group of individuals” before the
15 period.

16 (d) EXEMPTIONS.—Section 522(d) of title 11, United
17 States Code, is amended—

18 (1) in paragraph (1) by striking “\$7,500” and
19 inserting “\$15,000”;

20 (2) in paragraph (2) by striking “\$1,200” and
21 inserting “\$2,400”;

22 (3) in paragraph (3)—

23 (A) by striking “\$200” and inserting
24 “\$400”; and

1 (B) by striking “\$4,000” and inserting
2 “\$8,000”;

3 (4) in paragraph (4) by striking “\$500” and in-
4 serting “\$1,000”;

5 (5) in paragraph (5)—

6 (A) by striking “\$400” and inserting
7 “\$800”; and

8 (B) by striking “\$3,750” and inserting
9 “\$7,500”;

10 (6) in paragraph (6) by striking “\$750” and in-
11 serting “\$1,500”;

12 (7) in paragraph (8) by striking “\$4,000” and
13 inserting “\$8,000”; and

14 (8) in paragraph (11)(D) by striking “\$7,500”
15 and inserting “\$15,000”.

16 (e) APPOINTMENT OF EXAMINER IN CERTAIN CIR-
17 CUMSTANCES.—Section 1104(b)(2) of title 11, United
18 States Code, is amended by striking “\$5,000,000” and in-
19 serting “\$10,000,000”.

20 **SEC. 109. PREMERGER NOTIFICATION.**

21 Sections 363(b)(2) (A) and (B) of title 11, United
22 States Code, are amended to read as follows:

23 “(A) notwithstanding subsection (a) of
24 that section, the notification required to be

1 given by the debtor shall be given by the trust-
2 ee; and

3 “(B) notwithstanding subsection (b) of
4 that section, the required waiting period shall
5 end on the 15th day after the date of receipt
6 of the notification, unless the waiting period is
7 extended—

8 “(i) pursuant to subsection (e)(2) (as
9 it applies to a cash tender offer) or (g)(2)
10 of that section; or

11 “(ii) by the court, after notice and a
12 hearing.”.

13 **SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EX-**
14 **PENSES.**

15 Section 503(b) of title 11, United States Code, is
16 amended—

17 (1) by striking “and” at the end of paragraph
18 (5);

19 (2) by striking the period at the end of para-
20 graph (6) and inserting “; and”; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(7) the actual, necessary expenses incurred by
24 a member of a committee appointed under section
25 1102 in the performance of the duties of the com-

1 mittee (including fees of an attorney or accountant
2 for professional services rendered for the member to
3 the extent allowable under paragraph (4)), other
4 than claims for compensation for services rendered
5 as a member of the committee.”.

6 **SEC. 111. JUDICIAL CONFERENCE REPORT.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Judicial Conference of the United States
9 shall produce and submit to the appropriate committees
10 of Congress a report containing a description of—

11 (1) the efforts of the Federal judiciary to auto-
12 mate and computerize the Federal bankruptcy
13 courts;

14 (2) the types of information that are currently
15 available to Congress and the public regarding the
16 number, size, and types of bankruptcy cases filed in
17 the Federal courts;

18 (3) the types of additional information that the
19 Federal judiciary believes are necessary and desir-
20 able to enhance its ability to manage the affairs of
21 the bankruptcy system; and

22 (4) the projected timetable for being able to
23 supply those additional types of information to Con-
24 gress and the public in the future.

1 **SEC. 112. SERVICE OF PROCESS IN BANKRUPTCY PROCEED-**
2 **INGS ON AN INSURED DEPOSITORY INSTITU-**
3 **TION.**

4 Rule 7004 of Bankruptcy Rules is amended—

5 (1) in subsection (b) by striking “In addition”
6 and inserting “Except as provided in subdivision (h),
7 in addition”; and

8 (2) by adding at the end the following new sub-
9 division:

10 “(h) SERVICE OF PROCESS ON AN INSURED DEPOSI-
11 TORY INSTITUTION.—Notwithstanding any other provi-
12 sion of this rule or any other rule or law, service on an
13 insured depository institution (as defined in section 3 of
14 the Federal Deposit Insurance Act (12 U.S.C. 1813))
15 shall be made by certified mail addressed to an officer of
16 the institution unless—

17 “(1) the institution has appeared by its attor-
18 ney, in which case the attorney shall be served by
19 first class mail;

20 “(2) the court orders otherwise after service
21 upon the institution by certified mail of notice of an
22 application to permit service on the institution by
23 first class mail sent to an officer of the institution
24 designated by the institution; or

1 “(3) the institution has waived in writing its
2 entitlement to service by certified mail by designat-
3 ing an officer to receive service.”.

4 **SEC. 113. MEETINGS OF CREDITORS AND EQUITY SECURITY**
5 **HOLDERS.**

6 Section 341 of title 11, United States Code, is
7 amended by adding at the end the following new sub-
8 section:

9 “(d) Prior to the conclusion of the meeting of credi-
10 tors or equity security holders, the United States trustee
11 shall orally examine the debtor under oath and make rec-
12 ommendations on a preserved record regarding the debt-
13 or’s knowledge of—

14 “(1) the potential consequences of seeking a
15 discharge in bankruptcy, including the effects on
16 credit history;

17 “(2) the debtor’s ability to file a petition under
18 a different chapter of this title;

19 “(3) the effect of receiving a discharge of debts
20 under this title;

21 “(4) the effect of reaffirming a debt, including
22 the debtor’s knowledge of the provisions of section
23 524(d);

24 “(5) the debtor’s duties under section 521; and

1 “(6) the potential penalties and fines for com-
2 mitting fraud or other abuses of this title.”.

3 **SEC. 114. TAX ASSESSMENT.**

4 Section 362(b)(9) of title 11, United States Code, is
5 amended to read as follows:

6 “(9) under subsection (a), of—

7 “(A) an audit by a governmental unit to
8 determine tax liability;

9 “(B) the issuance to the debtor by a gov-
10 ernmental unit of a notice of tax deficiency;

11 “(C) a demand for tax returns; an assess-
12 ment of an uncontested or agreed upon tax li-
13 ability; or

14 “(D) the making of an assessment for any
15 tax and issuance of a notice and demand for
16 payment of such an assessment (but any tax
17 lien that would otherwise attach to property of
18 the estate by reason of such an assessment
19 shall not take effect until the property is no
20 longer property of the estate).”.

21 **SEC. 115. ADDITIONAL TRUSTEE COMPENSATION.**

22 Section 330(b) of title 11, United States Code, is
23 amended—

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

1 (2) by adding at the end thereof the following
2 new paragraph:

3 “(2) The Judicial Conference of the United States
4 shall prescribe additional fees of the same kind as pre-
5 scribed under section 1914(b) of title 28, to pay \$15 to
6 the trustee serving in such case after such trustee’s serv-
7 ices are rendered. Such \$15 shall be paid in addition to
8 the amount paid under paragraph (1).”.

9 **SEC. 116. EXTENSION TO CERTAIN JUDICIAL OFFICIALS OF**
10 **LIFE INSURANCE RULES CURRENTLY APPLI-**
11 **CABLE TO FEDERAL JUDGES.**

12 (a) ELIGIBILITY.—Section 8701(a) of title 5, United
13 States Code, is amended—

14 (1) in paragraph (9) by striking “and” after
15 the semicolon;

16 (2) in paragraph (10) by adding “and” after
17 the semicolon; and

18 (3) by inserting after paragraph (10) and pre-
19 ceding the matter before subparagraph (A) the fol-
20 lowing new paragraph:

21 “(11) a judicial official (as defined in section
22 376(a)(1) of title 28), including—

23 “(i) a judge of the United States Court of
24 Federal Claims—

1 “(I) who is in regular active service,
2 or

3 “(II) who is retired from regular ac-
4 tive service under section 178 of title 28;

5 “(ii) a judge of the District Court of
6 Guam, the District Court of the Northern Mari-
7 ana Islands, or the District Court of the Virgin
8 Islands—

9 “(I) who is in regular active service,
10 or

11 “(II) who is retired from regular ac-
12 tive service under section 373 of title 28;

13 and

14 “(iii) a bankruptcy judge or a magistrate
15 judge—

16 “(I) who is in regular active service,
17 or

18 “(II) who retired after attaining age
19 65 from regular active service under chap-
20 ter 83 or 84 of this title, section 377 of
21 title 28, or section 2(c) of the Retirement
22 and Survivors’ Annuities for Bankruptcy
23 Judges and Magistrates Act of 1988 (28
24 U.S.C. 377 note; Public Law 100-659);”.

25 (b) CONTINUATION OF COVERAGE.—

1 (1) TERMINATION; OPTIONAL INSURANCE.—(A)
2 Sections 8706(a) and 8714b(c)(1) of title 5, United
3 States Code, are each amended in the second sen-
4 tence by inserting “and judicial officials specifically
5 included under section 8701(a)(11)” after “section
6 8701(a)(5) (ii) and (iii)”.

7 (B) Sections 8714a(c)(1) and 8714c(c)(1) of
8 title 5, United States Code, are each amended by
9 adding after the first sentence “Justices and judges
10 described under section 8701(a)(5) (ii) and (iii) and
11 judicial officials specifically included under section
12 8701(a)(11) of this chapter are deemed to continue
13 in active employment for purposes of this chapter.”.

14 (2) APPLICATION OF AMENDMENTS.—The
15 amendments made by paragraph (1) shall apply to
16 a judicial officer described in section 8701(a)(11) of
17 title 5, United States Code (as amended by this sec-
18 tion) who—

19 (A) is retired under chapter 83 or 84 of
20 title 5, United States Code, section 178, 373, or
21 377 of title 28, United States Code, or section
22 2(c) of the Retirement and Survivors’ Annuities
23 for Bankruptcy Judges and Magistrates Act of
24 1988 (28 U.S.C. 377 note); and

25 (B) retires on or after August 1, 1987.

1 (c) TECHNICAL AMENDMENTS.—

2 (1) SECTION 8714A.—Section 8714a(c) of title
3 5, United States Code, is amended by striking para-
4 graph (3).

5 (2) SECTION 8714B.—Section 8714b(c)(1) is
6 amended by striking the third sentence.

7 **SEC. 117. SETTLEMENT OF CLAIMS AND DEMANDS FOR**
8 **PAYMENT.**

9 Section 105 of title 11, United States Code, is
10 amended by adding at the end the following new sub-
11 section:

12 “(d) A court may issue an injunction that requires
13 claims and demands to be presented for payment solely
14 to a trust or other vehicle that is established for the pur-
15 pose of settling such claims and demands and is approved
16 by the court and entered into pursuant to an order approv-
17 ing a plan of reorganization.”.

18 **SEC. 118. RECOMMENDATIONS OF THE JUDICIAL CON-**
19 **FERENCE FOR THE APPOINTMENT OF BANK-**
20 **RUPTCY JUDGES.**

21 Section 152(b) of title 28, United States Code, is
22 amended by adding at the end the following new para-
23 graph:

24 “(4)(A) If, as a result of a review of judicial districts
25 under paragraph (3), the Judicial Conference determines

1 that there is a need for a number (including a fractional
2 number) of additional bankruptcy judges for any judicial
3 district, but the Judicial Conference determines to submit
4 to Congress a recommendation that the appointment of
5 a lesser number of bankruptcy judges be authorized for
6 that district, the Judicial Conference shall submit with the
7 recommendation a statement detailing—

8 “(i) the difference between the number of addi-
9 tional bankruptcy judges that has been determined
10 to be needed and the number recommended to be
11 authorized; and

12 “(ii) the methods by which those numbers were
13 determined.

14 “(B) If the Judicial Conference has submitted to
15 Congress a recommendation that a lesser number of addi-
16 tional bankruptcy judges be authorized to be appointed
17 than a review of judicial districts shows is needed for a
18 judicial district, the Judicial Conference shall submit a
19 subsequent recommendation that satisfies the continuing
20 need for additional bankruptcy judges for that judicial dis-
21 trict unless—

22 “(i) the Congress, without having received such
23 a recommendation, authorizes the requisite number
24 of additional bankruptcy judges to be appointed for
25 that district; or

1 “(ii) a subsequent review of judicial districts
2 shows that that number of additional bankruptcy
3 judges is no longer needed for that district.”.

4 **TITLE II—COMMERCIAL ISSUES**
5 **IN BANKRUPTCY**

6 **SEC. 201. SMALL BUSINESSES.**

7 (a) DEFINITION.—Section 101 of title 11, United
8 States Code, as amended by section 501, is amended by
9 inserting in its proper alphabetical position the following
10 new definition:

11 “ ‘small business’ means a person engaged in
12 commercial or business activities (but does not in-
13 clude a person whose primary activity is the business
14 of owning or operating real property and activities
15 incidental thereto) whose aggregate liquidated se-
16 cured and unsecured debts as of the date of the peti-
17 tion do not exceed \$2,500,000.”.

18 (b) CREDITORS’ COMMITTEES.—Section 1102(a) of
19 title 11, United States Code, is amended—

20 (1) in paragraph (1) by striking “As” and in-
21 serting “Except as provided in paragraph (3), as”;
22 and

23 (2) by adding at the end the following new
24 paragraph:

1 “(3) On request of a party in interest in a case in
2 which the debtor is a small business, the court may order
3 that a committee of creditors not be appointed.”.

4 (c) CONVERSION OR DISMISSAL.—Section 1112(b) of
5 title 11, United States Code, is amended by inserting “or
6 bankruptcy administrator” after “United States trustee”.

7 (d) WHO MAY FILE A PLAN.—Section 1121 of title
8 11, United States Code, is amended by adding at the end
9 the following new subsection:

10 “(d) In a case in which the debtor is a small busi-
11 ness—

12 “(A) only the debtor may file a plan until after
13 90 days after the date of the order for relief under
14 this chapter;

15 “(B) all plans for relief shall be filed within 150
16 days after the date of the order for relief; and

17 “(C) on request of a party in interest made
18 within the respective periods specified in subpara-
19 graphs (A) and (B) and after notice and a hearing,
20 the court may—

21 “(i) reduce the 90-day period or the 150-
22 day period specified in subparagraph (A) or (B)
23 for cause; and

24 “(ii) increase the 90-day period specified in
25 subparagraph (A) if the debtor shows that the

1 need for an increase is caused by circumstances
2 for which the debtor should not be held ac-
3 countable.”.

4 (e) POSTPETITION DISCLOSURE.—Section 1125 of
5 title 11, United States Code, is amended by adding at the
6 end the following new subsection:

7 “(f) Notwithstanding subsection (b), in a case in
8 which the debtor is a small business—

9 “(1) the court may conditionally approve a dis-
10 disclosure statement subject to final approval after no-
11 tice and a hearing;

12 “(2) acceptances and rejections of a plan may
13 be solicited based on a conditionally approved disclo-
14 sure statement so long as the debtor provides ade-
15 quate information to each holder of a claim or inter-
16 est that is solicited, but a conditionally approved dis-
17 closure statement shall be mailed at least 10 days
18 prior to the date of the hearing on confirmation of
19 the plan; and

20 “(3) a hearing on the disclosure statement may
21 be combined with a hearing on confirmation of a
22 plan.”.

1 **SEC. 202. SINGLE ASSET REAL ESTATE.**

2 (a) DEFINITION.—Section 101 of title 11, United
3 States Code, is amended by inserting in its proper alpha-
4 betical position the following new definition:

5 “ ‘single asset real estate’ means real property
6 constituting a single property or project, other than
7 residential real property with fewer than 4 residen-
8 tial units, which generates substantially all of the
9 gross income of a debtor and on which no substan-
10 tial business is being conducted by a debtor other
11 than the business of operating the real property and
12 activities incidental thereto.”.

13 (b) AUTOMATIC STAY.—Section 362 of title 11, Unit-
14 ed States Code, is amended—

15 (1) in subsection (d)—

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

18 (B) in paragraph (2) by striking the period
19 at the end and inserting “; or”; and

20 (C) by adding at the end the following new
21 paragraph:

22 “(3) with respect to a stay of an act against
23 single asset real estate under subsection (a), by a
24 creditor whose claim is secured by an interest in
25 such real estate, unless, not later than the date that
26 is 90 days after the entry of the order for relief (or

1 such later date as the court may determine for cause
2 by order entered within that 90-day period)—

3 “(A) the debtor has filed a plan of reorga-
4 nization that has a reasonable possibility of
5 being confirmed within a reasonable time; or

6 “(B) the debtor has commenced monthly
7 payments to each creditor whose claim is se-
8 cured by such real estate, which payments are
9 in an amount equal to interest at a current fair
10 market rate on the value of the creditor’s inter-
11 est in the real estate.”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(i)(1) Upon request of a creditor whose claim is se-
15 cured by an interest in single asset real estate, if the inter-
16 est has more than de minimis value, the court shall issue
17 an order granting limited relief from the stay provided
18 under subsection (a) to permit the creditor to continue a
19 foreclosure proceeding commenced before the commence-
20 ment of the case up to, but not including, the point of
21 sale.

22 “(2) An order under paragraph (1) shall not issue
23 before the date that is 30 days after the date of entry
24 of the order for relief, but thereafter shall issue promptly
25 after such a request.

1 “(3) A hearing shall not be required for the granting
2 of relief under paragraph (1) unless the debtor files an
3 objection to the request and shows the court extraordinary
4 circumstances requiring such a hearing.”.

5 **SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING**
6 **STOCK EQUIPMENT.**

7 (a) AMENDMENT OF SECTION 1110.—Section 1110
8 of title 11, United States Code, is amended to read as
9 follows:

10 **“§ 1110. Aircraft equipment and vessels**

11 “(a)(1) The right of a secured party with a security
12 interest in equipment described in paragraph (2) or of a
13 lessor or conditional vendor of such equipment to take pos-
14 session of such equipment in compliance with a security
15 agreement, lease, or conditional sale contract is not af-
16 fected by section 362, 363, or 1129 or by any power of
17 the court to enjoin the taking of possession unless—

18 “(A) before the date that is 60 days after the
19 date of the order for relief under this chapter, the
20 trustee, subject to the court’s approval, agrees to
21 perform all obligations of the debtor that become
22 due on or after the date of the order under such se-
23 curity agreement, lease, or conditional sale contract;
24 and

1 “(B) any default, other than a default of a kind
2 specified in section 365(b)(2), under such security
3 agreement, lease, or conditional sale contract—

4 “(i) that occurs before the date of the
5 order is cured before the expiration of such 60-
6 day period; and

7 “(ii) that occurs after the date of the order
8 is cured before the later of—

9 “(I) the date that is 30 days after the
10 date of the default; or

11 “(II) the expiration of such 60-day
12 period.

13 “(2) Equipment is described in this paragraph if it
14 is—

15 “(A) an aircraft, aircraft engine, propeller, ap-
16 pliance, or spare part (as defined in section 101 of
17 the Federal Aviation Act of 1958 (49 U.S.C. App.
18 1301)) that is subject to a security interest granted
19 by, leased to, or conditionally sold to a debtor that
20 is an air carrier (as defined in that section, except
21 that for the purposes of this section the term also
22 includes an air carrier in intrastate commerce); or

23 “(B) a documented vessel (as defined in section
24 30101(1) of title 46, United States Code) that is
25 subject to a security interest granted by, leased to,

1 or conditionally sold to a debtor that is a water car-
2 rier that holds a certificate of public convenience
3 and necessity or permit issued by the Interstate
4 Commerce Commission.

5 “(3) Paragraph (1) applies to a secured party, lessor,
6 or conditional vendor acting in its own behalf or acting
7 as trustee or otherwise in behalf of another party.

8 “(b) The trustee and the secured party, lessor, or
9 conditional vendor whose right to take possession is pro-
10 tected under subsection (a) may agree, subject to the
11 court’s approval, to extend the 60-day period specified in
12 subsection (a)(1).

13 “(c) If the trustee makes an agreement of the kind
14 described in subsection (a)(1)(A) with respect to a security
15 agreement, lease, or conditional sale contract, any costs
16 and expenses incurred by the secured party, lessor, or con-
17 ditional vendor to remedy the failure of the trustee to per-
18 form the obligations of the estate to maintain or return
19 equipment in accordance with the security agreement,
20 lease, or conditional sale contract constitute administra-
21 tive expenses under section 503(b)(1)(A).

22 “(d) With respect to equipment first placed in service
23 on or prior to the date of enactment of this subsection,
24 for purposes of this section—

1 “(1) the term ‘lease’ includes any written agree-
2 ment with respect to which the lessor and the debt-
3 or, as lessee, have expressed in the agreement or in
4 a substantially contemporaneous writing that the
5 agreement is to be treated as a lease for Federal in-
6 come tax purposes; and

7 “(2) the term ‘security interest’ means a pur-
8 chase-money equipment security interest.”.

9 (b) AMENDMENT OF SECTION 1168.—Section 1168
10 of title 11, United States Code, is amended to read as
11 follows:

12 **“§ 1168. Rolling stock equipment**

13 “(a)(1) The right of a secured party with a security
14 interest in or of a lessor or conditional vendor of equip-
15 ment described in paragraph (2) to take possession of such
16 equipment in compliance with an equipment security
17 agreement, lease, or conditional sale contract is not af-
18 fected by section 362, 363, or 1129 or by any power of
19 the court to enjoin the taking of possession, unless—

20 “(A) before the date that is 60 days after the
21 date of commencement of a case under this chapter,
22 the trustee, subject to the court’s approval, agrees to
23 perform all obligations of the debtor that become
24 due on or after the date of commencement of the

1 case under such security agreement, lease, or condi-
2 tional sale contract; and

3 “(B) any default, other than a default of a kind
4 described in section 365(b)(2), under such security
5 agreement, lease, or conditional sale contract—

6 “(i) that occurs before the date of com-
7 mencement of the case and is an event of de-
8 fault therewith is cured before the expiration of
9 such 60-day period; and

10 “(ii) that occurs or becomes an event of
11 default after the date of commencement of the
12 case is cured before the later of—

13 “(I) the date that is 30 days after the
14 date of the default or event of default; or

15 “(II) the expiration of such 60-day
16 period.

17 “(2) Equipment is described in this paragraph if it
18 is rolling stock equipment or accessories used on such
19 equipment, including superstructures and racks, that is
20 subject to a security interest granted by, leased to, or con-
21 ditionally sold to the debtor.

22 “(3) Paragraph (1) applies to a secured party, lessor,
23 or conditional vendor acting in its own behalf or acting
24 as trustee or otherwise in behalf of another party.

1 “(b) The trustee and the secured party, lessor, or
2 conditional vendor whose right to take possession is pro-
3 tected under subsection (a) may agree, subject to the
4 court’s approval, to extend the 60-day period specified in
5 subsection (a)(1).

6 “(c) If the trustee makes an agreement of the kind
7 described in subsection (a)(1)(A) with respect to a security
8 agreement, lease, or conditional sale contract, any costs
9 and expenses incurred by the secured party, lessor, or con-
10 ditional vendor to remedy the failure of the trustee to per-
11 form the obligations of the estate to maintain or return
12 equipment in accordance with the security agreement,
13 lease, or conditional sale contract constitute administra-
14 tive expenses under section 503(b)(1)(A).

15 “(d) With respect to equipment first placed in service
16 on or prior to the date of enactment of this subsection,
17 for purposes of this section—

18 “(1) the term ‘lease’ includes any written agree-
19 ment with respect to which the lessor and the debt-
20 or, as lessee, have expressed in the agreement or in
21 a substantially contemporaneous writing that the
22 agreement is to be treated as a lease for Federal in-
23 come tax purposes; and

24 “(2) the term ‘security interest’ means a pur-
25 chase-money equipment security interest.”.

1 (c) APPLICATION OF AMENDMENTS.—

2 (1) IN GENERAL.—The amendment of sections
3 1110 and 1168 of title 11, United States Code,
4 made by subsections (a) and (b) shall not apply to
5 cases commenced under title 11, United States
6 Code, prior to the date of enactment of this Act.

7 (2) PLACEMENT IN SERVICE.—The amendment
8 of section 1168(a) of title 11, United States Code,
9 made by subsection (b) shall take effect with respect
10 to equipment that is first placed in service after the
11 date of enactment of this Act, including rolling stock
12 equipment that is substantially rebuilt after that
13 date and accessories used on such equipment.

14 **SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN**
15 **CHAPTER 11 CASES.**

16 Section 365(d)(3) of title 11, United States Code, is
17 amended in the first sentence by inserting after “real
18 property” the following: “and, in a case under chapter 11,
19 under an unexpired lease of personal property”.

1 **SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CON-**
2 **TRACTS AND UNEXPIRED LEASES APPROVED**
3 **BY COURT ORDER IN CASES REVERSED ON**
4 **APPEAL.**

5 Section 365 of title 11, United States Code, is
6 amended by adding at the end the following new sub-
7 section:

8 “(p)(1) Except as provided in paragraph (2), the re-
9 versal or modification on appeal of an authorization under
10 this section of an assignment of an executory contract or
11 unexpired lease does not affect the validity of the assign-
12 ment to an entity that obtained the assignment in good
13 faith, whether or not the entity knew of the pendency of
14 the appeal, unless the authorization and the assignment
15 were stayed pending appeal.

16 “(2) This subsection does not apply to an executory
17 contract that is related to, or to an unexpired lease of real
18 property in, a shopping center.”.

19 **SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-**
20 **PETITION RENTS.**

21 **POSTPETITION EFFECT OF SECURITY INTEREST.—**
22 Section 552(b) of title 11, United States Code, is amend-
23 ed—

24 (1) by inserting “(1)” after “(b)”;

25 (2) by striking “rents,” each place it appears;

26 and

1 (3) by adding at the end the following new
2 paragraph:

3 “(2)(A) Except as provided in sections 363, 506(c),
4 522, 544, 545, 547, and 548, if—

5 “(i) the debtor and an entity entered into a se-
6 curity agreement that was duly recorded in the pub-
7 lic records before the commencement of the case;
8 and

9 “(ii) the security interest created by the secu-
10 rity agreement extends to—

11 “(I) property of the debtor acquired before
12 the commencement of the case; and

13 “(II)(aa) to amounts paid as rents of such
14 property; or

15 “(bb) to amounts paid for the use or occu-
16 pancy of such property (including fees, charges,
17 accounts, or other payments for the use or oc-
18 cupancy of rooms and other public facilities in
19 a property such as a hotel, motel, or other lodg-
20 ing),

21 the security interest extends to such amounts paid to the
22 estate as rents or as fees, charges, accounts, or other pay-
23 ments after the commencement of the case to the extent
24 provided in the security agreement, whether or not the se-
25 curity interest in such rents or such fees, charges, ac-

1 counts, or other payments is perfected under applicable
2 nonbankruptcy law, except to the extent that the court,
3 after notice and a hearing and based on the equities of
4 the case, orders otherwise.

5 “(B) If a security interest extends under subpara-
6 graph (A) to rents acquired by the estate after the com-
7 mencement of the case, the security interest in such rents
8 shall be deemed to be perfected for the purpose of section
9 544(a).”.

10 (b) USE SALE, OR LEASE OF PROPERTY.—Section
11 363(a) of title 11, United States Code, is amended by in-
12 serting: “and the fees, charges, accounts or other pay-
13 ments for the use or occupancy of rooms and other public
14 facilities in hotels, motels, or other lodging properties”
15 after “property”.

16 **SEC. 207. ANTI-ALIENATION.**

17 (a) AUTOMATIC STAY.—Section 362(b) of title 11,
18 United States Code, as amended by section 501(a), is
19 amended—

20 (1) by striking “or” at the end of paragraph
21 (16);

22 (2) by striking the period at the end of para-
23 graph (17) and inserting “; or”; and

24 (3) by adding at the end the following new
25 paragraph:

1 “(18) under subsection (a), of withholding of
2 income from a debtor’s wages and collection of
3 amounts withheld, pursuant to statute or the debt-
4 or’s agreement authorizing such withholding and col-
5 lection for the benefit of a qualified employer plan
6 (within the meaning of section 72(p)(4) of the Inter-
7 nal Revenue Code of 1986), to the extent that the
8 amounts withheld and collected are used solely for
9 payments relating to a loan from the plan secured
10 by the debtor’s nonforfeitable accrued benefit under
11 the plan.”.

12 (b) EXCEPTIONS TO DISCHARGE.—Section 523(a) of
13 title 11, United States Code, is amended—

14 (1) by striking “or” at the end of paragraph
15 (11);

16 (2) by striking the period at the end of para-
17 graph (12) and inserting “; or”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(13) owed to a qualified employer plan (within
21 the meaning of section 72(p)(4) of the Internal Rev-
22 enue Code of 1986) pursuant to a loan from the
23 plan secured by the debtor’s nonforfeitable accrued
24 benefit under the plan.”.

1 (c) PROPERTY OF THE ESTATE.—Section 541(b) of
2 title 11, United States Code, as amended by section
3 501(d)(12), is amended in paragraph (1)—

4 (1) by striking “or” at the end of subparagraph
5 (C);

6 (2) by striking the period at the end of sub-
7 paragraph (D) and inserting “; or”; and

8 (3) by adding at the end the following new sub-
9 paragraph:

10 “(E) any nontransferable interest of the debtor
11 in a qualified employer plan (within the meaning of
12 section 72(p)(4) of the Internal Revenue Code of
13 1986) to the extent not otherwise excluded from the
14 debtor’s estate pursuant to subsection (c)(2).”.

15 (d) PLAN CONTENTS.—Section 1322 of title 11,
16 United States Code, is amended by adding at the end the
17 following new subsection:

18 “(d) The plan may not materially alter the terms of
19 a loan described in section 362(b)(18).”.

20 (e) PLAN CONFIRMATION.—Section 1325 of title 11,
21 United States Code, is amended—

22 (1) in subsection (b)(2) by striking “debtor
23 and” and inserting “debtor (not including income
24 that is withheld from the debtor’s wages for the pur-
25 poses stated in section 362(b)(18)) and”; and

1 (2) in subsection (c) by striking “income to”
2 and inserting “income (except income that is with-
3 held from a debtor’s wages for the purposes stated
4 in section 362(b)(18) after confirmation of a plan)
5 to”.

6 **SEC. 208. EXEMPTION.**

7 Section 109(b)(2) of title 11, United States Code, is
8 amended by inserting after “homestead association,” the
9 following: “a small business investment company licensed
10 by the Small Business Administration under section 301
11 (c) or (d) of the Small Business Investment Act of 1958
12 (15 U.S.C. 681 (c) and (d)),”.

13 **SEC. 209. INDENTURE TRUSTEE COMPENSATION.**

14 Section 503(b) of title 11, United States Code, is
15 amended—

16 (1) in paragraph (3)—

17 (A) by redesignating subparagraphs (D)
18 and (E) as subparagraphs (E) and (F), respec-
19 tively;

20 (B) by inserting after subparagraph (C)
21 the following new subparagraph;

22 “(D) an indenture trustee;”; and

23 (C) in subparagraph (E), as redesignated
24 by subparagraph (A), by striking “an indenture
25 trustee;”; and

1 (2) in paragraph (5) by striking “for services
2 rendered by an indenture trustee in making a sub-
3 stantial contribution” and inserting “for reasonable
4 and necessary services rendered by an indenture
5 trustee”.

6 **SEC. 210. PAYMENT OF TAXES WITH BORROWED FUNDS.**

7 Section 523(a) of title 11, United States Code, as
8 amended by section 207(b), is amended—

9 (1) by striking “or” at the end of paragraph
10 (12);

11 (2) by adding “or” at the end of paragraph
12 (13); and

13 (3) by adding at the end the following new
14 paragraph:

15 “(14) incurred to pay a tax or customs duty
16 that would be nondischargeable pursuant to para-
17 graph (1).”.

18 **SEC. 211. RETURN OF GOODS.**

19 (a) **LIMITATION ON AVOIDING POWERS.**—Section
20 546 of title 11, United States Code, is amended by adding
21 at the end the following new subsection:

22 “(h) Notwithstanding the rights and powers of a
23 trustee under sections 544(a), 545, 547, 549, and 553,
24 if the court determines, after notice and a hearing, that
25 a return is in the best interests of the estate, the debtor,

1 with the consent of a creditor, may return goods shipped
2 to the debtor by the creditor before the commencement
3 of the case, and the creditor may offset the purchase price
4 of such goods against any claim of the creditor against
5 the debtor that arose before the commencement of the
6 case.”.

7 (b) SETOFF.—Section 553(b)(1) is amended by in-
8 serting “546(h),” after “365(h)(2),”.

9 **SEC. 212. EXCEPTION TO DISCHARGE.**

10 Section 523(a)(2)(C) of title 11, United States Code,
11 is amended by striking “forty” and inserting “60”.

12 **SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.**

13 Section 541(b) of title 11, United States Code, as
14 amended by section 207(c), is amended in paragraph
15 (1)—

16 (1) by striking “or” at the end of subparagraph
17 (D);

18 (2) by striking the period at the end of sub-
19 paragraph (E) and inserting “; or”; and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(F) any interest in cash or cash equivalents
23 that constitute proceeds of a sale by the debtor of
24 a money order that is made—

1 “(i) on or after the date that is 14 days
2 prior to the date on which the petition is filed;
3 and

4 “(ii) under an agreement with a money
5 order issuer that prohibits the commingling of
6 such proceeds with property of the debtor (not-
7 withstanding that, contrary to the agreement,
8 the proceeds may have been commingled with
9 property of the debtor),

10 unless the money order issuer had not taken action,
11 prior to the filing of the petition, to require compli-
12 ance with the prohibition.”.

13 **SEC. 214. LIMITATION ON LIABILITY OF NONINSIDER**
14 **TRANSFeree FOR AVOIDED TRANSFER.**

15 Section 550 of title 11, United States Code, is
16 amended—

17 (1) by redesignating subsections (b), (c), (d),
18 and (e) as subsections (c), (d), (e), and (f), respec-
19 tively; and

20 (2) by inserting after subsection (a) the follow-
21 ing new subsection:

22 “(b) The trustee may recover under subsection (a)
23 a transfer avoided under section 547(b) from a first trans-
24 feree or an immediate or mediate transferee of a first
25 transferee only to the extent that—

1 “(1) all the elements of section 547(b) are sat-
2 isfied as to the first transferee; and

3 “(2) the exceptions in section 547(c) do not
4 protect the first transferee.”.

5 **SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY IN-**
6 **TEREST.**

7 Section 547 of title 11, United States Code, is
8 amended in subsection (c)(3)(B) and subsection (e)(2) by
9 striking “10” and inserting “20”.

10 **SEC. 216. AIRPORT GATE LEASES.**

11 Section 365(d) of title 11, United States Code, is
12 amended by adding at the end the following new para-
13 graph:

14 “(5)(A) Notwithstanding paragraphs (1), (2), and
15 (4), and subject to subparagraph (B) of this paragraph,
16 if the trustee in a case under any chapter of this title does
17 not assume or reject an unexpired lease or executory con-
18 tract with an airport operator under which the debtor has
19 a right to the use or possession of an airport terminal,
20 aircraft gate, or related facility within 60 days after the
21 date of the order for relief, or within such additional time
22 (not to exceed 120 additional days) as the court sets dur-
23 ing such 60-day period, such lease or executory contract
24 is deemed rejected, and the trustee shall immediately sur-

1 render the airport terminal, gate, or related facility to the
2 airport operator.

3 “(B)(i) The court may enter an order extending be-
4 yond 180 days after the date of the order for relief the
5 time for assumption or rejection of an unexpired lease or
6 executory contract described in subparagraph (A) only
7 after finding that such an extension of time does not cause
8 substantial harm to the airport operator or to airline pas-
9 sengers.

10 “(ii) In making the determination of substantial
11 harm, the court shall consider, among other relevant fac-
12 tors—

13 “(I) the level of use of airport terminals, gates,
14 or related facilities subject to the unexpired lease or
15 executory contract;

16 “(II) the existence of competing demands for
17 the use of the airport terminals, gates, or related fa-
18 cilities;

19 “(III) the size and complexity of the case; and

20 “(IV) air carrier competition at the airport.

21 “(iii) The burden of proof for establishing cause for
22 an extension of time under this subparagraph shall be on
23 the trustee.

24 “(iv) An order entered under this subparagraph shall
25 be without prejudice to the right of a party in interest

1 to request, at any time, a shortening or termination of
2 the extension of time granted under this subparagraph.”.

3 **SEC. 217. TRUSTEE DUTIES.**

4 Section 586(a)(3)(A) of title 28, United States Code,
5 is amended to read as follows:

6 “(A)(i) reviewing, in accordance with pro-
7 cedural and substantive guidelines adopted by
8 the Executive Office of the United States
9 Trustee (which guidelines shall be applied uni-
10 formly by the United States trustee except
11 when circumstances warrant different treat-
12 ment), applications filed for compensation and
13 reimbursement under section 330 of title 11;
14 and

15 “(ii) filing with the court comments with
16 respect to each such an application and, if the
17 United States Trustee considers it to be appro-
18 priate, objections to such application.”.

19 **SEC. 218. PAYMENTS.**

20 Section 1326(a)(2) of title 11, United States Code,
21 is amended in the second sentence by striking the period
22 and inserting “as soon as practicable.”.

1 **SEC. 219. CONTINUED PERFECTION.**

2 (a) AUTOMATIC STAY.—Section 362(b)(3) of title 11,
3 United States Code, is amended by inserting “, or to
4 maintain or continue the perfection of,” after “to perfect”.

5 (b) LIMITATIONS ON AVOIDING POWERS.—Section
6 546(b) of title 11, United States Code, is amended to read
7 as follows:

8 “(b)(1) The rights and powers of a trustee under sec-
9 tions 544, 545, and 549 of this title are subject to any
10 generally applicable law that—

11 “(A) permits perfection of an interest in prop-
12 erty to be effective against an entity that acquires
13 rights in the property before the date of perfection;
14 or

15 “(B) provides for the maintenance or continu-
16 ation of perfection of an interest in property to be
17 effective against an entity that acquires rights in the
18 property before the date on which action is taken to
19 effect such maintenance or continuation.

20 “(2) If—

21 “(A) a law described in paragraph (1) requires
22 seizure of property that is subject to a perfected in-
23 terest or commencement of an action to accomplish
24 perfection or maintenance or continuation of an in-
25 terest in property; and

1 “(B) the property has not been seized or an ac-
2 tion has not been commenced before the date of the
3 filing of the petition,
4 the interest in such property shall be perfected, or perfec-
5 tion of such interest shall be maintained or continued, by
6 notice within the time fixed by that law for the seizure
7 of property or commencement of an action.”.

8 **SEC. 220. NOTICES TO CREDITORS.**

9 Section 342 of title 11, United States Code, is
10 amended by adding at the end the following new sub-
11 section:

12 “(c) If notice is required to be given by the debtor
13 to a creditor under this title, any rule, any applicable law,
14 or any order of the court, such notice shall contain the
15 name and address of the debtor and the account number,
16 if any, of the debt owed to the creditor if the account num-
17 ber is known to or reasonably ascertainable by the debt-
18 or.”.

19 **SEC. 221. SUPPLEMENTAL INJUNCTIONS.**

20 Section 524 of title 11, United States Code, is
21 amended by adding at the end the following new sub-
22 section:

23 “(g)(1)(A) After notice and hearing, a court that en-
24 ters an order confirming a plan of reorganization under

1 chapter 11 may issue an injunction to supplement the in-
2 junctive effect of a discharge under this section.

3 “(B) An injunction may be issued under subpara-
4 graph (A) to enjoin persons and governmental units from
5 taking legal action for the purpose of directly or indirectly
6 collecting, recovering, or receiving payment or recovery of,
7 on, or with respect to any claim or demand that, under
8 a plan of reorganization, is to be paid in whole or in part
9 by a trust described in paragraph (2)(B)(i), except such
10 legal actions as are expressly allowed by the injunction,
11 the confirmation order, or the plan of reorganization.

12 “(2)(A) If the requirements of subparagraph (B) are
13 met at any time, then, after entry of an injunction under
14 paragraph (1), any proceeding that involves the validity,
15 application, construction, or modification of the injunction
16 or of this subsection with respect to the injunction may
17 be commenced only in the district court in which the in-
18 junction was entered, and such court shall have exclusive
19 jurisdiction over any such proceeding without regard to
20 the amount in controversy.

21 “(B) The requirements of this subparagraph are
22 that—

23 “(i) the injunction is to be implemented in con-
24 nection with a trust that, pursuant to the plan of re-
25 organization—

1 “(I) is to assume the liabilities of a debtor
2 which at the time of entry of the order for relief
3 has been named as a defendant in personal in-
4 jury, wrongful death, or property-damage ac-
5 tions seeking recovery for damages allegedly
6 caused by the presence of, or exposure to, as-
7 bestos or asbestos-containing products;

8 “(II) is to be funded in whole or in part
9 by the securities of 1 or more debtors involved
10 in the plan of reorganization and by the obliga-
11 tion of such debtor or debtors to make future
12 payments;

13 “(III) is to own, or by the exercise of
14 rights granted under the plan could own, a ma-
15 jority of the voting shares of—

16 “(aa) each such debtor;

17 “(bb) the parent corporation of each
18 such debtor; or

19 “(cc) a subsidiary of each such debtor
20 that is also a debtor; and

21 “(IV) is to use its assets or income to pay
22 claims and demands; and

23 “(ii) the court, at any time pursuant to its au-
24 thority under the plan, over the trust, or otherwise,
25 determines that—

1 “(I) the debtor may be subject to substan-
2 tial future demands for payment arising out of
3 the same or similar conduct or events that gave
4 rise to the claims that are addressed by the in-
5 junction;

6 “(II) the actual amounts, numbers, and
7 timing of such future demands cannot be deter-
8 mined;

9 “(III) pursuit of such demands outside the
10 procedures prescribed by the plan may threaten
11 the plan’s purpose to deal equitably with claims
12 and future demands;

13 “(IV) as part of the process of seeking ap-
14 proval of the plan of reorganization—

15 “(aa) the terms of the injunction pro-
16 posed to be issued under paragraph (1)(A),
17 including any provisions barring actions
18 against third parties pursuant to para-
19 graph (4)(A), shall be set out in the plan
20 of reorganization and in any disclosure
21 statement supporting the plan; and

22 “(bb) a separate class or classes of
23 the claimants whose claims are to be ad-
24 dressed by a trust described in clause (i) is
25 established and votes, by at least 75 per-

1 cent of those voting, in favor of the plan;
2 and

3 “(V) pursuant to court orders or otherwise,
4 the trust will operate through mechanisms such
5 as structured, periodic or supplemental pay-
6 ments, pro rata distributions, matrices, or peri-
7 odic review of estimates of the numbers and
8 values of present claims and future demands or
9 other comparable alternates, that provide rea-
10 sonable assurance that the trust will value, and
11 be in a financial position to pay, present claims
12 and future demands that involve similar claims
13 in substantially the same manner.

14 “(3)(A) If the requirements of paragraph (2)(B) are
15 met and the order approving the plan of reorganization
16 was issued or affirmed by the district court that has juris-
17 diction over the reorganization proceedings, then after the
18 time for appeal of the order that issues or affirms the plan
19 of reorganization—

20 “(i) the injunction shall be valid and enforce-
21 able and may not be revoked or modified by any
22 court except through appeal in accordance with
23 paragraph (6);

24 “(ii) no entity that pursuant to the plan of re-
25 organization or thereafter becomes a direct or indi-

1 rect transferee of, or successor to any assets of, a
2 debtor or trust that is the subject of the injunction
3 shall be liable with respect to any claim or demand
4 made against it by reason of its becoming such a
5 transferee or successor; and

6 “(iii) no entity that pursuant to the plan of re-
7 organization or thereafter makes a loan to such a
8 debtor or trust or to such a successor or transferee
9 shall, by reason of making the loan, be liable with
10 respect to any claim or demand made against it, nor
11 shall any pledge of assets made in connection with
12 such a loan be upset or impaired for that reason;

13 “(B) Subparagraph (A) shall not be construed to—

14 “(i) imply that an entity described in subpara-
15 graph (A) (ii) or (iii) would, if this paragraph were
16 not applicable, have liability by reason of any of the
17 acts described in subparagraph (A);

18 “(ii) relieve any such entity of the duty to com-
19 ply with, or of liability under, any Federal or State
20 law regarding the making of a fraudulent convey-
21 ance in a transaction described in subparagraph (A)
22 (ii) or (iii); or

23 “(iii) relieve a debtor of the debtor’s obligation
24 to comply with the terms of the plan of reorganiza-
25 tion or affect the power of the court to exercise its

1 authority under sections 1141 and 1142 to compel
2 the debtor to do so.

3 “(4)(A)(i) Subject to subparagraph (B), an injunc-
4 tion under paragraph (1) shall be valid and enforceable
5 against all persons and governmental units that it ad-
6 dresses.

7 “(ii) Notwithstanding section 524(e), such an injunc-
8 tion may bar any action directed against a third party
9 who—

10 “(I) is identifiable from the terms of the injunc-
11 tion (by name or as part of an identifiable group);
12 and

13 “(II) is alleged to be directly or indirectly liable
14 for the conduct of, claims against, or demands on
15 the debtor.

16 “(B) With respect to a demand (including a demand
17 directed against a third party who is identifiable from the
18 terms of the injunction (either by name or as part of an
19 identifiable group) and who is alleged to be directly or in-
20 directly liable for the conduct of, claims against, or de-
21 mands on the debtor) that is made subsequent to the con-
22 firmation of a plan against any person or entity that is
23 the subject of an injunction issued under paragraph (1),
24 the injunction shall be valid and enforceable if, as part
25 of the proceedings leading to its issuance, the court ap-

1 pointed a legal representative for the purpose of protecting
2 the rights of persons that might subsequently assert such
3 a demand.

4 “(5) In this subsection, the term ‘demand’ means a
5 demand for payment, present or future, that—

6 “(A) was not a claim during the proceedings
7 leading to the confirmation of a plan of reorganiza-
8 tion;

9 “(B) arises out of the same or similar conduct
10 or events that gave rise to the claims addressed by
11 the injunction issued under paragraph (1); and

12 “(C) pursuant to the plan, is to be paid by a
13 trust described in paragraph (2)(B)(i).

14 “(6) Paragraph (3)(A)(i) does not bar an action
15 taken by or at the direction of an appellate court on appeal
16 of an injunction issued under paragraph (1) or of the
17 order of confirmation that relates to the injunction.

18 “(7) This subsection applies to any injunction of the
19 nature described in paragraph (1)(B) in effect, and any
20 trust of the nature described in paragraph (2)(B) in exist-
21 ence, on or after the date of enactment of this subsection.

22 “(8) This subsection does not affect the operation of
23 section 1144 or the power of the district court to refer
24 a proceeding under section 157 of title 28 or any reference

1 of a proceeding made prior to the date of enactment of
2 this subsection.

3 “(9) Nothing in subsection (g) shall affect the court’s
4 authority to issue an injunction (including an injunction
5 that requires claims and demands to be presented for pay-
6 ment solely to a trust or any other type of court approved
7 settlement vehicle) which is entered pursuant to an order
8 approving a plan of reorganization.

9 “(10)(A) If, upon a motion by a representative ap-
10 pointed by the court identified in paragraph (1)(A) to pro-
11 tect the interests of persons with demands of the kind de-
12 scribed in paragraph (2)(B)(ii)(I) or on its own motion,
13 the court finds, as a result of enhanced credible estimating
14 procedures with respect to such demands, inequities in the
15 distribution process of a trust of the nature described in
16 paragraph (2)(B), the court shall have, in addition to the
17 powers over the trust that the court may lawfully exercise
18 under applicable nonbankruptcy law, plenary equitable
19 power to reform, restructure, or modify the trust, the pro-
20 cedures under which it operates, or the timing, manner,
21 and amount of distributions to its beneficiaries and other
22 rights of the beneficiaries, giving special attention to cases
23 presenting exigent circumstances, as it shall determine to
24 be fair, just, and reasonable in light of the circumstances

1 prevailing at the time of reformation, restructure or modi-
2 fication.

3 “(B) Nothing in this paragraph shall be construed
4 to grant the court authority to modify or in any way alter
5 the debtor’s obligation to comply with the terms of the
6 plan of reorganization.”.

7 **SEC. 222. REJECTION OF UNEXPIRED LEASES OF REAL**
8 **PROPERTY OR TIMESHARE INTERESTS.**

9 (a) AMENDMENT OF SECTION 365.—Section 365(h)
10 of title 11, United States Code, is amended to read as
11 follows:

12 “(h)(1)(A) If the trustee rejects an unexpired lease
13 of real property under which the debtor is the lessor—

14 “(i) if the rejection by the trustee amounts to
15 such a breach as would entitle the lessee to treat the
16 lease as terminated by virtue of its own terms, appli-
17 cable nonbankruptcy law, or any other lease or
18 agreement that the lessee has made with another
19 party, the lessee under the lease may treat the lease
20 as terminated by the rejection; or

21 “(ii) if the term of the lease has commenced,
22 the lessee may retain its rights under the lease that
23 are in or appurtenant to the leasehold estate (includ-
24 ing lease provisions such as those relating to the
25 amount and timing of payment of rent and other

1 amounts payable by the lessee or to any right of use,
2 possession, quiet enjoyment, subletting, assignment,
3 or hypothecation) for the balance of the term of the
4 lease and for any renewal or extension of such term
5 as is enforceable under applicable nonbankruptcy
6 law.

7 “(B) If the lessee retains its rights under subpara-
8 graph (A)(ii), the lessee may set off against the rent re-
9 served under the lease for the balance of the term after
10 the date of the rejection of the lease, and any renewal or
11 extension of the lease, any damages occurring after the
12 date of rejection caused by the nonperformance of any ob-
13 ligation of the debtor under the lease after that date, but
14 the lessee does not have any rights against the estate on
15 account of any damages arising after that date from the
16 rejection, other than the setoff.

17 “(C) The rejection of a lease of real property in a
18 shopping center with respect to which the lessee elects to
19 retain its rights under subparagraph (A)(ii) does not af-
20 fect the enforceability under applicable nonbankruptcy law
21 of any provision in the lease pertaining to radius, location,
22 use, exclusivity, or tenant mix or balance.

23 “(D) In this paragraph, ‘lessee’ includes any succes-
24 sor, assign, or mortgagee permitted by the lease.

1 “(2)(A) If the trustee rejects a timeshare interest
2 under a timeshare plan under which the debtor is the
3 timeshare interest seller—

4 “(i) the timeshare interest purchaser under the
5 timeshare plan may treat the timeshare plan as ter-
6 minated by the rejection if the rejection amounts to
7 such a breach as would entitle the timeshare interest
8 purchaser to treat the timeshare plan as terminated
9 by virtue of its own terms, applicable nonbankruptcy
10 law, or any other agreement that the timeshare in-
11 terest purchaser has made with another party; or

12 “(ii) the timeshare interest purchaser may re-
13 tain its rights in the timeshare interest under any
14 timeshare plan the term of which has commenced for
15 the balance of such term and for any renewal or ex-
16 tension of such term as is enforceable under applica-
17 ble nonbankruptcy law.

18 “(B) If the timeshare interest purchaser retains its
19 rights under subparagraph (A), the timeshare interest
20 purchaser may set off against the moneys due for the
21 timeshare interest for the balance of the term after the
22 date of the rejection of the timeshare interest, and any
23 renewal or extension thereof, any damages occurring after
24 the date of rejection caused by the nonperformance of any
25 obligation of the debtor under the timeshare plan after

1 that date, but the timeshare interest purchaser does not
2 have any rights against the estate on account of any dam-
3 ages arising after that date from the rejection, other than
4 the setoff.”.

5 (b) TECHNICAL AMENDMENT.—Section 553(b)(1) of
6 title 11, United States Code, is amended by striking
7 “365(h)(2)” and inserting “365(h)”.

8 **SEC. 223. CONTENTS OF PLAN.**

9 Section 1123(b) of title 11, United States Code, is
10 amended—

11 (1) by striking “and” at the end of paragraph
12 (4);

13 (2) by redesignating paragraph (5) as para-
14 graph (6); and

15 (3) by inserting after paragraph (4) the follow-
16 ing new paragraph:

17 “(5) in a case in which the debtor is a small
18 business, modify the rights of holders of secured
19 claims, other than a claim secured only by a security
20 interest in real property that is the debtor’s prin-
21 cipal residence, or of holders of unsecured claims, or
22 leave unaffected the rights of holders of any class of
23 claims, but the plan may not modify a claim pursu-
24 ant to section 506 of a person holding a primary or
25 a junior security interest in real property or a manu-

1 factored home (as defined in section 603(6) of the
2 National Manufactured Housing Construction and
3 Safety Standards Act of 1974 (42 U.S.C. 5402(6))
4 that is the debtor’s principal residence, except that
5 the plan may modify the claim of a person holding
6 such a junior security interest that was
7 undersecured at the time the interest attached to the
8 extent that the interest remains undersecured;”.

9 **SEC. 224. PRIORITY FOR INDEPENDENT SALES REPRESENT-**
10 **ATIVES.**

11 Section 507(a)(3) of title 11, United States Code, is
12 amended to read as follows:

13 “(3) Third, allowed unsecured claims, but only
14 to the extent of \$2,000 for each individual or cor-
15 poration, as the case may be, earned within 90 days
16 before the date of the filing of the petition or the
17 date of the cessation of the debtor’s business, which-
18 ever occurs first, for—

19 “(A) wages, salaries, or commissions, in-
20 cluding vacation, severance, and sick leave pay
21 earned by an individual; or

22 “(B) sales commissions earned by an indi-
23 vidual or by a corporation with only 1 employee,
24 acting as an independent contractor in the sale
25 of goods or services for the debtor in the ordi-

1 nary course of the debtor’s business if, and only
2 if, during the 12 months preceding that date, at
3 least 75 percent of the amount that the individ-
4 ual or corporation earned by acting as an inde-
5 pendent contractor in the sale of goods or serv-
6 ices was earned from the debtor;”.

7 **SEC. 225. AMEND BANKRUPTCY CODE.**

8 (a) Amend section 541(b)(4), of title 11, United
9 States Code to read as follows:

10 “(4) any interest of the debtor in liquid or gase-
11 ous hydrocarbons to the extent—

12 “(A)(i) the debtor has transferred or has
13 agreed to transfer such interest pursuant to a
14 farmout agreement or any written agreement
15 directly related to a farmout agreement; and

16 “(ii) but for the operation of this para-
17 graph, the estate could include such interest
18 only by virtue of section 365 or 544(a) of this
19 title; or

20 “(B) the debtor has transferred such inter-
21 est pursuant to a conveyance of a production
22 payment or an oil and gas lease.

23 Paragraph (4) shall not be construed to exclude
24 from the estate any consideration the debtor retains,
25 receives, or is entitled to receive for transferring an

1 interest in liquid or gaseous hydrocarbons pursuant
2 to a farmout agreement, production payment, or oil
3 and gas lease.”.

4 (b) Amend section 101, of title 11, United States
5 Code by adding after paragraph (42) the following:

6 “(43) ‘production payment’ is not a gross roy-
7 alty. A production payment is a term overriding roy-
8 alty which is an interest in liquid or gaseous hydro-
9 carbons in place or to be produced from a property
10 or properties, that entitles the owner thereof to a
11 share of production, or the value thereof, for a term
12 limited by time, quantity, or value realized, or any
13 formula based on one or more of such factors.”.

14 **TITLE III—CONSUMER**
15 **BANKRUPTCY ISSUES**

16 **SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO**
17 **PRINCIPAL RESIDENCE.**

18 Section 1322 of title 11, United States Code, as
19 amended by section 207(d), is amended—

20 (1) by redesignating subsections (c) and (d) as
21 subsections (d) and (e); and

22 (2) by inserting after subsection (b) the follow-
23 ing new subsection:

24 “(c) Notwithstanding State law and subsection
25 (b)(2), and whether or not a claim is matured or reduced

1 to judgment prior to consummation of a foreclosure sale,
2 a debtor who at the time of filing a petition under this
3 title possesses any legal or equitable interest, including a
4 right of redemption, in real property securing a claim—

5 “(1) may cure a default and maintain payments
6 on the claim pursuant to subsection (b) (3) or (5);
7 or

8 “(2) in a case in which the last payment on the
9 original payment schedule for the claim is due before
10 the date on which the final payment under the plan
11 is due, may provide for the payment of the claim
12 pursuant to section 1325(a)(5).”.

13 **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**
14 **TER 13.**

15 (a) **IN GENERAL.**—Section 1328(a)(3) of title 11,
16 United States Code, is amended by inserting “, or a fine
17 to the extent such fine exceeds \$500, ” after “restitution”.

18 (b) **TECHNICAL AMENDMENT.**—Section 3613(f) of
19 title 18, United States Code, is amended by striking “No”
20 and inserting “Except as provided in section 1328(a)(3)
21 of title 11, no”.

22 **SEC. 303. IMPAIRMENT OF EXEMPTIONS.**

23 (a) **IN GENERAL.**—Section 522(f) of title 11, United
24 States Code, is amended—

1 (1) by inserting “(1)” before “Notwithstand-
2 ing”;

3 (2) by redesignating paragraph (1) as subpara-
4 graph (A);

5 (3) by redesignating paragraph (2) as subpara-
6 graph (B) and subparagraphs (A), (B), and (C) of
7 that paragraph as clauses (i), (ii), and (iii); and

8 (4) by adding at the end the following new
9 paragraph:

10 “(2)(A) For the purposes of this subsection, a
11 lien shall be considered to impair an exemption to
12 the extent that the sum of—

13 “(i) the lien;

14 “(ii) all other liens on the property that
15 are equal or greater in seniority to the lien; and

16 “(iii) the amount of the exemption that the
17 debtor could claim if there were no liens on the
18 property,

19 exceeds the value that the debtor’s interest in the
20 property would have in the absence of any liens.

21 “(B) In the case of a property subject to more
22 than 1 lien, a lien that has been avoided shall not
23 be considered in making the calculation under sub-
24 paragraph (A) with respect to other liens.”.

1 (b) RULE OF CONSTRUCTION; APPLICATION OF
2 AMENDMENT.—Section 522(f)(2) of title 11, United
3 States Code, as added by subsection (a)—

4 (1) shall not be construed to apply with respect
5 to a judgment arising out of a mortgage foreclosure;
6 and

7 (2) shall not apply with respect to a
8 nonpossessory, nonpurchase-money security interest
9 given before the date of enactment of this Act (in-
10 cluding a security interest with respect to which the
11 value of the collateral increases after a case under
12 that title is commenced).

13 **SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

14 (a) RELIEF FROM AUTOMATIC STAY.—Section
15 362(b)(2) of title 11, United States Code, is amended to
16 read as follows:

17 “(2) under subsection (a) of this section—

18 “(A) of the commencement or continuation
19 of an action or proceeding for—

20 “(i) the establishment of paternity; or

21 “(ii) the establishment or modification
22 of an order for alimony, maintenance, or
23 support; or

1 “(B) of the collection of alimony, mainte-
2 nance, or support from property that is not
3 property of the estate;”.

4 (b) PRIORITY OF CLAIMS.—

5 (1) ALIMONY OR SUPPORT.—Section 507(a) of
6 title 11, United States Code, is amended—

7 (A) in paragraph (7) by striking “(7) Sev-
8 enth” and inserting “(8) Eighth”;

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

11 (C) by inserting after paragraph (6) the
12 following new paragraph:

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

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

24 “(B) includes a liability designated as ali-
25 mony, maintenance, or support, unless such li-

1 ability is actually in the nature of alimony,
2 maintenance or support.”.

3 (2) TECHNICAL AMENDMENTS.—Title 11, Unit-
4 ed States Code, is amended—

5 (A) in section 502(i) by striking
6 “507(a)(7)” and inserting “507(a)(8)”;

7 (B) in section 503(b)(1)(B)(i) by striking
8 “507(a)(7)” and inserting “507(a)(8)”;

9 (C) in section 523(a)(1)(A) by striking
10 “507(a)(7)” and inserting “507(a)(8)”;

11 (D) in section 724(b)(2) by striking “or
12 507(a)(6)” and inserting “507(a)(6), or
13 507(a)(7)”;

14 (E) in section 726(b) by striking “or (7)”
15 and inserting “, (7), or (8)”;

16 (F) in section 1123(a)(1) by striking
17 “507(a)(7)” and inserting “507(a)(8)”;

18 (G) in section 1129(a)(9)—

19 (i) in subparagraph (B) by striking
20 “or 507(a)(6)” and inserting “, 507(a)(6),
21 or 507(a)(7)”;

22 (ii) in subparagraph (C) by striking
23 “507(a)(7)” and inserting “507(a)(8)”.

24 (c) PROTECTION OF LIENS.—Section 522(f) of title
25 11, United States Code, as amended by section 303, is

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

3 “(A) a judicial lien (other than a judicial lien
4 that secures a debt to a spouse, former spouse, or
5 child of the debtor, for alimony to, maintenance for,
6 or support of the spouse or child, in connection with
7 a separation agreement, divorce decree or other
8 order of a court of record, determination made in
9 accordance with State or territorial law by a govern-
10 mental unit, or property settlement agreement, to
11 the extent that the debt—

12 “(i) is not assigned to another entity, vol-
13 untarily, by operation of law, or otherwise; and

14 “(ii) includes a liability designated as ali-
15 mony, maintenance, or support, unless such li-
16 ability is actually in the nature of alimony,
17 maintenance or support); or”.

18 (d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—
19 Section 547(c) of title 11, United States Code, is amend-
20 ed—

21 (1) by striking “or” at the end of para-
22 graph (6);

23 (2) by redesignating paragraph (7) as
24 paragraph (8); and

1 (3) by inserting after paragraph (6) the
2 following new paragraph:

3 “(7) to the extent that the transfer was a bona
4 fide payment of a debt to a spouse, former spouse,
5 or child of the debtor, for alimony to, maintenance
6 for, or support of such spouse or child, in connection
7 with a separation agreement, divorce decree or other
8 order of a court of record, determination made in
9 accordance with State or territorial law by a govern-
10 mental unit, or property settlement agreement, but
11 not to the extent that such debt—

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

14 “(B) includes a liability designated as ali-
15 mony, maintenance, or support, unless such li-
16 ability is actually in the nature of alimony,
17 maintenance or support; or”.

18 (e) APPEARANCE BEFORE COURT.—A child support
19 creditor or its representative shall be permitted to appear
20 and intervene without charge and without meeting any
21 special local court rule requirement for attorney appear-
22 ances in any bankruptcy proceeding in any bankruptcy
23 court or district court of the United States if the creditor
24 or representative files with the court a statement describ-

1 ing in detail the child support debt, its status, and other
2 characteristics.

3 **SEC. 305. BANKRUPTCY PETITION PREPARERS.**

4 (a) AMENDMENT OF CHAPTER 1.—

5 (1) IN GENERAL.—Chapter 1 of title 11, United
6 States Code, is amended by adding at the end the
7 following new section:

8 **“SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
9 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
10 **TITIONS.**

11 “(a) DEFINITION.—In this section—

12 “‘bankruptcy petition preparer’ means a per-
13 son, other than an attorney or an employee of an at-
14 torney, who prepares for compensation a document
15 for filing.

16 “‘document for filing’ means a petition or any
17 other document prepared for filing by a debtor in a
18 United States bankruptcy court or a United States
19 district court in connection with a case under this
20 title.

21 “(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy
22 petition preparer who prepares a document for filing shall
23 sign the document and print on the document the prepar-
24 er’s name and address.

1 “(2) A bankruptcy petition preparer who fails to com-
2 ply with paragraph (1) may be fined not more than \$500
3 for each such failure unless the failure is due to reasonable
4 cause.

5 “(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A
6 bankruptcy petition preparer who prepares a document for
7 filing shall place on the document, after the preparer’s sig-
8 nature, an identifying number that identifies the individ-
9 uals who prepared the document.

10 “(2) For purposes of this section, the identifying
11 number of a bankruptcy petition preparer shall be the So-
12 cial Security account number of each individual who pre-
13 pared the document or assisted in its preparation.

14 “(3) A bankruptcy petition preparer who fails to com-
15 ply with paragraph (1) may be fined not more than \$500
16 for each such failure unless the failure is due to reasonable
17 cause.

18 “(d) FURNISHING OF COPY TO THE DEBTOR.—(1)
19 A bankruptcy petition preparer shall, not later than the
20 time at which a document for filing is presented for the
21 debtor’s signature, furnish to the debtor a copy of the doc-
22 ument.

23 “(2) A bankruptcy petition preparer who fails to com-
24 ply with paragraph (1) may be fined not more than \$500

1 for each such failure unless the failure is due to reasonable
2 cause.

3 “(e) NO AUTHORIZATION TO EXECUTE DOCU-
4 MENTS.—(1) A bankruptcy petition preparer shall not exe-
5 cute any document on behalf of a debtor.

6 “(2) A bankruptcy petition preparer may be fined not
7 more than \$500 for each document executed in violation
8 of paragraph (1).

9 “(f) ADVERTISING.—(1) A bankruptcy petition pre-
10 parer shall not use the word “legal” or any similar term
11 in any advertisements, or advertise under any category
12 that includes the word “legal” or any similar term.

13 “(2) A bankruptcy petition preparer shall be fined
14 not more than \$500 for each violation of paragraph (1).

15 “(g) COURT FEES.—(1) A bankruptcy petition pre-
16 parer shall not collect or receive any payment from the
17 debtor or on behalf of the debtor for the court fees in con-
18 nection with filing the petition.

19 “(2) A bankruptcy petition preparer shall be fined
20 not more than \$500 for each violation of paragraph (1).

21 “(h) FEES FOR SERVICES.—(1) Within 10 days after
22 the date of the filing of a petition, a bankruptcy petition
23 preparer shall file a declaration under penalty of perjury
24 disclosing any fee received from or on behalf of the debtor

1 within 12 months immediately prior to the filing of the
2 case, and any unpaid fee charged to the debtor.

3 “(2) The court shall disallow and order the imme-
4 diate turnover to the bankruptcy trustee of any fee re-
5 ferred to in paragraph (1) found to be in excess of the
6 value of typing services for the documents prepared. The
7 debtor may exempt any funds so recovered under section
8 522(b).

9 “(3) The debtor, the trustee, a creditor, or the United
10 States trustee may file a motion for an order under para-
11 graph (2).

12 “(4) A bankruptcy petition preparer shall be fined
13 not more than \$500 for each failure to comply with a court
14 order to turn over funds within 30 days of service of such
15 order.

16 “(i) DAMAGES.—(1) If a bankruptcy case or related
17 proceeding is dismissed because of the failure to file bank-
18 ruptcy forms, the negligence or intentional disregard of
19 this title or the bankruptcy rules by a bankruptcy petition
20 preparer, or if a bankruptcy petition preparer violates this
21 section or commits any fraudulent, unfair, or deceptive
22 act, the bankruptcy court shall certify that fact to the dis-
23 trict court, and the district court, on motion of the debtor,
24 the trustee, or a creditor and after a hearing, shall order
25 the bankruptcy petition preparer to pay to the debtor—

1 “(A) the debtor’s actual damages;

2 “(B) the greater of—

3 “(i) \$2,000; or

4 “(ii) twice the amount paid by the debtor
5 to the bankruptcy petition preparer for the pre-
6 parer’s services; and

7 “(C) reasonable attorneys’ fees and costs in
8 moving for damages under this subsection.

9 “(2) If the trustee or creditor moves for damages on
10 behalf of the debtor under this subsection, the bankruptcy
11 petition preparer shall be ordered to pay the movant the
12 additional amount of \$1,000 plus reasonable attorneys’
13 fees and costs incurred.

14 “(j) INJUNCTIVE RELIEF.—

15 “(1) IN GENERAL.—A debtor for whom a bank-
16 ruptcy petition preparer has prepared a document
17 for filing, the trustee, a creditor, or the United
18 States trustee in the district in which the bank-
19 ruptcy petition preparer resides, has conducted busi-
20 ness, or the United States trustee in any other dis-
21 trict in which the debtor resides may bring a civil
22 action to enjoin a bankruptcy petition preparer from
23 engaging in any conduct in violation of this section
24 or from further acting as a bankruptcy petition pre-
25 parer.

1 “(2) CONDUCT.—(A) In an action under para-
2 graph (1), if the court finds that—

3 “(i) a bankruptcy petition preparer has—

4 “(I) engaged in conduct in violation of
5 this section or of any provision of this title
6 a violation of which subjects a person to
7 criminal penalty;

8 “(II) misrepresented the preparer’s
9 experience or education as a bankruptcy
10 petition preparer; or

11 “(III) engaged in any other fraudu-
12 lent, unfair, or deceptive conduct; and

13 “(ii) injunctive relief is appropriate to pre-
14 vent the recurrence of such conduct,
15 the court may enjoin the bankruptcy petition pre-
16 parer from engaging in such conduct.

17 “(B) If the court finds that a bankruptcy peti-
18 tion preparer has continually engaged in conduct de-
19 scribed in clause (i) (I), (II), or (III) and that an
20 injunction prohibiting such conduct would not be
21 sufficient to prevent such person’s interference with
22 the proper administration of this title, or has not
23 paid a penalty imposed under this section, the court
24 may enjoin the person from acting as a bankruptcy
25 petition preparer.

1 “(3) ATTORNEY’S FEE.—The court shall award
2 to a debtor, trustee, or creditor that brings a suc-
3 cessful action under this subsection reasonable attor-
4 ney’s fees and costs of the action, to be paid by the
5 bankruptcy petition preparer.

6 “(k) UNAUTHORIZED PRACTICE OF LAW.—Nothing
7 in this section shall be construed to permit activities that
8 are otherwise prohibited by law, including rules and laws
9 that prohibit the unauthorized practice of law.”.

10 (2) TECHNICAL AMENDMENT.—The chapter
11 analysis for chapter 1 of title 11, United States
12 Code, is amended by adding at the end the following
13 new item:

“110. Penalty for persons who negligently or fraudulently prepare bankruptcy
petitions.”.

14 (b) AMENDMENT OF TITLE 18, UNITED STATES
15 CODE.—

16 (1) OFFENSES.—Chapter 9 of title 18, United
17 States Code, is amended—

18 (A) by amending sections 152, 153, and
19 154 to read as follows:

20 **“§ 152. Concealment of assets; false oaths and claims;
21 bribery**

22 “A person who—

23 “(1) knowingly and fraudulently conceals from
24 a custodian, trustee, marshal, or other officer of the

1 court charged with the control or custody of prop-
2 erty, or, in connection with a case under title 11,
3 from creditors or the United States Trustee, any
4 property belonging to the estate of a debtor;

5 “(2) knowingly and fraudulently makes a false
6 oath or account in or in relation to any case under
7 title 11;

8 “(3) knowingly and fraudulently makes a false
9 declaration, certificate, verification, or statement
10 under penalty of perjury as permitted under section
11 1746 of title 28, in or in relation to any case under
12 title 11;

13 “(4) knowingly and fraudulently presents any
14 false claim for proof against the estate of a debtor,
15 or uses any such claim in any case under title 11,
16 in a personal capacity or as or through an agent,
17 proxy, or attorney;

18 “(5) knowingly and fraudulently receives any
19 material amount of property from a debtor after the
20 filing of a case under title 11, with intent to defeat
21 the provisions of title 11;

22 “(6) knowingly and fraudulently gives, offers,
23 receives, or attempts to obtain any money or prop-
24 erty, remuneration, compensation, reward, advan-

1 targe, or promise thereof for acting or forbearing to
2 act in any case under title 11;

3 “(7) in a personal capacity or as an agent or
4 officer of any person or corporation, in contempla-
5 tion of a case under title 11 by or against the person
6 or any other person or corporation, or with intent to
7 defeat the provisions of title 11, knowingly and
8 fraudulently transfers or conceals any of his prop-
9 erty or the property of such other person or corpora-
10 tion;

11 “(8) after the filing of a case under title 11 or
12 in contemplation thereof, knowingly and fraudulently
13 conceals, destroys, mutilates, falsifies, or makes a
14 false entry in any recorded information (including
15 books, documents, records, and papers) relating to
16 the property or financial affairs of a debtor; or

17 “(9) after the filing of a case under title 11,
18 knowingly and fraudulently withholds from a custo-
19 dian, trustee, marshal, or other officer of the court
20 or a United States Trustee entitled to its possession,
21 any recorded information (including books, docu-
22 ments, records, and papers) relating to the property
23 or financial affairs of a debtor,

24 shall be fined not more than \$5,000, imprisoned not more
25 than 5 years, or both.

1 **“§ 153. Embezzlement against estate**

2 “(a) OFFENSE.—A person described in subsection (b)
3 who knowingly and fraudulently appropriates to the per-
4 son’s own use, embezzles, spends, or transfers any prop-
5 erty or secretes or destroys any document belonging to the
6 estate of a debtor shall be fined not more than \$5,000,
7 imprisoned not more than 5 years, or both.

8 “(b) PERSON TO WHOM SECTION APPLIES.—A per-
9 son described in this subsection is one who has access to
10 property or documents belonging to an estate by virtue
11 of the person’s participation in the administration of the
12 estate as a trustee, custodian, marshal, attorney, or other
13 officer of the court or as an agent, employee, or other per-
14 son engaged by such an officer to perform a service with
15 respect to the estate.

16 **“§ 154. Adverse interest and conduct of officers**

17 “A person who, being a custodian, trustee, marshal,
18 or other officer of the court—

19 “(1) knowingly purchases, directly or indirectly,
20 any property of the estate of which the person is
21 such an officer in a case under title 11;

22 “(2) knowingly refuses to permit a reasonable
23 opportunity for the inspection by parties in interest
24 of the documents and accounts relating to the af-
25 fairs of estates in the person’s charge by parties
26 when directed by the court to do so; or

1 “(3) knowingly refuses to permit a reasonable
2 opportunity for the inspection by the United States
3 Trustee of the documents and accounts relating to
4 the affairs of states in the person’s charge,
5 shall be fined not more than \$5,000 and shall forfeit the
6 person’s office, which shall thereupon become vacant.”;
7 and

8 (B) by adding at the end the following new
9 section:

10 **“§ 156. Willful disregard of bankruptcy law or rule**

11 “(a) DEFINITIONS.—In this section—

12 “‘bankruptcy petition preparer’ means a per-
13 son, other than an attorney or an employee of an at-
14 torney, who prepares for compensation a document
15 for filing.

16 “‘document for filing’ means a petition or any
17 other document prepared for filing by a debtor in a
18 United States bankruptcy court or a United States
19 district court in connection with a case under this
20 title.

21 “(b) OFFENSE.—If a bankruptcy case or related pro-
22 ceeding is dismissed because of a willful attempt by a
23 bankruptcy petition preparer in any manner to disregard
24 the requirements of title 11, United States Code, or the

1 Bankruptcy Rules, the bankruptcy petition preparer shall
2 be fined \$5,000.”.

3 (2) TECHNICAL AMENDMENTS.—The chapter
4 analysis for chapter 9 of title 18, United States
5 Code, is amended—

6 (A) by amending the item relating to sec-
7 tion 153 to read as follows:

“Sec. 153. Embezzlement against estate.”;

8 and

9 (B) by adding at the end the following new
10 item:

“Sec. 156. Willful disregard of bankruptcy law or rule.”.

11 **SEC. 306. CONVERSION OR DISMISSAL.**

12 Section 1307 of title 11, United States Code, is
13 amended by adding at the end the following new sub-
14 section:

15 “(g) The clerk of the court shall give notice to all
16 creditors not later than 30 days after the entry of an order
17 of conversion or dismissal.”.

18 **SEC. 307. CONTENTS OF PLAN.**

19 Section 1322(b)(2) of title 11, United States Code,
20 is amended by striking “claims;” and inserting “claims,
21 but the plan may not modify a claim pursuant to section
22 506 of a person holding a primary or a junior security
23 interest in real property or a manufactured home (as de-
24 fined in section 603(6) of the National Manufactured

1 Housing Construction and Safety Standards Act of 1974
2 (42 U.S.C. 5402(6)) that is the debtor’s principal resi-
3 dence, except that the plan may modify the claim of a per-
4 son holding such a junior security interest that was
5 undersecured at the time the interest attached to the ex-
6 tent that the interest remains undersecured;”.

7 **SEC. 308. STAY OF ACTION AGAINST CODEBTOR.**

8 Section 1301 of title 11, United States Code, is
9 amended—

10 (1) in subsection (c)—

11 (A) by striking “or” at the end of para-
12 graph (2);

13 (B) by striking the period at the end of
14 paragraph (3) and inserting “; or”; and

15 (C) by adding at the end the following new
16 paragraph:

17 “(4) the claim is for an amount valued at not
18 greater than \$25,000, and such relief is not a sub-
19 stantial impediment to an effective reorganization by
20 the debtor, and unless the codebtor has dem-
21 onstrated an inability to pay such claim or a sub-
22 stantial portion of such claim.”; and

23 (2) by adding at the end the following new sub-
24 section:

1 “(e) If the relief sought by the creditor pursuant to
2 subsection (c)(4) is granted by the court, the codebtor
3 shall by subrogation have the same rights as the creditor,
4 under this title, against the debtor to the extent of the
5 amount of relief obtained from the codebtor. Pending any
6 delay in obtaining relief from the codebtor, after the court
7 order, payment by the debtor shall continue to be paid
8 to the creditor, but subject to the developing subrogation
9 rights of the codebtor.”.

10 **SEC. 309. EXEMPTION FOR HOUSEHOLD GOODS.**

11 Section 522(a) of title 11, United States Code, is
12 amended—

13 (1) by striking “and” at the end of paragraph
14 (1) and redesignating that paragraph as paragraph
15 (2);

16 (2) by inserting before paragraph (2), as redesi-
17 gnated by paragraph (1), the following new para-
18 graph:

19 “(1) ‘antique’, for purposes of subsection (d),
20 means an item that was more than 100 years old at
21 the time it was acquired by the debtor, including
22 such an item that has been repaired or renovated
23 without changing its original form or character;”;

1 (3) by redesignating paragraph (2), as des-
2 ignated prior to the date of enactment of this Act,
3 as paragraph (4); and

4 (4) by inserting after paragraph (2), as redesign-
5 nated by paragraph (1), the following new para-
6 graph:

7 “(3) ‘household goods’, for purposes of sub-
8 section (d), means clothing, furniture, appliances,
9 linens, china, crockery, kitchenware, and personal ef-
10 fects of the debtor and the debtor’s dependents, but
11 does not include—

12 “(A) works of art;

13 “(B) electronic entertainment equipment
14 (except to the extent of 1 television and 1
15 radio);

16 “(C) antiques; and

17 “(D) jewelry other than wedding rings;

18 and

19 **SEC. 310. PROFESSIONAL FEES.**

20 Section 330(a) of title 11, United States Code, is
21 amended to read as follows:

22 “(a)(1) After notice to the parties in interest and the
23 United States trustee and a hearing, and subject to sec-
24 tions 326, 328, and 329, the court may award to a trustee,

1 an examiner, a professional person employed under section
2 327 or 1103—

3 “(A) reasonable compensation for actual, nec-
4 essary services rendered by the trustee, examiner,
5 professional person, or attorney and by any para-
6 professional person employed by any such person;
7 and

8 “(B) reimbursement for actual, necessary ex-
9 penses.

10 “(2) The court may, on its own motion or on the mo-
11 tion of the United States Trustee, the United States
12 Trustee for the District or Region, the trustee for the es-
13 tate, or any other party in interest, award compensation
14 that is less than the amount of compensation that is re-
15 quested.

16 “(3)(A) In determining the amount of reasonable
17 compensation to be awarded, the court shall consider the
18 nature, the extent, and the value of such services, taking
19 into account all relevant factors, including—

20 “(A) the time spent on such services;

21 “(B) the rates charged for such services;

22 “(C) whether the services were necessary to the
23 administration of, or beneficial at the time at which
24 the service was rendered toward the completion of,
25 a case under this title;

1 “(D) the total value of the estate and the
2 amount of funds or other property available for dis-
3 tribution to all creditors, both secured and unse-
4 cured;

5 “(E) whether the services were performed with-
6 in a reasonable amount of time commensurate with
7 the complexity, importance, and nature of the prob-
8 lem, issue, or task addressed; and

9 “(F) whether the compensation is reasonable
10 based on the customary compensation charged by
11 comparably skilled practitioners in cases other than
12 cases under this title.

13 “(4)(A) Except as provided in subparagraph (B), the
14 court shall not allow compensation for—

15 “(i) unnecessary duplication of services; or

16 “(ii) services that were not—

17 “(I) reasonably likely to benefit the debt-
18 or’s estate; or

19 “(II) necessary to the administration of
20 the case.

21 “(B) In a chapter 12 or chapter 13 case in which
22 the debtor is an individual, the court may allow reasonable
23 compensation to the debtor’s attorney for representing the
24 interests of the debtor in connection with the bankruptcy
25 case based on a consideration of the benefit and necessity

1 of such services to the debtor and the other factors set
2 forth in this section.

3 “(5) The court shall reduce the amount of compensa-
4 tion awarded under this section by the amount of any in-
5 terim compensation awarded under section 331, and, if the
6 amount of such interim compensation exceeds the amount
7 of compensation awarded under this section, may order
8 the return of the excess to the estate.

9 “(6) Any compensation awarded for the preparation
10 of a fee application shall be based on the level and skill
11 reasonably required to prepare the application.”

12 **SEC. 311. INTEREST ON INTEREST.**

13 (a) CHAPTER 11.—Section 1123 of title 11, United
14 States Code, is amended by adding at the end the follow-
15 ing new subsection:

16 “(d) Notwithstanding subsection (a) of this section
17 and sections 506(b), 1129(a)(7), and 1129(b) of this title,
18 if it is proposed in a plan to cure a default, the amount
19 necessary to cure the default, shall be determined in ac-
20 cordance with the underlying agreement and applicable
21 nonbankruptcy law.”

22 (b) CHAPTER 12.—Section 1222 of title 11, United
23 States Code, is amended by adding at the end the follow-
24 ing new subsection:

1 “(d) Notwithstanding subsection (b)(2) of this sec-
2 tion and sections 506(b) and 1225(a)(5) of this title, if
3 it is proposed in a plan to cure a default, the amount nec-
4 essary to cure the default, shall be determined in accord-
5 ance with the underlying agreement and applicable
6 nonbankruptcy law.”.

7 (c) CHAPTER 13.—Section 1322 of title 11, United
8 States Code, is amended by adding at the end the follow-
9 ing new subsection:

10 “(f) Notwithstanding subsection (b)(2) of this section
11 and sections 506(b) and 1325(a)(5) of this title, if it is
12 proposed in a plan to cure a default, the amount necessary
13 to cure the default, shall be determined in accordance with
14 the underlying agreement and applicable nonbankruptcy
15 law.”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to agreements described in sections
18 1123(d), 1222(d), and 1322(f) of title 11, United States
19 Code, as added by this section, that are entered into after
20 the date of enactment of this Act.

21 **SEC. 312. FAIRNESS TO CONDOMINIUM AND COOPERATIVE**
22 **OWNERS.**

23 Section 523(a) of title 11, United States Code, as
24 amended by section 210, is amended—

1 (1) by striking “or” at the end of paragraph
2 (13);

3 (2) by adding “or” at the end of paragraph
4 (14); and

5 (3) by adding at the end the following new
6 paragraph:

7 “(15) for a fee that becomes due and payable
8 after the order for relief to a membership association
9 with respect to the debtor’s interest in a dwelling
10 unit that has condominium ownership or in a share
11 of a cooperative housing corporation, if such fee is
12 payable for a period during a substantial portion of
13 which—

14 “(A) the debtor physically occupied a
15 dwelling unit in the condominium or cooperative
16 project; or

17 “(B) the debtor rented the dwelling unit to
18 a tenant and received payments from the tenant
19 for such period,

20 but nothing in this paragraph shall except from dis-
21 charge the debt of a debtor for a membership asso-
22 ciation fee for a period arising before entry of the
23 order for relief in a pending or subsequent bank-
24 ruptcy proceeding.”.

1 **SEC. 313. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS**
2 **AND IMPLEMENTS OF TRADE, ANIMALS, AND**
3 **CROPS.**

4 (a) AMENDMENT.—Section 522(f) of title 11, United
5 States Code, as amended by section 303(c), is amended—

6 (1) by striking “Notwithstanding any waiver of
7 exemptions,” and inserting “(1) Notwithstanding
8 any waiver of exemptions but subject to paragraph
9 (2)”;

10 (2) by striking “(1) a judicial” and inserting
11 “(A) a judicial”;

12 (3) by striking “(A) is not assigned” and in-
13 serting “(i) is not assigned”;

14 (4) by striking “(B) includes a liability” and in-
15 serting “(ii) includes a liability”;

16 (5) by striking “(2) a nonpossessory” and in-
17 serting “(B) a nonpossessory”;

18 (6) by striking “(A) household” and inserting
19 “(i) household”;

20 (7) by striking “(B) implements, professional
21 books, or tools,” and inserting “(ii) implements, pro-
22 fessional books, or tools”

23 (8) by striking “(C) professionally” and insert-
24 ing “(iii) professionally”; and

25 (9) by adding at the end the following new
26 paragraph:

1 “(2) In a case in which State law that is applicable
2 to the debtor—

3 “(A) permits a person to voluntarily waive a
4 right to claim exemptions under subsection (d) or
5 prohibits a debtor from claiming exemptions under
6 subsection (d); and

7 “(B) permits the debtor to claim exemptions
8 under State law without limitation in amount, except
9 to the extent that the debtor has permitted the fix-
10 ing of a consensual lien on any property,
11 the debtor may not avoid the fixing of a lien on an interest
12 of the debtor or a dependent of the debtor in property
13 if the lien is a nonpossessory, nonpurchase-money security
14 interest in implements, professional books, or tools of the
15 trade of the debtor or a dependent of the debtor or farm
16 animals or crops of the debtor or a dependent of the debt-
17 or.”.

18 (b) APPLICATION OF AMENDMENT.—The amend-
19 ments made by subsection (a) shall not apply with respect
20 to a case commenced under title 11, United States Code,
21 before the date of enactment of this Act.

1 **SEC. 314. NONDISCHARGEABILITY OF DEBT FOR MONEY,**
2 **PROPERTY, SERVICES, OR CREDIT OBTAINED**
3 **BY FALSE PRETENSE, FALSE REPRESENTA-**
4 **TION, OR FRAUD.**

5 Section 1328(a)(2) of title 11, United States Code,
6 is amended by inserting “(2)(A),” after “paragraph”.

7 **SEC. 315. CONVERSION OF CASE UNDER CHAPTER 13.**

8 Section 348 of title 11, United States Code, is
9 amended by adding at the end the following new sub-
10 section:

11 “(f) When a case under chapter 13 is converted to
12 another chapter—

13 “(1) property of the estate in the converted
14 case shall consist of property of the estate, as of the
15 date of filing of the petition, that remains in the
16 possession of or is under the control of the debtor
17 on the date of conversion; and

18 “(2) valuations of property and of allowed se-
19 cured claims in the chapter 13 case shall apply in
20 the converted case, with allowed secured claims re-
21 duced to the extent that they have been paid in ac-
22 cordance with the chapter 13 plan.”.

23 **SEC. 316. RENT-TO-OWN CONTRACTS.**

24 (a) DEFINITION.—Section 101 of title 11, United
25 States Code, is amended by inserting in their proper al-
26 phabetical positions the following new definitions:

1 “ ‘consumer good’ means an item of personal
2 property (not including a motor vehicle) acquired by
3 an individual primarily for a personal, family, or
4 household purpose.”.

5 “ ‘rent-to-own contract’ means an agreement,
6 in the form of a terminable lease or bailment of a
7 consumer good, between a person regularly engaged
8 in the business of making consumer goods available
9 to individuals and an individual, under which—

10 “(A) the lessee or bailee—

11 “(i) has the right of possession and
12 use of the consumer good; and

13 “(ii) has the option to renew the
14 agreement periodically by making pay-
15 ments specified in the agreement; and

16 “(B) the lessor or bailor agrees, orally or
17 in writing, to transfer ownership of the
18 consumer good to the lessee or bailee upon the
19 fulfillment of all obligations of the lessee or
20 bailee for the transfer under the agreement.”.

21 (b) TREATMENT OF RENT-TO-OWN CONTRACTS AS
22 SECURED PURCHASE CONTRACTS.—

23 (1) CHAPTER 7.—Subchapter II of chapter 7 of
24 title 11, United States Code, is amended by adding
25 at the end the following new section:

1 **“§ 729. Rent-to-own contracts**

2 “In a proceeding under this chapter in which the
3 debtor is in possession of a consumer good under a rent-
4 to-own contract, the debtor and the lessor or bailor shall
5 be accorded the same rights and obligations with respect
6 to the consumer good, respectively, as they would be ac-
7 corded if the rent-to-own contract had been a purchase
8 contract.”.

9 (2) CHAPTER 13.—Subchapter I of chapter 13
10 of title 11, United States Code, is amended by add-
11 ing at the end the following new section:

12 **“§ 1308. Rent-to-own contracts**

13 “In a proceeding under this chapter in which the
14 debtor is in possession of a consumer good under a rent-
15 to-own contract, the debtor and the lessor or bailor shall
16 be accorded the same rights and obligations with respect
17 to the consumer good, respectively, as they would be ac-
18 corded if the rent-to-own contract had been a purchase
19 contract.”.

20 (c) TECHNICAL AMENDMENTS.—

21 (1) CHAPTER 7.—The chapter analysis for
22 chapter 7 of title 11, United states Code, is amend-
23 ed by inserting after the item for section 728 the fol-
24 lowing new item:

“729. Rent-To-Own Contracts.”.

1 (2) CHAPTER 13.—The chapter analysis for
2 chapter 13 of title 11, United States Code, is amend-
3 ed by inserting after the item for section 1307 the
4 following new item:

“1308. Rent-To-Own Contracts.”.

5 **TITLE IV—BANKRUPTCY REVIEW**
6 **COMMISSION**

7 **SEC. 401. SHORT TITLE.**

8 This title may be cited as the “National Bankruptcy
9 Review Commission Act”.

10 **SEC. 402. ESTABLISHMENT.**

11 There is established the National Bankruptcy Review
12 Commission (referred to as the “Commission”).

13 **SEC. 403. DUTIES OF THE COMMISSION.**

14 The duties of the Commission are—

15 (1) to investigate and study issues and prob-
16 lems relating to title 11, United States Code (com-
17 monly known as the “Bankruptcy Code”);

18 (2) to evaluate the advisability of proposals and
19 current arrangements with respect to such issues
20 and problems;

21 (3) to prepare and submit to the Congress, the
22 Chief Justice, and the President a report in accord-
23 ance with section 408; and

24 (4) to solicit divergent views of all parties con-
25 cerned with the operation of the bankruptcy system.

1 **SEC. 404. MEMBERSHIP.**

2 (a) NUMBER AND APPOINTMENT.—The Commission
3 shall be composed of 9 members as follows:

4 (1) Three members appointed by the President,
5 1 of whom shall be designated as chairman by the
6 President.

7 (2) One member shall be appointed by the
8 President pro tempore of the Senate.

9 (3) One member shall be appointed by the Mi-
10 nority Leader of the Senate.

11 (4) One member shall be appointed by the
12 Speaker of the House of Representatives.

13 (5) One member shall be appointed by the Mi-
14 nority Leader of the House of Representatives.

15 (6) Two members appointed by the Chief Jus-
16 tice.

17 (b) TERM.—Members of the Commission shall be ap-
18 pointed for the life of the Commission.

19 (c) QUORUM.—Five members of the Commission
20 shall constitute a quorum, but a lesser number may con-
21 duct meetings.

22 (d) APPOINTMENT DEADLINE.—The first appoint-
23 ments made under subsection (a) shall be made within 60
24 days after the date of enactment of this Act.

1 (e) FIRST MEETING.—The first meeting of the Com-
2 mission shall be called by the chairman and shall be held
3 within 90 days after the date of enactment of this Act.

4 (f) VACANCY.—A vacancy on the Commission result-
5 ing from the death or resignation of a member shall not
6 affect its powers and shall be filled in the same manner
7 in which the original appointment was made.

8 (g) CONTINUATION OF MEMBERSHIP.—If any mem-
9 ber of the Commission who was appointed to the Commis-
10 sion as a member of Congress or as an officer or employee
11 of a government leaves that office, or if any member of
12 the Commission who was not appointed in such a capacity
13 becomes an officer or employee of a government, the mem-
14 ber may continue as a member of the Commission for not
15 longer than the 90-day period beginning on the date the
16 member leaves that office or becomes such an officer or
17 employee, as the case may be.

18 (h) CONSULTATION PRIOR TO APPOINTMENT.—Prior
19 to the appointment of members of the Commission, the
20 President, the President pro tempore of the Senate, the
21 Speaker of the House of Representatives, and the Chief
22 Justice shall consult with each other to ensure fair and
23 equitable representation of various points of view in the
24 Commission and its staff.

1 **SEC. 405. COMPENSATION OF THE COMMISSION.**

2 (a) PAY.—

3 (1) NONGOVERNMENT EMPLOYEES.—Each
4 member of the Commission who is not otherwise em-
5 ployed by the United States Government shall be en-
6 titled to receive the daily equivalent of the annual
7 rate of basic pay payable for level IV of the Execu-
8 tive Schedule under section 5315 of title 5, United
9 States Code, for each day (including travel time)
10 during which he or she is engaged in the actual per-
11 formance of duties as a member of the Commission.

12 (2) GOVERNMENT EMPLOYEES.—A member of
13 the Commission who is an officer or employee of the
14 United States Government shall serve without addi-
15 tional compensation.

16 (b) TRAVEL.—Members of the Commission shall be
17 reimbursed for travel, subsistence, and other necessary ex-
18 penses incurred by them in the performance of their du-
19 ties.

20 **SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULT-**
21 **ANTS.**

22 (a) STAFF.—

23 (1) APPOINTMENT.—The chairman of the Com-
24 mission may, without regard to the civil service laws
25 and regulations, appoint, and terminate an executive
26 director and such other personnel as are necessary

1 to enable the Commission to perform its duties. The
2 employment of an executive director shall be subject
3 to confirmation by the Commission.

4 (2) COMPENSATION.—The chairman of the
5 Commission may fix the compensation of the execu-
6 tive director and other personnel without regard to
7 the provisions of chapter 51 and subchapter II of
8 chapter 53 of title 5, United States Code, relating
9 to classification of positions and General Schedule
10 pay rates, except that the rate of pay for the execu-
11 tive director and other personnel may not exceed the
12 rate payable for level V of the Executive Schedule
13 under section 5316 of that title.

14 (b) EXPERTS AND CONSULTANTS.—The Commission
15 may procure temporary and intermittent services of ex-
16 perts and consultants under section 3109(b) of title 5,
17 United States Code.

18 **SEC. 407. POWERS OF THE COMMISSION.**

19 (a) HEARINGS AND MEETINGS.—The Commission or,
20 on authorization of the Commission, a member of the
21 Commission, may hold such hearings, sit and act at such
22 time and places, take such testimony, and receive such evi-
23 dence, as the Commission considers appropriate. The
24 Commission or a member of the Commission may admin-

1 ister oaths or affirmations to witnesses appearing before
2 it.

3 (b) OFFICIAL DATA.—The Commission may secure
4 directly from any Federal department, agency, or court
5 information necessary to enable it to carry out this title.
6 Upon request of the chairman of the Commission, the
7 head of a Federal department or agency or chief judge
8 of a Federal court shall furnish such information, consist-
9 ent with law, to the Commission.

10 (c) FACILITIES AND SUPPORT SERVICES.—The Ad-
11 ministrator of General Services shall provide to the Com-
12 mission on a reimbursable basis such facilities and support
13 services as the Commission may request. Upon request of
14 the Commission, the head of a Federal department or
15 agency may make any of the facilities or services of the
16 agency available to the Commission to assist the Commis-
17 sion in carrying out its duties under this title.

18 (d) EXPENDITURES AND CONTRACTS.—The Commis-
19 sion or, on authorization of the Commission, a member
20 of the Commission may make expenditures and enter into
21 contracts for the procurement of such supplies, services,
22 and property as the Commission or member considers ap-
23 propriate for the purposes of carrying out the duties of
24 the Commission. Such expenditures and contracts may be

1 made only to such extent or in such amounts as are pro-
2 vided in appropriation Acts.

3 (e) **MAILS.**—The Commission may use the United
4 States mails in the same manner and under the same con-
5 ditions as other Federal departments and agencies of the
6 United States.

7 (f) **GIFTS.**—The Commission may accept, use, and
8 dispose of gifts or donations of services or property.

9 **SEC. 408. REPORT.**

10 The Commission shall submit to the Congress, the
11 Chief Justice, and the President a report not later than
12 2 years after the date of its first meeting. The report shall
13 contain a detailed statement of the findings and conclu-
14 sions of the Commission, together with its recommenda-
15 tions for such legislative or administrative action as it con-
16 siders appropriate.

17 **SEC. 409. TERMINATION.**

18 The Commission shall cease to exist on the date that
19 is 30 days after the date on which it submits its report
20 under section 408.

21 **SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated \$1,500,000 to
23 carry out this title.

1 **TITLE V—BANKRUPTCY FRAUD**

2 **SEC. 501. BANKRUPTCY FRAUD.**

3 (a) IN GENERAL.—

4 (1) OFFENSES.—Chapter 9 of title 18, United
5 States Code, is amended—

6 (A) by amending sections 152, 153, and
7 154 to read as follows:

8 **“§ 152. Concealment of assets; false oaths and claims;
9 bribery**

10 “A person who—

11 “(1) knowingly and fraudulently conceals from
12 a custodian, trustee, marshal, or other officer of the
13 court charged with the control or custody of prop-
14 erty, or, in connection with a case under title 11,
15 from creditors or the United States Trustee, any
16 property belonging to the estate of a debtor;

17 “(2) knowingly and fraudulently makes a false
18 oath or account in or in relation to any case under
19 title 11;

20 “(3) knowingly and fraudulently makes a false
21 declaration, certificate, verification, or statement
22 under penalty of perjury as permitted under section
23 1746 of title 28, in or in relation to any case under
24 title 11;

1 “(4) knowingly and fraudulently presents any
2 false claim for proof against the estate of a debtor,
3 or uses any such claim in any case under title 11,
4 in a personal capacity or as or through an agent,
5 proxy, or attorney;

6 “(5) knowingly and fraudulently receives any
7 material amount of property from a debtor after the
8 filing of a case under title 11, with intent to defeat
9 the provisions of title 11;

10 “(6) knowingly and fraudulently gives, offers,
11 receives, or attempts to obtain any money or prop-
12 erty, remuneration, compensation, reward, advan-
13 tage, or promise thereof for acting or forbearing to
14 act in any case under title 11;

15 “(7) in a personal capacity or as an agent or
16 officer of any person or corporation, in contempla-
17 tion of a case under title 11 by or against the person
18 or any other person or corporation, or with intent to
19 defeat the provisions of title 11, knowingly and
20 fraudulently transfers or conceals any of his prop-
21 erty or the property of such other person or corpora-
22 tion;

23 “(8) after the filing of a case under title 11 or
24 in contemplation thereof, knowingly and fraudulently
25 conceals, destroys, mutilates, falsifies, or makes a

1 false entry in any recorded information (including
2 books, documents, records, and papers) relating to
3 the property or financial affairs of a debtor; or

4 “(9) after the filing of a case under title 11,
5 knowingly and fraudulently withholds from a custo-
6 dian, trustee, marshal, or other officer of the court
7 or a United States Trustee entitled to its possession,
8 any recorded information (including books, docu-
9 ments, records, and papers) relating to the property
10 or financial affairs of a debtor,

11 shall be fined not more than \$5,000, imprisoned not more
12 than 5 years, or both.

13 **“§ 153. Embezzlement against estate**

14 “(a) OFFENSE.—A person described in subsection (b)
15 who knowingly and fraudulently appropriates to the per-
16 son’s own use, embezzles, spends, or transfers any prop-
17 erty or secretes or destroys any document belonging to the
18 estate of a debtor shall be fined not more than \$5,000,
19 imprisoned not more than 5 years, or both.

20 “(b) PERSON TO WHOM SECTION APPLIES.—A per-
21 son described in this subsection is one who has access to
22 property or documents belonging to an estate by virtue
23 of the person’s participation in the administration of the
24 estate as a trustee, custodian, marshal, attorney, or other
25 officer of the court or as an agent, employee, or other per-

1 son engaged by such an officer to perform a service with
2 respect to the estate.

3 **“§ 154. Adverse interest and conduct of officers**

4 “A person who, being a custodian, trustee, marshal,
5 or other officer of the court—

6 “(1) knowingly purchases, directly or indirectly,
7 any property of the estate of which the person is
8 such an officer in a case under title 11;

9 “(2) knowingly refuses to permit a reasonable
10 opportunity for the inspection by parties in interest
11 of the documents and accounts relating to the af-
12 fairs of estates in the person’s charge by parties
13 when directed by the court to do so; or

14 “(3) knowingly refuses to permit a reasonable
15 opportunity for the inspection by the United States
16 Trustee of the documents and accounts relating to
17 the affairs of an estate in the person’s charge,

18 shall be fined not more than \$5,000 and shall forfeit the
19 person’s office, which shall thereupon become vacant.”;
20 and

21 (B) by adding at the end the following new
22 sections:

23 **“§ 156. Knowing disregard of bankruptcy law or rule**

24 “(a) DEFINITIONS.—In this section—

1 “‘bankruptcy petition preparer’ means a per-
2 son, other than the debtor’s attorney or an employee
3 of such an attorney, who prepares for compensation
4 a document for filing.

5 “‘document for filing’ means a petition or any
6 other document prepared for filing by a debtor in a
7 United States bankruptcy court or a United States
8 district court in connection with a case under this
9 title.

10 “(b) OFFENSE.—If a bankruptcy case or related pro-
11 ceeding is dismissed because of a knowing attempt by a
12 bankruptcy petition preparer in any manner to disregard
13 the requirements of title 11, United States Code, or the
14 Bankruptcy Rules, the bankruptcy petition preparer shall
15 be fined under this title, imprisoned not more than 1 year,
16 or both.

17 **“§ 157. Bankruptcy fraud**

18 “(a) OFFENSE.—A person who, having devised or in-
19 tending to devise a scheme or artifice to defraud, or for
20 obtaining money or property by means of a false or fraud-
21 ulent pretense, representation, or promise, for the purpose
22 of executing or concealing such a scheme or artifice or
23 attempting to do so—

24 “(1) files a petition under title 11;

1 “(2) files a document in a proceeding under
2 title 11; or

3 “(3) makes a false or fraudulent representation,
4 claim, or promise concerning or in relation to a pro-
5 ceeding under title 11, at any time before or after
6 the filing of the petition, or in relation to a proceed-
7 ing falsely asserted to be pending under that title,
8 shall be fined under this title, imprisoned not more than
9 5 years, or both.

10 “(b) REQUIREMENT OF INTENT.—

11 “(1) IN GENERAL.—The degree of intent re-
12 quired to be shown in the case of an offense de-
13 scribed in subsection (a) is that which is generally
14 required to be shown in cases of fraud.

15 “(2) VIOLATION NOT ESTABLISHED.—A viola-
16 tion of subsection (a) is not established if the de-
17 fendant committed the act that is alleged to con-
18 stitute fraud for a lawful purpose.

19 “(3) VIOLATION ESTABLISHED.—A violation of
20 subsection (a) may be established if the defendant
21 committed the act that is alleged to constitute fraud
22 with a purpose of—

23 “(A) preventing the proper application of
24 title 11 in a particular case; or

1 “(B) using a proceeding under title 11 in
2 a manner that, while on its face may appear to
3 be legitimate, is in fact part of a scheme to de-
4 fraud.”.

5 (2) TECHNICAL AMENDMENTS.—The chapter
6 analysis for chapter 9 of title 18, United States
7 Code, is amended—

8 (A) by amending the item relating to sec-
9 tion 153 to read as follows:

“Sec. 153. Embezzlement against estate.”;

10 and

11 (B) by adding at the end the following new
12 item:

“Sec. 156. Knowing disregard of bankruptcy law or rule.

“Sec. 157. Bankruptcy fraud.”.

13 (b) RICO.—Section 1961(1)(D) of title 18, United
14 States Code, is amended by inserting “(except a case
15 under section 157 of that title)” after “title 11”.

16 **TITLE VI—TECHNICAL** 17 **CORRECTIONS**

18 **SEC. 601. TITLE 11, UNITED STATES CODE.**

19 (a) ALPHABETIZATION AND ELIMINATION OF PARA-
20 GRAPH DESIGNATIONS.—Section 101 of title 11, United
21 States Code, is amended to read as follows:

22 **“§ 101. Definitions**

23 “In this title—

1 “‘accountant’ means an accountant authorized
2 under applicable law to practice public accounting,
3 and includes professional accounting association,
4 corporation, or partnership, if so authorized.

5 “‘affiliate’ means—

6 “(A) an entity that directly or indirectly
7 owns, controls, or holds with power to vote, 20
8 percent or more of the outstanding voting secu-
9 rities of the debtor, other than an entity that
10 holds such securities—

11 “(i) in a fiduciary or agency capacity
12 without sole discretionary power to vote
13 such securities; or

14 “(ii) solely to secure a debt, if such
15 entity has not in fact exercised such power
16 to vote;

17 “(B) a corporation 20 percent or more of
18 whose outstanding voting securities are directly
19 or indirectly owned, controlled, or held with
20 power to vote, by the debtor, or by an entity
21 that directly or indirectly owns, controls, or
22 holds with power to vote, 20 percent or more of
23 the outstanding voting securities of the debtor,
24 other than an entity that holds such securi-
25 ties—

1 “(i) in a fiduciary or agency capacity
2 without sole discretionary power to vote
3 such securities; or

4 “(ii) solely to secure a debt, if such
5 entity has not in fact exercised such power
6 to vote;

7 “(C) a person whose business is operated
8 under a lease or operating agreement by a debt-
9 or, or person substantially all of whose property
10 is operated under an operating agreement with
11 the debtor; or

12 “(D) an entity that operates the business
13 or substantially all of the property of the debtor
14 under a lease or operating agreement.

15 “‘attorney’ means an attorney, professional law
16 association, corporation, or partnership, authorized
17 under applicable law to practice law.

18 “‘claim’ means—

19 “(A) a right to payment, whether or not
20 such right is reduced to judgment, liquidated,
21 unliquidated, fixed, contingent, matured,
22 unmatured, disputed, undisputed, legal, equi-
23 table, secured, or unsecured; or

24 “(B) a right to an equitable remedy for
25 breach of performance if such breach gives rise

1 to a right to payment, whether or not such
2 right to an equitable remedy is reduced to judg-
3 ment, fixed, contingent, matured, unmatured,
4 disputed, undisputed, secured, or unsecured.

5 “‘commodity broker’ means a futures commis-
6 sion merchant, foreign futures commission mer-
7 chant, clearing organization, leverage transaction
8 merchant, or commodity options dealer (as defined
9 in section 761) with respect to which there is a cus-
10 tomer (as defined in section 761).

11 “‘community claim’ means a claim that arose
12 before the commencement of the case concerning the
13 debtor for which property of the kind specified in
14 section 541(a)(2) is liable, whether or not there is
15 any such property at the time of the commencement
16 of the case.

17 “‘consumer debt’ means debt incurred by an
18 individual primarily for a personal, family, or house-
19 hold purpose.

20 “‘corporation’—

21 “(A) includes—

22 “(i) an association having a power or
23 privilege that a private corporation, but
24 not an individual or a partnership, pos-
25 sesses;

1 “(ii) a partnership association orga-
2 nized under a law that makes only the cap-
3 ital subscribed responsible for the debts of
4 such association;

5 “(iii) a joint-stock company;

6 “(iv) an unincorporated company or
7 association; or

8 “(v) a business trust; but

9 “(B) does not include a limited partner-
10 ship.

11 “‘creditor’ means—

12 “(A) an entity that has a claim against the
13 debtor that arose at the time of or before the
14 order for relief concerning the debtor;

15 “(B) an entity that has a claim against the
16 estate of a kind specified in section 348(d),
17 502(f), 502(g), 502(h), or 502(i); or

18 “(C) an entity that has a community
19 claim.

20 “‘custodian’ means—

21 “(A) a receiver or trustee of any of the
22 property of the debtor, appointed in a case or
23 proceeding not under this title;

24 “(B) an assignee under a general assign-
25 ment for the benefit of the debtor’s creditors; or

1 “(C) a trustee, receiver, or agent under ap-
2 plicable law, or under a contract, that is ap-
3 pointed or authorized to take charge of property
4 of the debtor for the purpose of enforcing a lien
5 against such property, or for the purpose of
6 general administration of such property for the
7 benefit of the debtor’s creditors.

8 “‘debt’ means liability on a claim.

9 “‘debtor’ means a person or municipality con-
10 cerning which a case under this title has been com-
11 menced.

12 “‘disinterested person’ means a person that—

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

15 “(B) is not and was not an investment
16 banker for any outstanding security of the debt-
17 or;

18 “(C) has not been, within 3 years before
19 the date of the filing of the petition, an invest-
20 ment banker for a security of the debtor, or an
21 attorney for such an investment banker in con-
22 nection with the offer, sale, or issuance of a se-
23 curity of the debtor;

24 “(D) is not and was not, within 2 years be-
25 fore the date of the filing of the petition, a di-

1 rector, officer, or employee of the debtor or of
2 an investment banker specified in subparagraph
3 (B) or (C); and

4 “(E) does not have an interest materially
5 adverse to the interest of the estate or of any
6 class of creditors or equity security holders, by
7 reason of any direct or indirect relationship to,
8 connection with, or interest in, the debtor or an
9 investment banker specified in subparagraph
10 (B) or (C), or for any other reason.

11 “‘entity’ includes a person, estate, trust, gov-
12 ernmental unit, and United States trustee.

13 “‘equity security’ means—

14 “(A) a share in a corporation, whether or
15 not transferable or denominated ‘stock’, or
16 similar security;

17 “(B) an interest of a limited partner in a
18 limited partnership; or

19 “(C) a warrant or right, other than a right
20 to convert, to purchase, sell, or subscribe to a
21 share, security, or interest of a kind specified in
22 subparagraph (A) or (B).

23 “‘equity security holder’ means a holder of an
24 equity security of the debtor.

25 “‘family farmer’ means—

1 “(A) an individual or individual and spouse
2 engaged in a farming operation whose aggregate
3 debts do not exceed \$1,500,000 and not
4 less than 80 percent of whose aggregate
5 noncontingent, liquidated debts (excluding a
6 debt for the principal residence of such individual
7 or such individual and spouse unless such
8 debt arises out of a farming operation), on the
9 date the case is filed, arise out of a farming operation
10 owned or operated by such individual or
11 such individual and spouse, and such individual
12 or such individual and spouse receive from such
13 farming operation more than 50 percent of such
14 individual’s or such individual and spouse’s
15 gross income for the taxable year preceding the
16 taxable year in which the case concerning such
17 individual or such individual and spouse was
18 filed; or

19 “(B) a corporation or partnership in which
20 more than 50 percent of the outstanding stock
21 or equity is held by one family, or by one family
22 and the relatives of the members of such family,
23 and such family or such relatives conduct the
24 farming operation—

1 “(i) more than 80 percent of the value
2 of its assets consists of assets related to
3 the farming operation;

4 “(ii) its aggregate debts do not exceed
5 \$1,500,000 and not less than 80 percent of
6 its aggregate noncontingent, liquidated
7 debts (excluding a debt for one dwelling
8 which is owned by such corporation or
9 partnership and which a shareholder or
10 partner maintains as a principal residence,
11 unless such debt arises out of a farming
12 operation), on the date the case is filed,
13 arise out of the farming operation owned
14 or operated by such corporation or such
15 partnership; and

16 “(iii) if such corporation issues stock,
17 such stock is not publicly traded.

18 “‘family farmer with regular annual income’
19 means a family farmer whose annual income is suffi-
20 ciently stable and regular to enable such family
21 farmer to make payments under a plan under chap-
22 ter 12.

23 “‘farmer’ means (except when such term ap-
24 pears in the term ‘family farmer’) a person that re-
25 ceived more than 80 percent of such person’s gross

1 income during the taxable year of such person imme-
2 diately preceding the taxable year of such person
3 during which the case under this title concerning
4 such person was commenced from a farming oper-
5 ation owned or operated by such person.

6 “‘farming operation’ includes farming, tillage
7 of the soil, dairy farming, ranching, production or
8 raising of crops, poultry, or livestock, and production
9 of poultry or livestock products in an unmanufac-
10 tured state.

11 “‘Federal depository institutions regulatory
12 agency’ means—

13 “(A) with respect to an insured depository
14 institution (as defined in section 3(c)(2) of the
15 Federal Deposit Insurance Act (12 U.S.C.
16 1813(c)(2)) for which no conservator or receiver
17 has been appointed, the appropriate Federal
18 banking agency (as defined in section 3(q) of
19 that Act);

20 “(B) with respect to an insured credit
21 union (including an insured credit union for
22 which the National Credit Union Administra-
23 tion has been appointed conservator or liquidat-
24 ing agent), the National Credit Union Adminis-
25 tration;

1 “(C) with respect to any insured depository
2 institution for which the Resolution Trust Cor-
3 poration has been appointed conservator or re-
4 ceiver, the Resolution Trust Corporation; and

5 “(D) with respect to any insured depository
6 institution for which the Federal Deposit
7 Insurance Corporation has been appointed con-
8 servator or receiver, the Federal Deposit Insur-
9 ance Corporation.

10 “‘financial institution’ means a person that is
11 a commercial or savings bank, industrial savings
12 bank, savings and loan association, or trust company
13 and, when any such person is acting as agent or cus-
14 todian for a customer in connection with a securities
15 contract (as defined in section 741(a)), the cus-
16 tomer.

17 “‘foreign proceeding’ means a proceeding,
18 whether judicial or administrative and whether or
19 not under bankruptcy law, in a foreign country in
20 which the debtor’s domicile, residence, principal
21 place of business, or principal assets were located at
22 the commencement of such proceeding, for the pur-
23 pose of liquidating an estate, adjusting debts by
24 composition, extension, or discharge, or effecting a
25 reorganization.

1 “‘foreign representative’ means a duly selected
2 trustee, administrator, or other representative of an
3 estate in a foreign proceeding.

4 “‘forward contract’ means a contract (other
5 than a commodity contract) for the purchase, sale,
6 or transfer of a commodity, as defined in section
7 761, or any similar good, article, service, right, or
8 interest which is presently or in the future becomes
9 the subject of dealing in the forward contract trade,
10 or product or byproduct thereof, with a maturity
11 date more than 2 days after the date the contract
12 is entered into, including, but not limited to, a re-
13 purchase transaction, reverse repurchase trans-
14 action, consignment, lease, swap, hedge transaction,
15 deposit, loan, option, allocated transaction,
16 unallocated transaction, or any combination thereof
17 or option thereon.

18 “‘forward contract merchant’ means a person
19 whose business consists in whole or in part of enter-
20 ing into forward contracts as or with merchants in
21 a commodity (as defined in section 761) or any simi-
22 lar good, article, service, right, or interest which is
23 presently or in the future becomes the subject of
24 dealing in the forward contract trade.

25 “‘governmental unit’ means—

1 “(A) the United States, a State, Common-
2 wealth, or Territory, the District of Columbia,
3 a municipality, and a foreign state;

4 “(B) a department, agency, or instrumen-
5 tality of the United States (but not a United
6 States trustee while serving as a trustee in a
7 case under this title), a State, Commonwealth,
8 or Territory, the District of Columbia, a mu-
9 nicipality, a foreign state; or

10 “(C) any other foreign or domestic govern-
11 ment.

12 “‘indenture’ means a mortgage, deed of trust,
13 or indenture, under which there is outstanding a se-
14 curity, other than a voting-trust certificate, con-
15 stituting a claim against the debtor, a claim secured
16 by a lien on any of the debtor’s property, or an eq-
17 uity security of the debtor.

18 “‘indenture trustee’ means a trustee under an
19 indenture.

20 “‘individual with regular income’ means an in-
21 dividual whose income is sufficiently stable and reg-
22 ular to enable such individual to make payments
23 under a plan under chapter 13, other than a stock-
24 broker or a commodity broker.

25 “‘insider’ includes—

- 1 “(A) if the debtor is an individual—
- 2 “(i) a relative of the debtor or of a
- 3 general partner of the debtor;
- 4 “(ii) a partnership in which the debtor
- 5 is a general partner;
- 6 “(iii) a general partner of the debtor;
- 7 or
- 8 “(iv) a corporation of which the debt-
- 9 or is a director, officer, or person in con-
- 10 trol;
- 11 “(B) if the debtor is a corporation—
- 12 “(i) a director of the debtor;
- 13 “(ii) an officer of the debtor;
- 14 “(iii) a person in control of the debt-
- 15 or;
- 16 “(iv) a partnership in which the debt-
- 17 or is a general partner;
- 18 “(v) a general partner of the debtor;
- 19 or
- 20 “(vi) a relative of a general partner,
- 21 director, officer, or person in control of the
- 22 debtor;
- 23 “(C) if the debtor is a partnership—
- 24 “(i) a general partner in the debtor;

1 “(ii) a relative of a general partner in,
2 general partner of, or person in control of
3 the debtor;

4 “(iii) a partnership in which the debt-
5 or is a general partner;

6 “(iv) a general partner of the debtor;

7 or

8 “(v) a person in control of the debtor;

9 “(D) if the debtor is a municipality, an
10 elected official of the debtor or relative of an
11 elected official of the debtor;

12 “(E) an affiliate, or insider of an affiliate
13 as if such affiliate were the debtor; and

14 “(F) a managing agent of the debtor.

15 “‘insolvent’ means—

16 “(A) with reference to an entity other than
17 a partnership and a municipality, being in a fi-
18 nancial condition such that the sum of the enti-
19 ty’s debts is greater than all of the entity’s
20 property, at a fair valuation, exclusive of—

21 “(i) property transferred, concealed,
22 or removed with intent to hinder, delay, or
23 defraud such entity’s creditors; and

1 “(ii) property that may be exempted
2 from property of the estate under section
3 522;

4 “(B) with reference to a partnership, being
5 in a financial condition such that the sum of
6 the partnership’s debts is greater than the ag-
7 gregate of, at a fair valuation—

8 “(i) all of the partnership’s property,
9 exclusive of property of the kind specified
10 in subparagraph (A)(i); and

11 “(B) the sum of the excess of the
12 value of each general partner’s
13 nonpartnership property, exclusive of prop-
14 erty of the kind specified in subparagraph
15 (A), over such partner’s nonpartnership
16 debts; and

17 “(C) with reference to a municipality,
18 being in a financial condition such that the mu-
19 nicipality is—

20 “(i) generally not paying its debts as
21 they become due unless such debts are the
22 subject of a bona fide dispute; and

23 “(ii) unable to pay its debts as they
24 become due.

25 “ ‘institution-affiliated party’—

1 “(A) with respect to an insured depository
2 institution (as defined in section 3(c)(2) of the
3 Federal Deposit Insurance Act) (12 U.S.C.
4 1813(c)(2)), has the meaning given it in section
5 3(u) of the Federal Deposit Insurance Act (12
6 U.S.C. 1813(u)); and

7 “(2) with respect to an insured credit
8 union, has the meaning given it in section
9 206(r) of the Federal Credit Union Act (12
10 U.S.C. 1786(r)).

11 “‘insured credit union’ has the meaning given
12 it in section 101(7) of the Federal Credit Union Act
13 (12 U.S.C. 1752(7)).

14 “‘insured depository institution’—

15 “(A) has the meaning given it in section
16 3(c)(2) of the Federal Deposit Insurance Act
17 (12 U.S.C. 1813(c)(2)); and

18 “(B) includes an insured credit union (ex-
19 cept as provided in the definition of ‘Federal
20 depository institutions regulatory agency’ and
21 in subparagraph (B) of the definition of ‘insti-
22 tution-affiliated party’).

23 “‘intellectual property’ means—

24 “(A) a trade secret;

1 “(B) an invention, process, design, or plant
2 protected under title 35;

3 “(C) a patent application;

4 “(D) a plant variety;

5 “(E) a work of authorship protected under
6 title 17; and

7 “(F) a mask work protected under chapter
8 9 of title 17, to the extent protected by applica-
9 ble nonbankruptcy law.

10 “‘judicial lien’ means a lien obtained by judg-
11 ment, levy, sequestration, or other legal or equitable
12 process or proceeding.

13 “‘lien’ means a charge against or interest in
14 property to secure payment of a debt or performance
15 of an obligation.

16 “‘margin payment’, as used in sections
17 362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C),
18 556, 741(5), 761(15), 764(b), 766(a), and any other
19 provision of this title in relation to forward con-
20 tracts, means a payment or deposit of cash, a secu-
21 rity, or other property that is commonly known in
22 the forward contract trade as original margin, initial
23 margin, maintenance margin, or variation margin,
24 including market-to-market payments or variation
25 payments.

1 “‘mask work’ has the meaning given it in sec-
2 tion 901(a)(2) of title 17.

3 “‘municipality’ means a political subdivision or
4 public agency or instrumentality of a State.

5 “‘person’ includes an individual, partnership,
6 and corporation, but does not include a govern-
7 mental unit, except that a governmental unit that
8 acquires an asset from a person as a result of oper-
9 ation of a loan guarantee agreement, or as receiver
10 or liquidating agent of a person, shall be considered
11 to be a person for purposes of section 1102.

12 “‘petition’ means a petition filed under section
13 301, 302, 303, or 304 commencing a case under this
14 title.

15 “‘purchaser’ means a transferee of a voluntary
16 transfer, and includes an immediate or mediate
17 transferee of such a transferee.

18 “‘railroad’ means a common carrier by railroad
19 engaged in the transportation of individuals or prop-
20 erty or owner of trackage facilities leased by such a
21 common carrier.

22 “‘relative’ means an individual related by affin-
23 ity or consanguinity within the third degree as deter-
24 mined by the common law and an individual in a

1 step or adoptive relationship within such third de-
2 gree.

3 “‘repo participant’ means an entity that, on
4 any day during the period beginning 90 days before
5 the date of the filing of a petition, has an outstand-
6 ing repurchase agreement with the debtor.

7 “‘repurchase agreement’ and ‘reverse repur-
8 chase agreement’ mean an agreement, including re-
9 lated terms, which provides for the transfer of cer-
10 tificates of deposit, eligible bankers’ acceptances, or
11 securities that are direct obligations of, or that are
12 fully guaranteed as to principal and interest by, the
13 United States or any agency of the United States
14 against the transfer of funds by the transferee of
15 such certificates of deposit, eligible bankers’ accept-
16 ances, or securities with a simultaneous agreement
17 by such transferee to transfer to the transferor
18 thereof certificates of deposit, eligible bankers’ ac-
19 ceptances, or securities as described above, at a date
20 certain not later than 1 year after such transfers or
21 on demand, against the transfer of funds.

22 “‘security’—

23 “(A) includes—

24 “(i) a note;

25 “(ii) stock;

- 1 “(iii) treasury stock;
- 2 “(iv) a bond;
- 3 “(v) a debenture;
- 4 “(vi) a collateral trust certificate;
- 5 “(vii) a preorganization certificate or
- 6 subscription;
- 7 “(viii) a transferable share;
- 8 “(ix) a voting-trust certificate;
- 9 “(x) a certificate of deposit;
- 10 “(xi) a certificate of deposit for secu-
- 11 rity;
- 12 “(xii) an investment contract or cer-
- 13 tificate of interest or participation in a
- 14 profit-sharing agreement or in an oil, gas,
- 15 or mineral royalty or lease, if such contract
- 16 or interest is required to be the subject of
- 17 a registration statement filed with the Se-
- 18 curities and Exchange Commission under
- 19 the provisions of the Securities Act of
- 20 1933 (15 U.S.C. 77a et seq.), or is exempt
- 21 under section 3(b) of that Act (15 U.S.C.
- 22 77c(b)) from the requirement to file such
- 23 a statement;
- 24 “(xiii) an interest of a limited partner
- 25 in a limited partnership;

1 “(xiv) another claim or interest com-
2 monly known as a ‘security’; and

3 “(xv) a certificate of interest or par-
4 ticipation in, temporary or interim certifi-
5 cate for, receipt for, or warrant or right to
6 subscribe to or purchase or sell, a security;
7 but

8 “(B) does not include—

9 “(i) currency or a check, draft, bill of
10 exchange, or bank letter of credit;

11 “(ii) a leverage transaction (as de-
12 fined in section 761);

13 “(iii) a commodity futures contract or
14 forward contract;

15 “(iv) an option, warrant, or right to
16 subscribe to or purchase or sell a commod-
17 ity futures contract;

18 “(v) an option to purchase or sell a
19 commodity;

20 “(vi) a contract or certificate of a
21 kind specified in subparagraph (A)(xii)
22 that is not required to be the subject of a
23 registration statement filed with the Secu-
24 rities and Exchange Commission and is not
25 exempt under section 3(b) of the Securities

1 Act of 1933 (15 U.S.C. 77c(b)) from the
2 requirement to file such a statement; or

3 “(vii) debt or an evidence of indebted-
4 ness for goods sold and delivered or serv-
5 ices rendered.

6 “‘security agreement’ means an agreement that
7 creates or provides for a security interest.

8 “‘securities clearing agency’ means a person
9 that is registered as a clearing agency under section
10 17A of the Securities Exchange Act of 1934 (15
11 U.S.C. 78q-1) or whose business is confined to the
12 performance of functions of a clearing agency with
13 respect to exempted securities (as defined in section
14 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the
15 purposes of that section 17A.

16 “‘security interest’ means a lien created by an
17 agreement.

18 “‘settlement payment’ means, for purposes of
19 the forward contract provisions of this title, a pre-
20 liminary settlement payment, partial settlement pay-
21 ment, interim settlement payment, settlement pay-
22 ment on account, final settlement payment, net set-
23 tlement payment, or any other similar payment com-
24 monly used in the forward contract trade.

1 “‘State’ includes the District of Columbia and
2 Puerto Rico, except for the purpose of defining who
3 may be a debtor under chapter 9.

4 “‘statutory lien’ means a lien arising solely by
5 force of a statute on specified circumstances or con-
6 ditions, or lien of distress for rent, whether or not
7 statutory, but does not include a security interest or
8 judicial lien, whether or not such interest or lien is
9 provided by or is dependent on a statute and wheth-
10 er or not such interest or lien is made fully effective
11 by statute.

12 “‘stockbroker’ means a person—

13 “(A) with respect to which there is a cus-
14 tomer (as defined in section 741); and

15 “(B) that is engaged in the business of
16 effecting transactions in securities—

17 “(i) for the account of others; or

18 “(ii) with members of the general
19 public, from or for such person’s own ac-
20 count.

21 “‘swap agreement’ means—

22 “(A) an agreement (including terms and
23 conditions incorporated by reference therein)
24 which is a rate swap agreement, basis swap,
25 forward rate agreement, commodity swap, inter-

1 est rate option, forward foreign exchange agree-
2 ment, rate cap agreement, rate floor agreement,
3 rate collar agreement, currency swap agree-
4 ment, cross-currency rate swap agreement, cur-
5 rency option, or any other similar agreement
6 (including any option to enter into any of the
7 foregoing);

8 “(2) any combination of the foregoing; or

9 “(3) a master agreement for any of the
10 foregoing together with all supplements.

11 “‘swap participant’ means an entity that, at
12 any time before the filing of a petition, has an out-
13 standing swap agreement with the debtor.

14 “‘timeshare interest’ means an interest pur-
15 chased in a timeshare plan which grants the pur-
16 chaser the right to use and occupy accommodations,
17 facilities, or recreational sites, whether improved or
18 unimproved, pursuant to a timeshare plan.

19 “‘timeshare plan’ means an interest in any ar-
20 rangement, plan, scheme, or similar device (but not
21 including an exchange program), whether by mem-
22 bership, agreement, tenancy in common, sale, lease,
23 deed, rental agreement, license, right to use agree-
24 ment, or by any other means, whereby a purchaser
25 of the interest, in exchange for consideration, re-

1 ceives a right to use accommodations, facilities, or
2 recreational sites, whether improved or unimproved,
3 for a specific period of time less than a full year
4 during any given year, but not necessarily for con-
5 secutive years, and which extends for a period of
6 more than 3 years.

7 “‘transfer’ means a mode, direct or indirect,
8 absolute or conditional, voluntary or involuntary, of
9 disposing of or parting with property or with an in-
10 terest in property, including retention of title as a
11 security interest and foreclosure of the debtor’s eq-
12 uity of redemption.

13 “‘United States’, when used in a geographical
14 sense, includes all locations where the judicial juris-
15 diction of the United States extends, including terri-
16 tories and possessions of the United States.

17 (b) REFERENCES TO DEFINITIONS IN TITLE XI.—

18 (1) SECTION 362.—Section 362(b) of title 11,
19 United States Code, is amended—

20 (A) in paragraph (6)—

21 (i) by striking “section 761(4)” and
22 inserting “section 761”;

23 (ii) by striking “section 741(7)” and
24 inserting “section 741”;

1 (iii) by striking “section 101(34),
2 741(5), or 761(15)” and inserting “section
3 101, 741, or 761”; and

4 (iv) by striking “section 101(35) or
5 741(8)” and inserting “section 101 or
6 741”; and

7 (B) in paragraph (7)—

8 (i) by striking “section 741(5) or
9 761(15)” and inserting “section 741 or
10 761”; and

11 (ii) by striking “section 741(8)” and
12 inserting “section 741”.

13 (2) SECTION 507.—Section 507(a)(5) of title
14 11, United States Code, is amended—

15 (A) by striking “section 557(b)(1)” and in-
16 serting “section 557(b)”; and

17 (B) by striking “section 557(b)(2)” and in-
18 serting “section 557(b)”.

19 (3) Section 546 of title 11, United States Code,
20 is amended—

21 (A) in subsection (e)—

22 (i) by striking “section 101(34),
23 741(5), or 761(15)” and inserting “section
24 101, 741, or 761”; and

1 (ii) by striking “section 101(35) or
2 741(8)” and inserting “section 101 or
3 741”; and

4 (B) in subsection (f)—

5 (i) by striking “section 741(5) or
6 761(15)” and inserting “section 741 or
7 761”; and

8 (ii) by striking “section 741(8)” and
9 inserting “section 741”.

10 (4) SECTION 548.—Section 548(d)(2) of title
11 11, United States Code, is amended—

12 (A) in subparagraph (B)—

13 (i) by striking “section 101(34),
14 741(5) or 761(15)” and inserting “section
15 101, 741, or 761”; and

16 (ii) by striking “section 101(35) or
17 741(8)” and inserting “section 101 or
18 741”; and

19 (B) in subparagraph (C)—

20 (i) by striking “section 741(5) or
21 761(15)” and inserting “section 741 or
22 761”; and

23 (ii) by striking “section 741(8)” and
24 inserting “section 741”.

1 (5) SECTION 555.—Section 555 of title 11,
2 United States Code, is amended by striking “section
3 741(7)” and inserting “section 741”.

4 (6) SECTION 556.—Section 556 of title 11,
5 United States Code, is amended by striking “section
6 761(4)” and inserting “section 761”.

7 (c) REFERENCES TO DEFINITIONS IN OTHER
8 LAWS.—

9 (1) FEDERAL CREDIT UNION ACT.—Section
10 207(c)(8)(D) of the Federal Credit Union Act (12
11 U.S.C. 1787(c)(8)(D)) is amended—

12 (A) in clause (ii)(I) by striking “section
13 741(7)” and inserting “section 741”;

14 (B) in clause (iii) by striking “section
15 101(24)” and inserting “section 101”;

16 (C) in clause (iv)(I) by striking “section
17 101(41)” and inserting “section 101”; and

18 (D) in clause (v) by striking “section
19 101(50)” and inserting “section 101”.

20 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
21 tion 11(e)(8)(D) of the Federal Deposit Insurance
22 Act (12 U.S.C. 1821(e)(8)(D)) is amended—

23 (A) in clause (ii)(I) by striking “section
24 741(7)” and inserting “section 741”;

1 (B) in clause (iii) by striking “section
2 761(4)” and inserting “section 761”;

3 (C) in clause (iv) by striking “section
4 101(24)” and inserting “section 101”;

5 (D) in clause (v)(I) by striking “section
6 101(41)” and inserting “section 101”; and

7 (E) in clause (viii) by striking “section
8 101(50)” and inserting “section 101”.

9 (d) OTHER TECHNICAL AMENDMENTS.—Title 11 of
10 the United States Code is amended—

11 (1) in section 322(a) by striking “1302, or
12 1202” and inserting “1202, or 1302”,

13 (2) in section 346—

14 (A) in subsection (a) by striking “Internal
15 Revenue Code of 1954 (26 U.S.C. 1 et seq.)”
16 and inserting “Internal Revenue Code of
17 1986”; and

18 (B) in subsection (g)(1)(C) by striking
19 “Internal Revenue Code of 1954 (26 U.S.C.
20 371)” and inserting “Internal Revenue Code of
21 1986”;

22 (3) in section 348—

23 (A) in subsection (b) by striking “728(a),
24 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c),
25 1141(d)(4), 1146(a), 1146(b), 1301(a),

1 1305(a), 1201(a), 1221, and 1228(a)” and in-
2 serting “728 (a) and (b), 1021, 1028, 1102(a),
3 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146
4 (a) and (b), 1201(a), 1221, 1228(a), 1301(a),
5 and 1305(a)”;

6 (B) in subsections (b), (c), (d), and (e) by
7 striking “1307, or 1208” each place it appears
8 and inserting “1208, or 1307”;

9 (4) in section 349(a) by striking “109(f)” and
10 inserting “109(g)”;

11 (5) in section 362(b)—

12 (A) by striking “or” at the end of para-
13 graph (10);

14 (B) in paragraph (12) by striking “the
15 Ship Mortgage Act, 1920 (46 App. U.S.C. 911
16 et seq.)” and inserting “section 31325 of title
17 46, United States Code”;

18 (C) in paragraph (13)—

19 (i) by striking “the Ship Mortgage
20 Act, 1920 (46 App. U.S.C. 911 et seq.)”
21 and inserting “section 31325 of title 46,
22 United States Code”; and

23 (ii) by striking “or” at the end;

24 (D) in paragraph (14), as added by section
25 102 of Public Law 101-311 (104 Stat. 267) at

1 the end of the subsection, by removing it from
2 the end of the subsection, inserting it after
3 paragraph (13), and striking the period at the
4 end and inserting a semicolon; and

5 (E) by redesignating paragraphs (14),
6 (15), and (16), as added by section 3007(a) of
7 the Student Loan Default Prevention Initiative
8 Act of 1990 (104 Stat. 1388–28), as para-
9 graphs (15), (16), and (17);

10 (6) in section 363(c)(1) by striking “1304,
11 1203, or 1204” and inserting “1203, 1204, or
12 1304”;

13 (7) in section 364(a) by striking “1304, 1203,
14 or 1204” and inserting “1203, 1204, or 1304”;

15 (8) in section 365—

16 (A) in subsection (g)(2) (A) and (B) by
17 striking “1307, or 1208” each place it appears
18 and inserting “1208, or 1307”;

19 (B) in subsection (n)(1)(B) by striking “to
20 to” and inserting “to”; and

21 (C) in subsection (o) by striking “the Fed-
22 eral” the first place it appears and all that fol-
23 lows through “successors,” and inserting “a
24 Federal depository institutions regulatory agen-
25 cy (or predecessor to such an agency)”;

1 (9) in section 507—

2 (A) in subsection (a)(9), as redesignated
3 by section 304(b)(1)(B), by striking “the Fed-
4 eral” the first place it appears and all that fol-
5 lows through “successors,” and inserting “a
6 Federal depository institutions regulatory agen-
7 cy (or predecessor to such an agency)”;

8 (B) in subsection (d) by striking “(a)(3),
9 (a)(4), (a)(5), or (a)(6)” and inserting “(a) (3),
10 (4), (6), or (7)”;

11 (10) in section 522(d)(10)(E)(iii) by striking
12 “401(a), 403(a), 403(b), 408, or 409 Internal Reve-
13 nue Code of 1954 (26 U.S.C. 401(a), 403(a),
14 403(b), 408, or 409)” and inserting “section 401(a),
15 403 (a) or (b), 408, or 409 of the Internal Revenue
16 Code of 1986”;

17 (11) in section 523(a) —

18 (A) in subsection (a)—

19 (i) by striking “1141,, 1228(a),
20 1228(b),” and inserting “1141, 1228 (a)
21 or (b),”; and

22 (ii) in paragraph (12) by striking the
23 semicolon at the end and inserting a pe-
24 riod; and

1 (B) in subsection (e) by striking “deposi-
2 tory institution or insured credit union” and in-
3 serting “insured depository institution”;

4 (12) in section 524—

5 (A) in subsection (a)(3) by striking “or
6 1328(c)(1)” and inserting “1228(a)(1), or
7 1328(a)(1)”;

8 (B) in subsection (c)(4) by striking
9 “recission” and inserting “rescission”; and

10 (C) in subsection (d)(1)(B)(ii) by adding
11 “and” at the end;

12 (12) in section 541(b)—

13 (A) by inserting “(1)” after “(b)” and re-
14 designating paragraphs (1), (2), (3), and (4) as
15 subparagraphs (A), (B), (C), and (D), respec-
16 tively;

17 (B) in subparagraph (D) of paragraph (1),
18 as redesignated by subparagraph (A), by redesi-
19 gnating subparagraphs (A) and (B) as clauses
20 (i) and (ii), respectively;

21 (C) in subparagraph (C) of paragraph (1),
22 as redesignated by subparagraph (A), by strik-
23 ing “institution or” and inserting “institution;
24 or”; and

1 (D) in the matter following subparagraph
2 (D) of paragraph (1), as redesignated by sub-
3 paragraph (A), by striking “Paragraph (4) shall
4 not” and inserting the following:

5 “(2) Paragraph (1)(D) shall not”.

6 (13) in section 542(e) by striking “to to” and
7 inserting “to”;

8 (14) in section 543(d)(1) by striking “of eq-
9 uity” and inserting “if equity”;

10 (15) in section 546(a)(1) by striking “1302, or
11 1202” and inserting “1202, or 1302”;

12 (16) in section 549(b) by inserting “the trustee
13 may not avoid under subsection (a) of this section”
14 after “involuntary case,”;

15 (17) in section 553—

16 (A) in subsection (a)(1) by striking “other
17 than under section 502(b)(3) of this title”; and

18 (B) in subsection (b)(1) by striking
19 “362(b)(14),” and inserting “362(b)(14),”;

20 (18) in section 706(a) by striking “1307, or
21 1208” and inserting “1208, or 1307”;

22 (19) in section 724(d) by striking “Internal
23 Revenue Code of 1954 (26 U.S.C. 6323)” and in-
24 serting “Internal Revenue Code of 1986”;

1 (20) in section 726(b) by inserting a comma
2 after “section 1112”;

3 (21) in section 743 by striking “342(a)” and
4 inserting “342”;

5 (22) in section 745(c) by striking “Internal
6 Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and
7 inserting “Internal Revenue Code of 1986”;

8 (23) in section 1104(c) inserting a comma after
9 “interest”;

10 (24) in section 1123(a)(1) inserting a comma
11 after “title” the last place it appears;

12 (25) in section 1129(a)—

13 (A) in paragraph (4) by striking the semi-
14 colon at the end and inserting a period; and

15 (B) in paragraph (12) by inserting “of title
16 28” after “section 1930”;

17 (26) in section 1145(a) by striking “does” and
18 inserting “do”;

19 (27) in section 1226(b)(2)—

20 (A) by striking “1202(d) of this title” and
21 inserting “1202(c)”;

22 (B) by striking “1202(e) of this title” and
23 inserting “1202(d)”;

24 (28) in section 1302(b)(3) by striking “and” at
25 the end;

1 (29) in section 1328(a)(2) by striking “(5) or
2 (8)” and inserting “(5), (8), or (9)”; and

3 (30) in the table of chapters by striking the
4 item relating to chapter 15.

5 **SEC. 602. TITLE 28, UNITED STATES CODE.**

6 Section 586(a)(3) of title 28, United States Code, is
7 amended in the matter preceding subparagraph (A) by in-
8 serting “12,” after “11,”.

9 **TITLE VII—SEVERABILITY; EF-**
10 **FECTIVE DATE; APPLICATION**
11 **OF AMENDMENTS**

12 **SEC. 701. SEVERABILITY.**

13 If any provision of this Act or amendment made by
14 this Act or the application of such provision or amendment
15 to any person or circumstance is held to be unconstitu-
16 tional, the remaining provisions of and amendments made
17 by this Act and the application of such other provisions
18 and amendments to any person or circumstance shall not
19 be affected thereby.

20 **SEC. 702. EFFECTIVE DATE; APPLICATION OF AMEND-**
21 **MENTS.**

22 (a) EFFECTIVE DATE.—Except as provided in sub-
23 section (b), this Act and the amendments made by this
24 Act shall take effect on the date of enactment of this Act.

25 (b) APPLICATION OF AMENDMENTS.—

1 (1) IN GENERAL.—Except as provided in sec-
 2 tion 115(c) and in paragraph (2) of this subsection,
 3 the amendments made by this Act shall not apply
 4 with respect to cases commenced under title 11,
 5 United States Code, before the date of enactment of
 6 this Act.

7 (2) SECTION 1110 OF TITLE 11.—Section 1110
 8 of title 11, United States Code, as amended by sec-
 9 tion 203, shall apply with respect to any lease (as
 10 defined in section 1110(c)), entered into in connec-
 11 tion with a settlement of any litigation in any case
 12 pending under title 11, United States Code, on the
 13 date of enactment of this Act.

14 **TITLE VIII—MISCELLANEOUS**
 15 **PROVISIONS**

16 **SEC. 801. LIMITATION ON STATE TAXATION OF CERTAIN**
 17 **PENSION INCOME.**

18 (a) IN GENERAL.—Chapter 4 of title 4 of the United
 19 States Code is amended by adding at the end thereof the
 20 following new section:

21 **“§ 114. Limitation on State income taxation of pen-**
 22 **sion income**

23 “(a) No State may impose an income tax (as defined
 24 in section 110(c)) on the qualified pension income of any

1 individual who is not a resident or domiciliary of such
2 State.

3 “(b)(1) For purposes of subsection (a), the term
4 ‘qualified pension income’ means any payment from a
5 qualified plan—

6 “(A) which is part of a series of substantially
7 equal periodic payments (not less frequently than
8 annually) made for—

9 “(i) the life or life expectancy of the recipi-
10 ent or for the joint lives or joint life
11 expectancies of the recipient and the recipient’s
12 designated beneficiary, or

13 “(ii) a period of not less than 10 years, or

14 “(B) which is not described in subparagraph
15 (A) and which—

16 “(i) is received in a taxable year for which
17 an election under this subsection is in effect,
18 and

19 “(ii) is received on or after the date on
20 which the recipient has attained the age of
21 59½,

22 except that the aggregate amount of payments to
23 which this subparagraph may apply for any taxable
24 year shall not exceed \$25,000.

1 “(2) For purposes of paragraph (1), the term ‘quali-
2 fied plan’ means—

3 “(A) an employees’ trust described in section
4 401(a) of the Internal Revenue Code of 1986 which
5 is exempt from tax under section 501(a) of such
6 Code,

7 “(B) a simplified employee pension described in
8 section 408(k) of such Code,

9 “(C) an annuity plan described in section
10 403(a) of such Code,

11 “(D) an annuity contract described in section
12 403(b) of such Code,

13 “(E) an individual retirement plan described in
14 section 7701(a)(37) of such Code,

15 “(F) an eligible deferred compensation plan
16 under section 457 of such Code, or

17 “(G) a governmental plan described in section
18 414(d) of such Code, other than a plan established
19 and maintained by a State or political subdivision of
20 a State, or an agency or instrumentality of either.

21 “(3) For purposes of paragraph (1), any retired or
22 retainer pay of a member or former member of a uniform
23 service computed under chapter 71 of title 10, United
24 States Code, shall be treated as a payment from a quali-
25 fied plan.

1 “(4)(A) An election under paragraph (1)(B), once
2 made for a taxable year, may not be made for any other
3 taxable year.

4 “(B) In calendar years beginning after 1994, the
5 \$25,000 amount referred to in paragraph (1)(B) shall be
6 increased by an amount equal to such dollar amount, mul-
7 tiplied by the cost-of-living adjustment determined under
8 section 1(f)(3) of such Code for such calendar year by sub-
9 stituting ‘calendar year 1993’ for ‘calendar year 1992’ in
10 subparagraph (B) thereof.

11 “(c) For purposes of subsection (a), the term ‘State’
12 includes any political subdivision of a State, the District
13 of Columbia, and the possessions of the United States.”

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for such chapter 4 is amended by adding at the end there-
16 of the following new item:

“114. Limitation on State income taxation of pension income.”

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 the date of the enactment of this Act.

20 **SEC. 802. PROTECTION AGAINST DISCRIMINATORY TREAT-**
21 **MENT OF APPLICATIONS FOR STUDENT**
22 **LOANS.**

23 Section 525 of title 11, United States Code, is
24 amended by adding at the end the following new sub-
25 section:

1 “(c)(1) A governmental unit that operates a student
2 grant or loan program and a person engaged in a business
3 that includes the making of loans guaranteed or insured
4 under a student loan program may not deny a grant, loan,
5 loan guarantee, or loan insurance to a person that is or
6 has been a debtor under this title or a bankrupt or debtor
7 under the Bankruptcy Act, or another person with whom
8 the debtor or bankrupt has been associated, because the
9 debtor or bankrupt is or has been a debtor under this title
10 or a bankrupt or debtor under the Bankruptcy Act, has
11 been insolvent before the commencement of a case under
12 this title or during the pendency of the case but before
13 the debtor is granted or denied a discharge, or has not
14 paid a debt that is dischargeable in the case under this
15 title or that was discharged under the Bankruptcy Act.

16 “(2) In this section, ‘student loan program’ means
17 the program operated under part B, D, or E of title IV
18 of the Higher Education Act of 1965 (20 U.S.C. 1070
19 et seq.) or a similar program operated under State or local
20 law.”.

21 **SEC. 803. CHICAGO HOUSING AUTHORITY.**

22 (a) FINDINGS.—The Senate finds that—

23 (1) It is the fundamental obligation of govern-
24 ment to protect its citizens;

1 (2) In many federally-financed public housing
2 projects, the level of violence has reached epidemic
3 proportions, threatening on a daily basis the lives of
4 the majority of the tenants, who are law-abiding;

5 (3) In an effort to combat gang and drug-relat-
6 ed violence, the Chicago Housing Authority
7 (“CHA”) instituted a policy of conducting
8 warrantless, apartment-to-apartment searches of
9 CHA projects, including the Robert Taylor Homes;

10 (4) On April 7, 1994, Federal district court
11 judge Warren Andersen ruled that CHA’s search
12 policy violated the Fourth Amendment to the Con-
13 stitution of the United States and enjoined CHA of-
14 ficials from undertaking these searches;

15 (5) After the court decision, President Clinton
16 directed Attorney General Janet Reno and Secretary
17 of Housing and Urban Development Henry Cisneros
18 to develop law enforcement measures that would be
19 both constitutionally valid and effective in reducing
20 violent crime in public housing projects; and

21 (6) President Clinton subsequently announced
22 new Federal guidelines designed to assist public
23 housing officials in maintaining order and protecting
24 the security of their law-abiding tenants.

1 (b) Therefore, it is the sense of the Senate that the
2 Senate fully endorses the new Administration guidelines,
3 outlined in a letter to President Clinton from Attorney
4 General Reno and Secretary of Housing and Urban Devel-
5 opment Cisneros, dated April 14, 1994, including the
6 guidelines allowing public housing officials to (1) erect
7 fences around public housing buildings, issue identification
8 cards to tenants, and install metal detectors or
9 magnetometers at the building entrances; (2) search the
10 packages and clothing of anyone seeking to enter public
11 housing buildings and refuse entry to anyone who does
12 not submit to inspection; (3) conduct weapons searches
13 without consent or a warrant in common areas of the
14 buildings, such as stairwells, and in vacant apartments;
15 (4) frisk “suspicious-looking” individuals for weapons, if
16 police or security personnel have a reason to believe that
17 the individuals are involved in criminal activity and are
18 armed; (5) include noncoercive consent clauses in lease
19 agreements permitting routine warrantless apartment-by-
20 apartment police searches for illegal weapons and illegal
21 drugs, so long as residency or continued residency in pub-
22 lic housing is not contingent upon the inclusion of such
23 consent clause as a provision of a lease agreement; and
24 (6) conduct warrantless searches of individual units where

- 1 there is justification for a search but insufficient time to
- 2 obtain a judicial warrant.

Passed the Senate April 21 (legislative day, April 11), 1994.

Attest:

MARTHA S. POPE,

Secretary.

S 540 RFH—2

S 540 RFH—3

S 540 RFH—4

S 540 RFH—5

S 540 RFH—6

S 540 RFH—7

S 540 RFH—8

S 540 RFH—9

S 540 RFH—10

S 540 RFH—11