

Union Calendar No. 307

105<sup>TH</sup> CONGRESS  
2D Session

**H. R. 3150**

[Report No. 105-540]

---

---

## **A BILL**

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

---

---

MAY 18, 1998

Reported with an amendment, committed to the committee of the Whole House on the State of the Union, and ordered to be printed

# Union Calendar No. 307

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3150

[Report No. 105-540]

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

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1998

Mr. GEKAS (for himself, Mr. MCCOLLUM, Mr. BOUCHER, and Mr. MORAN of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 18, 1998

Additional sponsors: Mrs. FOWLER, Mr. GOODLATTE, Mr. BOEHNER, Mr. FROST, Mr. CUNNINGHAM, Mr. FAZIO of California, Mrs. MYRICK, Mr. PEASE, Mr. HILLEARY, Mr. CALVERT, Mr. BLUNT, Mr. ENSIGN, Mr. JENKINS, Mr. CHRISTENSEN, Mr. BOEHLERT, Mr. ADAM SMITH of Washington, Mr. CLEMENT, Mr. METCALF, Mr. SESSIONS, Ms. FURSE, Mr. GOODE, Mrs. KELLY, Mr. GRAHAM, Mr. KING, Mr. EHRLICH, Mr. DEAL of Georgia, Mr. COOK, Mr. GOODLING, Mr. SHAYS, Mr. BLUMENAUER, Mr. BARR of Georgia, Mr. COOKSEY, Mr. LIVINGSTON, Mr. HUTCHINSON, Mr. HALL of Texas, Mr. CAMP, Mr. BLILEY, Mr. STUMP, Mr. FOLEY, Mr. HILL, Mrs. TAUSCHER, Mr. WELDON of Florida, Mr. SENSENBRENNER, Mr. CLYBURN, Mrs. ROUKEMA, Mr. BURTON of Indiana, Mr. ROYCE, Mr. CANADY of Florida, Mr. WYNN, Mr. COLLINS, Mr. SMITH of Michigan, Mr. EVERETT, Mr. RIGGS, Mr. PETRI, Mr. LATOURETTE, Mr. BARTON of Texas, Mr. BALLENGER, Ms. GRANGER, Mr. HEFLEY, Ms. PRYCE of Ohio, Mr. KLECZKA, Mr. ANDREWS, Mr. BRADY, Mrs. NORTHUP, Mr. SPENCE, Mr. TALENT, Mr. BOYD, Mr. PICKETT, Mr. DOOLEY of California, Mr. CASTLE, Mr. SISISKY, and Mr. JOHN

MAY 18, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]  
 [For text of introduced bill, see copy of bill as introduced on February 3, 1998]

---

# A BILL

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

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

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

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

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

*Sec. 1. Short title; table of contents.*

**TITLE I—CONSUMER BANKRUPTCY PROVISIONS**

*Subtitle A—Needs-Based Bankruptcy*

*Sec. 101. Needs-based bankruptcy.*

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

*Sec. 103. Definition of inappropriate use.*

*Sec. 104. Debtor participation in credit counseling program.*

*Subtitle B—Adequate Protections for Consumers*

*Sec. 111. Notice of alternatives.*

*Sec. 112. Debtor financial management training test program.*

*Sec. 113. Definitions.*

*Sec. 114. Disclosures.*

*Sec. 115. Debtor’s bill of rights.*

*Sec. 116. Enforcement.*

*Sec. 117. Sense of the Congress.*

*Sec. 118. Charitable contributions.*

*Sec. 119. Reinforce the fresh start.*

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

*Subtitle C—Adequate Protections for Secured Creditors*

*Sec. 121. Discouraging bad faith repeat filings.*

- Sec. 122. Definition of household goods.*  
*Sec. 123. Debtor retention of personal property security.*  
*Sec. 124. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.*  
*Sec. 125. Giving secured creditors fair treatment in chapter 13.*  
*Sec. 126. Prompt relief from stay in individual cases.*  
*Sec. 127. Stopping abusive conversions from chapter 13.*  
*Sec. 128. Restraining abusive purchases on secured credit.*  
*Sec. 129. Fair valuation of collateral.*  
*Sec. 130. Protection of holders of claims secured by debtor's principal residence.*  
*Sec. 131. Aircraft equipment and vessels.*

*Subtitle D—Adequate Protections for Unsecured Creditors*

- Sec. 141. Debts incurred to pay nondischargeable debts.*  
*Sec. 142. Credit extensions on the eve of bankruptcy presumed nondischargeable.*  
*Sec. 143. Fraudulent debts are nondischargeable in chapter 13 cases.*  
*Sec. 144. Applying the codebtor stay only when it protects the debtor.*  
*Sec. 145. Credit extensions without a reasonable expectation of repayment made nondischargeable.*  
*Sec. 146. Debts for alimony, maintenance, and support.*  
*Sec. 147. Nondischargeability of certain debts for alimony, maintenance, and support.*  
*Sec. 148. Other exceptions to discharge.*  
*Sec. 149. Fees arising from certain ownership interests.*  
*Sec. 150. Protection of child support and alimony.*  
*Sec. 151. Adequate protection for investors.*

*Subtitle E—Adequate Protections for Lessors*

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

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

- Sec. 171. Extend period between bankruptcy discharges.*

*Subtitle G—Exemptions*

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

**TITLE II—BUSINESS BANKRUPTCY PROVISIONS**

*Subtitle A—General Provisions*

- Sec. 201. Limitation relating to the use of fee examiners.*  
*Sec. 202. Sharing of compensation.*  
*Sec. 203. Chapter 12 made permanent law.*  
*Sec. 204. Meetings of creditors and equity security holders.*  
*Sec. 205. Creditors' and equity security holders' committees.*  
*Sec. 206. Postpetition disclosure and solicitation.*  
*Sec. 207. Preferences.*  
*Sec. 208. Venue of certain proceedings.*  
*Sec. 209. Period for filing plan under chapter 11.*  
*Sec. 210. Period for filing plan under chapter 12.*

- Sec. 211. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or reinsurance in the United States.*
- Sec. 212. Rejection of executory contracts affecting intellectual property rights to recordings of artistic performance.*
- Sec. 213. Unexpired leases of nonresidential real property.*
- Sec. 214. Definition of disinterested person.*

*Subtitle B—Specific Provisions*

*CHAPTER 1—SMALL BUSINESS BANKRUPTCY*

- Sec. 231. Definitions.*
- Sec. 232. Flexible rules for disclosure statement and plan.*
- Sec. 233. Standard form disclosure statements and plans.*
- Sec. 234. Uniform national reporting requirements.*
- Sec. 235. Uniform reporting rules and forms.*
- Sec. 236. Duties in small business cases.*
- Sec. 237. Plan filing and confirmation deadlines.*
- Sec. 238. Plan confirmation deadline.*
- Sec. 239. Prohibition against extension of time.*
- Sec. 240. Duties of the United States trustee and bankruptcy administrator.*
- Sec. 241. Scheduling conferences.*
- Sec. 242. Serial filer provisions.*
- Sec. 243. Expanded grounds for dismissal or conversion and appointment of trustee.*

*CHAPTER 2—SINGLE ASSET REAL ESTATE*

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

*TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS*

- Sec. 301. Petition and proceedings related to petition.*

*TITLE IV—BANKRUPTCY ADMINISTRATION*

*Subtitle A—General Provisions*

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

*Subtitle B—Data Provisions*

- Sec. 441. Improved bankruptcy statistics.*  
*Sec. 442. Bankruptcy data.*  
*Sec. 443. Sense of the Congress regarding availability of bankruptcy data.*

**TITLE V—TAX PROVISIONS**

- Sec. 501. Treatment of certain liens.*  
*Sec. 502. Enforcement of child and spousal support.*  
*Sec. 503. Effective notice to Government.*  
*Sec. 504. Notice of request for a determination of taxes.*  
*Sec. 505. Rate of interest on tax claims.*  
*Sec. 506. Tolling of priority of tax claim time periods.*  
*Sec. 507. Assessment defined.*  
*Sec. 508. Chapter 13 discharge of fraudulent and other taxes.*  
*Sec. 509. Chapter 11 discharge of fraudulent taxes.*  
*Sec. 510. The stay of tax proceedings.*  
*Sec. 511. Periodic payment of taxes in chapter 11 cases.*  
*Sec. 512. The avoidance of statutory tax liens prohibited.*  
*Sec. 513. Payment of taxes in the conduct of business.*  
*Sec. 514. Tardily filed priority tax claims.*  
*Sec. 515. Income tax returns prepared by tax authorities.*  
*Sec. 516. The discharge of the estate's liability for unpaid taxes.*  
*Sec. 517. Requirement to file tax returns to confirm chapter 13 plans.*  
*Sec. 518. Standards for tax disclosure.*  
*Sec. 519. Setoff of tax refunds.*

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

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

**TITLE VII—MISCELLANEOUS**

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

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

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

6           *Title 11, United States Code, is amended—*

7                   *(1) in section 101 as follows:*

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

1           “(10A) ‘current monthly total income’ means the  
2           average monthly income from all sources derived  
3           which the debtor, or in a joint case, the debtor and  
4           the debtor’s spouse, receive without regard to whether  
5           it is taxable income, in the six months preceding the  
6           date of determination, and includes any amount paid  
7           by anyone other than the debtor or, in a joint case,  
8           the debtor and the debtor’s spouse on a regular basis  
9           to the household expenses of the debtor or the debtor’s  
10          dependents and, in a joint case, the debtor’s spouse if  
11          not otherwise a dependent;”;

12                       (B) by inserting after paragraph (40) the  
13                       following:

14           “(40A) ‘national median family income’ and  
15           ‘national median household income for 1 earner’ shall  
16           mean during any calendar year, the national median  
17           family income and the national median household in-  
18           come for 1 earner which the Bureau of the Census has  
19           reported as of January 1 of such calendar year for the  
20           most recent previous calendar year;”;

21           (2) in section 104(b)(1) by striking “109(e)” and  
22           inserting “subsections (b), (e), and (h) of section  
23           109”;

24           (3) in section 109(b)—

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

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

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

6           “(4) an individual or, in a joint case, an indi-  
7           vidual and such individual’s spouse, who have income  
8           available to pay creditors as determined under sub-  
9           section (h).”;

10          (4) by adding at the end of section 109 the fol-  
11          lowing:

12          “(h)(1) An individual or, in a joint case, an individ-  
13          ual and such individual’s spouse, have income available to  
14          pay creditors if the individual, or, in a joint case, the indi-  
15          vidual and the individual’s spouse combined, as of the date  
16          of the order for relief, have—

17               “(A) current monthly total income of not less  
18               than the highest national median family income re-  
19               ported for a family of equal or lesser size or, in the  
20               case of a household of 1 person, of not less than the  
21               national median household income for 1 earner, as of  
22               the date of the order for relief;

23               “(B) projected monthly net income greater than  
24               \$50; and

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

4           “(2) Projected monthly net income shall be sufficient  
5           under paragraph (1)(C) if, when multiplied by 60 months,  
6           it equals or exceeds 20 percent of the total amount scheduled  
7           as payable to unsecured nonpriority creditors.

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

10           “(A) the expense allowances under the applicable  
11           National Standards, Local Standards and Other Nec-  
12           essary Expenses allowance (excluding payments for  
13           debts) for the debtor, the debtor’s dependents, and, in  
14           a joint case, the debtor’s spouse if not otherwise a de-  
15           pendent, in the area in which the debtor resides as de-  
16           termined under the Internal Revenue Service finan-  
17           cial analysis for expenses in effect as of the date of  
18           the order for relief;

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

1 spouse combined, and dividing that total by 60  
2 months; and

3 “(C) the average monthly payment on account of  
4 priority creditors, which shall be calculated as the  
5 total amount of debts entitled to priority, reasonably  
6 estimated by the debtor as of the date of the petition,  
7 and dividing that total by 60 months.

8 “(4) In the event that the debtor establishes extraor-  
9 dinary circumstances that require allowance for additional  
10 expenses or adjustment of current monthly income, pro-  
11 jected monthly net income for purposes of this section shall  
12 be the amount calculated under paragraph (3) less such ad-  
13 ditional expenses or income adjustment as such extraor-  
14 dinary circumstances require.

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

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

20 “(ii) if adjustment of current monthly in-  
21 come is claimed, an explanation of what income  
22 has been lost in the 6 months preceding the date  
23 of determination and any replacement income  
24 that has been offered or secured, or is expected,

1           *and an itemization of such lost and replacement*  
2           *income;*

3           *“(iii) if allowance for additional expenses is*  
4           *claimed, a list itemizing each additional expense*  
5           *which exceeds the expenses allowances provided*  
6           *under paragraph (3)(A);*

7           *“(iv) a detailed description of the extraor-*  
8           *dinary circumstances that explain why each loss*  
9           *of income described under clause (ii) will not be*  
10          *replaced or each additional expense itemized*  
11          *under clause (iii) requires allowance; and*

12          *“(v) a sworn statement signed by the debtor*  
13          *and, if the debtor is represented by counsel, by*  
14          *the debtor’s attorney, that the information re-*  
15          *quired under this paragraph is true and correct.*

16          *“(B) Until the trustee or any party in interest*  
17          *objects to the debtor’s statement that this paragraph*  
18          *applies and the court rejects or modifies the debtor’s*  
19          *statement, the projected monthly net income in the*  
20          *debtor’s statement shall be the projected monthly net*  
21          *income for the purposes of this section. If an objection*  
22          *is filed with the court within 60 days after the debtor*  
23          *has provided all the information required under sub-*  
24          *sections (a)(1) and (c)(1)(A) of section 521, the court,*  
25          *after notice and hearing, shall determine whether such*

1 *extraordinary circumstances exist and shall establish*  
2 *the amount of the additional expense allowance, if*  
3 *any. The burden of proving such extraordinary cir-*  
4 *cumstances shall be on the debtor.”;*

5 *(5) in section 704—*

6 *(A) by striking “and” at the end of para-*  
7 *graph (8);*

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

10 *(C) by adding at the end the following:*

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

17 *“(A) file a report with the court as to*  
18 *whether the debtor qualifies for relief under this*  
19 *chapter under section 109(b)(4); and*

20 *“(B) if the trustee determines that the debt-*  
21 *or does not qualify for such relief, the trustee*  
22 *shall provide a copy of such report to the parties*  
23 *in interest.”;*

24 *(6) in section 1302(b)—*

1           (A) in paragraph (4) by striking “and” at  
2           the end;

3           (B) in paragraph (5) by striking the period  
4           and inserting a semicolon; and

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

6           “(6) investigate and verify the debtor’s monthly  
7           net income and other information provided by the  
8           debtor pursuant to sections 521 and 1322, and pursu-  
9           ant to section 111, if applicable; and

10           “(7) file annual reports with the court, with cop-  
11           ies to holders of claims under the plan, as to whether  
12           a modification of the amount paid creditors under the  
13           plan is appropriate because of changes in the debtor’s  
14           monthly net income.”.

15 **SEC. 102. ADEQUATE INCOME SHALL BE COMMITTED TO A**  
16 **PLAN THAT PAYS UNSECURED CREDITORS.**

17 *Title 11, United States Code, is amended—*

18           (1) in section 101 by inserting after paragraph  
19           (39) the following:

20           “(39A) ‘monthly net income’ means the amount  
21           determined by taking the current monthly total in-  
22           come of the debtor less—

23           “(A) the expense allowances under the ap-  
24           plicable National Standards, Local Standards  
25           and Other Necessary Expenses allowance (exclud-

1            *ing payments for debts) for the debtor, the debt-*  
2            *or's dependents, and, in a joint case, the debtor's*  
3            *spouse if not otherwise a dependent, in the area*  
4            *in which the debtor resides as determined under*  
5            *the Internal Revenue Service financial analysis*  
6            *for expenses in effect as of the date it is being*  
7            *determined;*

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

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

1           (2) in section 104(b)(1) by striking “and  
2           523(a)(2)(C)” and inserting “523(a)(2)(C), and  
3           1325(b)(1)”;

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

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

6           “(a) Monthly net income for purposes of a plan under  
7 chapter 13 of this title shall be adjusted under this section  
8 when the debtor’s extraordinary circumstances require ad-  
9 justment as determined herein. Under this section, monthly  
10 net income shall be determined by subtracting therefrom  
11 such loss of income or additional expenses as the debtor’s  
12 extraordinary circumstances require as determined under  
13 this section. This section shall not apply unless—

14           “(1) the debtor files with the court and, in a case  
15 in which a trustee has been appointed, with the trust-  
16 ee at the times required in subsection (b) a statement  
17 of extraordinary circumstances as follows—

18           “(A) a written statement that this section  
19 applies in determining the debtor’s monthly net  
20 income;

21           “(B) if applicable, an explanation of what  
22 income has been lost in the six months preceding  
23 the date of determination and any replacement  
24 income which has been secured or is expected,

1           *and an itemization of such lost and replacement*  
2           *income;*

3           *“(C) if applicable, a list itemizing each ad-*  
4           *ditional expense which exceeds the expense allow-*  
5           *ance provided in determining monthly net in-*  
6           *come under section 101(39A);*

7           *“(D) if applicable, a detailed description of*  
8           *the extraordinary circumstances which explains*  
9           *why each of the additional expenses itemized*  
10          *under paragraph (C) requires allowance; and*

11          *“(E) a sworn statement signed by the debtor*  
12          *and, if the debtor is represented by counsel, by*  
13          *the debtor’s attorney, of the amount of monthly*  
14          *net income that the debtor has pursuant to this*  
15          *subsection and that the information provided*  
16          *under this subsection is true and correct; and*

17          *“(2) until the trustee or any party in interest*  
18          *objects to the debtor’s request that this section be ap-*  
19          *plied and the court rejects or modifies the debtor’s*  
20          *statement, the monthly net income in the debtor’s*  
21          *statement shall be the monthly net income for the pur-*  
22          *poses of the debtor’s plan. If an objection is filed with*  
23          *the court within the times provided in subsection (b),*  
24          *the court, after notice and hearing, shall determine*  
25          *whether such extraordinary circumstances asserted by*

1        *the debtor exist and establish the amount of the loss*  
2        *of income and such additional expense allowance, if*  
3        *any. The burden of proving such extraordinary cir-*  
4        *cumstances and the amount of the loss of income and*  
5        *the additional expense allowance, if any, shall be on*  
6        *the debtor. The court may award to the party that*  
7        *prevails with respect to such objection a reasonable*  
8        *attorney's fee and costs incurred by the prevailing*  
9        *party in connection with such objection if the court*  
10       *finds that the position of the nonprevailing party was*  
11       *not substantially justified, but the court shall not*  
12       *award such fee or such costs if special circumstances*  
13       *make the award unjust.*

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

25                    *(4) in section 1322(a)—*

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

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

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

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

12           (5) by amending section 1325(b)(1)(B) to read  
13 as follows:

14           “(B) the plan provides—

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

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

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

14                 *“(iii) that the amount payable to each class*  
15                 *of unsecured nonpriority claims under the plan*  
16                 *shall be increased or decreased during the plan*  
17                 *proportionately to the extent the debtor’s month-*  
18                 *ly net income during the plan increases or de-*  
19                 *creases as reasonably determined by the trustee,*  
20                 *subject to section 111 of this title, no less fre-*  
21                 *quently than as of each anniversary of the con-*  
22                 *firmation of the plan based on monthly net in-*  
23                 *come as of 45 days before such anniversary; and*

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

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

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

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

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

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

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

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

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

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

22                 “(B) *the totality of the circumstances of the debt-*  
23                 *or’s financial situation demonstrates such inappro-*  
24                 *priate use.*

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

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

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

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

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

3 *“(i) determined that the petition and its sched-*  
4 *ules and statement of financial affairs or the plead-*  
5 *ing, as applicable, including the choice of this chap-*  
6 *ter—*

7 *“(I) is well grounded in fact; and*

8 *“(II) is warranted by existing law or a*  
9 *good-faith argument for the extension, modifica-*  
10 *tion, or reversal of existing law and does not*  
11 *constitute an inappropriate use of the provisions*  
12 *of this chapter.*

13 *“(C) If the court finds that the attorney for the debtor*  
14 *signed a paper in violation of subparagraph (B), at a mini-*  
15 *imum, the court shall order—*

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

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

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

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

1           “(i)(1) Subject to paragraph (2) and notwithstanding  
2 any other provision of this section, an individual may not  
3 be a debtor under this title unless such individual has, dur-  
4 ing the 90-day period preceding the date of filing of the  
5 petition, made a good-faith attempt to create a debt repay-  
6 ment plan outside the judicial system for bankruptcy law  
7 (commonly referred to as the ‘bankruptcy system’), through  
8 a credit counseling program offered through credit counsel-  
9 ing services described in section 342(b)(2) that has been ap-  
10 proved by—

11                   “(A) the United States trustee; or

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

14           “(2) The United States trustee or bankruptcy adminis-  
15 trator may not approve a program for inclusion on the list  
16 under paragraph (1) unless the counseling service offering  
17 the program offers the program without charge, or at an  
18 appropriately reduced charge, if payment of the regular  
19 charge would impose a hardship on the debtor or the debt-  
20 or’s dependents.

21           “(3) The United States trustee or bankruptcy adminis-  
22 trator shall designate any geographical areas in the United  
23 States trustee region or judicial district, as the case may  
24 be, as to which the United States trustee or bankruptcy ad-  
25 ministrator has determined that credit counseling services

1 *needed to comply with this subsection are not available or*  
2 *are too geographically remote for debtors residing within*  
3 *the designated geographical areas. The clerk of the bank-*  
4 *ruptcy court for each judicial district shall maintain a list*  
5 *of the designated areas within the district.*

6       “(4) *The clerk shall exclude a particular counseling*  
7 *service from the list maintained under section 342(b)(2) of*  
8 *this title if the United States trustee or bankruptcy admin-*  
9 *istrator orders that the counseling service not be included*  
10 *in the list.*

11       “(5) *The court may waive the requirement specified*  
12 *in paragraph (1) if—*

13               “(A) *no credit counseling services are available*  
14 *as designated under paragraphs (2) and (3);*

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

19               “(C) *foreclosure, garnishment, attachment, evic-*  
20 *tion, levy of execution, or similar claim enforcement*  
21 *procedure that would have deprived the individual of*  
22 *property had commenced before the debtor could com-*  
23 *plete a good-faith attempt to create such a repayment*  
24 *plan.*

1       “(6) A debtor who is subject to the exemption under  
2 paragraph (5)(C) shall be required to make a good-faith at-  
3 tempt to create a debt repayment plan outside the judicial  
4 system in the manner prescribed in paragraph (1) during  
5 the 30-day period beginning on the date of filing of the peti-  
6 tion of that debtor.

7       “(7) A debtor shall be exempted from the bad faith pre-  
8 sumption for repeat filing under section 362(c) of title 11  
9 if the case is dismissed due to the creation of a debt repay-  
10 ment plan.

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

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

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

19               “(A) a certificate from the credit counseling serv-  
20 ices that provided the debtor services under section  
21 109(i), or a verified statement as to why such attempt  
22 was not required under section 109(i) or other sub-  
23 stantial evidence of a good-faith attempt to create a  
24 debt repayment plan outside the bankruptcy system  
25 in the manner prescribed in section 109(i); and

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

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

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

9           **SEC. 111. NOTICE OF ALTERNATIVES.**

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

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

19                  “(A) A brief description of chapters 7, 11, 12  
20                  and 13 of this title and the general purpose, benefits,  
21                  and costs of proceeding under each of such chapters.

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

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

3                   “(i) *with an office located in the district in*  
4                   *which the petition is filed; or*

5                   “(ii) *that offers toll-free telephone commu-*  
6                   *nication to debtors in such district.*

7           “(2) *Any such nonprofit debt counselling service that*  
8           *registers with the clerk of the bankruptcy court on or before*  
9           *December 10 of the preceding year shall be included in such*  
10           *list unless the chief bankruptcy judge of the district, after*  
11           *notice to the debt counselling service and the United States*  
12           *trustee and opportunity for a hearing, for good cause, orders*  
13           *that such debt counselling service shall not be so listed.*

14           “(3) *The clerk shall make such notice available to indi-*  
15           *viduals whose debts are primarily consumer debts.”.*

16           “(b) *Section 586(a) of title 28, United States Code, is*  
17           *amended—*

18                   “(1) *in paragraph (5) by striking “and” at the*  
19                   *end;*

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

22                   “(3) *by adding at the end the following:*

23                   “(7) *on or before January 1 of each calendar*  
24                   *year, and also within 30 days of any change in the*  
25                   *nonprofit debt counselling services registered with the*



1 *in cases filed in such 1-year period under chapter 7 or 13*  
2 *of title 11 of the United States Code.*

3 (3) *The bankruptcy courts in each of such districts*  
4 *may require individual debtors in such cases to undergo*  
5 *such financial management training as a condition to re-*  
6 *ceiving a discharge in such case.*

7 (c) *EVALUATION.—(1) During the 1-year period re-*  
8 *ferred to in subsection (b), the Director shall evaluate the*  
9 *effectiveness of—*

10 (A) *the financial management training curricu-*  
11 *lum and materials developed under subsection (a);*  
12 *and*

13 (B) *a sample of existing consumer education*  
14 *programs such as those described in the Report of the*  
15 *National Bankruptcy Review Commission (October*  
16 *20, 1997) that are representative of consumer edu-*  
17 *cation programs carried out by the credit industry,*  
18 *by trustees serving under chapter 13 of title 11 of the*  
19 *United States Code, and by consumer counselling*  
20 *groups.*

21 (2) *Not later than 3 months after concluding such eval-*  
22 *uation, the Director shall submit a report to the Speaker*  
23 *of the House of Representatives and the President pro tem-*  
24 *porare of the Senate, for referral to the appropriate commit-*  
25 *tees of the Congress, containing the findings of the Director*

1 *regarding the effectiveness of such curriculum, such mate-*  
2 *rials, and such programs.*

3 **SEC. 113. DEFINITIONS.**

4 (a) *DEFINITIONS.*—Section 101 of title 11, United  
5 States Code, is amended—

6 (1) *by inserting after paragraph (3) the follow-*  
7 *ing:*

8 “(3A) ‘assisted person’ means any person whose  
9 debts consist primarily of consumer debts and whose  
10 non-exempt assets are less than \$150,000;”;

11 (2) *by inserting after paragraph (4) the follow-*  
12 *ing:*

13 “(4A) ‘bankruptcy assistance’ means any goods  
14 or services sold or otherwise provided to an assisted  
15 person with the express or implied purpose of provid-  
16 ing information, advice, counsel, document prepara-  
17 tion or filing, or attendance at a creditors’ meeting  
18 or appearing in a proceeding on behalf of another or  
19 providing legal representation with respect to a pro-  
20 ceeding under this title;”;

21 (3) *by inserting after paragraph (12A) the fol-*  
22 *lowing:*

23 “(12B) ‘debt relief counselling agency’ means  
24 any person who provides any bankruptcy assistance  
25 to an assisted person in return for the payment of

1       *money or other valuable consideration, or who is a*  
2       *bankruptcy petition preparer pursuant to section 110*  
3       *of this title, but does not include any person that is*  
4       *any of the following or an officer, director, employee*  
5       *or agent thereof—*

6               “(A) *any nonprofit organization which is*  
7               *exempt from taxation under section 501(c)(3) of*  
8               *the Internal Revenue Code of 1986;*

9               “(B) *any creditor of the person to the extent*  
10              *the creditor is assisting the person to restructure*  
11              *any debt owed by the person to the creditor; or*

12              “(C) *any depository institution (as defined*  
13              *in section 3 of the Federal Deposit Insurance*  
14              *Act) or any Federal credit union or State credit*  
15              *union (as those terms are defined in section 101*  
16              *of the Federal Credit Union Act), or any affiliate*  
17              *or subsidiary of such a depository institution or*  
18              *credit union;”.*

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

21       **SEC. 114. DISCLOSURES.**

22       (a) *DISCLOSURES.—Subchapter II of chapter 5 of title*  
23       *11, United States Code, is amended by adding at the end*  
24       *the following:*

1 **“§ 526. Disclosures**

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

5               “(1) the written notice required under section  
6 342(b)(1) of this title; and

7               “(2) to the extent not covered in the written no-  
8 tice described in paragraph (1) of this section and no  
9 later than three business days after the first date on  
10 which a debt relief counselling agency first offers to  
11 provide any bankruptcy assistance services to an as-  
12 sisted person, a clear and conspicuous written notice  
13 advising assisted persons of the following—

14                       “(A) all information the assisted person is  
15 required to provide with a petition and there-  
16 after during a case under this title must be com-  
17 plete, accurate and truthful;

18                       “(B) all assets and all liabilities must be  
19 completely and accurately disclosed in the docu-  
20 ments filed to commence the case, and the re-  
21 placement value of each asset as defined in sec-  
22 tion 506 of this title must be stated in those doc-  
23 uments where requested after reasonable inquiry  
24 to establish such value;

25                       “(C) current monthly total income, pro-  
26 jected monthly net income and, in a chapter 13

1 case, monthly net income must be stated after  
2 reasonable inquiry; and

3 “(D) that information an assisted person  
4 provides during their case may be audited pur-  
5 suant to this title and that failure to provide  
6 such information may result in dismissal of the  
7 proceeding under this title or other sanction in-  
8 cluding, in some instances, criminal sanctions.

9 “(b) A debt relief counselling agency providing bank-  
10 ruptcy assistance to an assisted person shall provide each  
11 assisted person at the same time as the notices required  
12 under subsection (a)(1) with the following statement, to the  
13 extent applicable, or one substantially similar. The state-  
14 ment shall be clear and conspicuous and shall be in a single  
15 document separate from other documents or notices pro-  
16 vided to the assisted person:

17 “**IMPORTANT INFORMATION ABOUT BANK-**  
18 **RUPTCY ASSISTANCE SERVICES FROM AN ATTOR-**  
19 **NEY OR BANKRUPTCY PETITION PREPARER**

20 “If you decide to seek bankruptcy relief, you can rep-  
21 resent yourself, you can hire an attorney to represent you,  
22 or you can get help in some localities from a bankruptcy  
23 petition preparer who is not an attorney. **THE LAW RE-**  
24 **QUIRES AN ATTORNEY OR BANKRUPTCY PETI-**  
25 **TION PREPARER TO GIVE YOU A WRITTEN CON-**

1 *TRACT SPECIFYING WHAT THE ATTORNEY OR*  
2 *BANKRUPTCY PETITION PREPARER WILL DO FOR*  
3 *YOU AND HOW MUCH IT WILL COST. Ask to see the*  
4 *contract before you hire anyone.*

5       *“The following information helps you understand*  
6 *what must be done in a routine bankruptcy case to help*  
7 *you evaluate how much service you need. Although bank-*  
8 *ruptcy can be complex, many cases are routine.*

9       *“Before filing a bankruptcy case, either you or your*  
10 *attorney should analyze your eligibility for different forms*  
11 *of debt relief made available by the Bankruptcy Code and*  
12 *which form of relief is most likely to be beneficial for you.*  
13 *Be sure you understand the relief you can obtain and its*  
14 *limitations. To file a bankruptcy case, documents called a*  
15 *Petition, Schedules and Statement of Financial Affairs, as*  
16 *well as in some cases a Statement of Intention need to be*  
17 *prepared correctly and filed with the bankruptcy court. You*  
18 *will have to pay a filing fee to the bankruptcy court. Once*  
19 *your case starts, you will have to attend the required first*  
20 *meeting of creditors where you may be questioned by a court*  
21 *official called a “trustee” and by creditors.*

22       *“If you select a chapter 7 proceeding, you may be*  
23 *asked by a creditor to reaffirm a debt. You may want help*  
24 *deciding whether to do so.*

1       *“If you select a chapter 13 proceeding in which you*  
2 *repay your creditors what you can afford over three to seven*  
3 *years, you may also want help with preparing your chapter*  
4 *13 plan and with the confirmation hearing on your plan*  
5 *which will be before a bankruptcy judge.’*

6       *“If you select another type of proceeding under the*  
7 *Bankruptcy Code other than chapter 7 or chapter 13, you*  
8 *will want to find out what needs to be done from someone*  
9 *familiar with that type of proceeding.*

10       *“Your bankruptcy proceeding may also involve litiga-*  
11 *tion. You are generally permitted to represent yourself in*  
12 *litigation in bankruptcy court, but only attorneys, not*  
13 *bankruptcy petition preparers, can represent you in litiga-*  
14 *tion.’.*

15       *“(c) Except to the extent the debt relief counselling*  
16 *agency provides the required information itself after reason-*  
17 *ably diligent inquiry of the assisted person or others so as*  
18 *to obtain such information reasonably accurately for inclu-*  
19 *sion on the petition, schedules or statement of financial af-*  
20 *fairs, a debt relief counselling agency providing bankruptcy*  
21 *assistance to an assisted person shall provide each assisted*  
22 *person at the time required for the notice required under*  
23 *subsection (a)(1) reasonably sufficient information (which*  
24 *may be provided orally or in a clear and conspicuous writ-*  
25 *ing) to the assisted person on how to provide all the infor-*

1 *mation the assisted person is required to provide under this*  
2 *title pursuant to section 521, including—*

3 *“(1) how to value assets at replacement value,*  
4 *determine current monthly total income, projected*  
5 *monthly income and, in a chapter 13 case, net*  
6 *monthly income, and related calculations;*

7 *“(2) how to complete the list of creditors, includ-*  
8 *ing how to determine what amount is owed and what*  
9 *address for the creditor should be shown; and*

10 *“(3) how to determine what property is exempt*  
11 *and how to value exempt property at replacement*  
12 *value as defined in section 506 of this title.*

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

17 *(b) CONFORMING AMENDMENT.—The table of section*  
18 *for chapter 5 of title 11, United States Code, is amended*  
19 *by inserting after the item relating to section 525 the follow-*  
20 *ing:*

*“526. Disclosures.”.*

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

22 *(a) DEBTOR’S BILL OF RIGHTS.—Subchapter II of*  
23 *chapter 5 of title 11, United States Code, as amended by*  
24 *section 114, is amended by adding at the end the following:*

1 **“§ 527. Debtor’s bill of rights**

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

3 “(1) no later than three business days after the  
4 first date on which a debt relief counselling agency  
5 provides any bankruptcy assistance services to an as-  
6 sisted person, execute a written contract with the as-  
7 sisted person specifying clearly and conspicuously the  
8 services the agency will provide the assisted person  
9 and the basis on which fees or charges will be made  
10 for such services and the terms of payment, and give  
11 the assisted person a copy of the fully executed and  
12 completed contract in a form the person can keep;

13 “(2) disclose in any advertisement of bankruptcy  
14 assistance services or of the benefits of bankruptcy di-  
15 rected to the general public (whether in general  
16 media, seminars or specific mailings, telephonic or  
17 electronic messages or otherwise) that the services or  
18 benefits are with respect to proceedings under this  
19 title, clearly and conspicuously using the following  
20 statement: ‘We are a debt relief counselling agency.  
21 We help people file Bankruptcy petitions to obtain re-  
22 lief under the Bankruptcy Code.’ or a substantially  
23 similar statement. An advertisement shall be of bank-  
24 ruptcy assistance services if it describes or offers  
25 bankruptcy assistance with a chapter 13 plan, re-  
26 gardless of whether chapter 13 is specifically men-

1        *tioned, including such statements as ‘federally super-*  
2        *vised repayment plan’ or ‘Federal debt restructuring*  
3        *help’ or other similar statements which would lead a*  
4        *reasonable consumer to believe that help with debts*  
5        *was being offered when in fact in most cases the help*  
6        *available is bankruptcy assistance with a chapter 13*  
7        *plan; and*

8                *“(3) if an advertisement directed to the general*  
9        *public indicates that the debt relief counselling agency*  
10        *provides assistance with respect to credit defaults,*  
11        *mortgage foreclosures, lease eviction proceedings, ex-*  
12        *cessive debt, debt collection pressure, or inability to*  
13        *pay any consumer debt, disclose conspicuously in that*  
14        *advertisement that the assistance is with respect to or*  
15        *may involve proceedings under this title, using the*  
16        *following statement: ‘We are a debt relief counselling*  
17        *agency. We help people file Bankruptcy petitions to*  
18        *obtain relief under the Bankruptcy Code.’” or a sub-*  
19        *stantially similar statement.*

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

21                *“(1) fail to perform any service which the debt*  
22        *relief counseling agency has told the assisted person or*  
23        *prospective assisted person the agency would provide*  
24        *that person in connection with the preparation for or*  
25        *activities during a proceeding under this title;*

1           “(2) make any statement, or counsel or advise  
2           any assisted person to make any statement in any  
3           document filed in a proceeding under this title, which  
4           is untrue or misleading or which upon the exercise of  
5           reasonable care, should be known by the debt relief  
6           counselling agency to be untrue or misleading;

7           “(3) misrepresent to any assisted person or pro-  
8           spective assisted person, directly or indirectly, affirm-  
9           atively or by material omission, what services the  
10          debt relief counselling agency can reasonably expect to  
11          provide that person, or the benefits an assisted person  
12          may obtain or the difficulties the person may experi-  
13          ence if the person seeks relief in a proceeding pursu-  
14          ant to this title; or

15          “(4) advise an assisted person or prospective as-  
16          sisted person to incur more debt in contemplation of  
17          that person filing a proceeding under this title or in  
18          order to pay an attorney or bankruptcy petition pre-  
19          parer fee or charge for services performed as part of  
20          preparing for or representing a debtor in a proceed-  
21          ing under this title.”.

22          (b) *CONFORMING AMENDMENT.*—The table of section  
23          for chapter 5 of title 11, United States Code, as amended  
24          by section 114, is amended by inserting after the item relat-  
25          ing to section 526, the following:

“527. *Debtor’s bill of rights.*”.

1 **SEC. 116. ENFORCEMENT.**

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

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

6 “(a) *ASSISTED PERSON WAIVERS INVALID.*—Any  
7 waiver by any assisted person of any protection or right  
8 provided by or under section 526 or 527 of this title shall  
9 be void and may not be enforced by any Federal or State  
10 court or any other person.

11 “(b) *NONCOMPLIANCE.*—

12 “(1) Any contract between a debt relief counsel-  
13 ling agency and an assisted person for bankruptcy as-  
14 sistance which does not comply with the requirements  
15 of section 526 or 527 of this title shall be treated as  
16 void and may not be enforced by any Federal or State  
17 court or by any other person.

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

20 “(A) failed to comply with any provision of  
21 section 526 or 527 with respect to a bankruptcy  
22 case or related proceeding of an assisted person;

23 “(B) provided bankruptcy assistance to an  
24 assisted person in a case or related proceeding  
25 which is dismissed or converted in lieu of dismis-  
26 sal under section 707 of this title or because of

1           *a failure to file bankruptcy papers, including*  
2           *papers specified in section 521 of this title; or*

3           “(C) *negligently or intentionally dis-*  
4           *regarded the requirements of this title or the Fed-*  
5           *eral Rules of Bankruptcy Procedure applicable*  
6           *to such debt relief counselling agency shall be lia-*  
7           *ble to the assisted person in the amount of any*  
8           *fees and charges in connection with providing*  
9           *bankruptcy assistance to such person which the*  
10           *debt relief counselling agency has already been*  
11           *paid on account of that proceeding and if the*  
12           *case has not been closed, the court may in addi-*  
13           *tion require the debt relief counselling agency to*  
14           *continue to provide bankruptcy assistance serv-*  
15           *ices in the pending case to the assisted person*  
16           *without further fee or charge or upon such other*  
17           *terms as the court may order.*

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

24           “(A) *may bring an action to enjoin such*  
25           *violation;*

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

5           “(C) in the case of any successful action  
6 under subparagraph (A) or (B), shall be award-  
7 ed the costs of the action and reasonable attorney  
8 fees as determined by the court.

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

13           “(c) *RELATION TO STATE LAW.*—This section and sec-  
14 tions 526 and 527 shall not annul, alter, affect or exempt  
15 any person subject to those sections from complying with  
16 any law of any State except to the extent that such law  
17 is inconsistent with those sections, and then only to the ex-  
18 tent of the inconsistency.”.

19           (b) *CONFORMING AMENDMENT.*—The table of section  
20 for chapter 5 of title 11, United States Code, as amended  
21 by sections 114 and 115, is amended by inserting after the  
22 item relating to section 527, the following:

“528. Debt relief counselling agency enforcement.”.

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

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

5 **SEC. 118. CHARITABLE CONTRIBUTIONS.**

6 (a) *DEFINITIONS.*—Section 548(d) of title 11, United  
 7 States Code, is amended by adding at the end the following:

8 “(3) *In this section, the term ‘charitable contribution’*  
 9 *means a charitable contribution as defined in section 170(c)*  
 10 *of the Internal Revenue Code of 1986, if such contribution—*

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

12 *“(B) consists of—*

13 *“(i) a financial instrument (as defined in*  
 14 *section 731(c)(2)(C) of the Internal Revenue*  
 15 *Code of 1986); or*

16 *“(ii) cash.*

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

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

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

23 (b) *TREATMENT OF PREPETITION QUALIFIED CHARI-*  
 24 *TABLE CONTRIBUTIONS.*

25 (1) *IN GENERAL.*—Section 548(a) of title 11,  
 26 *United States Code, is amended—*

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

2           (B) by striking “(1) made” and inserting

3           “(A) made”;

4           (C) by striking “(2)(A)” and inserting

5           “(B)(i)”;

6           (D) by striking “(B)(i)” and inserting

7           “(ii)(I)”;

8           (E) by striking “(ii) was” and inserting

9           “(II) was”;

10          (F) by striking “(iii)” and inserting

11          “(III)”;

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

13          “(2) A transfer of a charitable contribution to a quali-

14          fied religious or charitable entity or organization shall not

15          be considered to be a transfer covered under paragraph

16          (1)(B) in any case in which—

17                 “(A) the amount of such contribution does not

18                 exceed 15 percent of the gross annual income of the

19                 debtor for the year in which the transfer of the con-

20                 tribution is made; or

21                 “(B) the contribution made by a debtor exceeded

22                 the percentage amount of gross annual income speci-

23                 fied in subparagraph (A), if the transfer was consist-

24                 ent with the practices of the debtor in making chari-

25                 table contributions.”.

1           (2) *TRUSTEE AS LIEN CREDITOR AND AS SUC-*  
2           *CESSOR TO CERTAIN CREDITORS AND PURCHASERS.—*  
3           *Section 544(b) of title 11, United States Code, is*  
4           *amended—*

5                     (A) *by striking “(b) The trustee” and in-*  
6                     *serting “(b)(1) Except as provided in paragraph*  
7                     *(2), the trustee”; and*

8                     (B) *by adding at the end the following:*

9           *“(2) Paragraph (1) shall not apply to a transfer of*  
10           *a charitable contribution (as defined in section 548(d)(3)*  
11           *of this title) that is not covered under section 548(a)(1)(B)*  
12           *of this title by reason of section 548(a)(2) of this title. Any*  
13           *claim by any person to recover a transferred contribution*  
14           *described in the preceding sentence under Federal or State*  
15           *law in a Federal or State court shall be preempted by the*  
16           *commencement of the case.”.*

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

19                     (A) *in subsection (e)—*

20                             (i) *by striking “548(a)(2)” and insert-*  
21                             *ing “548(a)(1)(B)”;* and

22                             (ii) *by striking “548(a)(1)” and insert-*  
23                             *ing “548(a)(1)(A)”;*

24                     (B) *in subsection (f)—*

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

3                   (ii) by striking “548(a)(1)” and insert-  
4                   ing “548(a)(1)(A)”; and

5                   (C) in the first subsection (g)—

6                   (i) by striking “section 548(a)(1)” and  
7                   inserting “section 548(a)(1)(A)”; and

8                   (ii) by striking “548(a)(2)” and insert-  
9                   ing “548(a)(1)(B)”.

10           (c) *TREATMENT OF POST-PETITION CHARITABLE CON-*  
11 *TRIBUTIONS UNDER CHAPTER 7.*—Section 707 of title 11,  
12 *United States Code, is amended by adding at the end the*  
13 *following:*

14           “(c) *In making a determination whether to dismiss a*  
15 *case under this section, the court may not take into consid-*  
16 *eration whether a debtor has made, or continues to make,*  
17 *charitable contributions (that meet the definition of ‘chari-*  
18 *table contribution’ under section 548(d)(3)) to any qualified*  
19 *religious or charitable entity or organization (as defined*  
20 *in section 548(d)(4)).”.*

21           (d) *TREATMENT OF POST-PETITION CHARITABLE CON-*  
22 *TRIBUTIONS UNDER CHAPTER 13.*—Section 111 of title 11,  
23 *United States Code, as added by section 102, is amended*  
24 *by adding at the end the following:*

1       “(c) For purposes of subsection (a), charitable con-  
 2 tributions (that meet the definition of ‘charitable contribu-  
 3 tion’ under section 548(d)(3)) to any qualified religious or  
 4 charitable entity or organization (defined in section  
 5 548(d)(4)), but not to exceed 15 percent of the debtor’s gross  
 6 income for the year in which such contributions are made,  
 7 shall be considered to be additional expenses of the debtor  
 8 required by extraordinary circumstances.”.

9       (e) *RULE OF CONSTRUCTION.*—Nothing in the amend-  
 10 ments made by this section is intended to limit the applica-  
 11 bility of the Religious Freedom Restoration Act of 1993 (42  
 12 U.S.C. 2002bb et seq.).

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

14       (a) *RESTORATION OF AN EFFECTIVE DISCHARGE.*—  
 15 Section 523(a)(17) of title 11, United States Code, is  
 16 amended—

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

19           (2) by striking “section 1915(b) or (f)” and in-  
 20 serting “subsection (b) or (f)(2) of section 1915”, and

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

23       (b) *PROTECTION OF RETIREMENT FUNDS IN BANK-*  
 24 *RUPTCY.*—Section 522 of title 11, United States Code, is  
 25 amended—

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

2                   (A) *in subparagraph (A) by striking “and”*  
3           *at the end;*

4                   (B) *in subparagraph (B) by striking the pe-*  
5           *riod at the end and inserting “; and”; and*

6                   (C) *by adding at the end the following:*

7                   “(C) *retirement funds to the extent exempt from*  
8           *taxation under section 401, 403, 408, 414, 457, or*  
9           *501(a) of the Internal Revenue Code of 1986.”; and*

10                  (2) *in subsection (d) by adding at the end the*  
11           *following:*

12                   “(12) *Retirement funds to the extent exempt*  
13           *from taxation under 401, 403, 408, 414, 457, or*  
14           *501(a) of the Internal Revenue Code of 1986.”.*

15           (c) *EFFECTIVE PROTECTION FOR UTILITY SERVICE IN*  
16 *THE WAKE OF DEREGULATION.—Section 366 of title 11,*  
17 *United States Code, is amended by adding at the end the*  
18 *following:*

19                   “(c) *For the purposes of this section, the term ‘utility’*  
20 *includes any provider of gas, electric, telephone, tele-*  
21 *communication, cable television, satellite communication,*  
22 *water, or sewer service, whether or not such service is a reg-*  
23 *ulated monopoly.”.*

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

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

5 *“(5) The confirmation of a plan does not discharge a*  
 6 *debtor that is a corporation from any debt arising from*  
 7 *a judicial, administrative, or other action or proceeding*  
 8 *that is—*

9 *“(A) related to the consumption or consumer*  
 10 *purchase of a tobacco product; and*

11 *“(B) based in whole or in part on false pretenses,*  
 12 *a false representation, or actual fraud.”.*

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

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

16 *Section 362(c) of title 11, United States Code, is*  
 17 *amended—*

18 *(1) in paragraph (1) by striking “and” at the*  
 19 *end;*

20 *(2) in paragraph (2) by striking the period at*  
 21 *the end and inserting a semicolon; and*

22 *(3) by adding at the end the following new para-*  
 23 *graphs:*

24 *“(3) If a single or joint case is filed by or*  
 25 *against an individual debtor under chapter 7, 11, or*  
 26 *13, and if a single or joint case of that debtor was*

1        *pending within the previous 1-year period but was*  
2        *dismissed, other than a case refiled under a chapter*  
3        *other than chapter 7 after dismissal under section*  
4        *707(b) of this title, the stay under subsection (a) with*  
5        *respect to any action taken with respect to a debt or*  
6        *property securing such debt or with respect to any*  
7        *lease will terminate with respect to the debtor on the*  
8        *30th day after the filing of the later case. If a party*  
9        *in interest requests, the court may extend the stay in*  
10       *particular cases as to any or all creditors (subject to*  
11       *such conditions or limitations as the court may then*  
12       *impose) after notice and a hearing completed before*  
13       *the expiration of the 30-day period only if the party*  
14       *in interest demonstrates that the filing of the later*  
15       *case is in good faith as to the creditors to be stayed.*  
16       *A case is presumptively filed not in good faith (but*  
17       *such presumption may be rebutted by clear and con-*  
18       *vincing evidence to the contrary)—*

19                *“(A) as to all creditors if—*

20                        *“(i) more than 1 previous case under*  
21                        *any of chapters 7, 11, or 13 in which the*  
22                        *individual was a debtor was pending with-*  
23                        *in such 1-year period;*

24                        *“(ii) a previous case under any of*  
25                        *chapters 7, 11, or 13 in which the individ-*

1            *ual was a debtor was dismissed within such*  
2            *1-year period, after the debtor failed to file*  
3            *or amend the petition or other documents as*  
4            *required by this title or the court without*  
5            *substantial excuse (but mere inadvertence or*  
6            *negligence shall not be substantial excuse*  
7            *unless the dismissal was caused by the neg-*  
8            *ligence of the debtor’s attorney), failed to*  
9            *provide adequate protection as ordered by*  
10           *the court, or failed to perform the terms of*  
11           *a plan confirmed by the court; or*

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

22           *“(B) as to any creditor that commenced an*  
23           *action under subsection (d) in a previous case in*  
24           *which the individual was a debtor if, as of the*  
25           *date of dismissal of that case, that action was*

1           *still pending or had been resolved by terminat-*  
2           *ing, conditioning, or limiting the stay as to ac-*  
3           *tions of that creditor.*

4           “(4) *If a single or joint case is filed by or*  
5           *against an individual debtor under this title, and if*  
6           *2 or more single or joint cases of that debtor were*  
7           *pending within the previous year but were dismissed,*  
8           *other than a case refiled under section 707(b) of this*  
9           *title, the stay under subsection (a) will not go into ef-*  
10          *fect upon the filing of the later case. On request of a*  
11          *party in interest, the court shall promptly enter an*  
12          *order confirming that no stay is in effect. If a party*  
13          *in interest requests within 30 days of the filing of the*  
14          *later case, the court may order the stay to take effect*  
15          *in the case as to any or all creditors (subject to such*  
16          *conditions or limitations as the court may impose),*  
17          *after notice and hearing, only if the party in interest*  
18          *demonstrates that the filing of the later case is in*  
19          *good faith as to the creditors to be stayed. A stay im-*  
20          *posed pursuant to the preceding sentence will be effec-*  
21          *tive on the date of entry of the order allowing the stay*  
22          *to go into effect. A case is presumptively not filed in*  
23          *good faith (but such presumption may be rebutted by*  
24          *clear and convincing evidence to the contrary)—*

25                   “(A) *as to all creditors if—*

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

5           “(ii) a previous case under this title in  
6           which the individual was a debtor was dis-  
7           missed within the time period stated in this  
8           paragraph after the debtor failed to file or  
9           amend the petition or other documents as  
10          required by this title or the court without  
11          substantial excuse (but mere inadvertence or  
12          negligence shall not be substantial excuse  
13          unless the dismissal was caused by the neg-  
14          ligence of the debtor’s attorney), failed to  
15          pay adequate protection as ordered by the  
16          court, or failed to perform the terms of a  
17          plan confirmed by the court; or

18          “(iii) there has not been a substantial  
19          change in the financial or personal affairs  
20          of the debtor since the dismissal of the next  
21          most previous case under this title, or any  
22          other reason to conclude that the later case  
23          will not be concluded, if a case under chap-  
24          ter 7, with a discharge, and if a case under

1           *chapter 11 or 13, with a confirmed plan*  
2           *that will be fully performed; or*

3           “(B) *as to any creditor that commenced an*  
4           *action under subsection (d) in a previous case in*  
5           *which the individual was a debtor if, as of the*  
6           *date of dismissal of that case, that action was*  
7           *still pending or had been resolved by terminat-*  
8           *ing, conditioning, or limiting the stay as to ac-*  
9           *tion of that creditor.*

10          “(5)(A) *If a request is made for relief from the*  
11          *stay under subsection (a) with respect to real or per-*  
12          *sonal property of any kind, and such request is grant-*  
13          *ed in whole or in part, the court may order in addi-*  
14          *tion that the relief so granted shall be in rem either*  
15          *for a definite period not less than 1 year or indefi-*  
16          *nitely. After the issuance of such an order, the stay*  
17          *under subsection (a) shall not apply to any property*  
18          *subject to such an in rem order in any case of the*  
19          *debtor under this title. If such an order so provides,*  
20          *such stay shall also not apply in any pending or*  
21          *later-filed case of any entity under this title that*  
22          *claims or has an interest in the subject property other*  
23          *than those entities identified in the court’s order.*

24          “(B) *The court shall cause any order entered*  
25          *pursuant to this paragraph with respect to real prop-*

1        *erty to be recorded in the applicable real property*  
2        *records, which recording shall constitute notice to all*  
3        *parties having or claiming an interest in such real*  
4        *property for purpose of this section.*

5                *“(6) For the purposes of this section, a case is*  
6        *pending from the time of the order for relief until the*  
7        *case is closed.”.*

8        **SEC. 122. DEFINITION OF HOUSEHOLD GOODS.**

9        *Section 101 of title 11, United States Code, is amended*  
10        *by inserting after paragraph (27) the following:*

11                *“(27A) ‘household goods’ has the meaning given*  
12        *such term in the Trade Regulation Rule on Credit*  
13        *Practices promulgated by the Federal Trade Commis-*  
14        *sion (16 C.F.R. 444.1(i)), as in effect on the effective*  
15        *date of this paragraph;”.*

16        **SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY**  
17                **SECURITY.**

18        *Title 11, United States Code, is amended—*

19                *(1) in section 521—*

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

22                        *(B) in paragraph (5) by striking the period*  
23        *at the end and inserting “; and”; and*

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

1           “(6) in an individual case under chapter 7 of  
2           this title, not retain possession of personal property  
3           as to which a creditor has an allowed claim for the  
4           purchase price secured in whole or in part by an in-  
5           terest in that personal property unless, in the case of  
6           an individual debtor, the debtor takes 1 of the follow-  
7           ing actions within 30 days after the first meeting of  
8           creditors under section 341(a)—

9                   “(A) enters into a reaffirmation agreement  
10                   with the creditor pursuant to section 524(c) of  
11                   this title with respect to the claim secured by  
12                   such property; or

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

15           “If the debtor fails to so act within the 30-day period,  
16           the personal property affected shall no longer be prop-  
17           erty of the estate, and the creditor may take whatever  
18           action as to such property as is permitted by applica-  
19           ble nonbankruptcy law, unless the court determines on  
20           the motion of the trustee, and after notice and a hear-  
21           ing, that such property is of consequential value or  
22           benefit to the estate.”; and

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

1 **SEC. 124. RELIEF FROM STAY WHEN THE DEBTOR DOES**  
2 **NOT COMPLETE INTENDED SURRENDER OF**  
3 **CONSUMER DEBT COLLATERAL.**

4 *Title 11, United States Code, is amended as follows—*

5 *(1) in section 362—*

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

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

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

18 *“(1) to file timely any statement of intention re-*  
19 *quired under section 521(a)(2) of this title with re-*  
20 *spect to that property or to indicate therein that the*  
21 *debtor will either surrender the property or retain it*  
22 *and, if retaining it, either redeem the property pursu-*  
23 *ant to section 722 of this title, reaffirm the debt it se-*  
24 *cures pursuant to section 524(c) of this title, or as-*  
25 *sume the unexpired lease pursuant to section 365(p)*

1       of this title if the trustee does not do so, as applicable;  
2       or

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

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

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

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

16               (B) in paragraph (2)(B)—

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

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

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

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

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

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

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

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

1           *debt determined under nonbankruptcy law or*  
2           *discharge under section 1328, and that if the*  
3           *case under this chapter is dismissed or converted*  
4           *without completion of the plan, such lien shall*  
5           *also be retained by such holder to the extent rec-*  
6           *ognized by applicable nonbankruptcy law; and”.*

7   **SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL**  
8                           **CASES.**

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

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

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

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

21   **SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**  
22                           **TER 13.**

23           *Section 348(f)(1) of title 11, United States Code, is*  
24   *amended—*

1           (1) *by striking in subparagraph (B) “in the con-*  
2 *verted case, with allowed secured claims” and insert-*  
3 *ing in lieu thereof “only in a case converted to chap-*  
4 *ter 11 or 12 but not in one converted to chapter 7,*  
5 *with allowed secured claims in cases under chapters*  
6 *11 and 12”;* and

7           (2) *in subparagraph (A) by striking “and” at*  
8 *the end;*

9           (3) *in subparagraph (B) by striking the period*  
10 *and inserting “; and”;* and

11           (4) *by adding at the end the following:*

12           *“(C) with respect to cases converted from chapter*  
13 *13, the claim of any creditor holding security as of*  
14 *the date of the petition shall continue to be secured*  
15 *by that security unless the full amount of that claim*  
16 *determined under applicable nonbankruptcy law has*  
17 *been paid in full as of the date of conversion, notwith-*  
18 *standing any valuation or determination of the*  
19 *amount of an allowed secured claim made for the*  
20 *purposes of the case under chapter of this title. Unless*  
21 *a prebankruptcy default has been fully cured pursu-*  
22 *ant to the plan at the time of conversion, in any pro-*  
23 *ceeding under this title or otherwise, the default shall*  
24 *have the effect given under applicable nonbankruptcy*  
25 *law.”.*

1 **SEC. 128. RESTRAINING ABUSIVE PURCHASES ON SECURED**  
2 **CREDIT.**

3 *Section 506 of title 11, United States Code, is amended*  
4 *by adding at the end the following:*

5 *“(e) In an individual case under chapter 7, 11, 12,*  
6 *or 13—*

7 *“(1) subsection (a) shall not apply to an allowed*  
8 *claim to the extent attributable in whole or in part*  
9 *to the purchase price of personal property acquired by*  
10 *the debtor within 180 days of the filing of the peti-*  
11 *tion, except for the purpose of applying paragraph*  
12 *(3) of this subsection;*

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

20 *“(3) if such allowed claim attributable to the*  
21 *purchase price is secured by the personal property so*  
22 *acquired and other property, the value of the security*  
23 *may be determined under subsection (a), but the value*  
24 *of the security and the amount of the allowed secured*  
25 *claim shall be not less than the unpaid principal bal-*  
26 *ance of the purchase price of the personal property*

1        *acquired and unpaid interest and charges at the con-*  
2        *tract rate; and*

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

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

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

13        *“In the case of an individual debtor under chapters 7 and*  
14        *13, such value with respect to personal property securing*  
15        *an allowed claim shall be determined based on the replace-*  
16        *ment value of such property as of the date of filing the peti-*  
17        *tion without deduction for costs of sale or marketing. With*  
18        *respect to property acquired for personal, family, or house-*  
19        *hold purpose, replacement value shall mean the price a re-*  
20        *tail merchant would charge for property of that kind con-*  
21        *sidering the age and condition of the property at the time*  
22        *value is determined.”.*

23    **SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED**  
24            **BY DEBTOR’S PRINCIPAL RESIDENCE.**

25        *Title 11, United States Code, is amended—*

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

3           “(13A) ‘debtor’s principal residence’ means a  
4           residential structure including incidental property  
5           when the structure contains 1 to 4 units, whether or  
6           not that structure is attached to real property, and  
7           includes, without limitation, an individual con-  
8           dominium or cooperative unit or mobile or manufac-  
9           tured home or trailer;

10           “(13B) ‘incidental property’ means property in-  
11           cidental to such residence including, without limita-  
12           tion, property commonly conveyed with a principal  
13           residence where the real estate is located, window  
14           treatments, carpets, appliances and equipment located  
15           in the residence, and easements, appurtenances, fix-  
16           tures, rents, royalties, mineral rights, oil and gas  
17           rights, escrow funds and insurance proceeds;”;

18           (2) in section 362(b)—

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

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

23           (C) by inserting after paragraph (18) the  
24           following:

1           “(19) under subsection (a), until a prepetition  
2           default is cured fully in a case under chapter 13 of  
3           this title case by actual payment of all arrears as re-  
4           quired by the plan, of the postponement, continuation  
5           or other similar delay of a prepetition foreclosure pro-  
6           ceeding or sale in accordance with applicable non-  
7           bankruptcy law, but nothing herein shall imply that  
8           such postponement, continuation or other similar  
9           delay is a violation of the stay under subsection (a).”;  
10          and

11           (3) by amending section 1322(b)(2) to read as  
12          follows:

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

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

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

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

25           (2) in subparagraph (B)—

1           (A) in clause (i) by striking “and” at the  
2           end; and

3           (B) in clause (ii)—

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

6                 (ii) in subclause (II) by striking the  
7                 period at the end and inserting “; and”;  
8                 and

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

10                 “(iii) that occurs after the date of the order  
11                 and such 60-day period is cured in accordance  
12                 with the terms of such security agreement, lease,  
13                 or conditional sale contract.”.

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

16           ***SEC. 141. DEBTS INCURRED TO PAY NONDISCHARGEABLE***  
17           ***DEBTS.***

18           (a) *PRIORITY OF CLAIMS FOR DEBTS INCURRED TO*  
19           *PAY NONDISCHARGEABLE DEBTS.*—Section 507(a) of title  
20           11, United States Code, is amended by adding at the end  
21           the following:

22                 “(10) Tenth, remaining allowed unsecured  
23                 claims for debts that are nondischargeable under sec-  
24                 tion 523(a)(19), but which shall be payable under this

1        *paragraph in the higher order of priority (if any) as*  
2        *the respective claims paid by incurring such debts.”.*

3        *(b) NONDISCHARGEABILITY OF DEBTS INCURRED TO*  
4        *PAY NONDISCHARGEABLE DEBTS.—Section 523(a) of title*  
5        *11, United States Code, is amended—*

6                *(1) in paragraph (17) by striking “or” at the*  
7        *end;*

8                *(2) in paragraph (18) by striking the period and*  
9        *inserting “; or”; and*

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

11                *“(19) incurred to pay a debt that is non-*  
12        *dischargeable under any other paragraph of this sub-*  
13        *section.”.*

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

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

18                *“(C) for purposes of subparagraph (A), con-*  
19        *sumer debts owed to a single creditor incurred by*  
20        *an individual debtor on or within 90 days before*  
21        *the order for relief under this title are presumed*  
22        *to be nondischargeable, except that such pre-*  
23        *sumption shall not apply to consumer debts owed*  
24        *to a single creditor which are incurred for nec-*  
25        *essaries and aggregate \$250 or less.”.*

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

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

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

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

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

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

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

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

14 “(2) *When the debtor did not receive the consideration*  
15 *for the claim held by a creditor, the stay provided by sub-*  
16 *section (a) does not apply to such creditor, notwithstanding*  
17 *subsection (c), to the extent the creditor proceeds against*  
18 *the individual which received such consideration or against*  
19 *property not in the possession of the debtor which secures*  
20 *such claim, but this subsection shall not apply if the debtor*  
21 *is primarily obligated to pay the creditor in whole or in*  
22 *part with respect to the claim under a legally binding sepa-*  
23 *ration agreement, or divorce or dissolution decree, with re-*  
24 *spect to such individual or the person who has possession*  
25 *of such property.*”

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

8 **SEC. 145. CREDIT EXTENSIONS WITHOUT A REASONABLE**  
9                   **EXPECTATION OF REPAYMENT MADE NON-**  
10                   **DISCHARGEABLE.**

11       Section 523(a)(2) of title 11, United States Code, is  
12 amended—

13           (1) in subparagraph (A) by striking “or actual  
14 fraud,” and inserting “actual fraud, or use of a credit  
15 or charge card or other device to access a credit line  
16 without a reasonable expectation or ability to repay  
17 unless access to such credit, credit or charge card or  
18 other device to access the credit line was extended  
19 without an application therefor and reasonable eval-  
20 uation of the debtor’s ability to repay,” and

21           (2) in subparagraph (B)(iv) by striking “with  
22 intent to deceive” and inserting “without taking rea-  
23 sonable steps to ensure the accuracy of the statement”.

1 **SEC. 146. DEBTS FOR ALIMONY, MAINTENANCE, AND SUP-**  
2 **PORT.**

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

5 (1) *in section 523(a)(18)—*

6 (A) *by inserting “(including interest)” after*  
7 *“law”; and*

8 (B) *in subparagraph (A) by striking “and”*  
9 *at the end and inserting “or”; and*

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

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

15 (1) *in paragraph (19) by striking “or” at the*  
16 *end;*

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

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

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

23 “(21) *under subsection (a) with respect to the*  
24 *withholding, suspension, or restriction of drivers’ li-*  
25 *ceses, professional and occupational licenses, and*  
26 *recreational licenses pursuant to State law as speci-*

1 *fied in section 466(a)(15) of the Social Security Act*  
2 *or with respect to the reporting of overdue support*  
3 *owed by an absent parent to any consumer reporting*  
4 *agency as specified in section 466(a)(7) of the Social*  
5 *Security Act.”.*

6 (c) *CONTINUED LIABILITY OF PROPERTY.*—Section  
7 *522(c) of title 11, United States Code, is amended by strik-*  
8 *ing “section 523(a)(1) or 523(a)(5)” and inserting “para-*  
9 *graph (1), (5), or (18) of section 523(a)”.*

10 (d) *PRIORITY OF CLAIMS.*—Section 507(a) of title 11,  
11 *United States Code, as amended by section 141, is amend-*  
12 *ed—*

13 (1) *in paragraph (10) by striking “(10) Tenth”*  
14 *and inserting “(11) Eleventh”;*

15 (2) *in paragraph (9) by striking “(9) Ninth”*  
16 *and inserting “(10) Tenth”;*

17 (3) *in paragraph (8) by striking “(8) Eighth ”*  
18 *and inserting “(9) Ninth”;* and

19 (4) *by inserting after paragraph (7) the follow-*  
20 *ing:*

21 *“(8) Eighth, allowed unsecured claims for debts*  
22 *that are nondischargeable under section 523(a)(18).”.*

23 (e) *CONFIRMATION OF PLANS.*—Title 11 of the United  
24 *States Code is amended—*

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

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

9           (2) in section 1225(a)—

10           (A) in paragraph (5) by striking “and” at  
11 the end;

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

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

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

22           (3) in section 1325(a)—

23           (A) in paragraph (5) by striking “and” at  
24 the end;

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

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

4           “(7) if the debtor is required by a judicial or ad-  
5           ministrative order to pay alimony to, maintenance  
6           for, or support of a spouse, former spouse, or child of  
7           the debtor, the debtor has paid all amounts payable  
8           under such order for alimony, maintenance, or sup-  
9           port that are due after the date the petition is filed.”.

10          (f) DISCHARGE.—Title 11 United States Code is  
11 amended—

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

20           (2) in section 1328(a) by inserting “and only  
21           after a debtor who is required by a judicial or admin-  
22           istrative order to pay alimony to, maintenance for, or  
23           support of a spouse, former spouse, or child of the  
24           debtor, certifies that all amounts payable under such  
25           order for alimony, maintenance, or support that are

1       *due after the date the petition is filed have been*  
2       *paid,” after “plan,” the 1st place it appears.*

3       (g) *CONFORMING AMENDMENTS.*—Section 456(b) of the  
4 *Social Security Act (42 U.S.C. 656(b)) is amended—*

5             (1) *by inserting “, including interest,” after*  
6       *“Code”;*

7             (2) *by striking “and” and inserting “or”; and*

8             (3) *by striking “released by a discharge” and in-*  
9       *serting “dischargeable”.*

10 ***SEC. 147. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR***  
11 ***ALIMONY, MAINTENANCE, AND SUPPORT.***

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

14             “(5) *to a spouse, former spouse, or child of the*  
15 *debtor for alimony to, maintenance for, or support of*  
16 *such spouse or child, or to a spouse, former spouse, or*  
17 *child of the debtor, to the extent such debt is the result*  
18 *of a property settlement agreement, a hold harmless*  
19 *agreement, or any other type of debt that is not in*  
20 *the nature of alimony, maintenance, or support in*  
21 *connection with or incurred by the debtor in the*  
22 *course of a separation agreement, divorce decree, any*  
23 *modifications thereof, or other order of a court of*  
24 *record, determination made in accordance with State*  
25 *or territorial law by a governmental unit, but not to*

1        *the extent that such debt is assigned to another entity,*  
 2        *voluntarily, by operation of law, or otherwise (other*  
 3        *than debts assigned pursuant to section 408(a)(3) of*  
 4        *the Social Security Act, or such debt that has been as-*  
 5        *signed to the Federal government, or to a State or po-*  
 6        *litical subdivision of such State, or the creditor’s at-*  
 7        *torney);”.*

8        **SEC. 148. OTHER EXCEPTIONS TO DISCHARGE.**

9        *Section 523 of title 11, United States Code, is amend-*  
 10     *ed—*

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

13             *(2) in subsection (a)(7) by inserting “(including*  
 14     *property or funds required to be disgorged)” after*  
 15     *“penalty”; and*

16             *(3) in subsection (c)(1) by striking “(6), or (15)”*  
 17     *and inserting “or (6)”.*

18     **SEC. 149. FEES ARISING FROM CERTAIN OWNERSHIP INTER-**

19                     **ESTS.**

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

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

24             *(2) by striking “ownership or” and inserting*  
 25     *“ownership,”;*

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

3           (4) *by striking “but only” and all that follows*  
4           *through “such period,” and inserting “or a lot in a*  
5           *homeowners association, for as long as the debtor or*  
6           *the trustee has a legal, equitable, or possessory owner-*  
7           *ship interest in such unit, such corporation, or such*  
8           *lot,”.*

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

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

15 **SEC. 150. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

16           (a) *AMENDMENT.*—Title 11 of the United States Code,  
17 *as amended by section 116, is amended by inserting after*  
18 *section 528 the following:*

19 **“§ 529. Protection of child support and alimony pay-**  
20 **ments after the discharge**

21           *“Notwithstanding the provisions of the constitution or*  
22 *law of any State providing a different priority, any debts*  
23 *of the individual who has received a discharge under this*  
24 *title to a spouse, former spouse, or child for alimony to,*  
25 *maintenance for, or support of such spouse or child, in con-*

1 *nection with a separation agreement, divorce decree, or*  
 2 *other order of a court of record, determination made in ac-*  
 3 *cordance with State or territorial law by a governmental*  
 4 *unit, or property settlement agreement, but not to the extent*  
 5 *that such debt—*

6           “(1) *is assigned to another entity, voluntarily,*  
 7           *by operation of law, or otherwise; or*

8           “(2) *includes a liability designated as alimony,*  
 9           *maintenance, or support, unless such liability is actu-*  
 10          *ally in the nature of alimony, maintenance, or sup-*  
 11          *port,*

12 *shall have priority in payment and collection over a credi-*  
 13 *tor’s claim which is not discharged in the individual’s case*  
 14 *pursuant to paragraph (2), (4), or (14) of section 523(a)*  
 15 *of this title, but such priority shall not affect the priority*  
 16 *of any consensual lien, mortgage, or security interest secur-*  
 17 *ing such creditor’s claim.”.*

18          **(b) CONFORMING AMENDMENT.**—*The table of sections*  
 19 *of chapter 5 of title 11, United States Code, as amended*  
 20 *by section 116, is amended by inserting after the item relat-*  
 21 *ing to section 528 the following:*

          “529. *Protection of child support and alimony.*”.

22 **SEC. 151. ADEQUATE PROTECTION FOR INVESTORS.**

23          **(a) DEFINITION.**—*Section 101 of title 11, United*  
 24 *States Code, is amended by inserting after paragraph (48)*  
 25 *the following:*

1           “(48A) ‘securities self regulatory organization’  
2           *means either a securities association registered with*  
3           *the Securities and Exchange Commission pursuant to*  
4           *section 15A of the Securities Exchange Act of 1934 or*  
5           *a national securities exchange registered with the Se-*  
6           *curities and Exchange Commission pursuant to sec-*  
7           *tion 6 of the Securities Exchange Act of 1934;”.*

8           (b) *AUTOMATIC STAY.*—Section 362(b) of title 11,  
9           *United States Code, as amended by sections 130 and 146,*  
10          *is amended—*

11                 (1) *in paragraph (20) by striking “or” at the*  
12                 *end;*

13                 (2) *in paragraph (21) by striking the period at*  
14                 *the end and a inserting “; or”; and*

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

16                 “(22) *under subsection (a) of this section, of the*  
17                 *commencement or continuation of an investigation or*  
18                 *action by a securities self regulatory organization to*  
19                 *enforce such organization’s regulatory power; of the*  
20                 *enforcement of an order or decision, other than for*  
21                 *monetary sanctions, obtained in an action by the se-*  
22                 *curities self regulatory organization to enforce such*  
23                 *organization’s regulatory power; or of any act taken*  
24                 *by the securities self regulatory organization to delist,*

1       delete, or refuse to permit quotation of any stock that  
2       does not meet applicable regulatory requirements.”.

3       ***Subtitle E—Adequate Protections***  
4       ***for Lessors***

5       ***SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED***  
6       ***PERSONAL PROPERTY BY ASSUMPTION.***

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

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

14      “(2) In the case of an individual under chapter 7, the  
15      debtor may notify the creditor in writing that the debtor  
16      desires to assume the lease. Upon being so notified, the cred-  
17      itor may, at its option, notify the debtor that it is willing  
18      to have the lease assumed by the debtor and may condition  
19      such assumption on cure of any outstanding default on  
20      terms set by the lessor. If within 30 days of such notice  
21      the debtor notifies the lessor in writing that the lease is as-  
22      sumed, the liability under the lease will be assumed by the  
23      debtor and not by the estate. The stay under section 362  
24      of this title and the injunction under section 524(a)(2) of

1 *this title shall not be violated by notification of the debtor*  
2 *and negotiation of cure under this subsection.*

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

12 **SEC. 162. ADEQUATE PROTECTION OF LESSORS AND PUR-**  
13 **CHASE MONEY SECURED CREDITORS.**

14       *Title 11, United States Code, is amended by adding*  
15 *after section 1307 the following:*

16 **“§ 1307A. Adequate protection in chapter 13 cases**

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

1           “(A) *the time at which the creditor begins to re-*  
2           *ceive actual payments under the plan; or*

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

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

14          “(b) *The court may, after notice and hearing, change*  
15          *the amount and timing of the adequate protection payment*  
16          *under subsection (a), but in no event shall it be payable*  
17          *less frequently than monthly or in an amount less than the*  
18          *reasonable depreciation of such property month to month.*

19          “(c) *Notwithstanding section 1326(b) of this title, if*  
20          *a confirmed plan provides for payments to a creditor or*  
21          *lessor described in subsection (a) and provides that pay-*  
22          *ments to such creditor or lessor under the plan will be de-*  
23          *ferred until payment of amounts described in section*  
24          *1326(b) of this title, the payments required hereunder shall*

1 *nonetheless be continued in addition to plan payments until*  
2 *actual payments to the creditor begin under the plan.*

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

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

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

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

1 **Subtitle F—Bankruptcy Relief Less**  
 2 **Frequently Available for Repeat**  
 3 **Filers**

4 **SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DIS-**  
 5 **CHARGES.**

6 *Title 11, United States Code, is amended—*

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

9 *(2) in section 1328 by adding at the end the fol-*  
 10 *lowing:*

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

16 **Subtitle G—Exemptions**

17 **SEC. 181. EXEMPTIONS.**

18 *Section 522(b)(2)(A) of title 11, United States Code,*  
 19 *is amended—*

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

21 *(2) by striking “, or for a longer portion of such*  
 22 *180-day period than in any other place”.*

23 **SEC. 182. LIMITATION.**

24 *Section 522 of title 11, United States Code, is amend-*  
 25 *ed—*

1           (1) *in subsection (b)(2)(A) by inserting “subject*  
2           *to subsection (n),” before “any property”; and*

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

4           “(n)(1) *Except as provided in paragraph (2), as a re-*  
5           *sult of electing under subsection (b)(2)(A) to exempt prop-*  
6           *erty under State or local law, a debtor may not exempt*  
7           *any interest to the extent that such interest exceeds \$100,000*  
8           *in value, in the aggregate, in—*

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

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

14           “(C) *a burial plot for the debtor or a dependent*  
15           *of the debtor.*

16           “(2) *The limitation under paragraph (1) shall not*  
17           *apply to an exemption claimed under subsection (b)(2)(A)*  
18           *by a family farmer for the principal residence of that farm-*  
19           *er.”.*

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

4 **SEC. 201. LIMITATION RELATING TO THE USE OF FEE EXAM-**  
5                   **INERS.**

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

8           “(e) *The court may not appoint any person to examine*  
9 *any request for compensation or reimbursement payable*  
10 *under this section.*”.

11 **SEC. 202. SHARING OF COMPENSATION.**

12           *Section 504 of title 11, United States Code, is amended*  
13 *by adding at the end the following:*

14           “(c) *This section shall not apply with respect to shar-*  
15 *ing, or agreeing to share, compensation with a bona fide*  
16 *public service attorney referral program that operates in*  
17 *accordance with non-Federal law regulating attorney refer-*  
18 *ral services and with rules of professional responsibility ap-*  
19 *plicable to attorney acceptance of referrals.*”.

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

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

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

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

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

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

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

16 *“(3) The court on its own motion or on request of a*  
17 *party in interest, and after notice and a hearing, may order*  
18 *a change in membership of a committee appointed under*  
19 *subsection (a) if necessary to ensure adequate representation*  
20 *of creditors or of equity security holders.”.*

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

22 *Section 1125 of title 11, United States Code, is amend-*  
23 *ed by adding at the end the following:*

24 *“(g) Notwithstanding subsection (b), an acceptance or*  
25 *rejection of the plan may be solicited from a holder of a*  
26 *claim or interest if such solicitation complies with applica-*

1 *ble nonbankruptcy law and if such holder was solicited be-*  
2 *fore the commencement of the case in a manner complying*  
3 *with applicable nonbankruptcy law.”.*

4 **SEC. 207. PREFERENCES.**

5 *Section 547(c) of title 11, United States Code, is*  
6 *amended—*

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

9 *“(2) to the extent that such transfer was in pay-*  
10 *ment of a debt incurred by the debtor in the ordinary*  
11 *course of business or financial affairs of the debtor*  
12 *and the transferee, and such transfer was—*

13 *“(A) made in the ordinary course of busi-*  
14 *ness or financial affairs of the debtor and the*  
15 *transferee; or*

16 *“(B) made according to ordinary business*  
17 *terms;”;*

18 *(2) in paragraph (7) by striking “or” at the end;*

19 *(3) in paragraph (8) by striking the period at*  
20 *the end and inserting “; or”; and*

21 *(4) by adding at the end the following:*

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

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

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

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

6 *Section 1121(d) of title 11, United States Code, is*  
7 *amended—*

8 *(1) by striking “On” and inserting “(1) Subject*  
9 *to paragraph (1), on”; and*

10 *(2) by adding at the end the following:*

11 *“(2)(A) Such 120-day period may not be extended be-*  
12 *yond a date that is 18 months after the date of the order*  
13 *for relief under this chapter.*

14 *“(B) Such 180-day period may not be extended beyond*  
15 *a date that is 20 months after the date of the order for relief*  
16 *under this chapter.”.*

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

18 *(a) EXTENSION OF PERIOD.—Section 1221 of title 11,*  
19 *United States Code, is amended by inserting “to any period*  
20 *not later than 150 days after the order for relief” after “pe-*  
21 *riod”.*

22 *(b) RELIEF FROM THE STAY.—Section 362(d) of title*  
23 *11, United States Code, is amended—*

24 *(1) in paragraph (2) by striking “or” at the end;*

25 *(2) in paragraph (3) by striking the period at*  
26 *the end and inserting “; or”; and*

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

2           “(4) *with respect to a stay of an act against*  
3           *property under subsection (a) of a debtor in a case*  
4           *under chapter 12, by a creditor whose claim is se-*  
5           *cured by an interest in such property, unless the debt-*  
6           *or has filed a plan in accordance with section 1221.”.*

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

10        **“§ 1232. Special treatment of secured claims**

11           “(a)(1) *A claim secured by a lien on property of the*  
12           *estate shall be allowed or disallowed under section 502 of*  
13           *this title the same as if the holder of such claim had recourse*  
14           *against the debtor on account of such claim, whether or not*  
15           *such holder has such recourse, unless—*

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

18                “(B) *such holder does not have such recourse,*  
19                *and such property is sold under section 363 of this*  
20                *title or is to be sold under the plan.*

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

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

24                “(B) *the holder of a claim has recourse against*  
25           *the debtor on account of such claim, and such prop-*

1        *erty is sold under section 363 of this title or is to be*  
 2        *sold under the plan.*

3        *“(b) If such an election is made to apply this sub-*  
 4        *section, then notwithstanding section 506(a) of this title,*  
 5        *such claim is a secured claim to the extent such claim is*  
 6        *allowed.”.*

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

*“1232. Special treatment of secured claims.”.*

10    **SEC. 211. CASES ANCILLARY TO FOREIGN PROCEEDINGS IN-**  
 11                            **VOLVING FOREIGN INSURANCE COMPANIES**  
 12                            **THAT ARE ENGAGED IN THE BUSINESS OF IN-**  
 13                            **SURANCE OR REINSURANCE IN THE UNITED**  
 14                            **STATES.**

15        *Section 304 of title 11, United States Code, is amend-*  
 16        *ed—*

17                    *(1) in subsection (b) by striking “provisions of*  
 18        *subsection (c)” and inserting “subsections (c) and*  
 19        *(d)”;* and

20                    *(2) by adding at the end the following:*

21        *“(d) The court may not grant to a foreign representa-*  
 22        *tive of the estate of an insurance company that is not orga-*  
 23        *nized under the law of a State and that is engaged in the*

1 *business of insurance, or reinsurance, in the United States*  
2 *relief under subsection (b) with respect to property that is—*

3           “(1) *a deposit required by a State law relating*  
4 *to insurance or reinsurance;*

5           “(2) *a multibeneficiary trust required by a State*  
6 *law relating to insurance or reinsurance to protect*  
7 *holders of insurance policies issued in the United*  
8 *States or to protect holders or claimants against such*  
9 *policies; or*

10           “(3) *a multibeneficiary trust authorized by a*  
11 *State law relating to insurance or reinsurance to*  
12 *allow a person engaged in the business of insurance*  
13 *in the United States—*

14                   “(A) *to cede reinsurance to such an insur-*  
15 *ance company; and*

16                   “(B) *to treat so ceded reinsurance as an*  
17 *asset, or deduction from liability, in financial*  
18 *statements of such person.”.*

19 **SEC. 212. REJECTION OF EXECUTORY CONTRACTS AFFECT-**  
20 **ING INTELLECTUAL PROPERTY RIGHTS TO**  
21 **RECORDINGS OF ARTISTIC PERFORMANCE.**

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

24           “(5) *The rejection by the trustee of an executory con-*  
25 *tract affecting the intellectual property rights to recordings*

1 *of artistic performance shall not in any way diminish or*  
2 *impair any applicable nonbankruptcy law rights to enforce*  
3 *noncompetition provision or provisions regarding the ren-*  
4 *dering of exclusive services as a performing artist that may*  
5 *be contained in such contracts, except that such enforcement*  
6 *shall be subject to the nondebtor party providing to the debt-*  
7 *or notice of an offer to perform the contract under all of*  
8 *its original terms. The rights to enforce such noncompeti-*  
9 *tion or exclusivity provision shall not be treated as claims*  
10 *that can be discharged under this title.”.*

11 **SEC. 213. UNEXPIRED LEASES OF NONRESIDENTIAL REAL**  
12 **PROPERTY.**

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

15 *“(4) In a case under any chapter of this title, if the*  
16 *trustee does not assume or reject an unexpired lease of non-*  
17 *residential real property under which the debtor is the lessee*  
18 *before the earlier of (A) 120 days after the date of the order*  
19 *for relief, or (B) the entry of an order confirming a plan,*  
20 *then such lease is deemed rejected, and the trustee shall im-*  
21 *mediately surrender such nonresidential real property to*  
22 *the lessor but in no event shall such time period exceed 120*  
23 *days. Notwithstanding the immediately preceding sentence,*  
24 *and provided no plan has been confirmed, upon debtor’s*  
25 *motion, and after notice and a hearing, the court may with-*

1 *in such 120-day period extend the 120-day period by a pe-*  
2 *riod not to exceed 150 days, contingent upon written con-*  
3 *sent of the affected lessor or with the approval of the court,*  
4 *and provided trustee has timely performed all post-petition*  
5 *lease obligations, but in no circumstance shall such period*  
6 *extend beyond the earlier of (i) 270 days from the date of*  
7 *the order for relief or (ii) the entry of an order approving*  
8 *a disclosure statement, without the consent of the lessor.”.*

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

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

12 *“(14) ‘disinterested person’ means a person*  
13 *that—*

14 *“(A) is not a creditor, an equity security*  
15 *holder, or an insider;*

16 *“(B) is not and was not, within 2 years be-*  
17 *fore the date of the filing of the petition, a direc-*  
18 *tor, officer, or employee of the debtor; and*

19 *“(C) does not have an interest materially*  
20 *adverse to the interest of the estate or of any*  
21 *class of creditors or equity security holders, by*  
22 *reason of any direct or indirect relationship to,*  
23 *connection with, or interest in, the debtor, or for*  
24 *any other reason;”.*

1       **Subtitle B—Specific Provisions**

2               **CHAPTER 1—SMALL BUSINESS**

3                       **BANKRUPTCY**

4   **SEC. 231. DEFINITIONS.**

5       (a) *DEFINITIONS.*—Section 101 of title 11, United  
6 States Code, is amended by striking paragraph (51C) and  
7 inserting the following:

8               “(51C) ‘small business case’ means a case filed  
9 under chapter 11 of this title in which the debtor is  
10 a small business debtor;

11              “(51D) ‘small business debtor’ means—

12                      “(A) a person (including affiliates of such  
13 person that are also debtors under this title) that  
14 has aggregate noncontingent, liquidated secured  
15 and unsecured debts as of the date of the petition  
16 or the order for relief in an amount not more  
17 than \$5,000,000 (excluding debts owed to 1 or  
18 more affiliates or insiders); or

19                      “(B) a debtor of the kind described in para-  
20 graph (51B) but without regard to the amount  
21 of such debtor’s debts;

22                      except that if a group of affiliated debtors has aggre-  
23 gate noncontingent liquidated secured and unsecured  
24 debts greater than \$5,000,000 (excluding debt owed to



1           “(4)(A) the court may conditionally approve a  
2           disclosure statement subject to final approval after  
3           notice and a hearing;

4           “(B) acceptances and rejections of a plan may be  
5           solicited based on a conditionally approved disclosure  
6           statement if the debtor provides adequate information  
7           to each holder of a claim or interest that is solicited,  
8           but a conditionally approved disclosure statement  
9           shall be mailed not less than 20 days before the date  
10          of the hearing on confirmation of the plan; and

11          “(C) the hearing on the disclosure statement may  
12          be combined with the hearing on confirmation of a  
13          plan.”.

14   **SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND**  
15                                   **PLANS.**

16          *The Advisory Committee on Bankruptcy Rules of the*  
17          *Judicial Conference of the United States shall, within a rea-*  
18          *sonable period of time after the date of the enactment of*  
19          *this Act, propose for adoption standard form disclosure*  
20          *statements and plans of reorganization for small business*  
21          *debtors (as defined in section 101) of title 11, United States*  
22          *Code, as amended by this Act), designed to achieve a prac-*  
23          *tical balance between—*

24                 (1) *the reasonable needs of the courts, the United*  
25                 *States trustee or bankruptcy administrator, creditors,*

1       *and other parties in interest for reasonably complete*  
2       *information; and*

3               *(2) economy and simplicity for debtors.*

4   **SEC. 234. UNIFORM NATIONAL REPORTING REQUIREMENTS.**

5       *(a) REPORTING REQUIRED.—(1) Title 11 of the*  
6   *United States Code is amended by inserting after section*  
7   *307 the following:*

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

9       *“A small business debtor shall file periodic financial*  
10   *and other reports containing information including—*

11               *“(1) the debtor’s profitability, that is, approxi-*  
12       *mately how much money the debtor has been earning*  
13       *or losing during current and recent fiscal periods;*

14               *“(2) reasonable approximations of the debtor’s*  
15       *projected cash receipts and cash disbursements over a*  
16       *reasonable period;*

17               *“(3) comparisons of actual cash receipts and dis-*  
18       *bursements with projections in prior reports;*

19               *“(4) whether the debtor is—*

20                       *“(A) in compliance in all material respects*  
21       *with postpetition requirements imposed by this*  
22       *title and the Federal Rules of Bankruptcy Proce-*  
23       *dure; and*

24                       *“(B) timely filing tax returns and paying*  
25       *taxes and other administrative claims when due,*

1           *and, if not, what the failures are and how, at*  
2           *what cost, and when the debtor intends to rem-*  
3           *edy such failures; and*

4           “(5) *such other matters as are in the best inter-*  
5           *ests of the debtor and creditors, and in the public in-*  
6           *terest in fair and efficient procedures under chapter*  
7           *11 of this title.”.*

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

          “308. *Debtor reporting requirements.*”.

11          (b) *EFFECTIVE DATE.*—*The amendments made by sub-*  
12          *section (a) shall take effect 60 days after the date on which*  
13          *rules are prescribed pursuant to section 2075, title 28,*  
14          *United States Code to establish forms to be used to comply*  
15          *with section 308 of title 11, United States Code, as added*  
16          *by subsection (a).*

17          **SEC. 235. UNIFORM REPORTING RULES AND FORMS.**

18          *After consultation with the Director of the Executive*  
19          *for United States Trustees and with the Judicial Conference*  
20          *of the United States, the Attorney General of the United*  
21          *States shall propose for adoption amended Federal Rules*  
22          *of Bankruptcy Procedure and Official Bankruptcy Forms*  
23          *to be used by small business debtors to comply with section*  
24          *308 of title 11, United States Code, as added by section*  
25          *234 of this Act to achieve a practical balance between—*

1           (1) *the reasonable needs of the courts, the United*  
2           *States trustee or bankruptcy administrator, creditors,*  
3           *and other parties in interest for reasonably complete*  
4           *information; and*

5           (2) *economy and simplicity for debtors in cases*  
6           *under such title.*

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

8           (a) *DUTIES IN CHAPTER 11 CASES.*—*Title 11 of the*  
9           *United States Code is amended by inserting after section*  
10          *1114 the following:*

11       **“§1115. Duties of trustee or debtor in possession in**  
12                               **small business cases**

13           *“In a small business case, a trustee or the debtor in*  
14           *possession, in addition to the duties provided in this title*  
15           *and as otherwise required by law, shall—*

16                       *“(1) append to the voluntary petition or, in an*  
17           *involuntary case, file within 3 days after the date of*  
18           *the order for relief—*

19                               *“(A) its most recent balance sheet, statement*  
20           *of operations, cash-flow statement, Federal in-*  
21           *come tax return; or*

22                               *“(B) a statement made under penalty of*  
23           *perjury that no balance sheet, statement of oper-*  
24           *ations, or cash-flow statement has been prepared*  
25           *and no Federal tax return has been filed;*

1           “(2) attend, through its senior management per-  
2           sonnel and counsel, meetings scheduled by the court or  
3           the United States trustee, including initial debtor  
4           interviews, scheduling conferences, and meetings of  
5           creditors convened under section 341 of this title;

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

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

15          “(5) subject to section 363(c)(2), maintain insur-  
16          ance customary and appropriate to the industry;

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

18          “(B) subject to section 363(c)(2), timely pay all  
19          administrative expense tax claims, except those being  
20          contested by appropriate proceedings being diligently  
21          prosecuted; and

22          “(C) subject to section 363(c)(2), establish 1 or  
23          more separate deposit accounts not later than 10  
24          business days after the date of order for relief (or as  
25          soon thereafter as possible if all banks contacted de-

1        *cline the business) and deposit therein, not later than*  
2        *1 business day after receipt thereof, all taxes payable*  
3        *for periods beginning after the date the case is com-*  
4        *menced that are collected or withheld by the debtor for*  
5        *governmental units; and*

6                *“(7) allow the United States trustee or bank-*  
7        *ruptcy administrator, or its designated representa-*  
8        *tive, to inspect the debtor’s business premises, books,*  
9        *and records at reasonable times, after reasonable*  
10       *prior written notice, unless notice is waived by the*  
11       *debtor.”.*

12        *(b) TECHNICAL AMENDMENT.—The table of sections of*  
13       *chapter 11, United States Code, is amended by inserting*  
14       *after the item relating to section 1114 the following:*

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

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

16        *Section 1121(e) of title 11, United States Code, is*  
17       *amended to read as follows:*

18                *“(e) In a small business case—*

19                        *“(1) only the debtor may file a plan until after*  
20        *90 days after the date of the order for relief, unless*  
21        *shortened on request of a party in interest made dur-*  
22        *ing the 90-day period, or unless extended as provided*  
23        *by this subsection, after notice and hearing the court,*  
24        *for cause, orders otherwise;*

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

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

8                   “(A) the debtor, after providing notice to  
9                   parties in interest (including the United States  
10                  trustee), demonstrates by a preponderance of the  
11                  evidence that it is more likely than not that the  
12                  court will confirm a plan within a reasonable  
13                  time;

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

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

18 **SEC. 238. PLAN CONFIRMATION DEADLINE.**

19           Section 1129 of title 11, United States Code, is amend-  
20           ed by adding at the end the following:

21           “(e) In a small business case, the plan shall be con-  
22           firmed not later than 150 days after the date of the order  
23           for relief unless such 150-day period is extended as provided  
24           in section 1121(e)(3) of this title.”.

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

2 *Section 105(d) of title 11, United States Code, is*  
3 *amended—*

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

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

7 *“(3) in a small business case, not extend the time*  
8 *periods specified in sections 1121(e) and 1129(e) of*  
9 *this title except as provided in section 1121(e)(3) of*  
10 *this title.”.*

11 **SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND**  
12 **BANKRUPTCY ADMINISTRATOR.**

13 *(a) DUTIES OF THE UNITED STATES TRUSTEE.—Sec-*  
14 *tion 586(a) of title 28, United States Code, as amended by*  
15 *section 111, is amended—*

16 *(1) in paragraph (3)—*

17 *(A) in subparagraph (G) by striking “and”*  
18 *at the end;*

19 *(B) by redesignating subparagraph (H) as*  
20 *subparagraph (I); and*

21 *(C) by inserting after subparagraph (G) the*  
22 *following:*

23 *“(H) in small business cases (as defined in*  
24 *section 101 of title 11), performing the addi-*  
25 *tional duties specified in title 11 pertaining to*  
26 *such cases;”.*

1           (2) *in paragraph (6) by striking “and” at the*  
2 *end,*

3           (3) *in paragraph (7) by striking the period at*  
4 *the end and inserting “; and”, and*

5           (4) *by inserting after paragraph (7) the follow-*  
6 *ing:*

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

8                   “(A) *conduct an initial debtor interview as*  
9 *soon as practicable after the entry of order for*  
10 *relief but before the first meeting scheduled under*  
11 *section 341(a) of title 11 at which time the*  
12 *United States trustee shall begin to investigate*  
13 *the debtor’s viability, inquire about the debtor’s*  
14 *business plan, explain the debtor’s obligations to*  
15 *file monthly operating reports and other required*  
16 *reports, attempt to develop an agreed scheduling*  
17 *order, and inform the debtor of other obligations;*

18                   “(B) *when determined to be appropriate*  
19 *and advisable, visit the appropriate business*  
20 *premises of the debtor and ascertain the state of*  
21 *the debtor’s books and records and verify that the*  
22 *debtor has filed its tax returns;*

23                   “(C) *review and monitor diligently the*  
24 *debtor’s activities, to identify as promptly as*

1           *possible whether the debtor will be unable to con-*  
2           *firm a plan; and*

3           *“(D) in cases where the United States trust-*  
4           *ee finds material grounds for any relief under*  
5           *section 1112 of title 11 move the court promptly*  
6           *for relief.”.*

7           ***(b) DUTIES OF THE BANKRUPTCY ADMINISTRATOR.—***  
8           *In a small business case (as defined in section 101 of title*  
9           *11 of the United States Code), the bankruptcy adminis-*  
10          *trator shall perform the duties specified in section 586(a)(6)*  
11          *of title 28 of the United States Code.*

12          **SEC. 241. SCHEDULING CONFERENCES.**

13          *Section 105(d) of title 11, United States Code, is*  
14          *amended—*

15                 *(1) in the matter preceding paragraph (1) by*  
16                 *striking “, may”;*

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

19                         *“(1) shall hold such status conferences as are*  
20                         *necessary to further the expeditious and economical*  
21                         *resolution of the case; and”;* and

22                         *(3) in paragraph (2) by striking “unless incon-*  
23                         *sistent with another provision of this title or with ap-*  
24                         *plicable Federal Rules of Bankruptcy Procedure,” and*  
25                         *inserting “may”.*

1 **SEC. 242. SERIAL FILER PROVISIONS.**

2 *Section 362 of title 11, United States Code, is amend-*  
3 *ed—*

4 *(1) in subsection (i) as so redesignated by section*  
5 *124—*

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

8 *(B) by adding at the end the following:*

9 *“(2) If such violation is based on an action taken by*  
10 *an entity in the good-faith belief that subsection (h) applies*  
11 *to the debtor, then recovery under paragraph (1) against*  
12 *such entity shall be limited to actual damages.”; and*

13 *(2) by inserting after subsection (i), as redesign-*  
14 *ated by section 124, the following:*

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

19 *“(1) is a debtor in a small business case pending*  
20 *at the time the petition is filed;*

21 *“(2) was a debtor in a small business case which*  
22 *was dismissed for any reason by an order that became*  
23 *final in the 2-year period ending on the date of the*  
24 *order for relief entered with respect to the petition;*

25 *“(3) was a debtor in a small business case in*  
26 *which a plan was confirmed in the 2-year period end-*

1        *ing on the date of the order for relief entered with re-*  
2        *spect to the petition; or*

3                *“(4) is an entity that has succeeded to substan-*  
4        *tially all of the assets or business of a small business*  
5        *debtor described in subparagraph (A), (B), or (C) un-*  
6        *less the debtor proves, by a preponderance of the evi-*  
7        *dence, that the filing of such petition resulted from*  
8        *circumstances beyond the control of the debtor not*  
9        *foreseeable at the time the case then pending was*  
10       *filed; and that it is more likely than not that the*  
11       *court will confirm a feasible plan, but not a liquidat-*  
12       *ing plan, within a reasonable time.”.*

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

15        *(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVER-*  
16        *SION.—Section 1112(b) of title 11, United States Code, is*  
17        *amended to read as follows:*

18                *“(b)(1) Except as provided in paragraph (2), in sub-*  
19        *section (c), and in section 1104(a)(3) of this title, on request*  
20        *of a party in interest, and after notice and a hearing, the*  
21        *court shall convert a case under this chapter to a case under*  
22        *chapter 7 of this title or dismiss a case under this chapter,*  
23        *whichever is in the best interest of creditors and the estate,*  
24        *if the movant establishes cause.*

1       “(2) *The relief provided in paragraph (1) shall not be*  
2 *granted if the debtor or another party in interest objects*  
3 *and establishes, by a preponderance of the evidence that—*

4               “(A) *it is more likely than not that a plan will*  
5 *be confirmed within a time as fixed by this title or*  
6 *by order of the court entered pursuant to section*  
7 *1121(e)(3), or within a reasonable time if no time has*  
8 *been fixed; and*

9               “(B) *if the reason is an act or omission of the*  
10 *debtor that—*

11                       “(i) *there exists a reasonable justification*  
12 *for the act or omission; and*

13                       “(ii) *the act or omission will be cured with-*  
14 *in a reasonable time fixed by the court not to ex-*  
15 *ceed 30 days after the court decides the motion,*  
16 *unless the movant expressly consents to a con-*  
17 *tinuance for a specific period of time, or compel-*  
18 *ling circumstances beyond the control of the debt-*  
19 *or justify an extension.*

20       “(3) *For purposes of this subsection, cause includes—*

21               “(A) *substantial or continuing loss to or diminu-*  
22 *tion of the estate;*

23               “(B) *gross mismanagement of the estate;*

24               “(C) *failure to maintain appropriate insurance;*

1           “(D) *unauthorized use of cash collateral harmful*  
2           *to 1 or more creditors;*

3           “(E) *failure to comply with an order of the*  
4           *court;*

5           “(F) *failure timely to satisfy any filing or re-*  
6           *porting requirement established by this title or by any*  
7           *rule applicable to a case under this chapter;*

8           “(G) *failure to attend the meeting of creditors*  
9           *convened under section 341(a) of this title or an ex-*  
10          *amination ordered under rule 2004 of the Federal*  
11          *Rules of Bankruptcy Procedure;*

12          “(H) *failure timely to provide information or at-*  
13          *tend meetings reasonably requested by the United*  
14          *States trustee;*

15          “(I) *failure timely to pay taxes due after the*  
16          *date of the order for relief or to file tax returns due*  
17          *after the order for relief;*

18          “(J) *failure to file a disclosure statement, or to*  
19          *file or confirm a plan, within the time fixed by this*  
20          *title or by order of the court;*

21          “(K) *failure to pay any fees or charges required*  
22          *under chapter 123 of title 28;*

23          “(L) *revocation of an order of confirmation*  
24          *under section 1144 of this title, and denial of con-*

1 *firmation of another plan or of a modified plan*  
2 *under section 1129 of this title;*

3 “(M) *inability to effectuate substantial con-*  
4 *summation of a confirmed plan;*

5 “(N) *material default by the debtor with respect*  
6 *to a confirmed plan; and*

7 “(O) *termination of a plan by reason of the oc-*  
8 *currence of a condition specified in the plan.*

9 “(4) *The court shall commence the hearing on any mo-*  
10 *tion under this subsection not later than 30 days after filing*  
11 *of the motion, and shall decide the motion within 15 days*  
12 *after commencement of the hearing, unless the movant ex-*  
13 *pressly consents to a continuance for a specific period of*  
14 *time or compelling circumstances prevent the court from*  
15 *meeting the time limits established by this paragraph.”.*

16 (b) *ADDITIONAL GROUNDS FOR APPOINTMENT OF*  
17 *TRUSTEE.—Section 1104(a) of title 11, United States Code,*  
18 *is amended—*

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

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

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

23 “(3) *if grounds exist to convert or dismiss the*  
24 *case under section 1112 of this title, but the court de-*

1 *termines that the appointment of a trustee is in the*  
2 *best interests of creditors and the estate.”.*

3 **CHAPTER 2—SINGLE ASSET REAL ESTATE**

4 **SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.**

5 *Section 101(51B) of title 11, United States Code, is*  
6 *amended to read as follows:*

7 *“(51B) ‘single asset real estate’ means undevel-*  
8 *oped real property or other real property constituting*  
9 *a single property or project, other than residential*  
10 *real property with fewer than 4 residential units, on*  
11 *which is located a single development or project which*  
12 *property or project generates substantially all of the*  
13 *gross income of a debtor and on which no substantial*  
14 *business is being conducted by a debtor, or by a com-*  
15 *monly controlled group of entities all of which are*  
16 *concurrently debtors in a case under chapter 11 of*  
17 *this title, other than the business of operating the real*  
18 *property and activities incidental thereto;”.*

19 **SEC. 252. PAYMENT OF INTEREST.**

20 *Section 362(d)(3) of title 11, United States Code, is*  
21 *amended—*

22 *(1) by inserting “or 30 days after the court de-*  
23 *termines that the debtor is subject to this paragraph,*  
24 *whichever is later” after “90-day period)”; and*

1           (2) by amending subparagraph (B) to read as  
2 follows:

3           “(B) the debtor has commenced monthly  
4 payments (which payments may, in the debtor’s  
5 sole discretion, notwithstanding section 363(c)(2)  
6 of this title, be made from rents or other income  
7 generated before or after the commencement of  
8 the case by or from the property) to each creditor  
9 whose claim is secured by such real estate (other  
10 than a claim secured by a judgment lien or by  
11 an unmatured statutory lien), which payments  
12 are in an amount equal to interest at the then-  
13 applicable nondefault contract rate of interest on  
14 the value of the creditor’s interest in the real es-  
15 tate; or”.

16           **TITLE III—MUNICIPAL**  
17           **BANKRUPTCY PROVISIONS**

18           **SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETI-**  
19           **TION.**

20           (a) **TECHNICAL AMENDMENT RELATING TO MUNICI-**  
21 **PALITIES.**—Section 921(d) of title 11, United States Code,  
22 is amended by inserting “notwithstanding section 301(b)”  
23 before the period at the end.

24           (b) **CONFORMING AMENDMENT.**—Section 301 of title  
25 11, United States Code, is amended—

1           (1) by inserting “(a)” before “A voluntary”; and  
2           (2) by amending the last sentence to read as fol-  
3       lows:

4           “(b) The commencement of a voluntary case under a  
5 chapter of this title constitutes an order for relief under such  
6 chapter.”.

7                           **TITLE IV—BANKRUPTCY**  
8                           **ADMINISTRATION**  
9                           **Subtitle A—General Provisions**

10 **SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS**  
11                           **BEFORE THE MEETING OF CREDITORS IN IN-**  
12                           **DIVIDUAL CASES.**

13           Section 341(a) of title 11, United States Code, is  
14 amended by inserting after the first sentence the following:  
15 “If the debtor is an individual in a voluntary case under  
16 chapter 7, 11, or 13, the meeting of creditors shall not be  
17 convened earlier than 60 days (or later than 90 days) after  
18 the date of the order for relief, unless the court, after notice  
19 and hearing, determines unusual circumstances justify an  
20 earlier meeting.”.

21 **SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING**  
22                           **OF CREDITORS.**

23           Section 341(c) of title 11, United States Code, is  
24 amended by inserting after the first sentence the following:  
25 “Notwithstanding any local court rule, provision of a State

1 *constitution, any other State or Federal nonbankruptcy*  
2 *law, or other requirement that representation at the meeting*  
3 *of creditors under subsection (a) be by an attorney, a credi-*  
4 *tor holding a consumer debt or its representatives (which*  
5 *representatives may include an entity or an employee of*  
6 *an entity and may be a representative for more than 1 cred-*  
7 *itor) shall be permitted to appear at and participate in*  
8 *the meeting of creditors in a case under chapter 7 or 13*  
9 *either alone or in conjunction with an attorney for the cred-*  
10 *itor. Nothing in this subsection shall be construed to require*  
11 *any creditor to be represented by an attorney at any meet-*  
12 *ing of creditors.”.*

13 **SEC. 403. FILING PROOFS OF CLAIM.**

14 *Section 501 of title 11, United States Code, is amended*  
15 *by adding at the end the following:*

16 *“(e) In a case under chapter 7 or 13, a proof of claim*  
17 *or interest is deemed filed under this section for any claim*  
18 *or interest that appears in the schedules filed under section*  
19 *521(a)(1) of this title, except a claim or interest that is*  
20 *scheduled as disputed, contingent, or unliquidated.”.*

21 **SEC. 404. AUDIT PROCEDURES.**

22 *(a) AMENDMENT.—Section 586 of title 28, United*  
23 *States Code, as amended by sections 111 and 240, is amend-*  
24 *ed—*

1           (1) by amending subsection (a)(6) to read as fol-  
2           lows:

3           “(6) make such reports as the Attorney General  
4           directs, including the results of audits performed  
5           under subsection (f),”;

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

7           “(f)(1) The Attorney General shall establish procedures  
8           for the auditing of the accuracy and completeness of peti-  
9           tions, schedules, and other information which the debtor is  
10          required to provide under sections 521 and 1322, and, if  
11          applicable, section 111, of title 11 in individual cases filed  
12          under chapter 7 or 13 of such title. Such audits shall be  
13          in accordance with generally accepted auditing standards  
14          and performed by independent certified public accountants  
15          or independent licensed public accountants. Such proce-  
16          dures shall—

17           “(A) establish a method of selecting appropriate  
18           qualified persons to contract with the United States  
19           trustee to perform such audits;

20           “(B) establish a method of randomly selecting  
21           cases to be audited according to generally accepted  
22           audit standards, provided that no less than 1 out of  
23           every 100 cases in each Federal judicial district shall  
24           be selected for audit;

1           “(C) require audits for schedules of income and  
2           expenses which reflect higher than average variances  
3           from the statistical norm of the district in which the  
4           schedules were filed;

5           “(D) establish procedures for reporting the re-  
6           sults of such audits and any material misstatement of  
7           income, expenditures or assets of a debtor to the At-  
8           torney General, the United States Attorney and the  
9           court, as appropriate, and for providing public infor-  
10          mation no less than annually on the aggregate results  
11          of such audits including the percentage of cases, by  
12          district, in which a material misstatement of income  
13          or expenditures is reported; and

14          “(E) establish procedures for fully funding such  
15          audits.

16          “(2) The United States trustee for each district is au-  
17          thorized to contract with auditors to perform audits in cases  
18          designated by the United States trustee according to the  
19          procedures established under paragraph (1) of this sub-  
20          section.

21          “(3) According to procedures established under para-  
22          graph (1), upon request of a duly appointed auditor, the  
23          debtor shall cause the accounts, papers, documents, finan-  
24          cial records, files and all other papers, things or property  
25          belonging to the debtor as the auditor requests and which

1 *are reasonably necessary to facilitate an audit to be made*  
2 *available for inspection and copying.*

3       “(4) *The report of each such audit shall be filed with*  
4 *the court, the Attorney General, and the United States At-*  
5 *torney, as required under procedures established by the At-*  
6 *torney General under paragraph (1). If a material*  
7 *misstatement of income or expenditures or of assets is re-*  
8 *ported, a statement specifying such misstatement shall be*  
9 *filed with the court and the United States trustee shall give*  
10 *notice thereof to the creditors in the case and, in an appro-*  
11 *priate case, in the opinion of the United States trustee, re-*  
12 *quires investigation with respect to possible criminal viola-*  
13 *tions, the United States Attorney for the district.”.*

14       (b) *EFFECTIVE DATE.*—*The amendments made by this*  
15 *section shall take effect 18 months after the date of the en-*  
16 *actment of this Act.*

17 **SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7**  
18 **AND 13 CASES.**

19       *Section 342 of title 11, United States Code, is amend-*  
20 *ed—*

21       (1) *in subsection (c)—*

22               (A) *by striking “, but the failure of such no-*  
23 *tice to contain such information shall not invali-*  
24 *date the legal effect of such notice”; and*

25               (B) *by adding the following at the end:*

1 *“If the credit agreement between the debtor and the creditor*  
2 *or the last communication before the filing of the petition*  
3 *in a voluntary case from the creditor to a debtor who is*  
4 *an individual states an account number of the debtor which*  
5 *is the current account number of the debtor with respect*  
6 *to any debt held by the creditor against the debtor, the debt-*  
7 *or shall include such account number in any notice to the*  
8 *creditor required to be given under this title. If the creditor*  
9 *has specified to the debtor an address at which the creditor*  
10 *wishes to receive correspondence regarding the debtor’s ac-*  
11 *count, any notice to the creditor required to be given by*  
12 *the debtor under this title shall be given at such address.*  
13 *For the purposes of this section, ‘notice’ shall include, but*  
14 *shall not be limited to, any correspondence from the debtor*  
15 *to the creditor after the commencement of the case, any*  
16 *statement of the debtor’s intention under section 521(a)(2)*  
17 *of this title, notice of the commencement of any proceeding*  
18 *in the case to which the creditor is a party, and any notice*  
19 *of the hearing under section 1324.”;*

20 *(2) by adding at the end the following:*

21 *“(d) At any time, a creditor in a case of an individual*  
22 *debtor under chapter 7 or 13 may file with the court and*  
23 *serve on the debtor a notice of the address to be used to*  
24 *notify the creditor in that case. Five days after receipt of*  
25 *such notice, if the court or the debtor is required to give*

1 *the creditor notice, such notice shall be given at that ad-*  
2 *dress.*

3       “(e) *An entity may file with the court a notice stating*  
4 *its address for notice in cases under chapters 7 and 13.*  
5 *After 30 days following the filing of such notice, any notice*  
6 *in any case filed under chapter 7 or 13 given by the court*  
7 *shall be to that address unless specific notice is given under*  
8 *subsection (d) with respect to a particular case.*

9       “(f) *Notice given to a creditor other than as provided*  
10 *in this section shall not be effective notice until it has been*  
11 *brought to the attention of the creditor. If the creditor has*  
12 *designated a person or department to be responsible for re-*  
13 *ceiving notices concerning bankruptcy cases and has estab-*  
14 *lished reasonable procedures so that bankruptcy notices re-*  
15 *ceived by the creditor will be delivered to such department*  
16 *or person, notice will not be brought to the attention of the*  
17 *creditor until received by such person or department. No*  
18 *sanction under section 362(h) of this title or any other sanc-*  
19 *tion which a court may impose on account of violations*  
20 *of the stay under section 362(a) of this title or failure to*  
21 *comply with section 542 or 543 of this title may be imposed*  
22 *on any action of the creditor unless the action takes place*  
23 *after the creditor has received notice of the commencement*  
24 *of the case effective under this section.”.*

1 **SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER**  
2 **INFORMATION.**

3 *Section 521 of title 11, United States Code, is amend-*  
4 *ed—*

5 *(1) by inserting “(a)” before “The”;*

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

8 *“(1) file—*

9 *“(A) a list of creditors, and*

10 *“(B) unless the court orders otherwise—*

11 *“(i) a schedule of assets and liabilities;*

12 *“(ii) a schedule of current income and*  
13 *current expenditures;*

14 *“(iii) a statement of the debtor’s finan-*  
15 *cial affairs;*

16 *“(iv) copies of all payment advices or*  
17 *other evidence of payment, if any, received*  
18 *by the debtor from any employer of the*  
19 *debtor in the period 60 days prior to the fil-*  
20 *ing of the petition;*

21 *“(v) a statement of the amount of pro-*  
22 *jected monthly net income, itemized to show*  
23 *how calculated;*

24 *“(vi) if applicable, any statement*  
25 *under paragraphs (3) and (4) of section*  
26 *109(h);*

1           “(vii) a statement disclosing any rea-  
2           sonably anticipated increase in income or  
3           expenditures over the next 12 months; and

4           “(viii) a certificate, if applicable—

5                   “(I) of an attorney whose name is  
6                   on the petition as the attorney for the  
7                   debtor, or of any bankruptcy petition  
8                   preparer who signed the petition pur-  
9                   suant to section 110(b)(1) of this title,  
10                  indicating that such attorney or bank-  
11                  ruptcy petition preparer delivered to  
12                  the debtor any notice required by sec-  
13                  tion 342(b)(1) of this title; or

14                   “(II) if no attorney for the debtor  
15                   is indicated and no bankruptcy peti-  
16                   tion preparer signed the petition of the  
17                   debtor, that such notice was obtained  
18                   and read by the debtor;” and

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

20           “(b) At any time, a creditor in a case of an individual  
21           debtor under chapter 7 or 13 may file with the court and  
22           serve on the debtor notice that the creditor requests the peti-  
23           tion, schedules, and statement of financial affairs filed by  
24           the debtor in the case. At any time, a creditor in a case  
25           under chapter 13 of this title may file with the court and

1 *serve on the debtor notice that the creditor requests the plan*  
2 *filed by the debtor in the case. Within 10 days of the first*  
3 *such request in a case under this subsection for the petition,*  
4 *schedules, and statement of financial affairs and the first*  
5 *such request for the plan under this subsection, the debtor*  
6 *shall serve on that creditor a conformed copy of the re-*  
7 *quested documents or plan and any amendments thereto as*  
8 *of that date, and shall thereafter promptly serve on that*  
9 *creditor at the time filed with the court—*

10           “(1) *any requested document or plan which is*  
11           *not filed with the court at the time requested; and*

12           “(2) *any amendment to any requested document*  
13           *or plan.*

14           “(c)(1) *An individual debtor in a case under chapter*  
15 *7 or 13 shall provide to the United States trustee—*

16           “(A) *copies of all Federal tax returns (including*  
17 *any schedules and attachments) filed by the debtor for*  
18 *the 3 most recent tax years preceding the order for re-*  
19 *lief;*

20           “(B) *at the time the debtor files them with the*  
21 *Commissioner of Internal Revenue, all Federal tax re-*  
22 *turns (including any schedules and attachments) for*  
23 *the debtor’s tax years ending while such case is pend-*  
24 *ing; and*

1           “(C) at the time the debtor files them with the  
2           Commissioner of Internal Revenue, all amendments to  
3           the tax returns (including schedules and attachments)  
4           described in subparagraphs (A) and (B).

5           “(2)(A) The United States trustee shall make such Fed-  
6           eral tax returns (including schedules, attachments, and  
7           amendments) available to any party in interest for inspec-  
8           tion and copying not later than 10 days after receiving a  
9           request by such party.

10          “(B) If the United States trustee does not comply with  
11          subparagraph (A), on the motion of such party, the court  
12          shall issue an order compelling the United States trustee  
13          to comply with subparagraph (A).

14          “(d) A debtor in a case under chapter 13 of this title  
15          shall file, from a time which is the later of 90 days after  
16          the close of the debtor’s tax year or 1 year after the order  
17          for relief unless a plan has then been confirmed, and there-  
18          after on or before 45 days before each anniversary of the  
19          confirmation of the plan until the case is closed, a statement  
20          subject to the penalties of perjury by the debtor of the debt-  
21          or’s income and expenditures in the preceding tax year and  
22          monthly net income, showing how calculated. Such state-  
23          ment shall disclose the amount and sources of income of  
24          the debtor, the identity of any persons responsible with the  
25          debtor for the support of any dependents of the debtor, and

1 *any persons who contributed and the amount contributed*  
2 *to the household in which the debtor resides. Such tax re-*  
3 *turns, amendments and statement of income and expendi-*  
4 *tures shall be available to the United States trustee, any*  
5 *bankruptcy administrator, any trustee and any party in*  
6 *interest for inspection and copying.”.*

7 **SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES**  
8 **TIMELY OR PROVIDE REQUIRED INFORMA-**  
9 **TION.**

10 *Section 521 of title 11, United States Code, as amend-*  
11 *ed by section 406, is amended by adding at the end the*  
12 *following:*

13 *“(e) Notwithstanding section 707(a) of this title, if an*  
14 *individual debtor in a voluntary case under chapter 7 or*  
15 *13 fails to provide all of the information required under*  
16 *subsections (a)(1) and (c)(1)(A) within 45 days after the*  
17 *filing of the petition, the case shall be automatically dis-*  
18 *missed effective on the 46th day after the filing of the peti-*  
19 *tion without the need for any order of court, but any party*  
20 *in interest may request the court to enter an order dismiss-*  
21 *ing the case and the court shall, if so requested, enter an*  
22 *order of dismissal within 5 days of such request. Upon re-*  
23 *quest of the debtor made within 45 days after the filing*  
24 *of the petition, the court may allow the debtor up to an*  
25 *additional 15 days to provide the information required*

1 *under subsections (a)(1) and (c)(1)(A) if the court finds*  
2 *compelling justification for doing so.*

3       “(f) *If an individual debtor in a case under chapter*  
4 *7 or 13 fails to perform any of the duties imposed by sub-*  
5 *sections (b), (c)(1)(B), (c)(1)(C), and (d), any party in in-*  
6 *terest may request that the court order the debtor to comply.*  
7 *Within 10 days of such request the court shall order that*  
8 *the debtor do so within a period of time set by the court*  
9 *no longer than 30 days. If the debtor does not comply with*  
10 *that order within the period of time set by the court, the*  
11 *court shall, on request of any party in interest certifying*  
12 *that the debtor has not so complied, enter an order dismiss-*  
13 *ing the case within 5 days of such request.”.*

14 **SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON**  
15 **CONFIRMATION OF THE PLAN.**

16       *Section 1324 of title 11, United States Code, is amend-*  
17 *ed—*

18           (1) *by striking “After” and inserting the follow-*  
19 *ing:*

20       “(a) *Except as provided in subsection (b) and after”;*  
21 *and*

22           (2) *by adding at the end the following:*

23       “(b) *The hearing on confirmation of the plan may be*  
24 *held not earlier than 20 days, and not later than 45 days,*

1 *after the meeting of creditors under section 341(a) of this*  
2 *title.”.*

3 **SEC. 409. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**

4 **IN CERTAIN CASES.**

5 *Title 11, United States Code, is amended—*

6 *(1) by amending section 1322(d) to read as fol-*  
7 *lows:*

8 *“(d) If the total current monthly income of the debtor*  
9 *and in a joint case, the debtor and the debtor’s spouse com-*  
10 *bined, is not less than the highest national median family*  
11 *income reported for a family of equal or lesser size or, in*  
12 *the case of a household of 1 person, not less than the na-*  
13 *tional median household income for 1 earner, the plan may*  
14 *not provide for payments over a period that is longer than*  
15 *5 years, unless the court, for cause, approves a longer pe-*  
16 *riod, but the court may not approve a period that exceeds*  
17 *7 years. If the total current monthly income of the debtor*  
18 *or in a joint case, the debtor and the debtor’s spouse com-*  
19 *bined, is less than the highest national median family in-*  
20 *come reported for a family of equal or lesser size, or in the*  
21 *case of a household of 1 person less than the national me-*  
22 *dian household income for 1 earner, the plan may not pro-*  
23 *vide for payments over a period that is longer than 3 years,*  
24 *unless the court, for cause, approves a longer period, but*

1 *the court may not approve a period that is longer than 5*  
2 *years.”;*

3 *(2) in section 1329—*

4 *(A) by striking in subsection (c) “three*  
5 *years” and inserting “the applicable commit-*  
6 *ment period under section 1325(b)(1)(B)(ii)”*  
7 *and by striking “five years” and inserting*  
8 *“maximum duration period”; and*

9 *(B) by inserting at the end of subsection (c)*  
10 *the following:*

11 *“The maximum duration period shall be 5 years if the total*  
12 *current monthly income of the debtor, and in a joint case,*  
13 *the debtor and the debtor’s spouse combined, is not less than*  
14 *the highest national median family income reported for a*  
15 *family of equal or lesser size or, in the case of a household*  
16 *of 1 person, not less than the national median household*  
17 *income for 1 earner, as of the date of the modification and*  
18 *shall be 3 years if the total current monthly income is less*  
19 *than the highest national median family income reported*  
20 *for a family of equal or lesser size or, in the case of a house-*  
21 *hold of 1 person, less than the national median household*  
22 *income for 1 earner as of the date of the modification.”.*

1 **SEC. 410. SENSE OF THE CONGRESS REGARDING EXPAN-**  
2 **SION OF RULE 9011 OF THE FEDERAL RULES**  
3 **OF BANKRUPTCY PROCEDURE.**

4 *It is the sense of the Congress that rule 9011 of the*  
5 *Federal Rules of Bankruptcy Procedure (11 U.S.C. App)*  
6 *should be modified to include a requirement that all docu-*  
7 *ments (including schedules), signed and unsigned, submit-*  
8 *ted to the court or to a trustee by debtors who represent*  
9 *themselves and debtors who are represented by an attorney*  
10 *be submitted only after the debtor or the debtor's attorney*  
11 *has made reasonable inquiry to verify that the information*  
12 *contained in such documents is well grounded in fact, and*  
13 *is warranted by existing law or a good-faith argument for*  
14 *the extension, modification, or reversal of existing law.*

15 **SEC. 411. JURISDICTION OF COURTS OF APPEALS.**

16 *(a) JURISDICTION.—Title 28 of the United States Code*  
17 *is amended—*

18 *(1) by striking section 158;*

19 *(2) by inserting after section 1292 the following:*

20 **“§ 1293. Bankruptcy appeals**

21 *“The courts of appeals (other the United States Court*  
22 *of Appeals for the Federal Circuit) shall have jurisdiction*  
23 *of appeals from the following:*

24 *“(1) Final orders and judgments of bankruptcy*  
25 *courts entered under—*

1           “(A) section 157(b) of this title in core pro-  
2           ceedings arising under title 11, or arising in or  
3           related to a case under title 11; or

4           “(B) section 157(c)(2) of this title in pro-  
5           ceedings referred to such courts.

6           “(2) Final orders and judgments of district  
7           courts entered under section 157 of this title in—

8           “(A) core proceedings arising under title 11,  
9           or arising in or related to a case under title 11;  
10          or

11          “(B) proceedings that are not core proceed-  
12          ings, but that are otherwise related to a case  
13          under title 11.

14          “(3) Orders and judgments of bankruptcy courts  
15          or district courts entered under section 105 of title 11,  
16          or the refusal to enter an order or judgment under  
17          such section.

18          “(4) Orders of bankruptcy courts or district  
19          courts entered under section 1104(a) or 1121(d) of  
20          title 11, or the refusal to enter an order under such  
21          section.

22          “(5) An interlocutory order of a bankruptcy  
23          court or district court entered in a case under title  
24          11, in a proceeding arising under title 11, or in a

1 *proceeding arising in or related to a case under title*  
2 *11, if—*

3 *“(A) such court is of the opinion that—*

4 *“(i) such order involves a controlling*  
5 *question of law as to which there is substan-*  
6 *tial ground for difference of opinion; and*

7 *“(ii) an immediate appeal from such*  
8 *order may materially advance the ultimate*  
9 *termination of such case or such proceeding;*  
10 *or*

11 *“(B) the court of appeals that would have*  
12 *jurisdiction of an appeal of a final order entered*  
13 *in such case or such proceeding permits, in its*  
14 *discretion, appeal to be taken from such inter-*  
15 *locutory order.”; and*

16 *(3) in—*

17 *(A) the table of sections for chapter 6 by*  
18 *striking the item relating to section 158; and*

19 *(B) the table of sections for chapter 83 by*  
20 *inserting after the item relating to section 1292*  
21 *the following:*

*“1293. Bankruptcy appeals.”.*

22 *(b) CONFORMING AMENDMENTS.—(1) Section 305(c) of*  
23 *title 11, the United States Code, is amended by striking*

1 “158(d), 1291, or 1292” and inserting “1291, 1292, or  
2 1293”.

3 (2) *Title 28, United States Code, is amended—*

4 (A) *in subsections (b)(1) and (c)(2) of section*  
5 *157 by striking “section 158” and inserting “section*  
6 *1293”;*

7 (B) *in section 1334(d) by striking “158(d), 1291,*  
8 *or 1292” and inserting “1291, 1292, or 1293”; and*

9 (C) *in section 1452(b) by striking “158(d), 1291,*  
10 *or 1292” and inserting “1291, 1292, or 1293”.*

11 **SEC. 412. ESTABLISHMENT OF OFFICIAL FORMS.**

12 *The Judicial Conference of the United States shall es-*  
13 *tablish official forms to facilitate compliance with the*  
14 *amendments made by sections 101 and 102.*

15 **SEC. 413. ELIMINATION OF CERTAIN FEES PAYABLE IN**

16 **CHAPTER 11 BANKRUPTCY CASES.**

17 (a) *AMENDMENTS.—Section 1930(a)(6) of title 28,*  
18 *United States Code, is amended—*

19 (1) *in the 1st sentence by striking “until the case*  
20 *is converted or dismissed, whichever occurs first”, and*

21 (2) *in the 2d sentence—*

22 (A) *by striking “The” and inserting “Until*  
23 *the plan is confirmed or the case is converted*  
24 *(whichever occurs first) the”, and*

1           (B) by striking “less than \$300,000;” and  
2           inserting “less than \$300,000. Until the case is  
3           converted or dismissed (whichever occurs first  
4           and without regard to confirmation of the plan)  
5           the fee shall be”.

6           (b) *DELAYED EFFECTIVE DATE.*—The amendments  
7           made by subsection (a) shall take effect on October 1, 1999.

## 8           ***Subtitle B—Data Provisions***

### 9           ***SEC. 441. IMPROVED BANKRUPTCY STATISTICS.***

10          (a) *AMENDMENT.*—Title 28, United States Code, is  
11          amended by adding after section 158 the following new sec-  
12          tion:

#### 13          ***“§ 159. Bankruptcy statistics***

14          *“The Director of the Executive Office for United States*  
15          *Trustees shall compile statistics regarding individual debt-*  
16          *ors with primarily consumer debts seeking relief under*  
17          *chapters 7, 11, and 13 of title 11. Such statistics shall be*  
18          *in a form prescribed by the Administrative Office of the*  
19          *United States Courts. The Office shall compile such statis-*  
20          *tics, and make them public, and report annually to the Con-*  
21          *gress on the information collected, and on its analysis there-*  
22          *of, no later than October 31 of each year. Such compilation*  
23          *shall be itemized by chapter of title 11, shall be presented*  
24          *in the aggregate and for each district, and shall include*  
25          *the following:*

1           “(1) *Total assets and total liabilities of such*  
2 *debtors, and in each category of assets and liabilities,*  
3 *as reported in the schedules prescribed pursuant to*  
4 *section 2075 of this title and filed by such debtors.*

5           “(2) *The current total monthly income, projected*  
6 *monthly net income, and average income and average*  
7 *expenses of such debtors as reported on the schedules*  
8 *and statements the debtor has filed under sections*  
9 *111, 521, and 1322 of title 11.*

10           “(3) *The aggregate amount of debt discharged in*  
11 *the reporting period, determined as the difference be-*  
12 *tween the total amount of debt and obligations of a*  
13 *debtor reported on the schedules and the amount of*  
14 *such debt reported in categories which are predomi-*  
15 *nantly nondischargeable.*

16           “(4) *The average time between the filing of the*  
17 *petition and the closing of the case.*

18           “(5) *The number of cases in the reporting period*  
19 *in which a reaffirmation was filed and the total num-*  
20 *ber of reaffirmations filed in that period, and of those*  
21 *cases in which a reaffirmation was filed, the number*  
22 *in which the debtor was not represented by an attor-*  
23 *ney, and of those the number of cases in which the re-*  
24 *affirmation was approved by the court.*

1           “(6) *With respect to cases filed under chapter 13*  
2           *of title 11—*

3                   “(A) *the number of cases in which a final*  
4                   *order was entered determining the value of prop-*  
5                   *erty securing a claim less than the claim, and*  
6                   *the total number of such orders in the reporting*  
7                   *period; and*

8                   “(B) *the number of cases dismissed for fail-*  
9                   *ure to make payments under the plan.*

10           “(7) *The number of cases in which the debtor*  
11           *filed another case within the 6 years previous to the*  
12           *filing.”.*

13           (b) *EFFECTIVE DATE.—The amendment made by sub-*  
14           *section (a) shall take effect 18 months after the date of the*  
15           *enactment of this Act.*

16   **SEC. 442. BANKRUPTCY DATA.**

17           (a) *AMENDMENT.—Title 28 of the United States Code*  
18           *is amended by inserting after section 589a the following:*

19   **“§ 589b. Bankruptcy data**

20                   “(a) *RULES.—The Attorney General shall, within a*  
21                   *reasonable time after the effective date of this section, issue*  
22                   *rules requiring uniform forms for (and from time to time*  
23                   *thereafter to appropriately modify and approve)—*

24                   “(1) *final reports by trustees in cases under*  
25                   *chapters 7, 12, and 13 of title 11; and*

1           “(2) *periodic reports by debtors in possession or*  
2           *trustees, as the case may be, in cases under chapter*  
3           *11 of title 11.*

4           “(b) *REPORTS.—All reports referred to in subsection*  
5           *(a) shall be designed (and the requirements as to place and*  
6           *manner of filing shall be established) so as to facilitate com-*  
7           *pilation of data and maximum possible access of the public,*  
8           *both by physical inspection at 1 or more central filing loca-*  
9           *tions, and by electronic access through the Internet or other*  
10           *appropriate media.*

11           “(c) *REQUIRED INFORMATION.—The information re-*  
12           *quired to be filed in the reports referred to in subsection*  
13           *(b) shall be that which is in the best interests of debtors*  
14           *and creditors, and in the public interest in reasonable and*  
15           *adequate information to evaluate the efficiency and practi-*  
16           *cality of the Federal bankruptcy system. In issuing rules*  
17           *proposing the forms referred to in subsection (a), the Attor-*  
18           *ney General shall strike the best achievable practical bal-*  
19           *ance between—*

20           *“(1) the reasonable needs of the public for infor-*  
21           *mation about the operational results of the Federal*  
22           *bankruptcy system; and*

23           *“(2) economy, simplicity, and lack of undue bur-*  
24           *den on persons with a duty to file reports.*

1           “(d) *FINAL REPORTS.*—*Final reports proposed for*  
2 *adoption by trustees under chapters 7, 12, and 13 of title*  
3 *11 shall, in addition to such other matters as are required*  
4 *by law or as the Attorney General in the discretion of the*  
5 *Attorney General, shall propose, include with respect to a*  
6 *case under such title—*

7                   “(1) *information about the length of time the*  
8 *case was pending;*

9                   “(2) *assets abandoned;*

10                  “(3) *assets exempted;*

11                  “(4) *receipts and disbursements of the estate;*

12                  “(5) *expenses of administration;*

13                  “(6) *claims asserted;*

14                  “(7) *claims allowed; and*

15                  “(8) *distributions to claimants and claims dis-*  
16 *charged without payment;*

17 *in each case by appropriate category and, in cases under*  
18 *chapters 12 and 13 of title 11, date of confirmation of the*  
19 *plan, each modification thereto, and defaults by the debtor*  
20 *in performance under the plan.*

21           “(e) *PERIODIC REPORTS.*—*Periodic reports proposed*  
22 *for adoption by trustees or debtors in possession under*  
23 *chapter 11 of title 11 shall, in addition to such other mat-*  
24 *ters as are required by law or as the Attorney General, in*

1 *the discretion of the Attorney General, shall propose, in-*  
2 *clude—*

3           “(1) *information about the standard industry*  
4 *classification, published by the Department of Com-*  
5 *merce, for the businesses conducted by the debtor;*

6           “(2) *length of time the case has been pending;*

7           “(3) *number of full-time employees as at the date*  
8 *of the order for relief and at end of each reporting pe-*  
9 *riod since the case was filed;*

10           “(4) *cash receipts, cash disbursements and prof-*  
11 *itability of the debtor for the most recent period and*  
12 *cumulatively since the date of the order for relief;*

13           “(5) *compliance with title 11, whether or not tax*  
14 *returns and tax payments since the date of the order*  
15 *for relief have been timely filed and made;*

16           “(6) *all professional fees approved by the court*  
17 *in the case for the most recent period and cumula-*  
18 *tively since the date of the order for relief (separately*  
19 *reported, in for the professional fees incurred by or on*  
20 *behalf of the debtor, between those that would have*  
21 *been incurred absent a bankruptcy case and those*  
22 *not); and*

23           “(7) *plans of reorganization filed and confirmed*  
24 *and, with respect thereto, by class, the recoveries of*  
25 *the holders, expressed in aggregate dollar values and,*

1       *in the case of claims, as a percentage of total claims*  
2       *of the class allowed.”.*

3       **(b) TECHNICAL AMENDMENT.**—*The table of sections of*  
4 *chapter 39 of title 28, United States Code, is amended by*  
5 *adding at the end the following:*

      “589b. *Bankruptcy data.*”.

6       **SEC. 443. SENSE OF THE CONGRESS REGARDING AVAIL-**  
7                                   **ABILITY OF BANKRUPTCY DATA.**

8       *It is the sense of the Congress that—*

9               (1) *the national policy of the United States*  
10       *should be that all data held by bankruptcy clerks in*  
11       *electronic form, to the extent such data reflects only*  
12       *public records (as defined in section 107 of title 11*  
13       *of the United States Code), should be released in a us-*  
14       *able electronic form in bulk to the public subject to*  
15       *such appropriate privacy concerns and safeguards as*  
16       *the Judicial Conference of the United States may de-*  
17       *termine; and*

18               (2) *there should be established a bankruptcy data*  
19       *system in which—*

20                       (A) *a single set of data definitions and*  
21       *forms are used to collect data nationwide; and*

22                       (B) *data for any particular bankruptcy*  
23       *case are aggregated in the same electronic record.*

**TITLE V—TAX PROVISIONS****SEC. 501. TREATMENT OF CERTAIN LIENS.**

(a) *TREATMENT OF CERTAIN LIENS.*—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting “(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)” after “under this title”;

(2) in subsection (b)(2), after “507(a)(1)”, insert “(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)”; and

(3) by adding at the end the following:

“(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

“(1) exhaust the unencumbered assets of the estate; and

“(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs

1       *and expenses of preserving or disposing of that prop-*  
2       *erty.*

3       “(f) *Notwithstanding the exclusion of ad valorem tax*  
4       *liens set forth in this section and subject to the requirements*  
5       *of subsection (e)—*

6               “(1) *claims for wages, salaries, and commissions*  
7       *that are entitled to priority under section 507(a)(3)*  
8       *of this title; or*

9               “(2) *claims for contributions to an employee ben-*  
10       *efit plan entitled to priority under section 507(a)(4)*  
11       *of this title,*

12       *may be paid from property of the estate which secures a*  
13       *tax lien, or the proceeds of such property.”.*

14       (b) *DETERMINATION OF TAX LIABILITY.—Section*  
15       *505(a)(2) of title 11, United States Code, is amended—*

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

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

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

21               “(C) *the amount or legality of any amount aris-*  
22       *ing in connection with an ad valorem tax on real or*  
23       *personal property of the estate, if the applicable pe-*  
24       *riod for contesting or redetermining that amount*



1 *arises from a debt or obligation owed or incurred by another*  
2 *individual, entity, or organization, or under a different*  
3 *name, the debtor shall identify such individual, entity, or-*  
4 *ganization, or name.*

5       “(h) *The clerk shall keep and update quarterly, in the*  
6 *form and manner as the Director of the Administrative Of-*  
7 *fice of the United States Courts prescribes, and make avail-*  
8 *able to debtors, a register in which a governmental unit*  
9 *may designate a safe harbor mailing address for service of*  
10 *notice in cases pending in the district. A governmental unit*  
11 *may file a statement with the clerk designating a safe har-*  
12 *bor address to which notices are to be sent, unless such gov-*  
13 *ernmental unit files a notice of change of address.”.*

14       (b) *ADOPTION OF RULES PROVIDING NOTICE.—The*  
15 *Advisory Committee on Bankruptcy Rules of the Judicial*  
16 *Conference shall, within a reasonable period of time after*  
17 *the date of the enactment of this Act, propose for adoption*  
18 *enhanced rules for providing notice to State, Federal, and*  
19 *local government units that have regulatory authority over*  
20 *the debtor or which may be creditors in the debtor’s case.*  
21 *Such rules shall be reasonably calculated to ensure that no-*  
22 *tice will reach the representatives of the governmental unit,*  
23 *or subdivision thereof, who will be the proper persons au-*  
24 *thorized to act upon the notice. At a minimum, the rules*  
25 *should require that the debtor—*

1           (1) *identify in the schedules and the notice, the*  
2           *subdivision, agency, or entity in respect of which such*  
3           *notice should be received;*

4           (2) *provide sufficient information (such as case*  
5           *captions, permit numbers, taxpayer identification*  
6           *numbers, or similar identifying information) to per-*  
7           *mit the governmental unit or subdivision thereof, en-*  
8           *titled to receive such notice, to identify the debtor or*  
9           *the person or entity on behalf of which the debtor is*  
10          *providing notice where the debtor may be a successor*  
11          *in interest or may not be the same as the person or*  
12          *entity which incurred the debt or obligation; and*

13          (3) *identify, in appropriate schedules, served to-*  
14          *gether with the notice, the property in respect of*  
15          *which the claim or regulatory obligation may have*  
16          *arisen, if any, the nature of such claim or regulatory*  
17          *obligation and the purpose for which notice is being*  
18          *given.*

19          (c) *EFFECT OF FAILURE OF NOTICE.—Section 342 of*  
20          *title 11, United States Code, as amended by subsection (a)*  
21          *and section 405, is amended by adding at the end the fol-*  
22          *lowing:*

23          “(i)(1) *A notice that does not comply with subsections*  
24          *(d) and (e) shall have no effect unless the debtor dem-*  
25          *onstrates, by clear and convincing evidence, that timely no-*

1 *tice was given in a manner reasonably calculated to satisfy*  
2 *the requirements of this section was given, and that—*

3 *“(A) either the notice was timely sent to the safe*  
4 *harbor address provided in the register maintained by*  
5 *the clerk of the district in which the case was pending*  
6 *for such purposes; or*

7 *“(B) no safe harbor address was provided in*  
8 *such list for the governmental unit and that an officer*  
9 *of the governmental unit who is responsible for the*  
10 *matter or claim had actual knowledge of the case in*  
11 *sufficient time to act.*

12 *“(2) No sanction under section 362(h) of this title or*  
13 *any other sanction which a court may impose on account*  
14 *of violations of the stay under section 362(a) of this title*  
15 *or failure to comply with section 542 or 543 of this title*  
16 *may be imposed unless the action takes place after notice*  
17 *of the commencement of the case as required by this section*  
18 *has been received.”.*

19 **SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF**  
20 **TAXES.**

21 *Section 505(b) of title 11, United States Code, is*  
22 *amended by striking “Unless” at the beginning of the second*  
23 *sentence thereof and inserting “If the request is made in*  
24 *the manner designated by the governmental unit and un-*  
25 *less”.*

1 **SEC. 505. RATE OF INTEREST ON TAX CLAIMS.**

2 Chapter 5 of title 11, United States Code, is amended  
3 by adding at the end the following:

4 **“§ 511. Rate of interest on tax claims**

5 “Notwithstanding any provision of this title that re-  
6 quires the payment of interest on a claim, if interest is re-  
7 quired to be paid on a tax claim, the rate of interest shall  
8 be as follows:

9 “(1) In the case of ad valorem tax claims, wheth-  
10 er secured or unsecured, other unsecured tax claims  
11 where interest is required to be paid under section  
12 726(a)(5) of this title and secured tax claims the rate  
13 shall be determined under applicable nonbankruptcy  
14 law.

15 “(2) In the case of unsecured claims for taxes  
16 arising before the date of the order for relief and paid  
17 under a plan of reorganization, the minimum rate of  
18 interest to be applied during the period after the fil-  
19 ing of the petition shall be the Federal short-term rate  
20 rounded to the nearest full percent, determined under  
21 section 1274(d) of the Internal Revenue Code of 1986,  
22 for the calendar month in which the plan is con-  
23 firmed, plus 3 percentage points.”.

1 **SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME PERI-**  
2 **ODS.**

3 *Section 507(a)(9)(A) of title 11, United States Code,*  
4 *as so redesignated, is amended—*

5 *(1) in clause (i) by inserting after “petition”*  
6 *and before the semicolon “, plus any time, plus 6*  
7 *months, during which the stay of proceedings was in*  
8 *effect in a prior case under this title”; and*

9 *(2) amend clause (ii) to read as follows:*

10 *“(i) assessed within 240 days before*  
11 *the date of the filing of the petition, exclu-*  
12 *sive of—*

13 *“(I) any time plus 30 days dur-*  
14 *ing which an offer in compromise with*  
15 *respect of such tax, was pending or in*  
16 *effect during such 240-day period;*

17 *“(II) any time plus 30 days dur-*  
18 *ing which an installment agreement*  
19 *with respect of such tax was pending*  
20 *or in effect during such 240-day pe-*  
21 *riod, up to 1 year; and*

22 *“(III) any time plus 6 months*  
23 *during which a stay of proceedings*  
24 *against collections was in effect in a*  
25 *prior case under this title during such*  
26 *240-day period.”.*

1 **SEC. 507. ASSESSMENT DEFINED.**

2       (a) *ASSESSMENT DEFINED FOR PRIORITY PUR-*  
3 *POSES.*—Section 101 of title 11, United States Code, is  
4 amended by inserting after paragraph (2) the following:

5           “(3) ‘assessment’—

6                   “(A) for purposes of State and local taxes,  
7                   means that point in time when all actions re-  
8                   quired have been taken so that thereafter a tax-  
9                   ing authority may commence an action to collect  
10                  the tax, and

11                   “(B) for Federal tax purposes has the mean-  
12                  ing given such term in the Internal Revenue  
13                  Code of 1986;

14                  and ‘assessed’ and ‘assessable’ shall be interpreted in  
15                  light of the definition of assessment in this para-  
16                  graph;”.

17       (b) *ASSESSMENT DEFINED FOR THE STAY OF PRO-*  
18 *CEEDINGS.*—Section 362(b)(9)(D) of title 11, United States  
19 Code, is amended by inserting after “the making of an as-  
20 sessment” the following: “as defined by applicable nonbank-  
21 ruptcy law notwithstanding the definition of an ‘assess-  
22 ment’ elsewhere in this title”.

23 **SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**  
24 **OTHER TAXES.**

25       Section 1328(a)(2) of title 11, United States Code, is  
26 amended by inserting “(1),” after “paragraph”.

1 **SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

2 *Section 1141(d) of title 11, United States Code, as*  
3 *amended by section 119A, is amended by adding at the end*  
4 *the following:*

5 *“(6) Notwithstanding the provisions of paragraph (1),*  
6 *the confirmation of a plan does not discharge a debtor*  
7 *which is a corporation from any debt for a tax or customs*  
8 *duty with respect to which the debtor made a fraudulent*  
9 *return or willfully attempted in any manner to evade or*  
10 *defeat such tax.”.*

11 **SEC. 510. THE STAY OF TAX PROCEEDINGS.**

12 *(a) THE SECTION 362 STAY LIMITED TO PREPETITION*  
13 *TAXES.—Section 362(a)(8) of title 11, United States Code,*  
14 *is amended by striking the period at the end and inserting*  
15 *“, in respect of a tax liability for a taxable period ending*  
16 *before the order for relief.”.*

17 *(b) THE APPEAL OF TAX COURT DECISIONS PER-*  
18 *MITTED.—Section 362(b)(9) of title 11, United States Code,*  
19 *is amended—*

20 *(1) in subparagraph (C) by striking “or” at the*  
21 *end,*

22 *(2) in subparagraph (D) by striking the period*  
23 *at the end and inserting “; or”, and*

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

25 *“(E) the appeal of a decision by a court or*  
26 *administrative tribunal which determines a tax*

1           *liability of the debtor without regard to whether*  
2           *such determination was made prepetition or*  
3           *postpetition.”.*

4 **SEC. 511. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**  
5           **CASES.**

6           *Section 1129(a)(9) of title 11, United States Code, is*  
7 *amended—*

8           (1) *in subparagraph (B) by striking “and” at*  
9 *the end; and*

10          (2) *in subparagraph (C)—*

11               (A) *by striking “deferred cash payments,*  
12 *over a period not exceeding six years after the*  
13 *date of assessment of such claim,” and inserting*  
14 *“regular installment payments in cash, but in*  
15 *no case with a balloon provision, and no more*  
16 *than three months apart, beginning no later*  
17 *than the effective date of the plan and ending on*  
18 *the earlier of five years after the petition date or*  
19 *the last date payments are to be made under the*  
20 *plan to unsecured creditors,”;*

21               (B) *by striking the period at the end and*  
22 *inserting “; and”; and*

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

24               “(D) *with respect to a secured claim which*  
25 *would be described in section 507(a)(8) of this*

1           *title but for its secured status, the holder of such*  
2           *claim will receive on account of such claim cash*  
3           *payments of not less than is required in sub-*  
4           *paragraph (C) and over a period no greater than*  
5           *is required in such subparagraph.”.*

6   **SEC. 512. THE AVOIDANCE OF STATUTORY TAX LIENS PRO-**  
7                                   **HIBITED.**

8           *Section 545(2) of title 11, United States Code, is*  
9           *amended by striking the semicolon at the end and inserting*  
10          *“, except where such purchaser is a purchaser described in*  
11          *section 6323 of the Internal Revenue Code of 1986 or simi-*  
12          *lar provision of State or local law;”.*

13   **SEC. 513. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**  
14                                   **NESS.**

15          *(a) PAYMENT OF TAXES REQUIRED.—Section 960 of*  
16          *title 28, United States Code, is amended—*

17                   *(1) by inserting “(a)” before “Any”; and*

18                   *(2) by adding at the end the following:*

19           *“(b) Such taxes shall be paid when due in the conduct*  
20          *of such business unless—*

21                   *“(1) the tax is a property tax secured by a lien*  
22                   *against property that is abandoned within a reason-*  
23                   *able time after the lien attaches, by the trustee of a*  
24                   *bankruptcy estate, pursuant to section 554 of title 11;*  
25                   *or*

1           “(2) payment of the tax is excused under a spe-  
2           cific provision of title 11.

3           “(c) In a case pending under chapter 7 of title 11,  
4           payment of a tax may be deferred until final distribution  
5           is made under section 726 of title 11 if—

6           “(1) the tax was not incurred by a trustee duly  
7           appointed under chapter 7 of title 11; or

8           “(2) before the due date of the tax, the court has  
9           made a finding of probable insufficiency of funds of  
10          the estate to pay in full the administrative expenses  
11          allowed under section 503(b) of title 11 that have the  
12          same priority in distribution under section 726(b) of  
13          title 11 as such tax.”.

14          (b) *PAYMENT OF AD VALOREM TAXES REQUIRED.*—  
15          Section 503(b)(1)(B) of title 11, United States Code, is  
16          amended in clause (i) by inserting after “estate,” and before  
17          “except” the following: “whether secured or unsecured, in-  
18          cluding property taxes for which liability is in rem only,  
19          in personam or both,”.

20          (c) *REQUEST FOR PAYMENT OF ADMINISTRATIVE EX-*  
21          *PENSE TAXES ELIMINATED.*—Section 503(b)(1) of title 11,  
22          United States Code, is amended by adding at the end the  
23          following:

24                 “(D) notwithstanding the requirements of sub-  
25                 section (a) of this section, a governmental unit shall

1       *not be required to file a request for the payment of*  
2       *a claim described in subparagraph (B) or (C);”.*

3       (d) *PAYMENT OF TAXES AND FEES AS SECURED*  
4       *CLAIMS.—Section 506 of title 11, United States Code, is*  
5       *amended—*

6             (1) *in subsection (b) by inserting “or State stat-*  
7             *ute” after “agreement”; and*

8             (2) *in subsection (c) by inserting “, including*  
9             *the payment of all ad valorem property taxes in re-*  
10            *spect of the property” before the period at the end.*

11       **SEC. 514. TARDILY FILED PRIORITY TAX CLAIMS.**

12       *Section 726(a)(1) of title 11, United States Code, is*  
13       *amended by striking “before the date on which the trustee*  
14       *commences distribution under this section” and inserting*  
15       *“on or before the earlier of 10 days after the mailing to*  
16       *creditors of the summary of the trustee’s final report or the*  
17       *date on which the trustee commences final distribution*  
18       *under this section”.*

19       **SEC. 515. INCOME TAX RETURNS PREPARED BY TAX AU-**  
20                               **THORITIES.**

21       *Section 523(a)(1)(B) of title 11, United States Code,*  
22       *is amended—*

23             (1) *by inserting “or equivalent report or notice,”*  
24             *after “a return,”;*

25             (2) *in clause (i)—*

1 (A) by inserting “or given” after “filed”;

2 and

3 (B) by striking “or” at the end;

4 (3) in clause (ii)—

5 (A) by inserting “or given” after “filed”;

6 (B) by inserting “, report, or notice” after

7 “return”; and

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

9 “(iii) for purposes of this subsection, a  
10 return—

11 “(I) must satisfy the requirements  
12 of applicable nonbankruptcy law, and  
13 includes a return prepared pursuant to  
14 section 6020(a) of the Internal Revenue  
15 Code of 1986, or similar State or local  
16 law, or a written stipulation to a judg-  
17 ment entered by a nonbankruptcy tri-  
18 bunal, but does not include a return  
19 made pursuant to section 6020(b) of  
20 the Internal Revenue Code of 1986, or  
21 similar State or local law, and

22 “(II) must have been filed in a  
23 manner permitted by applicable non-  
24 bankruptcy law; or”.

1 **SEC. 516. THE DISCHARGE OF THE ESTATE'S LIABILITY FOR**  
2 **UNPAID TAXES.**

3 *Section 505(b) of title 11, United States Code, is*  
4 *amended in the second sentence by inserting "the estate,"*  
5 *after "misrepresentation,".*

6 **SEC. 517. REQUIREMENT TO FILE TAX RETURNS TO CON-**  
7 **FIRM CHAPTER 13 PLANS.**

8 *(a) FILING OF PREPETITION TAX RETURNS REQUIRED*  
9 *FOR PLAN CONFIRMATION.—Section 1325(a) of title 11,*  
10 *United States Code, as amended by section 146, is amend-*  
11 *ed—*

12 *(1) in paragraph (6) by striking "and" at the*  
13 *end;*

14 *(2) in paragraph (7) by striking the period at*  
15 *the end and inserting "; and"; and*

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

17 *"(8) if the debtor has filed all Federal, State,*  
18 *and local tax returns as required by section 1308 of*  
19 *this title."*

20 *(b) ADDITIONAL TIME PERMITTED FOR FILING TAX*  
21 *RETURNS.—(1) Chapter 13 of title 11, United States Code,*  
22 *is amended by adding at the end the following:*

23 **"§ 1308. Filing of prepetition tax returns**

24 *"(a) On or before the day prior to the day on which*  
25 *the first meeting of the creditors is convened under section*  
26 *341(a) of this title, the debtor shall have filed with appro-*

1 *priate tax authorities all tax returns for all taxable periods*  
2 *ending in the 6-year period ending on the date of filing*  
3 *of the petition.*

4       “(b) *If the tax returns required by subsection (a) have*  
5 *not been filed by the date on which the first meeting of*  
6 *creditors is convened under section 341(a) of this title, the*  
7 *trustee may continue such meeting for a reasonable period*  
8 *of time, to allow the debtor additional time to file any*  
9 *unfiled returns, but such additional time shall be no more*  
10 *than—*

11               “(1) *for returns that are past due as of the date*  
12 *of the filing of the petition, 120 days from such date,*

13               “(2) *for returns which are not past due as of the*  
14 *date of the filing of the petition, the later of 120 days*  
15 *from such date or the due date for such returns under*  
16 *the last automatic extension of time for filing such re-*  
17 *turns to which the debtor is entitled, and for which*  
18 *request has been timely made, according to applicable*  
19 *nonbankruptcy law, and*

20               “(3) *upon notice and hearing, and order entered*  
21 *before the lapse of any deadline fixed according to*  
22 *this subsection, where the debtor demonstrates, by*  
23 *clear and convincing evidence, that the failure to file*  
24 *the returns as required is because of circumstances be-*  
25 *yond the control of the debtor, the court may extend*

1       *the deadlines set by the trustee as provided in this*  
2       *subsection for—*

3               “(A) *a period of no more than 30 days for*  
4               *returns described in paragraph (1) of this sub-*  
5               *section, and*

6               “(B) *for no more than the period of time*  
7               *ending on the applicable extended due date for*  
8               *the returns described in paragraph (2).*”

9       “(c) *For purposes of this section only, a return in-*  
10       *cludes a return prepared pursuant to section 6020 (a) or*  
11       *(b) of the Internal Revenue Code of 1986 or similar State*  
12       *or local law, or a written stipulation to a judgment entered*  
13       *by a nonbankruptcy tribunal.*”

14       (2) *The table of sections of chapter 13 of title 11,*  
15       *United States Code, is amended by inserting after the item*  
16       *relating to section 1307 the following:*

      “1308. *Filing of prepetition tax returns.*”

17       (c) *DISMISSAL OR CONVERSION ON FAILURE TO COM-*  
18       *PLY.—Section 1307 of title 11, United States Code, is*  
19       *amended—*

20               (1) *by redesignating subsections (e) and (f) as*  
21               *subsections (f) and (g), respectively, and*

22               (2) *by inserting after subsection (d) the follow-*  
23               *ing:*

24       “(e) *Upon the failure of the debtor to file tax returns*  
25       *under section 1308 of this title, on request of a party in*

1 *interest or the United States trustee and after notice and*  
2 *a hearing, the court shall dismiss a case or convert a case*  
3 *under this chapter to a case under chapter 7 of this title,*  
4 *whichever is in the best interests of creditors and the es-*  
5 *tate.”.*

6       (d) *TIMELY FILED CLAIMS.*—Section 502(b)(9) of title  
7 11, United States Code, is amended by striking the period  
8 at the end and inserting “, and except that in a case under  
9 chapter 13 of this title, a claim of a governmental unit for  
10 a tax in respect of a return filed under section 1308 of this  
11 title shall be timely if it is filed on or before 60 days after  
12 such return or returns were filed as required.”.

13       (e) *RULES FOR OBJECTIONS TO CLAIMS AND TO CON-*  
14 *FIRMATION.*—It is the sense of Congress that the Advisory  
15 Committee on Bankruptcy Rules of the Judicial Conference  
16 should, within a reasonable period of time after the date  
17 of the enactment of this Act, propose for adoption amended  
18 Federal Rules of Bankruptcy Procedure which provide  
19 that—

20           (1) *notwithstanding the provisions of Rule*  
21 *3015(f), in cases under chapter 13 of title 11, United*  
22 *States Code, a governmental unit may object to the*  
23 *confirmation of a plan on or before 60 days after the*  
24 *debtor files all tax returns required under sections*

1       1308 and 1325(a)(7) of title 11, United States Code,  
2       and

3               (2) in addition to the provisions of Rule 3007,  
4       in a case under chapter 13 of title 11, United States  
5       Code, no objection to a tax in respect of a return re-  
6       quired to be filed under such section 1308 shall be  
7       filed until such return has been filed as required.

8       **SEC. 518. STANDARDS FOR TAX DISCLOSURE.**

9       Section 1125(a) of title 11, United States Code, is  
10      amended in paragraph (1)—

11              (1) by inserting after “records,” the following:  
12              “including a full discussion of the potential material  
13              Federal, State, and local tax consequences of the plan  
14              to the debtor, any successor to the debtor, and a hypo-  
15              thetical investor domiciled in the State in which the  
16              debtor resides or has its principal place of business  
17              typical of the holders of claims or interests in the  
18              case,”

19              (2) by inserting “such” after “enable”, and

20              (3) by striking “reasonable” where it appears  
21              after “hypothetical” and by striking “typical of hold-  
22              ers of claims or interests” after “investor”.

23      **SEC. 519. SETOFF OF TAX REFUNDS.**

24      Section 362(b) of title 11, United States Code, as  
25      amended by sections 130, 146, and 150 is amended—

- 1           (1) *in paragraph (21) by striking “or”,*  
 2           (2) *in paragraph (22) by striking the period at*  
 3 *the end and inserting “; or”, and*  
 4           (3) *by inserting after paragraph (22) (as so re-*  
 5 *designated) the following:*

6           “(23) *under subsection (a) of the setoff of an in-*  
 7 *come tax refund, by a governmental unit, in respect*  
 8 *of a taxable period which ended before the order for*  
 9 *relief against an income tax liability for a taxable pe-*  
 10 *riod which also ended before the order for relief, un-*  
 11 *less—*

12           “(A) *prior to such setoff, an action to deter-*  
 13 *mine the amount or legality of such tax liability*  
 14 *under section 505(a) was commenced; or*

15           “(B) *where the setoff of an income tax re-*  
 16 *fund is not permitted because of a pending ac-*  
 17 *tion to determine the amount or legality of a tax*  
 18 *liability, the governmental unit may hold the re-*  
 19 *fund pending the resolution of the action.”.*

20           **TITLE VI—ANCILLARY AND**  
 21           **OTHER CROSS-BORDER CASES**

22           **SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11,**  
 23           **UNITED STATES CODE.**

24           (a) *IN GENERAL.—Title 11, United States Code, is*  
 25 *amended by inserting after chapter 5 the following:*

1       **“CHAPTER 6—ANCILLARY AND OTHER**  
 2                       **CROSS-BORDER CASES**

“Sec.

“601. *Purpose and scope of application.*

“SUBCHAPTER I—GENERAL PROVISIONS

“602. *Definitions.*

“603. *International obligations of the United States.*

“604. *Commencement of ancillary case.*

“605. *Authorization to act in a foreign country.*

“606. *Public policy exception.*

“607. *Additional assistance.*

“608. *Interpretation.*

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND  
 CREDITORS TO THE COURT

“609. *Right of direct access.*

“610. *Limited jurisdiction.*

“611. *Commencement of bankruptcy case under section 301 or 303.*

“612. *Participation of a foreign representative in a case under this title.*

“613. *Access of foreign creditors to a case under this title.*

“614. *Notification to foreign creditors concerning a case under this title.*

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND  
 RELIEF

“615. *Application for recognition of a foreign proceeding.*

“616. *Presumptions concerning recognition.*

“617. *Order recognizing a foreign proceeding.*

“618. *Subsequent information.*

“619. *Relief that may be granted upon petition for recognition of a foreign proceeding.*

“620. *Effects of recognition of a foreign main proceeding.*

“621. *Relief that may be granted upon recognition of a foreign proceeding.*

“622. *Protection of creditors and other interested persons.*

“623. *Actions to avoid acts detrimental to creditors.*

“624. *Intervention by a foreign representative.*

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND  
 FOREIGN REPRESENTATIVES

“625. *Cooperation and direct communication between the court and foreign courts or foreign representatives.*

“626. *Cooperation and direct communication between the trustee and foreign courts or foreign representatives.*

“627. *Forms of cooperation.*

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“628. *Commencement of a case under this title after recognition of a foreign main proceeding.*

“629. *Coordination of a case under this title and a foreign proceeding.*

*“630. Coordination of more than 1 foreign proceeding.*

*“631. Presumption of insolvency based on recognition of a foreign main proceeding.*

*“632. Rule of payment in concurrent proceedings.*

1 **“§ 601. Purpose and scope of application**

2       “(a) *The purpose of this chapter is to incorporate the*  
3 *Model Law on Cross-Border Insolvency so as to provide ef-*  
4 *fective mechanisms for dealing with cases of cross-border in-*  
5 *solventy with the objectives of—*

6               “(1) *cooperation between—*

7                       “(A) *United States courts, United States*  
8 *Trustees, trustees, examiners, debtors, and debt-*  
9 *ors in possession; and*

10                      “(B) *the courts and other competent au-*  
11 *thorities of foreign countries involved in cross-*  
12 *border insolvency cases;*

13               “(2) *greater legal certainty for trade and invest-*  
14 *ment;*

15               “(3) *fair and efficient administration of cross-*  
16 *border insolvencies that protects the interests of all*  
17 *creditors, and other interested entities, including the*  
18 *debtor;*

19               “(4) *protection and maximization of the value of*  
20 *the debtor’s assets; and*

21               “(5) *facilitation of the rescue of financially trou-*  
22 *bled businesses, thereby protecting investment and*  
23 *preserving employment.*

1       “(b) *This chapter applies where—*

2               “(1) *assistance is sought in the United States by*  
3 *a foreign court or a foreign representative in connec-*  
4 *tion with a foreign proceeding;*

5               “(2) *assistance is sought in a foreign country in*  
6 *connection with a case under this title;*

7               “(3) *a foreign proceeding and a case under this*  
8 *title with respect to the same debtor are taking place*  
9 *concurrently; or*

10              “(4) *creditors or other interested persons in a*  
11 *foreign country have an interest in requesting the*  
12 *commencement of, or participating in, a case or pro-*  
13 *ceeding under this title.*

14       “(c) *This chapter does not apply to—*

15              “(1) *a proceeding concerning an entity identified*  
16 *by exclusion in subsection 109(b); or*

17              “(2) *an individual, or to an individual and such*  
18 *individual’s spouse, who have debts within the limits*  
19 *specified in under section 109(e) and who are citizens*  
20 *of the United States or aliens lawfully admitted for*  
21 *permanent residence in the United States.*

22       “**SUBCHAPTER I—GENERAL PROVISIONS**

23       “**§ 602. Definitions**

24       “*For the purposes of this chapter, the term—*

1           “(1) ‘debtor’ means an entity that is the subject  
2 of a foreign proceeding;

3           “(2) ‘establishment’ means any place of oper-  
4 ations where the debtor carries out a nontransitory  
5 economic activity;

6           “(3) ‘foreign court’ means a judicial or other au-  
7 thority competent to control or supervise a foreign  
8 proceeding;

9           “(4) ‘foreign main proceeding’ means a foreign  
10 proceeding taking place in the country where the debt-  
11 or has the center of its main interests;

12           “(5) ‘foreign nonmain proceeding’ means a for-  
13 eign proceeding, other than a foreign main proceed-  
14 ing, taking place in a country where the debtor has  
15 an establishment;

16           “(6) ‘trustee’ includes a trustee, a debtor in pos-  
17 session in a case under any chapter of this title, or  
18 a debtor under chapters 9 or 13 of this title; and

19           “(7) ‘within the territorial jurisdiction of the  
20 United States’ when used with reference to property  
21 of a debtor refers to tangible property located within  
22 the territory of the United States and intangible  
23 property deemed under applicable nonbankruptcy law  
24 to be located within that territory, including any  
25 property subject to attachment or garnishment that

1        *may properly be seized or garnished by an action in*  
2        *a Federal or State court in the United States.*

3        **“§ 603. International obligations of the United States**

4        *“To the extent that this chapter conflicts with an obli-*  
5        *gation of the United States arising out of any treaty or*  
6        *other form of agreement to which it is a party with 1 or*  
7        *more other countries, the requirements of the treaty or*  
8        *agreement prevail.*

9        **“§ 604. Commencement of ancillary case**

10       *“A case under this chapter is commenced by the filing*  
11       *of a petition for recognition of a foreign proceeding under*  
12       *section 615.*

13       **“§ 605. Authorization to act in a foreign country**

14       *“A trustee or another entity (including an examiner)*  
15       *authorized by the court may be authorized by the court to*  
16       *act in a foreign country on behalf of an estate created under*  
17       *section 541. An entity authorized to act under this section*  
18       *may act in any way permitted by the applicable foreign*  
19       *law.*

20       **“§ 606. Public policy exception**

21       *“Nothing in this chapter prevents the court from refus-*  
22       *ing to take an action governed by this chapter if the action*  
23       *would be manifestly contrary to the public policy of the*  
24       *United States.*

1 **“§ 607. Additional assistance**

2       “(a) *Nothing in this chapter limits the power of the*  
3 *court, upon recognition of a foreign proceeding, to provide*  
4 *additional assistance to a foreign representative under this*  
5 *title or under other laws of the United States.*

6       “(b) *In determining whether to provide additional as-*  
7 *sistance under this title or under other laws of the United*  
8 *States, the court shall consider whether such additional as-*  
9 *sistance, consistent with the principles of comity, will rea-*  
10 *sonably assure—*

11               “(1) *just treatment of all holders of claims*  
12 *against or interests in the debtor’s property;*

13               “(2) *protection of claim holders in the United*  
14 *States against prejudice and inconvenience in the*  
15 *processing of claims in such foreign proceeding;*

16               “(3) *prevention of preferential or fraudulent dis-*  
17 *positions of property of the debtor;*

18               “(4) *distribution of proceeds of the debtor’s prop-*  
19 *erty substantially in accordance with the order pre-*  
20 *scribed by this title; and*

21               “(5) *if appropriate, the provision of an oppor-*  
22 *tunity for a fresh start for the individual that such*  
23 *foreign proceeding concerns.*

24 **“§ 608. Interpretation**

25       *“In interpreting this chapter, the court shall consider*  
26 *its international origin, and the need to promote an appli-*

1 *cation of this chapter that is consistent with the application*  
2 *of similar statutes adopted by foreign jurisdictions.*

3 “SUBCHAPTER II—ACCESS OF FOREIGN REP-  
4 RESENTATIVES AND CREDITORS TO THE  
5 COURT

6 “§ 609. **Right of direct access**

7 “(a) *A foreign representative is entitled to commence*  
8 *a case under section 604 by filing a petition for recognition*  
9 *under section 615, and upon recognition, to apply directly*  
10 *to other Federal and State courts for appropriate relief in*  
11 *those courts.*

12 “(b) *Upon recognition, and subject to section 610, a*  
13 *foreign representative has the capacity to sue and be sued,*  
14 *and shall be subject to the laws of the United States of gen-*  
15 *eral applicability.*

16 “(c) *Recognition under this chapter is prerequisite to*  
17 *the granting of comity or cooperation to a foreign proceed-*  
18 *ing in any State or Federal court in the United States.*  
19 *Any request for comity or cooperation in any court shall*  
20 *be accompanied by a sworn statement setting forth whether*  
21 *recognition under section 615 has been sought and the sta-*  
22 *tus of any such petition.*

23 “(d) *Upon denial of recognition under this chapter,*  
24 *the court may issue appropriate orders necessary to prevent*

1 *an attempt to obtain comity or cooperation from courts in*  
2 *the United States without such recognition.*

3 **“§ 610. Limited jurisdiction**

4 *“The sole fact that a foreign representative files a peti-*  
5 *tion under sections 615 does not subject the foreign rep-*  
6 *resentative to the jurisdiction of any court in the United*  
7 *States for any other purpose.*

8 **“§ 611. Commencement of case under section 301 or**  
9 **303**

10 *“(a) Upon filing a petition for recognition, a foreign*  
11 *representative may commence—*

12 *“(1) an involuntary case under section 303; or*

13 *“(2) a voluntary case under section 301 or 302,*  
14 *if the foreign proceeding is a foreign main proceeding.*

15 *“(b) The petition commencing a case under subsection*  
16 *(a) of this section must be accompanied by a statement de-*  
17 *scribing the petition for recognition and its current status.*  
18 *The court where the petition for recognition has been filed*  
19 *must be advised of the foreign representative’s intent to*  
20 *commence a case under subsection (a) of this section prior*  
21 *to such commencement.*

22 *“(c) A case under subsection (a) shall be dismissed un-*  
23 *less recognition is granted.*

1 **“§ 612. Participation of a foreign representative in a**  
2 **case under this title**

3 *“Upon recognition of a foreign proceeding, the foreign*  
4 *representative in that proceeding is entitled to participate*  
5 *as a party in interest in a case regarding the debtor under*  
6 *this title.*

7 **“§ 613. Access of foreign creditors to a case under this**  
8 **title**

9 *“(a) Foreign creditors have the same rights regarding*  
10 *the commencement of, and participation in, a case under*  
11 *this title as domestic creditors.*

12 *“(b)(1) Subsection (a) of this section does not change*  
13 *or codify present law as to the priority of claims under*  
14 *section 507 or 726 of this title, except that the claim of a*  
15 *foreign creditor under those sections shall not be given a*  
16 *lower priority than that of general unsecured claims with-*  
17 *out priority solely because the holder of such claim is a for-*  
18 *ign creditor.*

19 *“(2)(A) Subsection (a) of this section and paragraph*  
20 *(1) of this subsection do not change or codify present law*  
21 *as to the allowability of foreign revenue claims or other for-*  
22 *ign public law claims in a proceeding under this title.*

23 *“(B) Allowance and priority as to a foreign tax claim*  
24 *or other foreign public law claim shall be governed by any*  
25 *applicable tax treaty of the United States, under the condi-*  
26 *tions and circumstances specified therein.*

1 **“§ 614. Notification to foreign creditors concerning a**  
2 **case under this title**

3 *“(a) Whenever in a case under this title notice is to*  
4 *be given to creditors generally or to any class or category*  
5 *of creditors, such notice shall also be given to the known*  
6 *creditors generally, or to creditors in the notified class or*  
7 *category, that do not have addresses in the United States.*  
8 *The court may order that appropriate steps be taken with*  
9 *a view to notifying any creditor whose address is not yet*  
10 *known.*

11 *“(b) Such notification to creditors with foreign ad-*  
12 *dresses described in subsection (a) shall be given individ-*  
13 *ually, unless the court considers that, under the cir-*  
14 *cumstances, some other form of notification would be more*  
15 *appropriate. No letters rogatory or other similar formality*  
16 *is required.*

17 *“(c) When a notification of commencement of a case*  
18 *is to be given to foreign creditors, the notification shall—*

19 *“(1) indicate the time period for filing proofs of*  
20 *claim and specify the place for their filing;*

21 *“(2) indicate whether secured creditors need to*  
22 *file their proofs of claim; and*

23 *“(3) contain any other information required to*  
24 *be included in such a notification to creditors pursu-*  
25 *ant to this title and the orders of the court.*



1       “(c) A petition for recognition shall also be accom-  
2 panied by a statement identifying all foreign proceedings  
3 with respect to the debtor that are known to the foreign rep-  
4 resentative.

5       “(d) The documents referred to in paragraphs (1) and  
6 (2) of subsection (b) must be translated into English. The  
7 court may require a translation into English of additional  
8 documents.

9       **“§ 616. Presumptions concerning recognition**

10       “(a) If the decision or certificate referred to in section  
11 615(b) indicates that the foreign proceeding is a foreign  
12 proceeding within the meaning of section 101(23) and that  
13 the person or body is a foreign representative within the  
14 meaning of section 101(24), the court is entitled to so pre-  
15 sume.

16       “(b) The court is entitled to presume that documents  
17 submitted in support of the petition for recognition are au-  
18 thentic, whether or not they have been legalized.

19       “(c) In the absence of evidence to the contrary, the  
20 debtor’s registered office, or habitual residence in the case  
21 of an individual, is presumed to be the center of the debtor’s  
22 main interests.

23       **“§ 617. Order recognizing a foreign proceeding**

24       “(a) Subject to section 606, an order recognizing a for-  
25 eign proceeding shall be entered if—

1           “(1) *the foreign proceeding is a foreign main*  
2           *proceeding or foreign nonmain proceeding within the*  
3           *meaning of section 602;*

4           “(2) *the foreign representative applying for rec-*  
5           *ognition is a person or body within the meaning of*  
6           *section 101(24); and*

7           “(3) *the petition meets the requirements of sec-*  
8           *tion 615.*

9           “(b) *The foreign proceeding shall be recognized—*

10           “(1) *as a foreign main proceeding if it is taking*  
11           *place in the country where the debtor has the center*  
12           *of its main interests; or*

13           “(2) *as a foreign nonmain proceeding if the debt-*  
14           *or has an establishment within the meaning of section*  
15           *602 in the foreign country where the proceeding is*  
16           *pending.*

17           “(c) *A petition for recognition of a foreign proceeding*  
18           *shall be decided upon at the earliest possible time. Entry*  
19           *of an order recognizing a foreign proceeding shall constitute*  
20           *recognition under this chapter.*

21           “(d) *The provisions of this subchapter do not prevent*  
22           *modification or termination of recognition if it is shown*  
23           *that the grounds for granting it were fully or partially lack-*  
24           *ing or have ceased to exist, but in considering such action*  
25           *the court shall give due weight to possible prejudice to par-*

1 *ties that have relied upon the granting of recognition. The*  
2 *case under this chapter may be closed in the manner pre-*  
3 *scribed for a case under section 350.*

4 **“§618. Subsequent information**

5 *“From the time of filing the petition for recognition*  
6 *of the foreign proceeding, the foreign representative shall file*  
7 *with the court promptly a notice of change of status con-*  
8 *cerning—*

9 *“(1) any substantial change in the status of the*  
10 *foreign proceeding or the status of the foreign rep-*  
11 *resentative’s appointment; and*

12 *“(2) any other foreign proceeding regarding the*  
13 *debtor that becomes known to the foreign representa-*  
14 *tive.*

15 **“§619. Relief that may be granted upon petition for**  
16 ***recognition of a foreign proceeding***

17 *“(a) From the time of filing a petition for recognition*  
18 *until the petition is decided upon, the court may, at the*  
19 *request of the foreign representative, where relief is urgently*  
20 *needed to protect the assets of the debtor or the interests*  
21 *of the creditors, grant relief of a provisional nature, includ-*  
22 *ing—*

23 *“(1) staying execution against the debtor’s assets;*

24 *“(2) entrusting the administration or realization*  
25 *of all or part of the debtor’s assets located in the*

1 *United States to the foreign representative or another*  
2 *person authorized by the court, including an exam-*  
3 *iner, in order to protect and preserve the value of as-*  
4 *sets that, by their nature or because of other cir-*  
5 *cumstances, are perishable, susceptible to devaluation*  
6 *or otherwise in jeopardy; and*

7 *“(3) any relief referred to in paragraph (3), (4),*  
8 *or (7) of section 621(a).*

9 *“(b) Unless extended under section 621(a)(6), the relief*  
10 *granted under this section terminates when the petition for*  
11 *recognition is decided upon.*

12 *“(c) It is a ground for denial of relief under this sec-*  
13 *tion that such relief would interfere with the administration*  
14 *of a foreign main proceeding.*

15 *“(d) The court may not enjoin a police or regulatory*  
16 *act of a governmental unit, including a criminal action or*  
17 *proceeding, under this section.*

18 *“(e) The standards, procedures, and limitations appli-*  
19 *cable to an injunction shall apply to relief under this sec-*  
20 *tion.*

21 **“§ 620. Effects of recognition of a foreign main pro-**  
22 **ceeding**

23 *“(a) Upon recognition of a foreign proceeding that is*  
24 *a foreign main proceeding—*

1           “(1) section 362 applies with respect to the debt-  
2           or and that property of the debtor that is within the  
3           territorial jurisdiction of the United States; and

4           “(2) transfer, encumbrance, or any other disposi-  
5           tion of an interest of the debtor in property within  
6           the territorial jurisdiction of the United States is re-  
7           strained as and to the extent that is provided for  
8           property of an estate under sections 363, 549, and  
9           552.

10          Unless the court orders otherwise, the foreign representative  
11          may operate the debtor’s business and may exercise the pow-  
12          ers of a trustee under section 549, subject to sections 363  
13          and 552.

14          “(b) The scope, and the modification or termination,  
15          of the stay and restraints referred to in subsection (a) of  
16          this section are subject to the exceptions and limitations  
17          provided in subsections (b), (c), and (d) of section 362, sub-  
18          sections (b) and (c) of section 363, and sections 552, 555  
19          through 557, 559, and 560.

20          “(c) Subsection (a) of this section does not affect the  
21          right to commence individual actions or proceedings in a  
22          foreign country to the extent necessary to preserve a claim  
23          against the debtor.

24          “(d) Subsection (a) of this section does not affect the  
25          right of a foreign representative or an entity to file a peti-

1 *tion commencing a case under this title or the right of any*  
2 *party to file claims or take other proper actions in such*  
3 *a case.*

4 **“§ 621. Relief that may be granted upon recognition of**  
5 ***a foreign proceeding***

6 *“(a) Upon recognition of a foreign proceeding, whether*  
7 *main or nonmain, where necessary to effectuate the purpose*  
8 *of this chapter and to protect the assets of the debtor or*  
9 *the interests of the creditors, the court may, at the request*  
10 *of the foreign representative, grant any appropriate relief,*  
11 *including—*

12 *“(1) staying the commencement or continuation*  
13 *of individual actions or individual proceedings con-*  
14 *cerning the debtor’s assets, rights, obligations or li-*  
15 *abilities to the extent they have not been stayed under*  
16 *section 620(a);*

17 *“(2) staying execution against the debtor’s assets*  
18 *to the extent it has not been stayed under section*  
19 *620(a);*

20 *“(3) suspending the right to transfer, encumber*  
21 *or otherwise dispose of any assets of the debtor to the*  
22 *extent this right has not been suspended under section*  
23 *620(a);*

24 *“(4) providing for the examination of witnesses,*  
25 *the taking of evidence or the delivery of information*

1       *concerning the debtor’s assets, affairs, rights, obliga-*  
2       *tions or liabilities;*

3             “(5) *entrusting the administration or realization*  
4       *of all or part of the debtor’s assets within the terri-*  
5       *torial jurisdiction of the United States to the foreign*  
6       *representative or another person, including an exam-*  
7       *iner, authorized by the court;*

8             “(6) *extending relief granted under section*  
9       *619(a); and*

10            “(7) *granting any additional relief that may be*  
11       *available to a trustee, except for relief available under*  
12       *sections 522, 544, 545, 547, 548, 550, and 724(a).*

13            “(b) *Upon recognition of a foreign proceeding, whether*  
14       *main or nonmain, the court may, at the request of the for-*  
15       *ign representative, entrust the distribution of all or part*  
16       *of the debtor’s assets located in the United States to the for-*  
17       *ign representative or another person, including an exam-*  
18       *iner, authorized by the court, provided that the court is sat-*  
19       *isfied that the interests of creditors in the United States*  
20       *are sufficiently protected.*

21            “(c) *In granting relief under this section to a rep-*  
22       *resentative of a foreign nonmain proceeding, the court must*  
23       *be satisfied that the relief relates to assets that, under the*  
24       *law of the United States, should be administered in the for-*



1 *another chapter of this title to initiate actions under sec-*  
2 *tions 522, 544, 545, 547, 548, 550, and 724(a).*

3       “(b) *When the foreign proceeding is a foreign nonmain*  
4 *proceeding, the court must be satisfied that an action under*  
5 *subsection (a) of this section relates to assets that, under*  
6 *United States law, should be administered in the foreign*  
7 *nonmain proceeding.*

8 **“§ 624. *Intervention by a foreign representative***

9       “*Upon recognition of a foreign proceeding, the foreign*  
10 *representative may intervene in any proceedings in a State*  
11 *or Federal court in the United States in which the debtor*  
12 *is a party.*

13 **“SUBCHAPTER IV—COOPERATION WITH FOR-**  
14 ***EIGN COURTS AND FOREIGN REPRESENTA-***  
15 ***TIVES***

16 **“§ 625. *Cooperation and direct communication be-***  
17 ***tween the court and foreign courts or for-***  
18 ***ign representatives***

19       “(a) *In all matters included within section 601, the*  
20 *court shall cooperate to the maximum extent possible with*  
21 *foreign courts or foreign representatives, either directly or*  
22 *through the trustee.*

23       “(b) *The court is entitled to communicate directly*  
24 *with, or to request information or assistance directly from,*

1 *foreign courts or foreign representatives, subject to the rights*  
2 *of parties in interest to notice and participation.*

3 **“§ 626. Cooperation and direct communication be-**  
4 ***tween the trustee and foreign courts or***  
5 ***foreign representatives***

6 *“(a) In all matters included in section 601, the trustee*  
7 *or other person, including an examiner, authorized by the*  
8 *court, shall, subject to the supervision of the court, cooperate*  
9 *to the maximum extent possible with foreign courts or for-*  
10 *ign representatives.*

11 *“(b) The trustee or other person, including an exam-*  
12 *iner, designated by the court is entitled, subject to the super-*  
13 *vision of the court, to communicate directly with foreign*  
14 *courts or foreign representatives.*

15 *“(c) Section 1104(d) shall apply to the appointment*  
16 *of an examiner under this chapter. Any examiner shall*  
17 *comply with the qualification requirements imposed on a*  
18 *trustee by section 322.*

19 **“§ 627. Forms of cooperation**

20 *“Cooperation referred to in sections 625 and 626 may*  
21 *be implemented by any appropriate means, including—*

22 *“(1) appointment of a person or body, including*  
23 *an examiner, to act at the direction of the court;*

24 *“(2) communication of information by any*  
25 *means considered appropriate by the court;*

1           “(3) coordination of the administration and su-  
2           pervision of the debtor’s assets and affairs;

3           “(4) approval or implementation of agreements  
4           concerning the coordination of proceedings; and

5           “(5) coordination of concurrent proceedings re-  
6           garding the same debtor.

7   “SUBCHAPTER V—CONCURRENT PROCEEDINGS

8   “**§ 628. Commencement of a case under this title after**  
9           **recognition of a foreign main proceeding**

10          “After recognition of a foreign main proceeding, a case  
11          under another chapter of this title may be commenced only  
12          if the debtor has assets in the United States. The effects of  
13          that case shall be restricted to the assets of the debtor that  
14          are within the territorial jurisdiction of the United States  
15          and, to the extent necessary to implement cooperation and  
16          coordination under sections 625, 626, and 627, to other as-  
17          sets of the debtor that are within the jurisdiction of the court  
18          under sections 541(a) of this title, and 1334(e) of title 28,  
19          to the extent that such other assets are not subject to the  
20          jurisdiction and control of a foreign proceeding that has  
21          been recognized under this chapter.

22   “**§ 629. Coordination of a case under this title and a**  
23           **foreign proceeding**

24          “Where a foreign proceeding and a case under another  
25          chapter of this title are taking place concurrently regarding

1 *the same debtor, the court shall seek cooperation and coordi-*  
2 *nation under sections 625, 626, and 627, and the following*  
3 *shall apply:*

4           “(1) *When the case in the United States is tak-*  
5 *ing place at the time the petition for recognition of*  
6 *the foreign proceeding is filed—*

7                   “(A) *any relief granted under sections 619*  
8 *or 621 must be consistent with the case in the*  
9 *United States; and*

10                   “(B) *even if the foreign proceeding is recog-*  
11 *nized as a foreign main proceeding, section 620*  
12 *does not apply.*

13           “(2) *When a case in the United States under this*  
14 *title commences after recognition, or after the filing of*  
15 *the petition for recognition, of the foreign proceed-*  
16 *ing—*

17                   “(A) *any relief in effect under sections 619*  
18 *or 621 shall be reviewed by the court and shall*  
19 *be modified or terminated if inconsistent with*  
20 *the case in the United States; and*

21                   “(B) *if the foreign proceeding is a foreign*  
22 *main proceeding, the stay and suspension re-*  
23 *ferred to in section 620(a) shall be modified or*  
24 *terminated if inconsistent with the case in the*  
25 *United States.*

1           “(3) *In granting, extending, or modifying relief*  
2           *granted to a representative of a foreign nonmain pro-*  
3           *ceeding, the court must be satisfied that the relief re-*  
4           *lates to assets that, under the law of the United*  
5           *States, should be administered in the foreign nonmain*  
6           *proceeding or concerns information required in that*  
7           *proceeding.*

8           “(4) *In achieving cooperation and coordination*  
9           *under sections 628 and 629, the court may grant any*  
10          *of the relief authorized under section 305.*

11       **“§ 630. Coordination of more than 1 foreign proceed-**  
12                               **ing**

13          *“In matters referred to in section 601, with respect to*  
14          *more than 1 foreign proceeding regarding the debtor, the*  
15          *court shall seek cooperation and coordination under sections*  
16          *625, 626, and 627, and the following shall apply:*

17               “(1) *Any relief granted under section 619 or 621*  
18               *to a representative of a foreign nonmain proceeding*  
19               *after recognition of a foreign main proceeding must*  
20               *be consistent with the foreign main proceeding.*

21               “(2) *If a foreign main proceeding is recognized*  
22               *after recognition, or after the filing of a petition for*  
23               *recognition, of a foreign nonmain proceeding, any re-*  
24               *lief in effect under section 619 or 621 shall be re-*  
25               *viewed by the court and shall be modified or termi-*

1        *nated if inconsistent with the foreign main proceed-*  
 2        *ing.*

3            *“(3) If, after recognition of a foreign nonmain*  
 4        *proceeding, another foreign nonmain proceeding is*  
 5        *recognized, the court shall grant, modify, or terminate*  
 6        *relief for the purpose of facilitating coordination of*  
 7        *the proceedings.*

8        **“§ 631. Presumption of insolvency based on recogni-**  
 9            ***tion of a foreign main proceeding***

10        *“In the absence of evidence to the contrary, recognition*  
 11        *of a foreign main proceeding is for the purpose of commenc-*  
 12        *ing a proceeding under section 303, proof that the debtor*  
 13        *is generally not paying its debts.*

14        **“§ 632. Rule of payment in concurrent proceedings**

15        *“Without prejudice to secured claims or rights in rem,*  
 16        *a creditor who has received payment with respect to its*  
 17        *claim in a foreign proceeding pursuant to a law relating*  
 18        *to insolvency may not receive a payment for the same claim*  
 19        *in a case under any other chapter of this title regarding*  
 20        *the debtor, so long as the payment to other creditors of the*  
 21        *same class is proportionately less than the payment the*  
 22        *creditor has already received.”.*

23        *(b) CLERICAL AMENDMENT.—The table of chapters for*  
 24        *title 11, United States Code, is amended by inserting after*  
 25        *the item relating to chapter 5 the following:*

**“6. Ancillary and Other Cross-Border Cases ..... 601”.**

1 **SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**  
2 **UNITED STATES CODE.**

3 (a) *APPLICABILITY OF CHAPTERS.*—Section 103 of  
4 title 11, United States Code, is amended—

5 (1) in subsection (a), by inserting before the pe-  
6 riod the following: “and this chapter, sections 307,  
7 555 through 557, 559, and 560 apply in a case under  
8 chapter 6”; and

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

10 “(j) Chapter 6 applies only in a case under that chap-  
11 ter, except that section 605 applies to trustees and to any  
12 other entity authorized by the court, including an examiner,  
13 under chapters 7, 11, and 12, to debtors in possession under  
14 chapters 11 and 12, and to debtors or trustees under chap-  
15 ters 9 and 13 who are authorized to act under section 605.”.

16 (b) *DEFINITIONS.*—Section 101 of title 11, United  
17 States Code, is amended by striking paragraphs (23) and  
18 (24) and inserting the following:

19 “(23) ‘foreign proceeding’ means a collective ju-  
20 dicial or administrative proceeding in a foreign state,  
21 including an interim proceeding, pursuant to a law  
22 relating to insolvency in which proceeding the assets  
23 and affairs of the debtor are subject to control or su-  
24 pervision by a foreign court, for the purpose of reor-  
25 ganization or liquidation;

1           “(24) ‘foreign representative’ means a person or  
2           body, including a person or body appointed on an in-  
3           terim basis, authorized in a foreign proceeding to ad-  
4           minister the reorganization or the liquidation of the  
5           debtor’s assets or affairs or to act as a representative  
6           of the foreign proceeding;”.

7           (c) *AMENDMENTS TO TITLE 28, UNITED STATES*  
8           *CODE.*—

9           (1) *PROCEDURES.*—Section 157(b)(2) of title 28,  
10           *United States Code, is amended—*

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

13                   (B) *in subparagraph (O), by striking the*  
14                   *period at the end and inserting “; and”; and*

15                   (C) *by adding at the end the following:*

16                   “(P) *recognition of foreign proceedings and other*  
17                   *matters under chapter 6 of title 11.”.*

18           (2) *BANKRUPTCY CASES AND PROCEEDINGS.*—  
19           *Section 1334(c)(1) of title 28, United States Code, is*  
20           *amended by striking “Nothing in” and inserting “Ex-*  
21           *cept with respect to a case under chapter 6 of title 11,*  
22           *nothing in”.*

23           (3) *DUTIES OF TRUSTEES.*—Section 586(a)(3) of  
24           *title 28, United States Code, is amended by inserting*  
25           *“6,” after “chapter”.*

1       **TITLE VII—MISCELLANEOUS**

2       **SEC. 701. TECHNICAL AMENDMENTS.**

3       *Title 11 of the United States Code is amended—*

4               (1) *in section 109(b)(2) by striking “subsection*  
5       *(c) or (d) of”;*

6               (2) *in section 541(b)(4) by adding “or” at the*  
7       *end; and*

8               (3) *in section 552(b)(1) by striking “product”*  
9       *each place it appears and inserting “products”.*

10       **SEC. 702. APPLICATION OF AMENDMENTS.**

11       *The amendments made by this Act shall apply only*  
12       *with respect to cases commenced under title 11 of the United*  
13       *States Code after the date of the enactment of this Act.*