that they have helped bring into this world. I think it sets the priorities right, and this offers a mechanism by which this money can be made available for the support of the children.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

Let me reiterate, the intent and purpose of the Shaw amendment is of the highest import, because we have attempted in different ways to parallel that intent in language that we have already incorporated either in the basic bill or in amendments to that bill.

All of us are interested in making certain of the priority, highest priority for support payments. I still have reservations about the workability of the amendment that the gentleman from Florida (Mr. SHAW) has offered, but he has now created new language which may make it more acceptable.

I will continue to monitor it between now and the time of conference and work with the gentleman from Florida (Mr. SHAW) for even more perfect language, for the perfection that he has already accomplished, and still reserve the right to work against it if I think it hurts the overall concept of the bill.

In other words, I do not know where I am on the gentleman's amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I can appreciate the gentleman's position at this late date, coming in, particularly, with the new language. But I thank him for his consideration of this new language, and I thank him for holding fire at this particular time. And also I would like to thank the gentleman from New York (Mr. NADLER). I think this is a very, very good addition to the bill that is on the floor.

☐ 1600

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SHAW).

The amendment as modified was agreed to.

Mr. GEKAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHAW) having assumed the chair, Mr. MILLER of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

PERMISSION FOR MEMBER TO OFFER AMENDMENT OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that, during further consideration of the bill, H.R. 3150, pursuant to House Resolution 462, that the gentleman from Massachusetts (Mr. DELAHUNT) or his designee may be permitted to offer the amendment numbered 3 in House Report 105–573 out of the specified order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BANKRUPTCY REFORM ACT OF 1998

The SPEAKER pro tempore. Pursuant to House Resolution 462 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3150.

☐ 1601

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, with Mr. MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment number 6 printed in House Report 105–573 had been disposed of.

Pursuant to the previous order of the House, it is now in order to consider amendment number 3 printed in House Report 105–573.

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

Mr. DELAHUNT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. DELAHUNT:

Page 25, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. AUTHORITY TO IMPOSE FEES PAYABLE FOR COSTS INCURRED TO ADMINISTER THE AMENDMENTS MADE BY SECTIONS 101 AND 102.

Section 1930(b) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) The Judicial Conference of the United States may prescribe additional fees that are both—

''(A) payable from disbursements to unsecured, nonpriority creditors in cases under chapter 13 of title 11; and

''(B) based on the estimated increased costs incurred in cases under chapters 7 and 13 of title 11 of the United States Code, by the Government to carry out the amendments made by title I and subtitle A of IV of the Bankruptcy Reform Act of 1998.''.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by acknowledging the courtesy extended to me by the gentleman from Pennsylvania (Mr. GEKAS), the chair of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary. I appreciate that and acknowledge that. I was misinformed. I thought that it was listed on today's report that it was to be last, but I am glad that I am not last, I am glad that I am here, and I appreciate his courtesy.

Mr. Chairman, this amendment is about credit cards. This is because, in many respects, the entire bill is about credit cards. Credit cards are the reason many people are in bankruptcy today, and credit cards are the reason we are here today.

We all know there are some individuals who abuse the bankruptcy system. And those who let their financial affairs get out of control should take responsibility for the consequences of their action.

But responsibility is a two-way street. I find it extraordinary that people who solicit relentlessly and indiscriminately, without hardly any limitations on their lending practices, should pontificate about the need for personal responsibility.

Few of us are sympathetic to that argument when we hear it from the tobacco companies or when we hear it from the liquor industry or from gambling interests, so why should the credit card industry get away with this sort of hypocrisy?

My amendment would require the credit card companies to assume their fair share of responsibility for the situation they have done so much to create. It would authorize the Judicial Conference of the United States to use a portion of the money paid to credit card companies and other unsecured creditors in Chapter 13 cases to pay for the additional costs of administering the new debt collection system the bill would create.

That is, after all, what this bill is about. It could be said that it deputizes Federal bankruptcy judges as collection agents for Visa and MasterCard. I do not think and submit that it is not unreasonable for the public to ask how this new service will be paid for.

It is not as though, in all likelihood, the public will actually see any of the proceeds. Despite the industry-funded advertising blitz and propaganda about the money that it will save every man, woman and child in America, there is absolutely no reason to believe that these companies will pass on any benefit to consumers in the form of lower interest rates. That is something that they have never done historically. As other interest rates have come down considerably, credit card interest rates have continued to either stagnate or

climb. In fact, I just received a solicitation today in the mail, 23 percent interest. So given the fact that the public is unlikely to see any benefits of this legislation, it seems only fair for those who will benefit to foot the bill.

Mr. Chairman, that bill is going to be substantial. While nobody really knows what the new collection system will cost, the CBO estimates a cost of $214 million over 5 years, and that not including the $40 million to $80 million to cover the salaries and expenses of the 25 or 30 additional bankruptcy judges who would be needed to meet the huge increase in workload that would result from the bill. We heard testimony that absolutely underscored the fact that this would require not just simply additional judges but support personnel and trustees. There were estimates that were provided to members of the committee during hearings that, in fact, the costs could very well be double what they are now. According to the CBO estimate, that would bring the total to between $254 million and $294 million over 5 years, over a quarter of a billion dollars. Those costs should not be borne by the American taxpayer. My amendment would ensure that they would not be borne by the American taxpayer.

Mr. Chairman, I do not want to suggest that the credit industry has been miserly regarding this legislation. Far from it. Visa and MasterCard have spent hundreds of thousands of dollars to draft this bill.

All my amendment says, having been so generous with their financial largess up until now, they should make one more payment, to reimburse the American people for increasing their bottom line.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the fullest expectation we have for H.R. 3150 is that in the long run, the provisions that we are going to put into the law will reduce the increase for sure of filings for bankruptcy, and with great luck, with the economy continuing to buzz on as it is, that we will actually be able to reduce the number of filings total across the land. While we are doing that, a natural accompaniment to that will be lower costs, lower costs to the taxpayers, lower costs to the consumers, lower costs to the interest lenders and creditors, and an impetus to further expansion of the economy.

That is why we say, in opposition to this amendment, that it is premature to add on a fail-safe for a possible cost that may or may not occur. On that basis, if we were to adopt this amendment, we who proposed these reforms, who want to reform the bankruptcy system, are second-guessing ourselves. We are saying we do not know if it is going to work or not. We know it is going to work.

If the gentleman from Massachusetts at some future date comes up to me and says, with a big downturn, ''I told you so, we should have anticipated these rising costs and you should have listened to my amendment,'' I will relent, I will tell him that I am ready to accept fault for that, and we will work together at that time to correct whatever fee shortage or cost shortage or revenue shortage that might occur as a result of this legislation.

But for the time being, I wish he would join with us in endorsing a concept and the language of the bill before us, H.R. 3150, so that we can get about the business of improving our bankruptcy laws, making sure that people have the fullest opportunity to get a fresh start where required, and on the other side of the ledger, to give full opportunity to repay some of the debt where and when possible.

Mr. Chairman, I ask everyone to vote ''no'' on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. CALVERT). The question is on the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DELAHUNT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT) will be postponed.

It is now in order to consider amendment number 7 printed in House Report 105–573.

AMENDMENT NO. 7 OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. PAUL:

Page 78, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 152. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by any other provision of this Act, is amended—

(1) in paragraph (9), as so redesignated and amended by any other provision of this Act—

(A) by inserting ''firstly of local governmental units, secondly of State governmental units, and thirdly of all other governmental units, after ''claims'';

(B) by striking ''(9) Ninth'' and inserting ''(11) Eleventh''; and

(C) by transferring such paragraph so as to insert such paragraph at the end of subsection (a) of section 507;

(2) in paragraph (10), as so redesignated and amended by any other provision of this Act, by striking ''(10) Tenth'' and inserting ''(9) Ninth'';

(3) in paragraph (11), as so redesignated and amended by any other provision of this Act, by striking ''(11) Eleventh'' and inserting ''(10) Tenth''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Texas (Mr. PAUL) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is not a complicated amendment. It merely redesignates the priorities of governments as they line up in the receiving end of a bankruptcy. These are unsecured debts.

Basically the way the law states now and the way the bill is written is that the IRS is the top government agency that is going to receive the money, and then the State and then the local government. My suggestion in my amendment is very simple and very clear and makes a very strong philosophic point, is why should we hold the IRS in such high esteem? Why should they be on top of the list? Why should the money leave the local districts and go to Washington? Why should it go into the coffers of the IRS, funding programs that are basically unconstitutional when there are so many programs that we are not doing and take it out of our school districts?

If we reverse the order, the local government gets the money first, the money that would be left over from the bankruptcy, then the State government, and then the Federal Government. This merely states the point, which I hope we can get across someday in this Congress, that the priority in government should be local government, not a big, strong Federal Government.

Indeed, today there is a lot of resentment in this country against the IRS and the way we spend money up here, and this emphasizes a very important point, that money should be left in the district, money should be left in the States, and at last resort, the money should come here to the Federal Government.

One of the arguments used against this amendment is, ''Uh-oh, it is going to cost the Government some money.'' Cost the Government some money by leaving the money in the State or locally, or leaving it in the pockets of the American people as that same argument is used in tax increases? Hardly would it be difficult for the small amounts, I do not even know the exact amount of money that might be lost to the Treasury because some of these funds might not flow here in this direction, but it cannot be a tremendous amount. But what is wrong with the suggestion that we just cut something? There are so many places that we can cut. Instead, all we do around here is look around for more places to spend money. Today we are even talking about increasing taxes by three-quarters of a trillion dollars on a tobacco program. We are always looking for more revenues and more spending programs and we are worried about paying for a little less revenues coming into the Federal Government.

Once again, this amendment is very clear. It states that in the order of designating these funds on unsecured

creditors, local government would get the money first, then State government, and then the Federal Government.

□ 1615

In the 1980s, in the early 1990s, when Texas and California had trouble, money flowed up here in the middle of bankruptcies at the same time school districts were suffering, putting a greater burden on local school districts. So this is to me a very clear principled position to state that we should have local government, not Federal Government, that we should not enhance the power and the authority of the Federal Government and certainly should not put the IRS and the Federal Government on the top of the pecking order. They should be at the bottom where they deserve to be.

So I would ask my colleagues to endorse this legislation and this amendment to this legislation. I support the legislation. I am hopeful that this amendment will be passed.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I rise in friendly opposition to the amendment because down deep I agree with the gentleman's contentions about the tax structure and the relevant priorities that we have for too long imposed upon the American public with respect to the balance between local taxation and local interests and States for that matter and vis-a-vis the Federal overplay in both taxation and regulation and all the gamut of items that have harmed private enterprise over the years and have harmed actually the rights of citizens. So from that standpoint, I am in full agreement with the gentleman.

The reservations that I have stem about my duty in handling this bill which is a bill in bankruptcy which is embedded in the Constitution. Therefore, the entire panoply of provisions that have to do with bankruptcy have a national flavor, a national aegis, a national emblem, and so concomitant with that goes the Federal revenues and Federal Treasury that is a part of the total bankruptcy law. I am afraid that if we reverse these priorities as they are now constituted, that we will be infringing upon the Federal jurisdiction of bankruptcy itself, and I can not do that.

What I want to do is to assure the gentleman that wherever we can in pursuit of the finalization of this bill, in conference and thereafter, that we take into account what the gentleman has said, and perhaps in another forum and in another committee jurisdiction, Ways and Means for instance, we can try to work out his set of priorities in a different way. But now I am constrained to fight for the preservation of our bill as we have constructed it with the Federal jurisdiction both in taxation and in bankruptcy courts remaining paramount, and for that reason I would oppose the amendment at this juncture.

Mr. Chairman, I reserve the balance of my time.

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to respond by saying I certainly do recognize responsibility of the U.S. Congress in dealing with national legislation dealing with bankruptcy and that bankruptcy laws should be uniform and fair. But this does not preclude us from thinking about the particulars of a piece of legislation designating the importance of the different governmental bodies, so everything I say about emphasizing local government over Federal Government is certainly legitimate and does not contradict in any way the notion that we should not deal with this at all because certainly we have this authority to do so.

And it still remains to be seen with much of a cost at all involved here; I happen to think not very much, but I would like to emphasize once again the importance of dealing with cutting spending rather than always resorting to say how do we pay something, pay for something, by merely raising taxes elsewhere if we happen to work in a benefit on a program such as this.

So I would say that it is very important that we do think about local government over Federal government, think about less taxes and less bureaucracy, because unless we change our mind set on this, we will continue to put the priorities of the Federal Government and the IRS up at the top. I want them at the bottom. That is where they deserve. They do not know how to spend their money. They do not know how to spend their money, and we ought to see to it that they get a lot less of it.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

The more I hear the gentleman speak, the more I am inclined to agree with him because he makes sense with respect to the priorities that we have allowed the IRS to grab for itself. But in any event, I will ask for a no vote with due honor to the proposition offered by the gentleman from Texas (Mr. PAUL).

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PAUL).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider Amendment No. 8 printed in House Report 105—573.

AMENDMENT NO. 8 OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 105–573 offered by Mr. PAUL:

Beginning on page 82, strike line 23 and all that follows through line 19 on page 83, and insert the following:

SEC. 182. LIMITATION.

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

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

(2) by adding at the end the following:

''(n) For purposes of subsection(b)(2)(A) and notwithstanding subsection (a), the value of an interest in—

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

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor;

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

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, from the very first moment that I began to become involved in the bankruptcy issue and intent on preparing a product which we have before us now which will do a great deal of good over the next 10–15 years, I always wanted to maintain the States' rights to describe their own set of exemptions, particularly homestead exemptions, because I felt that was necessary for a variety of reasons to honor the State's determination of what it wanted to grant as an exemption, and the first proposal that I made that became a part of this bill did so, it did honor that.

At the full Committee on the Judiciary, after an offer of an amendment was made by the gentleman from Massachusetts (Mr. DELAHUNT) to put in a $100,000 figure that would be a cap that reflected what the Senate has done, that was adopted by the full committee mostly on the basis that it paralleled the Senate version, as I recall. At the same time I did indicate that I would not be bound, that I could reserve the right to change that when we came to the full floor. Hence we are here.

Mr. Chairman, I yield for a period of 2½ minutes to the gentleman from Florida (Mr. MCCOLLUM) to explain and to propound the amendment.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding this time to me.

I want to explain this amendment. It strikes the $100,000 homestead exemption cap that is in the bill and reverts back to current law in that respect. But it does a little more than that.

In addition it denies the right of homestead exemption to somebody who within a year of filing bankruptcy

takes assets, cash or whatever and places that into a home for the purposes of defrauding creditors to avoid paying the creditors. I think that is a very important provision that will get around the problems we are seeing people complain about on homestead exemption law abuse, but at the same time it will not deny the States the right to do what they have done since 1792, and that is to decide what property is exempt.

I think that is a very important decision to be left to the States to decide. If we put this $100,000 cap in, we are going to dictate to the States; some States have no cap currently, some States have 100,000, some like Massachusetts have 100,000 until you are 62, and then they have 200,000.

And it also protects, our proposal to strike this cap, the situation where a widow or an elderly person has paid fully for their home. Let us say they have a modest priced home. In many States, very modest, $110,000 value. The entire thing is mortgage fee. And the creditors want to get at under this bill the way it is now written at the $10,000. They are going to force that widow to sell the home, and I do not think that is what we want to do. I think it is very important that we protect it and adopt the Gekas-McCollum-Smith amendment to strike the provisions in the bill as they are now on the cap and go to the provisions that I just indicated to deny fraudulent use of the homestead exemption.

Mr. BENTSEN. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Texas.

Mr. BENTSEN. I appreciate the gentleman yielding to me.

It is no secret that I wish this bill had nothing to do with the homestead and we had dropped it out, but I will support the gentleman's amendment, but I do have a question that might give some clarification.

With respect to the transfer of assets within the 1-year period, would it be the intent if one were to prepay part of the mortgage or pay down or even a scheduled payment on a mortgage, would those funds be considered a transfer of assets?

Mr. MCCOLLUM. No, it would not be. It has to be done with the intent, a special extra amount of money, whatever it is, to defraud the creditors so it is actually going out and trying to get around the rules of the game, and that requires an element that would be far beyond a normal routine payment. They obviously can make their routine payments on their home, and this amendment would not affect that.

Mr. BENTSEN. Including prepayments.

Mr. MCCOLLUM. Including prepayments. It would not affect it if they have already got scheduled prepayments, and they have a right to make those prepayments now. Obviously somebody can come in and decide they are going to pay off the entire mortgage, and that might present a problem of intent where other evidence could come into play because, remember, the question here is the intent of the person who is trying to get around the law.

I urge the adoption of the amendment. It is a good amendment.

Mr. DELAHUNT. Mr. Chairman, I rise in opposition to the amendment and yield 2½ minutes to the distinguished gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, this is a doozie of an amendment. Please listen to the debate on this amendment. Supporters of this bill have said over and over again that the bankruptcy code should not be used as a financial planning tool. Yet the very people who are sponsoring the bill have offered this amendment to let wealthy debtors continue to use the bankruptcy system as a financial planning tool that enables them to shelter millions of dollars from the creditors. This bill makes it tougher for people of limited means to escape their debts by using the bankruptcy system.

Personal responsibility; that is what we all want. But what about the personal responsibility of people who have a lot of assets? If this amendment passes, wealthy individuals with expensive homes in one of the five States with an unlimited homestead exemption will be able to declare bankruptcy and enjoy a life of luxury at the expense of their creditors.

So who are these people? People like the owner of a failed S&L who paid off only a fraction of the $300 million in bankruptcy claims while keeping his multimillion dollar ranch in Florida, or the convicted Wall Street financier who filed bankruptcy while owing some $50 million in debts and fines but still kept his $5 million Florida mansion complete with 11 bedrooms and 21 baths, or the physician with no malpractice insurance who has been named in 4 separate lawsuits. He filed for bankruptcy protection and kept a $500,000 home with a 100-foot swimming pool.

The situation has become so notorious that one Miami bankruptcy judge told the New York Times, quote:

''Theoretically, you could shelter the Taj Mahal in this State, and no one could do anything about it.''

Fortunately, during its markup of H.R. 3150, the Committee on the Judiciary did do something about it, unanimously approving language recommended by the National Bankruptcy Review Commission to place a nationwide $100,000 cap on the amount a debtor can claim under the exemption. A similar bipartisan amendment was unanimously approved in the Senate. This cap would have no effect in the 43 States.

We hear two arguments against this. One is $100,000 is too low. This is $100,000 equity, and there are only 15 percent of the people in this country that have $100,000 equity in their home. The other is that it violates the Constitution or State rights. This is Federal bankruptcy courts, not State courts, Federal bankruptcy courts.

What this amendment allows someone to do if they are doing financial planning, they want to declare bankruptcy and they live in New York: buy a beautiful piece of property in Miami, stay in New York for 365 days, go down, live in that beautiful piece of property and rip off the people they owe money to.

This amendment is a sham.

Mr. DELAHUNT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. KANJORSKI).

(Mr. KANJORSKI asked and was given permission to revise and extend his remarks.)

□ 1630

Mr. KANJORSKI. Mr. Chairman, I am what I classify as a moderate Democrat, and I think that reform of bankruptcy is something that is necessary. I think there has been an abuse in the country. I would say some of the abusers are in the banking industry themselves, by sending out these credit cards to people that are even in bankruptcy are receiving credit cards.

But forgetting that, as we may, this is really a killer amendment for me and I think a lot of moderate people who would like to support bankruptcy. This is opening up the largest loophole in the whole bankruptcy act.

This is saying to people, come to Florida, Texas, figure out what you are going to do, and shelter your assets. You are saying to people in Pennsylvania and 45 other states that will not have any great benefit from this loophole, oh, you are going to be able to be wiped out in bankruptcy. You can only keep $16,500 of your exemption. But if you come to Florida, and even if you participated in fraud, abuse and theft in the savings and loan industry, you can remain living in your $5 million mansion and you have wiped out all other creditors through bankruptcy, because we have this exemption.

I understand we have this teetering and tottering here. We have some people that are for states' rights and they want the ability to have the exemption, but, on the other hand, they want to have a national statute that makes the credit card owner pay for it. I say pox on both our houses.

If we are going to do the fair thing, the underlying bill here gave a $100,000 exemption. How much more do you want? How much more blood from Pennsylvanians, from New Yorkers, from people in 45 states of this union that want to have responsible payment of debt, but do not want loopholes and favoritism?

I suggest, Mr. Chairman, that if you persist in this course and this amendment wins, here is one Member who is going to vote for no for this bill, who had been all along the support of this bill, because I think it should move

through the process so we can get some reform in bankruptcy. But if I see this type of extremity going in, I know we are not going to get the type of reform that the constituents in my State and district could allow.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) has 1 minute remaining and has the right to close, and the gentleman from Massachusetts (Mr. DELAHUNT) has 30 seconds remaining.

Mr. DELAHUNT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I will be very brief. I want to address the scenario that the gentleman from Florida raised about the poor widow and her family. The manager's amendment offered by the gentleman from Illinois (Mr. HYDE), which I think was accepted and will receive support from both sides of the aisle, if a creditor forced someone into involuntary bankruptcy, the cap on the homestead exemption is automatically lifted. I think it is very important that Members know that. We are not going to have the kind of scenarios that were put forth by the gentleman who has sponsored this bill, the gentleman from Florida (Mr. MCCOLLUM).

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. I yield the balance of my time to the gentleman from Texas (Mr. SMITH).

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Texas is recognized for 1 minute.

Mr. SMITH of Texas. Mr. Chairman, I rise in support of the Gekas-McCollum-Smith amendment that preserves the rights of the states to set their own individual homestead exemptions.

H.R. 3150, the Bankruptcy Reform Act of 1998, is a necessary reform of our Nation's bankruptcy laws. But since 1867, Federal lawmakers have recognized the role of the states in determining what property is exempt under bankruptcy laws. Unfortunately, the language in this bill runs contrary to the Texas Constitution, as well as the Constitution of several other states.

The homestead exemption was originally intended to protect families by ensuring that if a family hit hard times, they would retain some means of support. The need to protect families is no less important today.

Our amendment simply preserves the right of states to provide a homestead exemption, and maintains a historical balance between the Federal Government and the states. It would also prevent State homestead exemptions from being abused by prohibiting the conversion of nonexempt assets into exempt homestead property within one year of filing for bankruptcy. That is a protection that needs to be emphasized.

Mr. Chairman, this amendment both prevents abuses of the exemption and protects states' rights, and I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. DELAHUNT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS) will be postponed.

It is now in order to consider Amendment No. 9 printed in House Report 105–573.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows.

Amendment No. 9 printed in House Report 105–573 offered by Mr. SCOTT:

Beginning on page 90, strike line 19 and all that follows through line 10 on page 91 (and make such technical and conforming changes as may be appropriate).

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment would eliminate section 212 of the bill, which singles out the recording artists for detrimental treatment to the exclusive benefit of recording companies in regard to personal service contracts.

Although section 212 in this bill is an improvement over its original version, it still provides an exclusive benefit to recording companies and still singles out recording artists for harsher treatment than other debtors filing for bankruptcy protection. This is without any showing that recording companies are entitled to this exclusive benefit in bankruptcy or that artists are abusing bankruptcy laws in any way that cannot be addressed through other provisions of bankruptcy laws that apply to everybody else.

Furthermore, whereas approximately 1 percent of all American adults filed for bankruptcy in 1997, according to Billboard Magazine, not even one-tenth of 1 percent of recording artists file for bankruptcy annually. There have been no hearings on section 212. In fact, it was not even considered in subcommittee markup. This special interest provision only appeared in a 177 page substitute which was first presented at full committee consideration of the bill.

Section 212 provides a new legal standard which will penalize recording artists for using provisions of the bankruptcy code available without such penalty to all other debtors similarly situated. Section 2812 does not apply to actors, does not apply to athletes, doctors, lawyers, professors, authors or anyone else who signed a personal service contract.

No justification has been offered to explain why recording artists in bankruptcy should be forced into continued servitude under what may be totally unfair and unduly burdensome contracts, especially since the contract itself may have contributed to the bankruptcy in the first place.

I urge support for this amendment, which eliminates an unnecessary, unfair, undesirable and, in some cases, unconscionable provision.

Mr. GEKAS. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield one minute to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I want to oppose this amendment in the strongest of terms. The provision that is now in this bill based on the managers' amendment would provide a solution in a flexible manner for some very serious problems that we have with some recording artists who have just filed bankruptcy to get out of studio contracts. That is not right.

What we are providing in the bill that the gentleman from Virginia (Mr. SCOTT) wants to strike is a provision that allows, permits, does not require, but allows bankruptcy judges to stop recording artists' abuse of bankruptcy laws. The underlying provision only affects artists paid royalty advances on a promise to perform exclusively for a studio. Under those conditions, why should anybody be allowed to file bankruptcy, just for the purpose of getting out of a studio contract?

We may want to argue that there are other inequitable situations that occur in contract law concerning bankruptcies. I cannot profess to address all of them, but I can say we ought to address this one while we have the opportunity today, and give bankruptcy judges the discretion to decide if indeed somebody is trying to in essence defraud the system by using bankruptcy to break these contracts in situations where they have made a promise to perform exclusively for a studio.

Mr. Chairman, I urge a no vote in the strongest terms on the Scott amendment to allow this to continue to happen.

Mr. SCOTT. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I commend my good friend, the gentleman from Virginia (Mr. SCOTT) for this amendment.

Mr. Chairman, now, how outrageous can the gentleman from Florida (Mr. MCCOLLUM) get? Our friends in the record industry, and I am a friend of the record industry, they go to the gentleman to sneak in this amendment, not known to anybody until we discovered it; not a hearing, not a word. I do

not know who I am more disgusted at, the gentleman or them. I guess I will just be disgusted at both of you.

Now, why did the gentleman do it? For what reason? Section 707 protects everybody from phony filings. Everybody. Nobody in America has this exception but your buddies in the record industry. This is a disgrace, and I am really angry that you would try to pull this and that my friends in the entertainment industry would pull it on me.

I hope everybody votes against this amendment. There is absolutely no justification for it at all. Besides, it is directed at minority artists and entertainers, who frequently get cheated out of their earnings and have to go into bankruptcy, I would say to the gentleman from Pennsylvania (Mr. GEKAS).

So, please, have a heart.

Mr. GEKAS. Mr. Chairman, I yield one minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Chairman, I rise in opposition to the Scott amendment.

Mr. Chairman, as everyone in the chamber knows, I am proud to say I am from Nashville, Tennessee, Music City, USA, home of some of the best music and the best artists in the world. These artists work hard to earn their living and achieve success by virtue of their talent, ingenuity and just plain sweat.

Unfortunately, there are some cases of unscrupulous lawyers and agents who threaten to tarnish the reputation of many fine artists by declaring bankruptcy for some artists as a ploy to renegotiate a new contract. I am talking about some that have the money, but are willing to take short cuts and want a better contract and do not live up to their contract that they are in at the present time. That just is not right, and it threatens to spoil the reputation of the hard-working artists who play fairly.

Mr. Chairman, I urge my colleagues to vote against the Scott amendment.

Mr. SCOTT. Mr. Chairman, I yield one minute to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I have heard the words ''outrageous'' and ''this is a disgrace.'' Well let me tell you what is outrageous and is a disgrace. What is outrageous is that you will have a multimillion dollar artist that is in the middle of a contract and decides, as I have read in one case, does not want to make $15 million in the next album, but they want to make $30 million on the next album so they go to bankruptcy court, and in bankruptcy court, they try to get it thrown out so they can go back and renegotiate a new contract and make $30 million.

Let us not talk about poor starving artists. We have documented cases of people that are making multi-multimillions on albums, and they just simply want to renegotiate their deal. That is outrageous. Sign a deal, and live by the terms of that deal.

Now, I have heard also the race card has been used. If there is any color involved in this issue, it is the color green, the color of money, because this affects every artist, whether they are black or white, or whether they are Hispanic, whether they are working in L.A., Nashville or New York. This is race neutral. It is simply saying to the bankruptcy court, you have the discretion to decide whether somebody is using the rules to break a valid contract. I oppose the Scott amendment.

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Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise to oppose the Scott amendment to strike section 212 of this bill.

Under section 212 of H.R. 3150, bankruptcy judges would have the right to deny the termination of contracts with recording artists if it is clear that the bankruptcy filing is a ploy to end the contract. It provides judges with the authority to prevent fraudulent filers from using the bankruptcy system simply to advance other business objectives.

At issue in this provision is not who is filing for bankruptcy, but why they are filing for bankruptcy. Regardless of the circumstances, bankruptcy judges should have the authority to prevent fraudulent filings.

Mr. Chairman, this provision would not deny anyone access to bankruptcy. It would not deny debtors in genuine economic stress the ability to rehabilitate their finances, and it would not deny or not give recording companies a preferred creditor position.

I urge my colleagues to oppose the Scott amendment and support H.R. 3150.

Mr. GEKAS. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, to the extent that debtors are denied a new contract, other creditors are less likely to be paid. It is normal to renegotiate contracts in bankruptcy. In fact, in our Saturday paper, a race track in my district was in financial trouble, and the article pointed out that, if they filed bankruptcy, they would be able to renegotiate contracts that have put it into financial distress.

But whatever the merits of this argument, they ought to apply to everyone. There is nothing so unique about this particular special interest group that they should be given the advantage of section 212, a provision stuck into the bill without a hearing. For the merits of the argument in support of this section to make any sense, it ought to apply to everyone; otherwise, it just looks like a special favor for one particular special interest group, and that is why it ought it be struck. Mr. Chairman, I hope we can support this amendment.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Virginia (Mr. SCOTT) yields back the balance of his time.

Mr. GEKAS. Mr. Chairman, I yield to myself the balance of the time remaining.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 1 minute.

Mr. GEKAS. Mr. Chairman, as I recall the negotiations that were taking place during the time of consideration by the full committee, I thought that the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Virginia (Mr. SCOTT) had become on the verge of reaching some compromised language. Then I learned that, indeed, they had, or at least it looked like we had, and so that the manager's amendment did contain some language that would seem to satisfy both sides.

Now I find out that that was not the case; therefore, we have to rely on what is now in the manager's amendment, and we respectfully reject the Scott amendment, and I ask everybody to vote no.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Virginia for the remaining time.

Mr. SCOTT. Mr. Chairman, I would acknowledge that the present version is not as bad as what we considered in committee, but we did not reach an agreement.

Mr. GEKAS. I know that. I know that.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SCOTT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, further proceedings on the amendment offered by the gentleman from Virginia (Mr. Scott) will be postponed.

It is now in order to consider amendment number 10 printed in House Report 105–573.

AMENDMENT NO. 10 OFFERED BY MS. VELAZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 printed in House Report 105–573 offered by Ms. VELÁZQUEZ:

Page 110, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

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

Not later than 2 years after the date of the enactment of this Act, the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy can be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELAZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we move to rewrite our Nation's bankruptcy laws, it is important that we make the proper changes. My amendment ensures that we have all the facts on how these revisions will affect small business. I urge its adoption.

The purpose of my amendment is to direct the Small Business Administrator in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts to conduct a study into the causes of small business bankruptcy.

This study will examine the internal and external factors that cause small businesses to become debtors under Chapter 11. It would also study the factors that enable viable businesses to successfully reorganize. From these findings, the SBA will make recommendations on how bankruptcy law can be made more effective and efficient to assist small businesses remain viable.

Mr. Chairman, small businesses have been a critical component in the recent upturn in our economy. They have created the vast majority of the jobs and economic growth.

If you couple this job growth with the current explosion of technology, where we see businesses constantly emerging and reinventing themselves, it becomes critical that we monitor how changes to our national bankruptcy system affect small business. More importantly, these changes must not be allowed to dampen the entrepreneurial spirit that our national economy relies on so heavily.

The fact remains that of the 1.4 million bankruptcies filed in 1997, only 9,694 of Chapter 11 and 11,095 in Chapter 13 were business related. That represents less than 1 percent of all bankruptcies. Taking into account that over the last 10 years business bankruptcies have actually declined, we must make sure that these trends continue.

It is true that the provisions in this legislation were taken on recommendation from the National Bankruptcy Review Commission Report. Unfortunately, the Commission developed these guidelines without obtaining any statistical information. They also failed to seek the recommendations from the Small Business Administration or the Office of Advocacy.

We should not move forward with such drastic changes to our bankruptcy system without the proper consultation and examination into the issue. My amendment will ensure that all factors are properly scrutinized. If we fail to act properly, the provisions contained in this bill could end up doing more harm than good.

Mr. Chairman, no one will deny that our Nation is in dire need of bankruptcy reform. What I am concerned about is that we do this in a manner that improves our system, not make it worse. While studying how these changes impact small business will not ensure success, it will provide a safety net for our Nation's small business.

I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise in opposition?

Mr. GEKAS. Mr. Chairman, I rise in opposition only for the purpose of claiming the time, to tell the truth.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

(The gentleman from Pennsylvania spoke in Spanish.)

Ms. VELAZQUEZ. (The gentlewoman from New York spoke in Spanish.)

Mr. GEKAS. (The gentleman from Pennsylvania spoke in Spanish.)

We will accept the amendment as offered by the gentlewoman from New York in both English and Spanish.

Mr. Chairman, I yield back the balance of my time.

Ms. VELAZQUEZ. Mr. Chairman, I thank the gentleman from Pennsylvania for supporting my amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 105–573.

AMENDMENT NO. 11 OFFERED BY MR. BALDACCI

Mr. BALDACCI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 printed in House Report 105–573 offered by Mr. BALDACCI:

Page 131, after line 7, insert the following:

SEC. 414. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study regarding the impact that the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled in post-secondary educational institutions;

has on the rate of cases filed under title 11 of the United States Code; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from Maine (Mr. BALDACCI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer my student credit study amendment to bankruptcy reform legislation we are considering today.

My amendment directs the Comptroller General to conduct a study on the impact of the Nation's bankruptcy rate of the extension of credit to students enrolled in postsecondary education programs who are claimed as dependents for tax purposes by their parents or legal guardians.

The intent of my amendment is to compile information on the impact the extension of credit may have on families when it is extended to dependent students in college or trade school when they may have little or no income with which to pay debts from occurred through credit cards.

Again, I am not talking about students who are, for all intents and purposes on their own, financially independent, but those who are claimed as dependents by their parents for tax purposes.

I have received numerous inquiries from constituents who have expressed concern about the seemingly haphazard extension of credit to students who have no visible means of support, other than that of their family.

Some of you have seen the ''Dear Colleague'' sent out by the gentleman from Massachusetts (Mr. DELAHUNT) yesterday. Apparently, his college-aged daughter was sent an offer of credit in the form of a check for $2,875. That kind of money can be hard to resist for some students. You are away from home. Lots of strange new faces and very little cash. Those of you who are parents will probably understand where I am going with this.

I think the majority of students would be intelligent, responsible young adults. However, the temptation for some students to take on more debt than they could reasonably handle would be strong in some of these situations. As a dependent, your parents

may feel a moral obligation to pay that debt. I think it is incumbent upon us to see if this is in fact a problem and the extent to which it effects American families.

Having said that, Mr. Chairman, I would urge the adoption of the amendment that I have offered.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise this opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition only for the purpose of claiming the time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to be intellectually honest about that, maybe for the first time in my career, but anyway, I agree with the concept that has been advanced by the gentleman from Maine and would urge a yes vote on his amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maine (Mr. BALDACCI).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 12 printed in House Report 105–573.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 12 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment of the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 12 printed in House Report 105–573 offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Reform Act of 1998''.

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

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

Sec. 101. Dismissal or conversion of a chapter 7 case.
Sec. 102. 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. Fraudulent debts are nondischargeable in chapter 13 cases.
Sec. 142. Applying the codebtor stay only when it protects the debtor.
Sec. 143. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 144. Other exceptions to discharge.
Sec. 145. Fees arising from certain ownership interests.
Sec. 146. Adequate protection for investors.
Sec. 147. Super-priority for child and spousal support claims.
Sec. 148. Debts for alimony, maintenance, and support.
Sec. 149. Protection of child support and alimony.

Subtitle E—Adequate Protections for Lessors

Sec. 161. Giving debtors the ability to keep leased personal property by assumption.

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.
Sec. 183. Provide fair property exemptions and prevent high-rollers from abusing the system.

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. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or reinsurance in the United States.
Sec. 210. Period for filing plan under chapter 11.
Sec. 211. Unexpired leases of nonresidential real property.
Sec. 212. Definition of disinterested person.

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.

CHAPTER 3—CONDITIONAL APPLICATION OF AMENDMENTS

Sec. 291. Loss of jobs.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

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

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

Sec. 401. Adequate preparation time for creditors before the meeting of creditors in individual cases.
Sec. 402. Creditor representation at first meeting of creditors.
Sec. 403. Filing proofs of claim.
Sec. 404. Audit procedures.
Sec. 405. Giving creditors fair notice in chapter 7 and 13 cases.
Sec. 406. Debtor to provide tax returns and other information.
Sec. 407. Dismissal for failure to file schedules timely or provide required information.
Sec. 408. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 409. Sense of the Congress regarding expansion of rule 9011 of the Federal rules of bankruptcy procedure.
Sec. 410. Jurisdiction of courts of appeals.
Sec. 411. Establishment of official forms.
Sec. 412. 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.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

SEC. 101. DISMISSAL OR CONVERSION OF A CHAPTER 7 CASE.

(a) AMENDMENTS TO CHAPTER 7.—Section 707 of title 11, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 707 Dismissal or conversion of case";

(2) by amending subsection (b) to read as follows:

''(b)(1) In a case filed by an individual debtor who has regular income and whose debts are primarily consumer debts, the court—

''(A) on its own motion, or on a motion by the United States trustee or the trustee; or

''(B) on a motion filed by a party in interest, if the household income with respect to the debtor during the 1-year period ending on the date the case is commenced exceeds the sum of $60,000 and $5,000 for each household member exceeding 4, adjusted to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the period beginning on the 1st January 1 occurring after the effective date of this subparagraph and ending immediately before the most recent January 1 occurring before the commencement of the case;

and after notice and a hearing, shall dismiss the case, or convert the case with the consent of the debtor to a case under another chapter of this title, if the court finds that granting relief would be an abuse of the provisions of this chapter.

''(2) For purposes of paragraph (1)—

''(A) 'an abuse of the provisions of this chapter' means that—

''(i)(I) the debtor has, and is expected to have, disposable income that is sufficient, after paying allowed claims (whether secured or unsecured) for a debt secured only by the principal residence of the debtor, allowed secured claims, claims that have priority under section 507 of this title, allowed unsecured claims arising under not more than 1 motor vehicle lease in effect on the date the case is commenced, and debts arising in the 3-year period beginning on such date under not more than 1 motor vehicle lease in effect on the such date, to pay during such 3-year period not less than 30 percent of the aggregate amount of the remaining allowed unsecured claims; and

''(II) household income received with respect to the debtor during the 1-year period ending on the date the case is commenced exceeds the sum of $40,000 and $5,000 for each household member exceeding 2, adjusted to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the period beginning on the 1st January 1 occurring after the effective date of this subparagraph and ending immediately before the most recent January 1 occurring before the commencement of the case; or

''(ii) the debtor commenced a case under this chapter, or converted a case to a case under this chapter, in bad faith;

''(B) 'disposable income' means income that is received by the debtor and that is not reasonably necessary to be expended for the maintenance or support of the debtor or a dependent of the debtor;

''(C) 'household income' means—

''(i) in an individual case, the sum of—

''(I) the debtor's income; and

''(II) the income of any other household member of the debtor; and

''(ii) in a joint case, the sum of—

''(I) the debtor's income;

''(II) the income of the debtor's spouse; and

''(III) the income of any other household member of the debtor or of the debtor's spouse;

''(D) 'household member' means—

''(i) the debtor;

''(ii) the debtor's spouse if the debtor's spouse maintains a common principal residence with the debtor on the date the case is commenced; or

''(iii) a relative (by affinity, consanguinity, or adoption) of the debtor or the debtor's spouse who—

''(I) maintains a common principal residence with the debtor on the date the case is commenced; and

''(II) is dependent on the debtor, or on the debtors' spouse if the debtor's spouse maintains a common principal residence with the debtor on the date the case is commenced, for substantially all financial support during the 180-day period ending on the date the case is commenced.

''(3) Except as provided in paragraph (2)(C), this subsection shall apply jointly to debtors in a joint case.''; and

(3) by adding at the end the following:

''(c) If the court denies a motion filed under this section by a party in interest, the court shall award to the debtor—

''(1) costs and a reasonable attorney's fee incurred by the debtor to oppose the motion; and

''(2) damages of not less than $5000;

unless the position of such party in interest is substantially justified.''.

SEC. 102. DEBTOR PARTICIPATION IN CREDIT COUNSELING PROGRAM.

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

''(i)(1) Subject to paragraph (2) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 90-day period preceding the date of filing of the petition, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the 'bankruptcy system'), through a credit counseling program offered through credit counseling services described in section 342(b)(2) that has been approved by—

''(A) the United States trustee; or

''(B) the bankruptcy administrator for the district in which the petition is filed.

''(2) The United States trustee or bankruptcy administrator may not approve a program for inclusion on the list under paragraph (1) unless the counseling service offering the program offers the program without charge, or at an appropriately reduced charge, if payment of the regular charge would impose a hardship on the debtor or the debtor's dependents.

''(3) The United States trustee or bankruptcy administrator shall designate any geographical areas in the United States trustee region or judicial district, as the case may be, as to which the United States trustee or bankruptcy administrator has determined that credit counseling services needed to comply with this subsection are not available or are too geographically remote for debtors residing within the designated geographical areas. The clerk of the bankruptcy court for each judicial district shall maintain a list of the designated areas within the district.

''(4) The clerk shall exclude a particular counseling service from the list maintained under section 342(b)(2) of this title if the United States trustee or bankruptcy administrator orders that the counseling service not be included in the list.

''(5) The court may waive the requirement specified in paragraph (1) if—

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

''(B) the providers of credit counseling services available in the district are unable or unwilling to provide such services to the debtor in a timely manner; or

''(C) foreclosure, garnishment, attachment, eviction, levy of execution, utility termination, repossession, or similar claim enforcement procedure that would have deprived the individual of property had commenced or threatened to commence before the debtor could complete a good-faith attempt to create such a repayment plan.

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

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

''(8) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

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

''(g)(1) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(A) a certificate from the credit counseling services that provided the debtor services under section 109(i), or a verified statement as to why such attempt was not required under section 109(i) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(i); and

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

''(2) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

Subtitle B—Adequate Protections for Consumers

SEC. 111. NOTICE OF ALTERNATIVES.

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

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

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

''(B) A brief description of services that may be available to the individual from an independent nonprofit debt counselling service.

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

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

''(ii)(II) that offers toll-free telephone communication to debtors in such district; and

''(ii) that provides such service without charge or on an appropriate reduced fee basis.

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

''(3) The clerk shall make such notice available to individuals whose debts are primarily consumer debts.

''(4) The United States trustee may file a motion with the bankruptcy court to request the removal of any debt counseling service from such list.''.

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

(1) in paragraph (5) by striking ''and'' at the end;

(2) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

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

SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 1-year period beginning not later than 180 days after the date of the enactment of this Act, such curriculum and materials shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed in such 1-year period under chapter 7 or 13 of title 11 of the United States Code.

(3) The bankruptcy courts in each of such districts may require individual debtors in such cases to undergo such financial management training as a condition to receiving a discharge in such case.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

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

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 113. DEFINITIONS.

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

(1) by inserting after paragraph (3) the following:

''(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

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

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

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) CONFORMING AMENDMENT.—In section 104(b)(1) by inserting ''101(3),'' after ''sections''.

SEC. 114. DISCLOSURES.

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

''§ 526. Disclosures

''(a) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

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

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

''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

''(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) household income, and, in a chapter 13 case, disposable income, must be stated after reasonable inquiry; and

''(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

''''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

''''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

''''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

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

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

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

''''If you select another type of proceeding under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out

what needs to be done from someone familiar with that type of proceeding.

''`Your bankruptcy proceeding may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can represent you in litigation.'.

''(c) Except to the extent the debt relief counselling agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief counselling agency providing bankruptcy assistance to an assisted person, to the extent authorized by applicable nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine household income and, in a chapter 13 case, disposable income, and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown;

''(3) how to determine what property is exempt and how to value exempt property as defined in section 506 of this title; and

''(4) a clear and conspicuous statement that an employee of such service may not provide legal advice unless such employee is an attorney.

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

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

''526. Disclosures.''.

SEC. 115. DEBTOR'S BILL OF RIGHTS.

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

''§ 527. Debtor's bill of rights

''(a) A debt relief counselling agency shall—

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

''(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

''(3) if an advertisement directed to the general public indicates that the debt relief counselling agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: ''We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.'' or a substantially similar statement.

''(b) A debt relief counselling agency shall not—

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

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

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief counselling agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.''.

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

''527. Debtor's bill of rights.''.

SEC. 116. ENFORCEMENT.

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

''§ 528. Debt relief counselling agency enforcement

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

''(b) NONCOMPLIANCE.—

''(1) Any contract between a debt relief counselling agency and an assisted person for bankruptcy assistance which does not comply with the requirements of section 526 or 527 of this title shall be treated as void and may not be enforced by any Federal or State court or by any other person.

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

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

''(B) negligently or intentionally disregarded the requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief counselling agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person which the debt relief counselling agency has already been paid on account of that proceeding and if the case has not been closed, the court may in addition require the debt relief counselling agency to continue to provide bankruptcy assistance services in the pending case to the assisted person without further fee or charge or upon such other terms as the court may order.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527 of this title, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) The rights and remedies provided in this section are in addition to any rights and remedies provided under any other provision of Federal law.

''(c) RELATION TO STATE LAW.—This section and sections 526 and 527 shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State.''.

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

''528. Debt relief counselling agency enforcement.''.

SEC. 117. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 118. CHARITABLE CONTRIBUTIONS.

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

''(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

''(A) is made by a natural person; and

''(B) consists of—

''(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

''(ii) cash.

''(4) In this section, the term 'qualified religious or charitable entity or organization' means—

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

''(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.''.

(b) TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.—

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

(A) by inserting ''(1)'' after ''(a)'';

(B) by striking ''(1) made'' and inserting ''(A) made'';

(C) by striking ''(2)(A)'' and inserting ''(B)(i)'';

(D) by striking ''(B)(i)'' and inserting ''(ii)(I)'';

(E) by striking ''(ii) was'' and inserting ''(II) was'';

(F) by striking ''(iii)'' and inserting ''(III)''; and

(G) by adding at the end the following:

''(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

''(A) the aggregate annual amount of all contributions to qualified religious or charitable entities or organizations does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

''(B) the contribution made by a debtor exceeded the maximum amount specified in subparagraph (A), but the transfer was consistent with the practices of the debtor in making charitable contributions.''.

(2) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(A) by striking ''(b) The trustee'' and inserting ''(b)(1) Except as provided in paragraph (2), the trustee''; and

(B) by adding at the end the following:

''(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.''.

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

(A) in subsection (e)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)'';

(B) in subsection (f)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)''; and

(C) in subsection (g)—

(i) by striking ''section 548(a)(1)'' each place it appears and inserting ''section 548(a)(1)(A)''; and

(ii) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''.

(d) TREATMENT OF POSTPETITION CHARITABLE CONTRIBUTIONS.—

(1) CONFIRMATION OF CHAPTER 13 PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: '', including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made''.

(2) DISMISSAL OF CHAPTER 7 CASE.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: ''In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).''.

(3) CONTENTS OF CHAPTER 11 PLAN.—Section 1123 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case concerning an individual, the plan may provide for charitable contributions (as defined in section 548(d)(3) of this title) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4) of this title) in an aggregate annual amount not to exceed 15 percent of the gross income of the debtor for the year in which such contributions are made.''.

(4) CONFIRMATION OF CHAPTER 12 PLAN.—Section 1225(b)(2) of title 11, United States Code, is amended—

(A) in subparagraph (A) by striking ''or'' at the end;

(B) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(C) by inserting adding at the end the following

''(C) for charitable contributions (as defined in section 548(d)(3) of this title) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4) of this title) in an aggregate annual amount not to exceed 15 percent of the gross income of the debtor for the year in which such contributions are made.''.

(e) APPLICABILITY.—

This section and the amendments made by this section shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

(f) RULE OF CONSTRUCTION.—

Nothing in the amendments made by this section is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

SEC. 119. REINFORCE THE FRESH START.

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

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

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

(b) PROTECTION OF RETIREMENT FUNDS IN BANKRUPTCY.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A) by striking ''and'' at the end;

(B) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

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

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

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

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

''(c) For the purposes of this section, the term 'utility' includes any provider of gas, electric, telephone, telecommunication, cable television, satellite communication, water, or sewer service, whether or not such service is a regulated monopoly.''.

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

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

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

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

''(B) based in whole or in part on false pretenses, a false representation, or actual fraud.''.

Subtitle C—Adequate Protections for Secured Creditors

SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.

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

(1) in paragraph (1) by striking ''and'' at the end;

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

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

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

''(A) as to all creditors if—

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

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

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

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

action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of that creditor.

''(4) If a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of that debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b) of this title, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

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

''(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and such request is granted in whole or in part, the court may order in addition that the relief so granted shall be in rem either for a definite period not less than 1 year or indefinitely. After the issuance of such an order, the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor under this title. If such an order so provides, such stay shall also not apply in any pending or later-filed case of any entity under this title that claims or has an interest in the subject property other than those entities identified in the court's order.

''(B) The court shall cause any order entered pursuant to this paragraph with respect to real property to be recorded in the applicable real property records, which recording shall constitute notice to all parties having or claiming an interest in such real property for purpose of this section.

''(6) For the purposes of this section, a case is pending from the time of the order for relief until the case is closed.''.

SEC. 122. DEFINITION OF HOUSEHOLD GOODS.

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

''(27A) 'household goods' has the meaning given such term in the Trade Regulation Rule on Credit Practices promulgated by the Federal Trade Commission (16 C.F.R. 444.1(i)), as in effect on the effective date of this paragraph, but includes any tangible personal property reasonably necessary for the maintenance or support of a dependent child, including children's toys;''.

SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking ''and'' at the end;

(B) in paragraph (5) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property having a value exceeding $5,000 as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 30 days after the first meeting of creditors under section 341(a)—

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

''(B) redeems such property from the security interest pursuant to section 722 of this title.

''If the debtor fails to so act within the 30-day period, the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 722 by inserting ''in full at the time of redemption'' before the period at the end.

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

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

(1) in section 362—

(A) by striking ''(e), and (f)'' in subsection (c) and inserting in lieu thereof ''(e), (f), and (h)''; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

''(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate having a value exceeding $5000 and securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

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

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

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

(A) in paragraph (2) by striking ''consumer'';

(B) in paragraph (2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(ii) by striking ''forty-five day'' the second place it appears and inserting ''30-day'';

(C) in paragraph (2)(C) by inserting ''except as provided in section 362(h)'' before the semicolon; and

(D) by adding at the end the following:

''(h) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

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

''(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

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

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

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

''(2) such 60-day period is extended either by agreement of all parties in interest or by the court for a specific time which the court finds is required by compelling circumstances.''.

SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

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

(1) by striking in subparagraph (B) ''in the converted case, with allowed secured claims'' and inserting in lieu thereof ''only in a case converted to chapter 11 or 12 but not in one converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(2) in subparagraph (A) by striking ''and'' at the end;

(3) in subparagraph (B) by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter of this title. Unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

SEC. 128. RESTRAINING ABUSIVE PURCHASES ON SECURED CREDIT.

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

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

''(1) subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor within 90 days of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

''(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

''(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

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

SEC. 129. FAIR VALUATION OF COLLATERAL.

The last sentence of section 506(a) of title 11, United States Code, is amended to read as follows:

''Such value shall be the liquidation value of the property which shall be not more than the cash wholesale value of the property and shall be determined in conjunction with any hearing on a plan or after notice and a hearing pursuant to any other provision of this title when they are paid in full.''.

SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED BY DEBTOR'S PRINCIPAL RESIDENCE.

Title 11, United States Code, is amended—

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

''(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;

''(13B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;'';

(2) in section 362(b)—

(A) in paragraph (17) by striking ''or'' at the end thereof;

(B) in paragraph (18) by striking the period at the end and inserting ''; or''; and

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

''(19) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title case by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a).''; and

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

''(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;''.

SEC. 131. AIRCRAFT EQUIPMENT AND VESSELS.

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

(1) in subparagraph (A) by striking ''that become due on or after the date of the order'';

(2) in subparagraph (B)—

(A) in clause (i) by striking ''and'' at the end; and

(B) in clause (ii)—

(i) by inserting ''and within such 60-day period'' after ''order''; and

(ii) in subclause (II) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

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

Subtitle D—Adequate Protections for Unsecured Creditors

SEC. 141. FRAUDULENT DEBTS ARE NONDISCHARGEABLE IN CHAPTER 13 CASES.

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

(1) by inserting ''(2), (3)(B), (4),'' after ''paragraph''; and

(2) by inserting ''(6),'' after ''(5),''.

SEC. 142. APPLYING THE CODEBTOR STAY ONLY WHEN IT PROTECTS THE DEBTOR.

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

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) When the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) does not apply to such creditor, notwithstanding subsection (c), to the extent the creditor proceeds against the individual which received such consideration or against property not in the possession of the debtor which secures such claim, after notice and a hearing to the person in possession of such property, but this subsection shall not apply if the debtor is primarily obligated to pay the creditor in whole or in part with respect to the claim under a legally binding separation agreement, or divorce or dissolution decree, with respect to such individual or the person who has possession of such property.

''(3) When the debtor's plan provides that the debtor's interest in personal property subject to a lease as to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease, the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan notwithstanding subsection (c).''.

SEC. 143. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

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

''(5) to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney);''.

SEC. 144. OTHER EXCEPTIONS TO DISCHARGE.

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

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

(2) in subsection (a)(7) by inserting ''an order of disgorgement or restitution obtained by a governmental unit'' after ''such debt is for''; and

(3) in subsection (c)(1) by striking ''(6), or (15)'' and inserting ''or (6)''.

SEC. 145. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

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

(1) by striking ''dwelling'' the 1st place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the 1st place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'', and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

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

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

SEC. 146. ADEQUATE PROTECTION FOR INVESTORS.

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

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national

securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17) by striking ''or'' at the end;

(2) in paragraph (18) by striking the period at the end and a inserting ''; or''; and

(3) by adding at the end the following:

''(19) under subsection (a) of this section, of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

SEC. 147. SUPER-PRIORITY FOR CHILD AND SPOUSAL SUPPORT CLAIMS.

Section 507 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding any other provision of this title, a claim entitled to priority under subsection (a)(7) shall have first priority over any expense or claim that has priority under any other provision of this title, except that administrative expenses may be paid under the priority provided in subsection (a)(1) if the failure to do so would result in less property being distributed to the holder of a claim of a kind specified in subsection (a)(7).''.

SEC. 148. DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

(a) NONDISCHARGEABILITY.—Section 523(a)(18) of title 11, United States Code, is amended—

(1) by inserting ''(including interest)'' after ''law''; and

(2) in subparagraph (A) by striking ''and'' at the end and inserting ''or''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 130, is amended—

(1) in paragraph (19) by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(20) under subsection (a) with respect to the withholding of income pursuant to an order for support that is owed to a spouse, former spouse, or child of the debtor; or

''(21) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law as specified in section 466(a)(15) of the Social Security Act or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act.''.

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

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

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

''(14) If the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.'';

(2) in section 1225(a)—

(A) in paragraph (5) by striking ''and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.''; and

(3) in section 1325(a)—

(A) in paragraph (5) by striking ''and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for current alimony, maintenance, or support that are due after the date the petition is filed and owed to such spouse, former spouse, or child, unless such spouse, former spouse, or child waives the operation of this paragraph.''.

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

(1) in section 1228(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid unless such spouse, former spouse, or child waives the operation of this paragraph,'' after ''this title,''; and

(2) in section 1328(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid unless such spouse, former spouse, or child waives the operation of this paragraph,'' after ''plan,'' the 1st place it appears.

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

(1) by inserting '', including interest,'' after ''Code)'';

(2) by striking ''and'' and inserting ''or''; and

(3) by striking ''released by a discharge'' and inserting ''dischargeable''.

SEC. 149. PROTECTION OF CHILD SUPPORT AND ALIMONY.

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

''§ 529. Protection of child support and alimony payments after the discharge

''Notwithstanding the provisions of the constitution or law of any State providing a different priority, any debts of the individual who has received a discharge under this title to a spouse, former spouse, or child for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

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

''(2) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support,

and any debt of a kind specified in paragraph (6), (9), or (13) of section 523(a) of this title, shall have priority in payment and collection over a creditor's claim which is not discharged in the individual's case pursuant to paragraph (2) or (4) of section 523(a) of this title, but such priority shall not affect the priority of any consensual lien, mortgage, or security interest securing such creditor's claim.''.

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

''529. Protection of child support and alimony.''.

Subtitle E—Adequate Protections for Lessors

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

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

''(p)(1) If a lease of personal property with an aggregate value of not less than $5,000 leased by the debtor is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

''(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the lessor. If within 30 days of such notice the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a)(2) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection.

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

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Section 727(a)(8) of title 11, United States Code, is amended by striking ''six'' and inserting ''7''.

Subtitle G—Exemptions

SEC. 181. EXEMPTIONS.

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

(1) by striking ''180'' and inserting ''365''; and

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

SEC. 182. LIMITATION.

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

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

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any interest to the extent that such interest exceeds $100,000 in value, in the aggregate, in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(C) a burial plot for the debtor or a dependent of the debtor.

''(2) The limitation under paragraph (1) shall not apply to—

''(A) an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer; or

''(B) a case commenced under section 303 of this title.''.

SEC. 183. PROVIDE FAIR PROPERTY EXEMPTIONS AND PREVENT HIGH-ROLLERS FROM ABUSING THE SYSTEM.

Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) If, in the 1-year period ending on the date of the filing of the petition and while the debtor was insolvent, the debtor makes property exempt under subsection (b) by converting property to a form of property that is exempt in an unlimited amount, such property shall not be exempt under this section to the extent that the value of the debtor's interest in the property that is converted exceeds $100,000. Such conversion shall not otherwise be a basis for denying an exemption and shall not be the basis for denying the debtor other relief under this title.''.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

SEC. 201. LIMITATION RELATING TO THE USE OF FEE EXAMINERS.

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

''(e) The court may not appoint any person to examine any request for compensation or reimbursement payable under this section.''.

SEC. 202. SHARING OF COMPENSATION.

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

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 203. CHAPTER 12 MADE PERMANENT LAW.

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

SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

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

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

SEC. 205. CREDITORS' AND EQUITY SECURITY HOLDERS' COMMITTEES.

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

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

SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.

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

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 207. PREFERENCES.

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

(1) by amending paragraph (2) to read as follows:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (7) by striking ''or'' at the end;

(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

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

SEC. 208. VENUE OF CERTAIN PROCEEDINGS.

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

SEC. 209. CASES ANCILLARY TO FOREIGN PROCEEDINGS INVOLVING FOREIGN INSURANCE COMPANIES THAT ARE ENGAGED IN THE BUSINESS OF INSURANCE OR REINSURANCE IN THE UNITED STATES.

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

(1) in subsection (b) by striking ''provisions of subsection (c)'' and inserting ''subsections (c) and (d)''; and

(2) by adding at the end the following:

''(d) The court may not grant to a foreign representative of the estate of an insurance company that is not organized under the law of a State and that is engaged in the business of insurance, or reinsurance, in the United States relief under subsection (b) with respect to property that is—

''(1) a deposit required by a State law relating to insurance or reinsurance;

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

''(3) a multibeneficiary trust authorized by a State law relating to insurance or reinsurance to allow a person engaged in the business of insurance in the United States—

''(A) to cede reinsurance to such an insurance company; and

''(B) to treat so ceded reinsurance as an asset, or deduction from liability, in financial statements of such person.''.

SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

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

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and

(2) by adding at the end the following:

''(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business.

''(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the the debtor's business.''.

SEC. 211. UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY.

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

''(4) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee before the earlier of (A) 120 days after the date of the order for relief, or (B) the entry of an order confirming a plan, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor but in no event shall such time period exceed 120 days unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business. Notwithstanding the immediately preceding sentence, and provided no plan has been confirmed, upon debtor's motion, and after notice and a hearing, the court may within such 120-day period extend the 120-day period by a period not to exceed 150 days, contingent upon written consent of the affected lessor or with the approval of the court, and provided trustee has timely performed all post-petition lease obligations, but in no circumstance shall such period extend beyond the earlier of (i) 270 days from the date of the order for relief or (ii) the entry of an order approving a disclosure statement, without the consent of the lessor unless the court determines that there is substantial likelihood that the failure to extend such date would result in the loss of jobs in the operation of the debtor's business.''.

SEC. 212. DEFINITION OF DISINTERESTED PERSON.

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

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect

relationship to, connection with, or interest in, the debtor, or for any other reason;''.

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

SEC. 231. DEFINITIONS.

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

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor' means—

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

''(B) a debtor of the kind described in paragraph (51B) but without regard to the amount of such debtor's debts;

except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $5,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;''.

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

SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

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

''(f) Notwithstanding subsection (b), in a small business case—

''(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

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

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

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND PLANS.

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

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

(2) economy and simplicity for debtors.

SEC. 234. UNIFORM NATIONAL REPORTING REQUIREMENTS.

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

''§ 308. Debtor reporting requirements

''A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

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

''(4) whether the debtor is—

''(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

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

''308. Debtor reporting requirements.''.

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

SEC. 235. UNIFORM REPORTING RULES AND FORMS.

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

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

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

SEC. 236. DUTIES IN SMALL BUSINESS CASES.

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

''§ 1115. Duties of trustee or debtor in possession in small business cases

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

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

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 of this title;

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

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

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

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

''(7) allow the United States trustee or bankruptcy administrator, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

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

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

SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.

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

''(e) In a small business case—

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

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

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

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

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 238. PLAN CONFIRMATION DEADLINE.

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

''(e) In a small business case, the plan shall be confirmed not later than 150 days after

the date of the order for relief unless such 150-day period is extended as provided in section 1121(e)(3) of this title.''.

SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.

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

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

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

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

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

(1) in paragraph (3)—

(A) in subparagraph (G) by striking ''and'' at the end;

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

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

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;'',

(2) in paragraph (6) by striking ''and'' at the end,

(3) in paragraph (7) by striking the period at the end and inserting ''; and'', and

(4) by inserting after paragraph (7) the following:

''(8) in each of such small business cases—

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

''(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns;

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(D) in cases where the United States trustee finds material grounds for any relief under section 1112 of title 11 move the court promptly for relief.''.

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

SEC. 241. SCHEDULING CONFERENCES.

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

(1) in the matter preceding paragraph (1) by striking '', may'';

(2) by amending paragraph (1) to read as follows:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and

(3) in paragraph (2) by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure,'' and inserting ''may''.

SEC. 242. SERIAL FILER PROVISIONS.

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

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

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

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

(2) by inserting after subsection (i), as redesignated by section 124, the following:

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

''(1) is a debtor in a small business case pending at the time the petition is filed;

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

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

''(4) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C) unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.''.

SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Except as provided in paragraph (2), in subsection (c), and in section 1104(a)(3) of this title, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

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

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

''(B) if the reason is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

''(3) For purposes of this subsection, cause includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) of this title or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

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

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

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

''(L) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or of a modified plan under section 1129 of this title;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan; and

''(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

''(4) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

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

(1) in paragraph (1) by striking ''or'' at the end;

(2) in paragraph (2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

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

CHAPTER 2—SINGLE ASSET REAL ESTATE

SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.

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

''(51B) 'single asset real estate' means undeveloped real property or other real property constituting a single property or project, other than residential real property with fewer than 4 residential units, on which is located a single development or project which property or project generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor, or by a commonly controlled group of entities all of which are concurrently debtors in a case under chapter 11 of this title, other than the business of operating the real property and activities incidental thereto;''.

SEC. 252. PAYMENT OF INTEREST.

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

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

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

''(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section

363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

CHAPTER 3—CONDITIONAL APPLICATION OF AMENDMENTS

SEC. 291. LOSS OF JOBS.

The amendments made by this subtitle shall not apply in a case under title 11 of the United States Code if the court determines that there is a substantial likelihood that the application of such amendments in such case would result in a loss of jobs in the operation of the debtor's business in such case.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

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

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by amending the last sentence to read as follows:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 302. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560,'' after ''557,''.

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS BEFORE THE MEETING OF CREDITORS IN INDIVIDUAL CASES.

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

SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other State or Federal nonbankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or its representatives (which representatives may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13 either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 403. FILING PROOFS OF CLAIM.

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

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

SEC. 404. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, as amended by sections 111 and 240, is amended—

(1) by amending subsection (a)(6) to read as follows:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f),'';

(2) by inserting at the end the following:

''(f)(1) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322, and, if applicable, section 111, of title 11 in individual cases filed under chapter 7 or 13 of such title. Such procedures shall—

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

''(B) establish a method of randomly selecting cases to be audited according to generally accepted audit standards, provided that no less than 1 out of every 1000 cases in each Federal judicial district shall be selected for audit and provided that such procedures shall ensure that the United States trustee may select such cases in which there is a high likelihood of fraud;

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

''(D) establish procedures for reporting the results of such audits and any material misstatement of income, expenditures or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate, and for providing public information no less than annually on the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(E) establish procedures for fully funding such audits.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things or property belonging to the debtor as the auditor requests and which are reasonably necessary to facilitate an audit to be made available for inspection and copying.

''(4) The report of each such audit shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1). If a material misstatement of income or expenditures or of assets is reported, a statement specifying such misstatement shall be filed with the court and the United States trustee shall give notice thereof to the creditors in the case and, in an appropriate case, in the opinion of the United States trustee, requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of the enactment of this Act.

SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding the following at the end:

''If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall make a good faith effort to include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor an address at which the creditor wishes to receive correspondence regarding the debtor's account, the debtor shall make a good faith effort to provide any notice required to be given under this title by the debtor to the creditor at such address. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324.'';

(2) by adding at the end the following:

''(d) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

''(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor unless the creditor knew or should have known of such notice. If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section unless the creditor knew or should have known of such notice.''.

SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER INFORMATION.

Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The'';

(2) by amending paragraph (1) to read as follows:

''(1) file—

''(A) a list of creditors, and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs;

''(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

''(v) a statement of the amount of disposable income, itemized to show how calculated;

''(vi) if applicable, any statement under paragraphs (3) and (4) of section 109(h);

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the next 12 months; and

''(viii) a certificate, if applicable—

''(I) of an attorney whose name is on the petition as the attorney for the debtor, or of any bankruptcy petition preparer who signed the petition pursuant to section 110(b)(1) of this title, indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b)(1) of this title; or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition of the debtor, that such notice was obtained and read by the debtor;''; and

(3) by adding at the end the following:

''(b) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor notice that the creditor requests the petition, schedules, and statement of financial affairs filed by the debtor in the case. At any time, a creditor in a case under chapter 13 of this title may file with the court and serve on the debtor notice that the creditor requests the plan filed by the debtor in the case. Within 10 days of the first such request in a case under this subsection for the petition, schedules, and statement of financial affairs and the first such request for the plan under this subsection, the debtor shall serve on that creditor a conformed copy of the requested documents or plan and any amendments thereto as of that date, and shall thereafter promptly serve on that creditor at the time filed with the court—

''(1) any requested document or plan which is not filed with the court at the time requested; and

''(2) any amendment to any requested document or plan.

''(c) An individual debtor in a case under chapter 7 or 13 shall provide to the United States trustee, on the request of the United States trustee—

''(1) copies of all Federal tax returns (including any schedules and attachments) filed by the debtor for the 3 most recent tax years preceding the order for relief;

''(2) at the time the debtor files them with the Commissioner of Internal Revenue, all Federal tax returns (including any schedules and attachments) for the debtor's tax years ending while such case is pending; and

''(3) at the time the debtor files them with the Commissioner of Internal Revenue, all amendments to the tax returns (including schedules and attachments) described in subparagraphs (A) and (B).

''(d) A debtor in a case under chapter 13 of this title shall file, from a time which is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief unless a plan has then been confirmed, and thereafter on or before 45 days before each anniversary of the confirmation of the plan until the case is closed, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly net income, showing how calculated. Such statement shall disclose the amount and sources of income of the debtor, the identity of any persons responsible with the debtor for the support of any dependents of the debtor, and any persons who contributed and the amount contributed to the household in which the debtor resides. Such tax returns, amendments and statement of income and expenditures shall be available to the United States trustee, any bankruptcy administrator, any trustee and any party in interest for inspection and copying.''.

SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 406, is amended by adding at the end the following:

''(e) Notwithstanding section 707(a) of this title, if an individual debtor in a voluntary case under chapter 7 or 13 fails to provide all of the information required under subsections (a)(1) and (c)(1)(A) within 45 days after the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the filing of the petition without the need for any order of court unless the court for good cause beyond the debtor's control orders otherwise, but any party in interest may request the court to enter an order dismissing the case and the court shall, if so requested, enter an order of dismissal within 5 days of such request if the court finds compelling justification for doing so.

''(f) If an individual debtor in a case under chapter 7 or 13 fails to perform any of the duties imposed by subsections (b), (c)(1)(B), (c)(1)(C), and (d), any party in interest may request that the court order the debtor to comply. Within 10 days of such request the court shall order that the debtor do so within a period of time set by the court no longer than 30 days unless the court for good cause beyond the debtor's control orders otherwise. If the debtor does not comply with that order within the period of time set by the court, the court shall, on request of any party in interest certifying that the debtor has not so complied, enter an order dismissing the case within 5 days of such request.''.

SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.''.

SEC. 409. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 410. JURISDICTION OF COURTS OF APPEALS.

(a) JURISDICTION.—Title 28 of the United States Code is amended—

(1) by striking section 158;

(2) by inserting after section 1292 the following:

''§ 1293. Bankruptcy appeals

''The courts of appeals (other the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

''(1) Final orders and judgments of bankruptcy courts entered under—

''(A) section 157(b) of this title in core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) section 157(c)(2) of this title in proceedings referred to such courts.

''(2) Final orders and judgments of district courts entered under section 157 of this title in—

''(A) core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) proceedings that are not core proceedings, but that are otherwise related to a case under title 11.

''(3) Orders and judgments of bankruptcy courts or district courts entered under section 105 of title 11, or the refusal to enter an order or judgment under such section.

''(4) Orders of bankruptcy courts or district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

''(5) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if—

''(A) such court is of the opinion that—

''(i) such order involves a controlling question of law as to which there is substantial ground for difference of opinion; and

''(ii) an immediate appeal from such order may materially advance the ultimate termination of such case or such proceeding; or

''(B) the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order.''; and

(3) in—

(A) the table of sections for chapter 6 by striking the item relating to section 158; and

(B) the table of sections for chapter 83 by inserting after the item relating to section 1292 the following:

''1293. Bankruptcy appeals.''.

(b) CONFORMING AMENDMENTS.—(1) Section 305(c) of title 11, the United States Code, is amended by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

(2) Title 28, United States Code, is amended—

(A) in subsections (b)(1) and (c)(2) of section 157 by striking ''section 158'' and inserting ''section 1293'';

(B) in section 1334(d) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''; and

(C) in section 1452(b) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

SEC. 411. ESTABLISHMENT OF OFFICIAL FORMS.

The Judicial Conference of the United States shall establish official forms to facilitate compliance with the amendments made by sections 101 and 102.

SEC. 412. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking ''until the case is converted or dismissed, whichever occurs first'', and

(2) in the 2d sentence—

(A) by striking ''The'' and inserting ''Until the plan is confirmed or the case is converted (whichever occurs first) the'', and

(B) by striking ''less than $300,000;'' and inserting ''less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be''.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

Subtitle B—Data Provisions

SEC. 441. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Title 28, United States Code, is amended by adding after section 158 the following new section:

''§ 159. Bankruptcy statistics

''The Director of the Executive Office for United States Trustees shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Such statistics shall be in a form prescribed by the Executive Office for United States Trustees in consultation with the Administrative Office of the United States Courts. The Office shall compile such statistics, and make them public, and report annually to the Congress on the information collected, and on its analysis thereof, no later than October 31 of each year. Such compilation shall be itemized by chapter of title 11, shall be presented in the aggregate and for each district, and shall include the following:

''(1) Total assets and total liabilities of such debtors, and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by such debtors.

''(2) The current total monthly income, projected monthly net income, and average income and average expenses of such debtors as reported on the schedules and statements the debtor has filed under sections 111, 521, and 1322 of title 11.

''(3) The aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable.

''(4) The average time between the filing of the petition and the closing of the case.

''(5) The number of cases in the reporting period in which a reaffirmation was filed and the total number of reaffirmations filed in that period, and of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney, and of those the number of cases in which the reaffirmation was approved by the court.

''(6) With respect to cases filed under chapter 13 of title 11—

''(A) the number of cases in which a final order was entered determining the value of property securing a claim less than the claim, and the total number of such orders in the reporting period; and

''(B) the number of cases dismissed for failure to make payments under the plan.

''(7) The number of cases in which the debtor filed another case within the 6 years previous to the filing.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 18 months after the date of the enactment of this Act.

SEC. 442. BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment;

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 443. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy 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 and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

''(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

''(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax

on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 502. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting '', except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in section 507(a)(7) of this title'' before the semicolon at the end.

SEC. 503. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 405, is amended by adding at the end the following:

''(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

''(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by subsection (a) and section 405, is amended by adding at the end the following:

''(i)(1) A notice that does not comply with subsections (d) and (e) shall have no effect unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

''(A) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the matter or proceeding with respect to which the notice was provided was pending for such purposes; or

''(B) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act or the taxpayer made a good faith effort to provide the required notice under subsections (d) and (e).

''(2) No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed unless the action takes place after notice of the commencement of the case as required by this section has been received.''.

SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking ''Unless'' at the beginning of the second sentence thereof and inserting ''If the request is made in the manner designated by the governmental unit and the taxing authority has place in file with the clerk of the court a description of the manner in which the governmental unit requires such request and unless''.

SEC. 505. RATE OF INTEREST ON TAX CLAIMS.

Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''Notwithstanding any provision of this title that requires the payment of interest on a claim, if interest is required to be paid on a tax claim, the rate of interest shall be as follows:

''(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title and secured tax claims the rate shall be determined under applicable nonbankruptcy law.

''(2) In the case of unsecured claims for taxes arising before the date of the order for relief and paid under a plan of reorganization, the minimum rate of interest to be applied during the period after the filing of the petition shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, for the calendar month in which the plan is confirmed, plus 3 percentage points.''.

SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(9)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after ''petition'' and before the semicolon '', plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title''; and

(2) amend clause (ii) to read as follows:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

''(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

''(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.''.

SEC. 507. ASSESSMENT DEFINED.

(a) ASSESSMENT DEFINED FOR PRIORITY PURPOSES.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (2) the following:

''(3) 'assessment'—

''(A) for purposes of State and local taxes, means that point in time when all actions required have been taken so that thereafter a taxing authority may commence an action to collect the tax, and

''(B) for Federal tax purposes has the meaning given such term in the Internal Revenue Code of 1986;

and 'assessed' and 'assessable' shall be interpreted in light of the definition of assessment in this paragraph;''.

(b) ASSESSMENT DEFINED FOR THE STAY OF PROCEEDINGS.—Section 362(b)(9)(D) of title 11, United States Code, is amended by inserting after ''the making of an assessment'' the following: ''as defined by applicable nonbankruptcy law notwithstanding the definition of an 'assessment' elsewhere in this title''.

SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting ''(1) to the extent that the debtor made a fraudulent return or fraudulently attempted in any manner to evade such taxes,'' after ''paragraph''.

SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, as amended by section 119A, is amended by adding at the end the following:

''(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.''.

SEC. 510. THE STAY OF TAX PROCEEDINGS.

(a) THE SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting '', in respect of a tax liability for a taxable period ending before the order for relief.''.

(b) THE APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C) by striking ''or'' at the end,

(2) in subparagraph (D) by striking the period at the end and inserting ''; or'', and

(3) by adding at the end the following:

''(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.''.

SEC. 511. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking ''and'' at the end; and

(2) in subparagraph (C)—

(A) by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and inserting ''regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years

after the petition date or the last date payments are to be made under the plan to unsecured creditors,'';

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.''.

SEC. 512. THE AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;''.

SEC. 513. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) Such taxes shall be paid when due in the conduct of such business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11 if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, the court has made a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as such tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after ''estate,'' and before ''except'' the following: ''whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c) by inserting '', including the payment of all ad valorem property taxes in respect of the property'' before the period at the end.

SEC. 514. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section'' and inserting ''on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section''.

SEC. 515. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting ''or equivalent report or notice,'' after ''a return,'';

(2) in clause (i)—

(A) by inserting ''or given'' after ''filed''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''or given'' after ''filed'';

(B) by inserting '', report, or notice'' after ''return''; and

(4) by adding at the end the following:

''(iii) for purposes of this subsection, a return—

''(I) must satisfy the requirements of applicable nonbankruptcy law, and includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law, and

''(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or''.

SEC. 516. THE DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 517. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 146, is amended—

(1) in paragraph (6) by striking ''and'' at the end;

(2) in paragraph (7) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 6-year period ending on the date of filing of the petition which the debtor had been required to file under applicable nonbankruptcy law.

''(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

''(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date,

''(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law, and

''(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

''(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection, and

''(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

''(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting '', and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were filed as required.''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of the enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before 60 days after the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 518. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after ''records,'' the following: ''including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,'',

(2) by inserting ''such'' after ''enable'', and

(3) by striking ''reasonable'' where it appears after ''hypothetical'' and by striking ''typical of holders of claims or interests'' after ''investor''.

SEC. 519. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 130, 146, and 150 is amended—

(1) in paragraph (17) by striking ''or'',

(2) in paragraph (18) by striking the period at the end and inserting ''; or'', and

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless prior to such setoff the debt is listed by the debtor as disputed, contingent, or unliquidated.''.

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

''CHAPTER 6—ANCILLARY AND OTHER 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.

''§ 601. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 602. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapters 9 or 13 of this title; and

''(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 603. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

''§ 604. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

''§ 605. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) authorized by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 606. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 607. Additional assistance

''(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 608. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 609. Right of direct access

''(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

''(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

''(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

''§ 610. Limited jurisdiction

''The sole fact that a foreign representative files a petition under sections 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 611. Commencement of case under section 301 or 303

''(a) Upon filing a petition for recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) of this section prior to such commencement.

''(c) A case under subsection (a) shall be dismissed unless recognition is granted.

''§ 612. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 613. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) of this section does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 614. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 615. Application for recognition of a foreign proceeding

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

''§ 616. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of section 101(24), the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 617. Order recognizing a foreign proceeding

''(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602;

''(2) the foreign representative applying for recognition is a person or body within the meaning of section 101(24); and

''(3) the petition meets the requirements of section 615.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

''§ 618. Subsequent information

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 619. Relief that may be granted upon petition for recognition of a foreign proceeding

''(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

''(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''§ 620. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

''(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

''(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

''(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

''(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 621. Relief that may be granted upon recognition of a foreign proceeding

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 620(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 619(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§ 622. Protection of creditors and other interested persons

''(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

''§ 623. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 624. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 625. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) In all matters included in section 601, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 627. Forms of cooperation

''Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 628. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 629. Coordination of a case under this title and a foreign proceeding

''Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

''(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

''§ 630. Coordination of more than 1 foreign proceeding

''In matters referred to in section 601, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of

a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 631. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

''§ 632. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

''6. Ancillary and Other Cross-Border Cases ..... 601''.

SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ''and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6''; and

(2) by adding at the end the following:

''(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity authorized by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 6 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 6 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''6,'' after ''chapter''.

TITLE VII—MISCELLANEOUS

SEC. 701. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking ''subsection (c) or (d) of'';

(2) in section 541(b)(4) by adding ''or'' at the end; and

(3) in section 552(b)(1) by striking ''product'' each place it appears and inserting ''products''.

SEC. 702. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Chairman, I rise in support of the Democratic substitute. Unlike the bill before us, H.R. 3150, this bill represents a balanced and reasoned response to the problems of bankruptcy abuse by debtors as well as by creditors.

What does this substitute do? First, the substitute strikes the bureaucratic inflexible means testing provisions of the bill and provides, instead, for a strengthened dismissal procedure based on the debtor's actual income and expenses.

Under the substitute, trustees as well as the courts and the United States trustees could seek dismissal of a bankruptcy case involving families with incomes over $60,000. This deals with the problems of bankruptcy abuse in a reasonable manner while taking in account such important items as child care payments, health care costs, the cost of taking care of ill parents and educational expenses.

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I might add, Mr. Chairman, it changes in two fundamental ways the means testing provisions of the bill before us.

First, it has a human being in it. I believe in human beings. We believe in human beings on this side of the aisle. It has a judge. If someone thinks that this person can pay, has the ability to pay his debts and ought not to be allowed to have a discharge under Chapter 7, fine, convince the judge. This provides pretty strong procedures of what you have to prove to get into Chapter 7 to get your discharge, but there is a judge to judge it. It is not an automatic filing that goes into a computer, as it is in the bill.

Second, it makes the commonsense observation that if the question is, can this debtor afford to repay his debts, as opposed to getting a discharge, it has practical, specific questions: What is his income? What is his assets? What are his expenses? How much rent does he pay? How much child support obligation does he owe per month?

Not, as in the bill before us, what is the average rent that the Internal Revenue Service thinks someone ought to pay in the northeast or southwest United States; not what does the average person, according to the IRS, what they think the average person might be paying for child support. Who cares? The question is this person in front of us, how much can he afford to pay, what are his real expenses, how much is left over for debt service. This applies that kind of a traditional test, instead of a fictitious test dealing with a fictitious average person who does not exist.

Third, the substitute eliminates provisions making significant amounts of credit card debt nondischargeable in bankruptcy, pitting these aggressive and sophisticated creditors in direct competition with child support, alimony, spouse support, and victim support.

After first denying that a problem ever existed, the majority has come up with a series of toothless and meaningless fixes. The substitute responds to the real problem by protecting against giving increased money to credit card companies at the expense of alimony and child support.

The substitute also modifies the business provisions of the bill, which impose massive new legal and paperwork burdens on small business and real estate concerns and will cost our economy thousands of jobs.

In a letter opposing H.R. 3150 written today and which I referred to earlier today, the AFL-CIO has stated that H.R. 3150 ''threatens jobs by placing substantial procedural barriers in the way of small business access to the protections of Chapter 11.''

As I also read earlier, the Small Business Administration says the same thing, and the National Bankruptcy Conference says the same thing. This removes that. In addition, the substitute adds a new provision protecting charitable contributions in Chapter 11 and Chapter 12 cases.

The bill in front of us protects tithing only in Chapter 7 and Chapter 13 cases. There is no provision allowing individuals and corporations to utilize Chapter 11 or family farmers to utilize Chapter 12 to continue to make religious and other charitable deductions before and in and after bankruptcy. The substitute is the only proposal which fully protects these charitable contributions. I might add, the halfway drafting of the tithing provisions of the bill in front of us is a symptom of the hasty manner in which this bill was drafted, the sloppy manner in which it was drafted, without proper review.

We were told time and time again by all the organizations that deal with bankruptcy about how hasty this was, how hasty the process, how sloppily drafted. We kept telling the committee leadership, slow down the process, but they did not. The fact that they forgot to put in Chapter 11, the fact that they forgot to put in Chapter 12 in the tithing provisions is just one obvious example of the sloppy drafting of this bill and hasty drafting of this bill.

The substitute also adds a provision specifying that the new post-bankruptcy priorities for alimony and child support apply to benefit creditors who are drunk driving victims and victims of crime or willful or malicious injury, also. The bill in front of us only grants these new post-bankruptcy priorities to alimony and child support creditors, and completely ignores innocent victims of crime and drunk driving who, under the bill, are forced to compete with aggressive credit card companies in the post-discharge situation.

In addition, the substitute goes much further than H.R. 3150 in protecting family farmers, because it strikes language making it far easier for banks to foreclose on family farms. Again, the Democratic substitute is the only amendment which offers the Members a chance to stand squarely behind our farmers at a time when they face massive new challenges.

The substitute retains the vast majority of the other provisions in the majority bill. It offers significant new benefits to banks and other lenders while protecting women and children and protecting jobs.

In a conscientious, intelligent, realistic fashion, it applies a test that makes sense in separating out those people who cannot pay their debts and ought to have a Chapter 7 discharge from those who probably can, the small minority of those who probably can and should be in a Chapter 13 workout situation. But the test is realistic, it is based on facts and on the individual case, not on a theoretical construct of the Internal Revenue Service.

It boggles my mind that the authors of this bill and the supporters of this bill, who stood on this floor day after day after day telling us how insensitive the Internal Revenue Service is to real people, now think the Internal Revenue Service ought to be running the lives of Americans caught up in the bankruptcy courts.

So I urge my colleagues to vote yes for the substitute resolution as a much better substitute to accomplish the professed goal, the claimed goal, of the legislation, without accomplishing the real effect of the bill in front of us, which is simply to give a lot of undeserved money to the credit card companies, instead of to people who need child support, the victims of crimes, and to debtors in serious situations, and to other creditors.

Mr. Chairman, I urge a yes vote on this substitute.

Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts (Mr. MEEHAN) may control the balance of the time which I have been granted.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise in opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 30 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

As I mentioned before, Mr. Chairman, throughout the time that he has served on our subcommittee, the gentleman from Tennessee (Mr. BRYANT) has been a semi and maybe a complete expert on some of the matters that have come before us with respect to bankruptcy, and in particular, with bankruptcy trustees and their work.

That is why it pleases me to see him continue to be energetic in the development of this legislation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise at this time to engage the gentleman from Pennsylvania (Mr. GEKAS) in a colloquy in regard to an issue that is very important to my State.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I will be glad to do so, Mr. Chairman.

Mr. BRYANT. Mr. Chairman, as the gentleman from Pennsylvania knows, I have been contacted by several Tennessee financial institutions which are concerned about the amount of time allowed to record a lien on a vehicle refinance.

Current law allows creditors only 10 days from the loan origination to record a lien. This is difficult, since it requires paying off the lienholder, receiving the title back from the lienholder, and submitting the paperwork to the State for processing.

In Tennessee a lien filed in the proper time normally will result in a lien date corresponding to the loan date. If the State receives the lien application outside the time parameter, then the lien date corresponds to the application received date.

Trustees have become more aggressive in bankruptcy in pursuing assets that are in bankruptcy. If a lien is recorded out of that allowed period, the court will strip the refinancing institution of its lien, take possession of the vehicle, and use the proceeds to satisfy creditors in that bankruptcy. The refinancing institution then becomes an unsecured creditor, and is treated as such.

This is a serious problem, and impacts greatly on the willingness of financial institutions to create a competitive market in the vehicle refinance area. Several of Tennessee's financial institutions have recommended extending the 10-day period to 60 days. I know that the gentleman from Pennsylvania (Mr. GEKAS) has expressed some concern over the length of this proposed time, but has indicated to me that he would be willing to work with me on this issue, as the bill moves to conference with the Senate.

Mr. GEKAS. If the gentleman will continue to yield, Mr. Chairman, the gentleman is exactly correct. After the gentleman brought this matter to the attention of the committee, we decided that we were going to try to work strenuously between now and the time of conference to blend the gentleman's concerns into the consideration of this bill as it reaches that stage. We will do so.

Mr. BRYANT. I thank the distinguished chairman.

Mr. GEKAS. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. ROEMER).

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the substitute and in support of the bipartisan bill, the underlying bill, put together by the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Virginia (Mr. BOUCHER).

Chairman Alan Greenspan testified before Congress today. He said many great things about the state of our economy. He said we have a record stock market, record unemployment, the lowest in 28 years. Things are going extraordinarily well in this country. That is the best of times and the best of news.

However, today we debate a very serious issue that is possibly the worst of times. We have had 1.4 million people in 1997 declare bankruptcy, 1.4 million people. That is more than the combined total populations of the States of North and South Dakota; more than the total combined populations of North and South Dakota, two States out of our 50, equal the number of bankruptcies filed in 1997. That is a serious problem.

So we have the best of times, according to Chairman Greenspan, and the worst of times with the number of bankruptcies. Why? There is no stigma attached to the filing of bankruptcy anymore.

Second, Chapter 7, it is convenient to file in Chapter 7. Chapter 7 should not be as convenient as going into a 7–11. It should be based on need. It should not be based on convenience.

And, Mr. Chairman, we need to strengthen the emphasis that we have

in this bill on child support and alimony. The Boucher amendment that we discussed an hour and a half ago, which was voice voted, that amendment made child support and alimony the very top priority. It leapfrogged over 6 or 7 other issues, over farmer's claims and fishermen's claims.

Now, under that provision and under this bill, then, if passed, child support and alimony becomes the top priority. It also expands the definition of household goods to assure that a parent who declares bankruptcy is not required to give up possessions needed for childrearing and raising their children, two very important provisions that show common sense and compassion in this bill.

We also strengthen consumer protections in current law by cracking down on bankruptcy mills which steer consumers into filing without information on the consequences of bankruptcy. We expand notice requirements on alternatives to bankruptcy, and we mandate participation in credit counseling services.

Mr. Chairman, this is a bill that shows its commitment to personal responsibility, that is fair to the taxpayer, that says that the bankruptcy system that exists today should not cost our small businesses like it does today, should not cost the consumer as it does today, that should not cost the law-abiding taxpaying citizen as it does today.

We are reforming that with common sense, we are reforming that with personal responsibility, and we are reforming that, putting our top priorities on child support and alimony. That is the basis for reform, and that is the basis I hope for a bipartisan support for this bill.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Nadler-Meehan-Berman Democratic substitute, and I do so as a strong supporter of bankruptcy reform and a strong supporter of means testing.

The choice before us today is clear: We can means test in a manner that takes debtors who can truly afford to repay their debts and places them into stable Chapter 13 repayment plans. Or we can means test in a way that affords aggressive creditors the opportunity to inflict protracted, contentious, and expensive litigation upon debtors of all income levels. Unfortunately, H.R. 3150 embodies the latter approach.

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According to the nonpartisan Congressional Research Service, ''H.R. 3150 would inject numerous opportunities for adversarial hearings in the course of a consumer bankruptcy . . . it is reasonable to anticipate that in some instances, debtors who cannot afford creditor-initiated adversarial litigation will acquiesce in reaffirmation agreements, unreasonable repayment schedules, or just opt out of the bankruptcy system.''

To make matters worse, H.R. 3150 flat out exempts a large amount of credit card debt from discharge through bankruptcy, even though this credit card debt was not actually incurred by fraud. The net result of these policies is that a substantial amount of credit card debt currently discharged through bankruptcy would now survive bankruptcy.

This means that there would be a significant increase in the number of credit card lenders competing for portions of a debtor's limited postbankruptcy income and assets against women and children owed alimony and support, victims of intentional torts committed by the debtor, and a debtor's student loan creditors.

Mr. Chairman, I have not yet heard even a remotely compelling public policy rationale for making it more difficult than it is already for women and children to collect alimony and support. Instead, a Dear Colleague letter was circulated this week that tells us that the concerns about alimony and support collection are ''rubbish.'' How interesting.

First we hear there is no child support and alimony problem. That is what we were told in committee. Then we hear the Committee on the Judiciary fixed this once nonexistent problem and that the remaining complaints are ''rubbish.'' Now we are told that certain floor amendments fixed the initially nonexistent and supposedly solved problem.

It kind of makes one wonder who is really spewing the ''rubbish.''

The Nadler-Meehan-Berman substitute would address debtor abuses without dramatically reducing the scope of debts covered by bankruptcy. It would means-test without permitting aggressive creditors to file motions against debtors who simply cannot afford to stick up for their bankruptcy rights. And it strikes the new exceptions to discharge for credit card debt that have no legitimate public policy justification and threaten alimony and support collections.

The substitute is the type of reform that the Senate could accept and the President would sign. I urge my colleagues to support the substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I would ask how much time is remaining.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Pennsylvania (Mr. GEKAS) has 23½ minutes remaining, and the gentleman from Massachusetts (Mr. MEEHAN) has 18½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me this time.

Mr. Chairman, I rise in opposition to the Nadler amendment. H.R. 3150, as written, boils down to two words: personal responsibility. If we assume a debt, we should do everything in our power to pay it off. A safety net should remain for those who legitimately cannot pay their debts. Creditors should be made whole if possible.

Some of my colleagues here today are trying to paint the word creditors to mean faceless financial institutions who are tricking consumers into assuming debt. They specifically speak of credit card debt, but they unfortunately fail to note that credit card debt in the United States amounts to only 3.7 percent of all consumer debt.

The people who are truly being hurt by our current bankruptcy system are the Americans who play by the rules and pay their debts. It costs the average American family an average of $400 a year. Why should they have to pay? Needs-based bankruptcy reform is well overdue, and that is what is in H.R. 3150.

Mr. Chairman, the abuses in our bankruptcy system that scream for reform must be stopped. For example, people currently have the ability to move to Florida, buy a house for $10 million dollars, declare bankruptcy, and have all of that house plus additional assets protected. We have the gentleman from Massachusetts to thank for this piece of the reform package for his well thought out amendment to this legislation that passed during committee consideration of this legislation.

It is these people who game the system that we are trying to stop. It is unfortunate that in the last two decades the stigma that used to surround bankruptcy and some people's integrity to honor their debts has eroded in the United States of America. But it largely for that reason that in a good economy, bankruptcy filings have jumped 20 percent in 1997 to an all-time high.

I ask all of my colleagues from both sides of the aisle to join me in opposition to the Nadler amendment and for H.R. 3150, reasonable reform to means-test bankruptcy eligibility.

Mr. MEEHAN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) who has been a leader on the committee on this issue in fighting for women and children for child support and alimony.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. MEEHAN) for yielding me this time as well as for his leadership. We, both of us started out on this committee hoping that we could promote and pass on the floor of the House a bipartisan bankruptcy bill.

Mr. Chairman, I am delighted to be a cosponsor of the Democratic substitute which really answers the question: Do we have personal responsibility in this country? And is it just that people are filing bankruptcy recklessly with no regard for the responsibility that is needed?

Why do we not answer the question? Some few years ago those who had a

debt of maybe some 70 percent or less, 87 percent, in fact, of income were filing for bankruptcy. Today in 1997, the people who are filing bankruptcy have over 164 percent of debt. They are holding out every single day in order to make ends meet in order to be personally responsible. And the only time they go down to the bankruptcy court is when they are so desperate to keep their house in order, to keep their children fed, and to keep themselves above water.

Americans are not recklessly and foolishly filing for bankruptcy. Yes, there are a few high-profile filers, and we can solve that problem. The Democratic substitute takes away the means test, but it has strong provisions for bankruptcy judges to weed out the fraudulent persons, to determine whether there has been substantial abuse and tell them, ''Get away from the courthouse door because you do not need to file bankruptcy.''

Mr. Chairman, these are the people that are filing bankruptcy. Who else? Families who have more than four children, making $40,000 a year. Those children will be precluded, or the families will be precluded from filing for bankruptcy because the means test will kick them outside of the courthouse door. If Americans have a family of four making $40,000 a year and for some reason, catastrophic illnesses, something that has happened in the family, the loss of a job, they will be forbidden under H.R. 3150 from ever going to the courthouse.

Who else files bankruptcy? Mr. Chairman, 300,000 of those cases are comprised of men claiming bankruptcy who owe child support and/or alimony, and 50 percent are cases comprised of women forced into bankruptcy after being unable to collect alimony.

Are these deadbeats? These are people trying to make ends meet, and H.R. 3150 does not answer this question. It elevates child support up to a number one priority, but it still makes nondischargeable all of those debts, furniture debts and credit card debts, which call time after time, fighting debtors for their child support because the debtors do not have the wherewithal and the resources to compete with the big banks calling them on their job 12 times a day. Mr. Chairman, they are going to pay the car note and the credit card company, but the child that needs it and the alimony they needs to be paid, that will not be paid.

Mr. Chairman, I can say that the real reason behind H.R. 3150 is all the money that has been put into this whole piece of legislation. If we could simply focus on what America needs, it needs credit card counseling. It needs to stop the 2.4 or 2.5 billion contacts made every year with consumers.

What about this check? ''Charging up credit, Jane Q. Consumer, $2,500.'' We have seen them in the mail. ''Sign here. It does not matter. We will cash your check for you.''

I tell my colleagues that the real people in America who are filing for bankruptcy are people in need. I would like to share some of the letters and concerns that have been expressed to me.

One, someone who has a catastrophic illness and they are trying to pay the bills. They have a family, and they are trying to pay the bills, and that is why they need to go into bankruptcy. Mr. Chairman, 40 percent of senior citizens who file bankruptcy have catastrophic illness. Sixty percent of filers go into bankruptcy because they have been unemployed.

Means-testing is truly mean. What we need in real bankruptcy reform is consumer credit counseling. I have legislation that I will be offering that will instruct the banks and credit card companies to provide credit card counseling, personal counseling, and require them to include that.

What about an 800-number in the credit card bill or solicitation that says if consumers feel they are abusing credit, they should call this number? That is what we need for bankruptcy reform, not closing the door to hard-working Americans making $40,000 a year with four children; not closing the door on those individuals who are dependent upon alimony and child support; Not closing the door to those senior citizens suffering from catastrophic illness who as a last resort have to file for bankruptcy; not that single mother or single parent who is trying to make ends meet.

Mr. Chairman, I would have hoped that this bill could have been one that we all could have supported. Even the First Lady has looked at it and said she believes in personal responsibility, but not closing the door on parents and those who are trying to support their children.

I would simply suggest that we could do better here. I urge my colleagues to send this bill back and put out a good bill that will help working Americans.

Ms. JACKSON-LEE of Texas. Mr. Chairman. I rise today in support of the Democratic substitute to H.R. 3150, the Bankruptcy Reform Act of 1998. I seriously question whether this bill, as it is now written, will accomplish its goal of reforming our present bankruptcy system without causing significant harm to many innocent parties; so essentially, I find H.R. 3150 to be a bad bill. Particularly after the issuance of an extremely harsh recommended rule by the Rules Committee last night, and the exclusion of several key Democratic amendments from the list of those that were made in order, this Democratic substitute is our last hope.

From the beginning, this process has been more than merely a ''rush to judgment'', actually, it has been a prime example of ''drive-by'' legislation. And even as we entered into a bipartisan agreement to end the Full Committee mark-up of this bill last Thursday, there were still 40 Democratic amendments to the bill waiting at the Clerk's desk. So far, this process has just been moving too fast. Furthermore, our objections about the rapidity of this process have been echoed by the National Bankruptcy Conference, the American College of Bankruptcy, the National Conference of Bankruptcy Judges, the National Association of Chapter 13 trustees, and 57 of the Nation's leading professors of bankruptcy law, amongst others. But despite it all, the speeding train called H.R. 3150, continues to rush along. For decades, our bankruptcy laws have been shaped in the spirit of bi-partisan accord, at least, until now. So how can we have the opportunity to try to correct all of these points of difference about H.R. 3150, at this very late time in the process? To me, the answer is simple, support the Democratic Substitute.

The needs based bankruptcy approach utilized in this bill, which essentially comprises the use of an arbitrary financial standard to determine the filing status of bankruptcy participants, was not recommended to the Congress by the National Bankruptcy Review Commission. But for some unknown reason, the sponsors of this legislation thought better of the Commission's impeccable credentials, years of combined experience in the field, thousands of man-hours invested to compile and present their 1300 page report to this Congress, and decided to ignore their recommendation. As the Executive Office of the President said in a May 21st letter to Chairman GEKAS, ''However, the administration strongly opposes H.R. 3150 in its present form. One provision of the bill would establish a rigid and arbitrary means test to determine whether a debtor could file for bankruptcy under Chapter 7 or would be required to file under Chapter 13 rules—Bankruptcy courts should have greater discretion to consider the specific circumstances of a debtor in bankruptcy.''

Even the minority of Commissioners who thought the concept of needs-based bankruptcy should be further explored, also thought that the correction of certain parts of the Code, like 707(b), could also negate the apparent rise in bankruptcy fraud. To this regard, our Democratic Substitute gives discretion to our Bankruptcy Judges, by amending 707(b) of the Federal Bankruptcy Code, which contains the standards for reviewing any potential filing abuse by a bankrupt debtor. We all believe that by strengthening this section of the Code, alone, any so-called bankruptcy fraud could be effectively neutralized.

But the real source of the 400% rise in bankruptcy filings since 1980, with a grand total of nearly 1.4 million filings last year, is debt. The Republican argument, from the beginning, has been that with a record 1.4 million bankruptcy filings last year, and with over 2/3 of those filers entering into Chapter 7 rather than Chapter 13, that the interests of the credit industry are being unnecessarily harmed by the flexibility of our current bankruptcy laws. Furthermore, the credit industry has consistently argued throughout this process that each American household has had to endure a silent $400 tax, equal to their $10 billion dollars in losses to debt discharge every year, as a result of these laws. Thus, H.R. 3150 is a so-called return to personal responsibility in our bankruptcy laws, because the ''overwhelming'' number of filings must represent an unprecedented debtor abuse.

However, this argument is ultimately a farce. The facts clearly indicate that the cause of the recent surge of bankruptcy filings is not because these filings are fraudulent, but instead because Americans simply have too much debt. Commercial and Administrative Law Subcommittee Ranking Member NADLER has

been extremely eloquent in his presentation of the debt to income ratio among American consumers over the last 25 years, and how the only indisputable evidence in this debate is that Americans have significantly more debt today, than they have ever had before.

The average bankruptcy filer last year had a debt to income ratio of 1.64 to 1 (164 percent of their income) as opposed to just .87 to 1 (87 percent of their income) a few short years ago (that is nearly double!). The fact of the matter is that Americans have more debt than ever, and are waiting later than ever to enter bankruptcy, rather than rushing into it to reorganize their personal finances as the authors and supporters of H.R. 3150 have claimed. To reaffirm this contention, a recent GAO study shows that the number of bankruptcy filings per 100,000 people as compared to the average amount of consumer debt per household since 1964 has remained relatively unchanged. This means that the number of bankruptcy filings over the last three decades has consistently corresponded with the amount of public consumer debt.

Further, according to Bankruptcy Law Professor Elizabeth Warren of the Harvard Law School, the debtors that enter bankruptcy are usually experiencing very turbulent times. 60 percent of bankruptcy filers have been unemployed within a two year span prior to their filing. 20 percent of filers have had to cope within an uninsurable medical expense. Over 1 out of 3 filers, both male and female are recently divorced. All of these factors usually working in concert to affect the financial circumstances of a particular debtor, make bankruptcy an inevitably, because it becomes their last remaining opportunity for a fresh start. These are hard working Americans who have fallen upon difficult times that H.R. 3150 presumes to be pretextually fraudulent, generally disingenuous about their incomes and assets and capable of making a significantly greater financial contribution to their creditors. Ultimately, it seems that the true purpose of this bill is not to improve the federal bankruptcy code, but instead, to transfer more money from bankrupt debtors to banks and other credit lending institutions.

But the reality is that no statistic can tell the story of a lost job, a serious or terminal illness, a death in the family, a divorce or any of the other common reasons for filing for bankruptcy; there simply is much more to any bankrupt's story than a debtor's anticipated income and projections about their ability to repay a portion of their debt. Ultimately, this bill may end up causing a chilling effect on all bankruptcy filings: justified, fraudulent or otherwise (i.e., people may resolve that it is impossible for them to receive any satisfactory remedy in the post-H.R. 3150 system).

The final reason to support the Substitute is that this bill is completely inept in its regard for the care, safety and welfare of our children. As the First Lady wrote in a May 7th article in the Washington Times, ''I have no quarrel with responsible bankruptcy reform, but I do quarrel with the aspects of the bill (H.R. 3150) that would force single parents to compete for their child support payments with big banks trying to collect credit card debt.'' She continued, ''As members of Congress grapple with bankruptcy reform, they must deal with the problems that face both creditors and debtors. But one issue is clear. Any effort to reform the bankruptcy system must protect the obligations of parents to support their children.''

But H.R. 3150, does not ensure these protections, not at all. Even if the Boucher/Gekas ''superpriority'' amendment is passed by this House, the ''child and spousal support'' problems with this bill will still not be corrected. First of all, I am appalled that the sponsors of this legislation who have continually made the claim in the press, in public statements and in pro-H.R. 3150 propaganda, that the ''child and spousal support'' issue had been solved in Committee, would dare to offer another amendment on this issue themselves rather than seek to work with those parties who have concerned about this issue from the very beginning. Whatever the motives of these parties may have been, it at the very least, is disquieting to see conduct which borders upon the deceptive.

The bottom line is as simple as this, our children and families still have to compete with banks, credit lending institutions and retailers in order to receive their needed support payments. No amendment made in order under the current rule addresses the mandatory payment to unsecured creditors for Chapter 13 participants in Section 102 of the bill, no amendment made in order eliminates the many instances of nondischargeability status for (credit card or) unsecured debt mandated by the bill (Sections 141, 142, 145): the problem still remains. Furthermore, since the Jackson Lee/Slaughter Child and Spousal Support amendment was not made in order, the Democratic Substitute is the only last chance to solve this problem before the final consideration of this bill.

This substitute is friendly to women, children, religious and charitable organizations, family farmers, homeowner and condominium associations, victims of drunk driving related accidents, and many, many others, at this late date, this Substitute is the closest that we will ever get to bi-partisan bankruptcy reform. I urge all of my colleagues to support it.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise in opposition to the Nadler substitute. The skyrocketing number of bankruptcies filed in this country make it necessary for us to make real and substantial reform and improvements to our bankruptcy law. This substitute would strip from H.R. 3150 those provisions that promote responsibility and ensure for bankruptcy filers repay some of what they owe.

The means test in this bill is a fair and reasonable process that separates those who truly need to have their debts wiped away from those who can afford to repay some of their obligations. It places no undue burdens on sincere bankruptcy filers and requires repayment of debts only if filers can adequately meet their household needs.

Mr. Chairman, we cannot be apologists for irresponsible behavior any longer. The stigma that once was attached to bankruptcy must be replaced by laws that hold people accountable for their action. I urge my colleagues to oppose the Nadler substitute and support H.R. 3150.

Mr. GEKAS. Mr. Chairman, I yield 3½ minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I rise today in opposition to the Nadler substitute and in strong support of the Bankruptcy Reform Act, of which I am a cosponsor.

Over the past decade, despite economic growth, despite low unemployment, despite increasing personal income, our Nation has seen an alarming increase in the numbers of bankruptcy filings. And I would just share with my colleagues that filings jumped 20 percent this year. That is 1.3 million, one in every 70 households.

The numbers are even greater in my home State of California, where we have the greatest number of bankruptcy petitions filed last year, three times as many as the next highest State, which is New York.

I wonder if perhaps the Yellow Pages which reflect these bankruptcy mills, which I am holding in my hand, a stack of yellow pages that basically say, ''Do not pay your debts, just call this number,'' if perhaps this influences these growing numbers of bankruptcies.

Mr. Chairman, how is it that bankruptcies are increasing dramatically while the economy is improving? For sure, some people have genuinely bad breaks, and they need and should have protection from creditors.

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No one here today is questioning that, but we need to realize that there are other people who are taking advantage of the current law to walk away from their responsibility, the personal responsibility that is so important to our Nation.

The costs to us from all this are great. Bankruptcy cost our Nation $40 billion last year, and that cost is not solely borne by the creditors and the merchants and the property owners. No, it is borne by the individual families in this country, Mr. Chairman. And that is a cost of $400 per household, higher costs for goods, higher costs for services and for credit. That is a $400 bill that you and I pay when irresponsible spenders who can afford to pay all or some of their debt declare bankruptcy. This is what the bill addresses.

I would also like to add, Mr. Chairman, that this bill helps ex-spouses. It helps women and children who rely on child support and alimony payments. Indeed, this legislation makes major improvements in the treatment of ex-spouses and children over present law.

First, it makes all domestic and child support and property settlement obligations nondischargeable debts.

Second, under this legislation, for the first time child support obligations must be paid before any other nondischargeable debt that survives bankruptcy. I will add that my colleague the gentleman from Virginia (Mr. BOUCHER) added an amendment, which I supported, which was adopted, that will provide additional assurance that child support and alimony payments are paid by giving them top priority. That is in the bill.

Our bankruptcy laws play an important and necessary role in protecting those who really need them. And that is the key, Mr. Chairman, need. This bill makes the existing bankruptcy system a needs-based one, addressing the flaw in the current system that encourages people to file for bankruptcy and walk away from debts, regardless of whether they are able to repay any portion of what they owe, while protecting those who truly need protection.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes and 30 seconds to my friend and colleague, the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Chairman, first of all, I want to thank my good friend the gentleman from Massachusetts (Mr. MEEHAN) for the hard work that he and the gentleman from Massachusetts (Mr. DELAHUNT), and the gentleman from New York (Mr. NADLER) and others have done on this bill.

This is the kind of legislation where I had hoped to be able to come to the floor and support the overall bill that was being generated in order to deal with a real problem in this country, where all too often very, very wealthy and powerful individuals and corporations use the bankruptcy laws to essentially hide from their responsibilities of paying their debts.

I see it time and time again in my work on the Subcommittee on Housing and Community Development and seeing landlords that are completely unscrupulous declare bankruptcy, suck out section 8 subsidies time and time again, year in and year out, abuse the system and do so with a bunch of sophisticated lawyers and beat the taxpayer and beat their obligations to society.

I want to support a bankruptcy bill, but this bankruptcy bill is flawed. This bankruptcy bill is flawed because it does not look out after not the rich and powerful, but it does not look out after the working families and the poor.

I rise in support of the Democratic substitute. As we debate this bill, I am reminded of the casino scene in Casablanca with Inspector Renault. After a decade of credit card companies literally throwing trillions of unsolicited credit cards at consumers, luring them in with teaser rates and easy credit and then slamming consumers with 20 percent and higher interest rates and creative new fees, the credit card industry pretends to be shocked, shocked to find a rise in personal bankruptcies.

Before Congress enacts the credit card industry's wish list to go after the bankrupt poor and middle-income debtors, it is critical that we hold the credit card industry accountable for practices that they have spawned: a doubling of credit card debt over the course of the last 6 years, and a 50 percent increase in credit card delinquency rates.

The Democratic substitute addresses some of these concerns about credit card practices in dealing with dischargeable credit card debts. Before we enact bankruptcy reform, I also believe that we should reform the reckless credit card practices of easy credit, high interest rates and creative new fees, new fees such as teaser rates. We should require better disclosure of the permanent rate of teaser rate comeons. Checks, we should mandate stricter control over unsolicited mailing of high interest rate credit card accounts masquerading as checking accounts. And rate increases, we should codify the right, existing in 20 States, to cancel a credit card and pay it off under existing terms and conditions when rates are arbitrarily raised.

But the most egregious credit card practices, which should be outlawed, are those which actually provide a financial incentive for credit card holders not to pay off their debt. The first is the so-called GE fee, a fee charged on card holders simply because they pay their charges on time in full each month.

The other is the action, first seen only last year, of canceling credit cards of only those card holders that paid their debt in full on time.

I offered an amendment to outlaw these two practices, but the Republicans refused to even allow it to be debated.

It is outrageous that an industry that wants relief from bankruptcy should discriminate against people who pay off their debt simply because credit card companies cannot make obscene profits off of them. The credit card and banking industries are currently making record profits. Do not bail out the credit card companies until they clean up their act.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me the time.

I rise in opposition to the Nadler substitute and would offer some remarks in further elaboration of the priority that we have now accorded to the child support and alimony recipient.

These remarks are offered in response to the suggestion, made by some who are arguing in support of this substitute, that child support and alimony does not receive proper priority and that what priority it has perhaps could be defeated in a practical way by nonsecured creditors who have claims that survive in the post-discharge environment. I disagree with those suggestions and would explain this disagreement in these terms.

As a legal matter, I think, as a consequence of amendments adopted in the committee and the Boucher-Gekas amendment adopted earlier on the floor today, we have now done everything that possibly can be done to make sure that the child support recipient, the alimony recipient does in fact have complete priority over nonsecured debt and in fact has first priority in the range of priorities in bankruptcy and in the post-bankruptcy environment.

The only argument that I am now hearing is that as a practical matter, the recipient of alimony, the recipient of child support may not have the practical ability to enforce that priority that is possessed perhaps by the credit card company or some other lender who has a claim that survives in bankruptcy.

I would respond to that by saying that Congress has created and required agencies that enabled the recipient of child support, the recipient of alimony to enforce their claims very effectively. All that has to be done is for a letter to be sent from one of these agencies at the State level to the employer of a person who owes child support or alimony and then that child support or alimony is automatically withheld from the salary of the person who has that obligation.

That money is then automatically turned over to the recipient of the child support or alimony. That is a very effective way for the person who has a claim for child support or alimony to have that claim pursued successfully. The State operates in support of that claimant.

The question then arises with regard to what about the person who owes child support or alimony and is self-employed. Obviously there is no instrumentality to withhold salary in that case, and the answer is that by encouraging the greater use of Chapter 13, which is the foundation of the bill and the core principle of the bill itself, we will encourage a greater respect for the priority of the child support or alimony recipient. Because in Chapter 13 proceedings, it is very easy, indeed, to enforce that first priority that the child support or alimony recipient will have.

So in every instance, we have done everything that can be done to protect that priority, and I would respectfully urge that this amendment not be agreed to.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Two interesting contentions that have been made throughout this debate from the very first moment we began the process in late 1997. One is the continuous lament from the other side of the aisle that it is not bipartisan in its offering, in its substance or in its support. Yet we took great pains to entertain as many Democrats as possible in a Republican atmosphere to provide a bipartisan vehicle for our consideration and that has reached us here today: bipartisan in sponsorship, bipartisan in sponsorship of underlying bills which were incorporated into our bill, and bipartisan in those who came forward to say to us, let me speak in favor of 3150 and let me speak in opposition to the Nadler substitute. So there is a bipartisanship that has played its role throughout this process.

When, during subcommittee, I remember very well, turning to the gentleman from New York (Mr. NADLER), he will recall this, and asking him if any Republicans joined him and the gentleman from Michigan (Mr. CONYERS) in their plan for bankruptcy reform, thus an attempt to make it a bipartisan vehicle, the gentleman from New York (Mr. NADLER), quite honestly, admitted there were no Republicans, nor did I discern any attempt on their part to draw Republican support for their vehicle.

Now, this is not a great big argument on my part, the fact that I believe it is bipartisan, while others on that side do not believe it is bipartisan. But when we opened the amendment process in the subcommittee and full committee and on the floor and we joined hands as cosponsors, both Democrats and Republicans, I venture to say that our efforts were more bipartisan than those which attack 3150. And that, I would ask each Member to take into consideration, if that is a criterion upon which they will base their final vote, bipartisanship.

I have always believed in bipartisanship, and I have strenuously accorded every conceivable courtesy I could to Members of the minority, both in subcommittee and full committee and on the floor, and my final proof of bipartisanship is the roll call of the vote that will occur very shortly.

In addition to that, the other thing that is spectacular in its repetition on the part of the minority is that the gateway approach that we provide as the core element of 3150, whereby the debtor who comes to bankruptcy will be tested and screened at the outset to determine whether or not a fresh start should be accorded them, we give full play to that, or whether or not that individual should be compelled to repay some of the debt, if we determine, by the screening process, that there will be an ability to repay some of the debt. That is a screening process, we say, which will shorten the process in bankruptcy in the future, once this is adopted, and be less costly.

What does the gentleman from New York, with the collusion of the gentleman from Massachusetts (Mr. MEEHAN), say, that they ought to adopt this substitute which calls for every single case to go before a judge. We are telling Members that there were 1,400,000 new filings in 1997. If we were to have this substitute in effect in 1997, each one of those cases would have to go before a bankruptcy judge so that that judge can exercise the discretion, the human quality that the gentleman from New York, substantiated by the gentleman from Massachusetts, would find necessary to adjudicate each case one by one on whether or not the means test should be applied fairly.

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We say to you, that is a costly process, that is a never-ending process.

Our screening process at the outset would relegate dozens of people into title 7 and give them their fresh start with a cursory examination of their income tax return, their wage statements, to determine their inability to repay any of the debt, thus earning the right of a fresh start. Our gateway approach is one that expedites the process, becomes more efficient, less costly.

How can you continue to say that to take the 1,400,000, rip away our gateway approach and allow each one of those to be adjudicated separately by a judge? It is overwhelming. We would need to add 40 new bankruptcy judges a month for 10 years to handle the increase that we would see in filings. But if we adopt, as I hope we will, H.R. 3150, the screening process, which is only a starting point, will at the outset say, ''Fresh start, you got it.'' On the other hand, if there is any ability to repay, you go through a process that is determined by Chapter 13, and we will help you with a plan to be able to repay some of the debt that you have incurred over the years. I think it is a reasonable way, it is an efficient way and a less costly way.

That is why I am astounded by all these figures about how much more costly our bill would be than the substitute. The substitute takes each case and makes a Supreme Court case out of it, to use the vernacular, by saying that each one has to be adjudicated on its own merits. We begin by screening, in a proper, reasonable, human way, whether a person should be discharged immediately or should go through the process of repayment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, there is no doubt that the gentleman is sincere in his remarks. Might I just note for the record that the gentleman from New York (Mr. NADLER), whom he was addressing, is not on the floor at this time. The substitute is the Nadler, Meehan, Berman, Jackson-Lee substitute.

Let me just say, with respect to his proposition, that the National Bankruptcy Review Commission did not accept the means test, and in fact one of the problems with it is that the experts, the bankruptcy judges themselves, have said not only is it too costly, but it is too complicated. CBO has assessed the means-testing procedure at costing $214 million when in fact the Democratic substitute wants to stop fraudulent activity and will ask the experts to use the test of substantial abuse so that we can avoid that.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I do not see how the gentlewoman can argue that to have 1,400,000 separate cases cannot increase or would not increase the cost of processing bankruptcy. That is a rhetorical question.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just respond that the screening method that he described, according to CBO, would cost taxpayers $200 million.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, I rise today in strong support of the Nadler, Meehan, Berman, Jackson-Lee amendment to this bill.

I think this substitute strikes a fair balance and alleviates many of the concerns that I have with H.R. 3150. I applaud all the hard work of those Members who took part in striking this fair compromise.

Everyone is troubled with the record number of personal bankruptcy filings that we are seeing in the United States. Last year, 1.4 million Americans filed bankruptcy. Certainly I am committed to the principle of bankruptcy reform. Certainly I believe that we should rid the system of those who deliberately abuse the system. But I do not believe we should do this at the expense of hard-working families, women and children.

The substitute gives child support and alimony payments the highest priority under Federal bankruptcy law. We should not force women and children to compete with creditors' attorneys over limited funds in court.

I support this amendment because it offers a more flexible approach when evaluating a debtor's ability to repay. It will make it easier for a debtor's actual expenses that are reasonably necessary to be considered, such as child care payments, health care costs, and the costs of taking care of ill parents.

This amendment also alleviates the harsh small business provisions found in H.R. 3150 by providing a safety valve for small businesses hit with financial difficulty. Voting for this amendment will protect hard-working Americans from premature small business liquidations.

Mr. Chairman, I urge my colleagues to vote in favor of the Nadler, Meehan, Berman, Jackson-Lee amendment. It strikes a fair balance in attempting to rid the system of those who choose to abuse the bankruptcy system. At the same time, the amendment protects honest, hard-working Americans who are experiencing real financial difficulty.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT), a leader in the Committee on the Judiciary, a person who is always first to speak up for those who cannot speak for themselves.

Mr. WATT of North Carolina. Mr. Chairman, this is actually a very sad day for this House. There should not have to be a Democratic substitute on a bankruptcy bill, because bankruptcy is not a partisan issue.

Let us look at how we got here. There are some people abusing the bankruptcy system that exist now. We sat down and we started working together to try to come up with a bill that would address that issue. Instead, the Republicans came up with a bill

that means-tests bankruptcies so that one size is designed to fit all.

It astonishes me that the gentleman from Pennsylvania, the chairman of the subcommittee, comes to the floor and acknowledges that he does not want each one of these bankruptcy matters to be adjudicated on its own merits. That is exactly what he said. I thought that is what we were trying to do, have each one of these bankruptcy matters adjudicated on its own merits, because whether somebody is bankrupt and deserves the protection of bankruptcy court is an individual proposition. It is not a matter of means-testing.

Can you imagine that somebody who makes above the median income in this country and cannot be extended beyond their means, they should not be entitled to the benefits of the bankruptcy courts? If you look at every single individual and every single case on its own merits, that is what our system is designed to do, and that is the way it should be done, and that is why the Democratic substitute is a better substitute than the original bill. It is not perfect, either, but it is better than the original bill.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership on this issue along with the gentleman from New York (Mr. NADLER).

Mr. Chairman, I rise to express my opposition to the rigid approach of means-testing and my strong support for the substitute amendment. If means-testing is made into law, a debtor's actual living expenses will be disregarded, while an inflexible IRS formula is imposed. Even if those predetermined numbers cause true hardship through a strict repayment plan, it is the consumer that would have to initiate litigation to appeal, an expensive and intimidating process.

If the main target of bankruptcy reform are wealthier abusers, let us give creditors the tools they need to get the job done. The Democratic substitute amendment does just that. It empowers credit companies to contest the Chapter 7 filing of debtors who are deliberately shielding their wealth. But it also ensures that the fate of debtors will be decided by a thinking person, a trained judge, who can evaluate what are often subjective factors on a case-by-case basis, not an unbending formula. Equally important, the substitute puts the burden of litigation where it belongs, on the creditor, which, after all, made the decision to take the risk of lending.

We need to help creditors get back more of what is owed to them, but we need to do it in a balanced way. The Democratic substitute does that.

Mr. Chairman, there has been much discussion back and forth on the child support enforcement provision. I would like to put into the RECORD practically every women's group that I have ever heard of who is opposed to this bill because of the impact it will have on child support.

Mr. Chairman, I include for the RECORD the names of at least 20 women's organizations opposed to this bill.

The material referred to is as follows:

The Justice Department
Small Business Administration (SBA)
Alliance for Justice
National Organization for Women (NOW)
Mothers Against Drunk Driving (MADD)
National Organization for Victim Assistance (NOVA)
National Victim Center
Association for Children of Enforcement Support (ACES)
Governing Counsel, Family Law Section, American Bar Association
AFL-CIO
UAW
UNITE
AFSCME
Consumer Federation of America
Consumers' Union
Public Citizen
California Women's Law Center (CWLC)
Group of 110 United States Bankruptcy Judges
Leadership Conference on Civil Rights
National Conference of Bankruptcy Judges
American College of Bankruptcy
National Bankruptcy Conference
National Association of Consumer Bankruptcy Attorneys
National Association of Bankruptcy Trustees
National Association of Chapter 13 Trustees
National Association of Consumer Bankruptcy Attorneys
National Association of Debtor Attorneys
Houston Association of Debtor Attorneys
American Association of University Women
Association for Children for Enforcement of Support, Inc.
Black Women's Agenda, Inc.
Business and Professional Women/USA
Center for Advancement of Public Policy
Children's Defense Fund
Church Women United
Coalition of Labor Union Women
Federally Employed Women, Inc.
Feminist Majority
MANA, A National Latina Organization
National Association of Commissions For Women
National Association for Female Executives
National Organization for Women
National Women's Conference
NAWE Advancing Women in Higher Education
NOW Legal Defense and Education Fund
Older Women's League
The Woman Activist Fund, Inc.
Women Work!
YWCA of the U.S.A.
National Council of Senior Citizens

NATIONAL COUNCIL OF SENIOR CITIZENS,
Silver Spring, MD, June 9, 1998.

Representative JERROLD NADLER,
United States Congress,
Washington, DC.

DEAR REPRESENTATIVE NADLER: I am writing to express NCSC's deep concern about pending floor action on H.R. 3150, the Bankruptcy Reform Act of 1998. We join with many bankruptcy judges, legal scholars, women's groups, unions, consumer groups and others in urging that this bill not be passed without further study and substantial changes.

I am especially concerned about the effect this bill might have on seniors. I might note that a series of amendments were offered in the Judiciary Committee that would have offered some protections to older people but all were defeated. As it stands, then, this bill would have a harsh impact on a group of people who are often subject to job loss or catastrophic health costs; instead of ameliorating these problems, this bill would only exacerbate them.

Since 1993, more than a million people over the age of 50 have filed for bankruptcy; in 1997, an estimated 280,000 older Americans filed. For them it is particularly hard. If they are forced into prolonged repayment schedules, they may not be able to maintain or accumulate savings for retirement. As you know, approximately two thirds of voluntary, Chapter 13 workout plans fail, and we believe that retirement savings must be protected for that purpose.

Instead of addressing the root causes of personal bankruptcy and addressing behavior of both abusive debtors and creditors, this bill will add unnecessary administrative and financial burdens to hardworking families who seek relief in bankruptcy court.

H.R. 3150 is simply moving too fast, and there has been too little scrutiny given to credit industry practices. The consequences for older people must be examined more closely and addressed in a fair way before any changes in bankruptcy law are made. We urge you to delay action on this bill and to work with bankruptcy experts and others toward targeted and effective changes in the Bankruptcy Code.

Sincerely,

DAN SCHULDER,
Director, Public Affairs and Legislation.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Pennsylvania for his hard work. Obviously I stand in opposition to the Nadler substitute. I hear a lot of discussion on the floor today. I just heard women's groups are against this. I have heard an impression made on the floor that somehow our bill does not allow for the enforcement of child support or set a priority on child support. In fact, it does. The bill prioritizes child support as one of the real priorities in the bill.

For anyone questioning the need for this bill we are discussing today, the statistics spell it out. Personal bankruptcies have hit a high record number for each of the past 3 years, and again in the first quarter of this year. Many will offer a variety of reasons for that alarming statistic, but the simple fact is that current law makes it too easy for individuals to walk away from their financial obligations, even if they have the means to meet those obligations. It happens too often in Florida.

I have heard in the last several days around this Capitol that somehow it is the credit card companies that are inducing commonsense, average Americans to run up phenomenal bills and so we must blame the credit card companies for their debt and discharge the debtor from their responsibilities.

I just heard an analogy of the risk of lending, and somehow, someway we are supposed to now stand in front of the borrower and protect them with a

shield. I think that is wrong, I think it is irresponsible, and that it should no longer be sanctioned by the Federal Government.

Some will argue that H.R. 3150 hurts low-income individuals facing financial disaster through no fault of their own. This is simply not true. H.R. 3150 merely codifies into law what is common sense to every American. Those who can afford their bills should not stick others with their tab.

This much needed reform bill imposes a means test to allow those who are facing financial disaster to wipe away most of their debts. However, those who have the ability to repay their debts will have to abide by a repayment schedule. If this sounds like a sensible proposition, it is because it is a sensible proposition.

Mr. Chairman, today we are debating something vitally important. We do want to care for families, we do want to care for average Americans, hard-working individuals. But there is a notion that when you incur debt, you should make every attempt to repay that debt.

Society today is transferring debt to others. Those who pay their bills, who keep an outstanding credit record, are in fact having to pay higher interest rates because a lot of people are shirking their responsibility. In Florida, we have had a number of cases that just are outrageous in the way the courts have been used in order for creditors to have no payment rendered to them.

Again, I urge my colleagues to reject the Nadler substitute. I urge them to support the work of the gentleman from Pennsylvania (Mr. GEKAS) in passing H.R. 3150 today so the House will ensure that the irresponsible and the well off in our society will no longer be able to pass the buck to those who struggle daily to meet their financial obligations.

Mr. MEEHAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a leader in the committee and in the subcommittee.

Mr. DELAHUNT. Mr. Chairman, what concerns me today about this debate and where we are headed is that we are truly crafting public policy without the benefit of any data. Very, very little hard information is available to us. I believe the American people should understand that while we may be well-intentioned, we really are legislating on hunches, on guesswork and hope.

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As my colleagues know, I have heard the figure now from the previous speaker about 1.4 million. That is unacceptable. The only information that we were able to secure during the course of the hearing about what H.R. 3150 would do in terms of reducing that number was from the bankruptcy judges. They testified, those that I inquired of, that it would reduce the amount of filings 13,000 possibly, 1 percent.

That is the only information that we have, 1 percent, 13,000. We are passing a piece of legislation here today, if this underlying bill is enacted, that is based on nothing but anecdote.

Stigma. There is no data to indicate that people are any different today than they were 10, 20 or 30 years ago. People are not just walking away, they are being crushed by debt. In addition to that, their wages, for most Americans, have not gone up in any significant degree for 20 years. Twenty percent of us are doing very well, but the rest of America is not.

That is the only information that we have. It is unfair. We talk about 44 billion. What will Mr. GEKAS' bill do to reduce? How much money is going to be saved if the Gekas-Boucher-McCollum bill passes? I daresay not a single cent. It is not going to save a dime. It certainly will not benefit the consumer. We all know that. The moneys, if there are moneys that are saved, are going to go to the Wall Street investor, in the banks and the credit card industry. That is where it is going to go. It is going to introduce or enhance profitability.

Mr. Chairman, I know these gentleman are sincere, I know that we all share the same goal, but this is not the right approach. We should have slowed the process down and secured some information and answers to questions that we do not know the answers to now.

Mr. MEEHAN. Mr. Chairman, I yield the balance of my time to myself.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. MEEHAN. Mr. Chairman, on a final note, let me just say in response to the argument from the other side of the aisle, the child support and alimony problem does not begin and end with sections 141 and 142 of H.R. 3150. The means test and other parts of the bill contribute to the problem as well.

A letter from the National Partnership for Women and Families put it best. Several provisions increase the credit card's ability to pressure debtors into reaffirming credit card debt by threatening the debtor with repossession or litigation. Through reaffirmation, even more credit card debt becomes nondischargeable in bankruptcy.

In other words, aggressive creditors can use the leverage that they receive under this bill's means test to force debtors to agree to let their debts survive bankruptcy.

So we once again have debtors entering the post-bankruptcy world with large amounts of credit card debt hanging over their heads in addition to their support and alimony obligations.

There is simply no way to fix the child support and alimony problems with this bill other than to delete the new exceptions to the discharge of credit card debt and rewrite its means test along the lines of the Nadler-Meehan-Berman substitute. We should support this substitute and defeat this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for 2 minutes.

Mr. GEKAS. Mr. Chairman, I repeat my request to Members to reject the Nadler substitute and to later support the bill.

When the gentleman from Massachusetts (Mr. DELAHUNT) was speaking, he was decrying the fact that there was no data available on which we could base any concept now contained in 3150.

The question in reverse has to be asked: On what data is the Nadler substitute based? It has to be in the same data that we used for 3150, namely 1,400,000 bankruptcies. Nobody can fully explain that. And the Nadler substitute, the gentleman from Massachusetts (Mr. MEEHAN) and others acknowledge that there is abuse in the system. Well, where did they get that idea? Where did they get the idea that there is abuse in the system if it were not for the fact that 1,400,000 bankruptcies were filed in 1997? Everybody in America knows that means that the system was abused.

And if we want to continue to have a system which is so riddled with loopholes, making it easier for people to escape obligations, vote for the Nadler substitute. If we want to tighten up the system and make people more responsible and allow people to repay when they can repay the debts that they assumed, then reject the Nadler amendment and then when the time comes, vote for true reform, the underlying bill, H.R. 3150.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

The amendment in the nature of a substitute was rejected.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 2 offered by the gentleman from New York (Mr. NADLER), amendment No. 3 offered by the gentleman from Massachusetts (Mr. DELAHUNT), amendment No. 8 offered by the gentleman from Pennsylvania (Mr. GEKAS), and amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from New York

(Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 290, not voting 7, as follows:

[Roll No. 219]

AYES—136

Abercrombie	Hefner	Olver
Ackerman	Hilliard	Ortiz
Allen	Hinchey	Owens
Baldacci	Hinojosa	Pallone
Barcia	Hooley	Pascrell
Becerra	Jackson (IL)	Pastor
Bonior	Jackson-Lee (TX)	Payne
Borski	Johnson, E. B.	Pelosi
Brady (PA)	Kanjorski	Poshard
Brown (CA)	Kaptur	Price (NC)
Brown (FL)	Kennedy (MA)	Rahall
Brown (OH)	Kennelly	Reyes
Campbell	Kildee	Rivers
Capps	Kilpatrick	Rodriguez
Cardin	Klink	Roybal-Allard
Carson	Kucinich	Rush
Clay	LaFalce	Sanchez
Clyburn	Lampson	Sanders
Conyers	Lantos	Sanford
Coyne	Lee	Sawyer
Cummings	Levin	Scott
Davis (FL)	Lofgren	Serrano
Davis (IL)	Lowey	Shays
DeFazio	Maloney (NY)	Skaggs
DeGette	Manton	Slaughter
Delahunt	Martinez	Souder
DeLauro	Mascara	Stark
Dicks	Matsui	Stokes
Dingell	McCarthy (NY)	Strickland
Dixon	McDermott	Stupak
Doggett	McGovern	Thompson
Doyle	McKinney	Thurman
Edwards	McNulty	Tierney
Engel	Meehan	Torres
Eshoo	Meek (FL)	Towns
Evans	Meeks (NY)	Velazquez
Fattah	Millender-McDonald	Vento
Fazio	Miller (CA)	Visclosky
Filner	Mink	Waters
Furse	Moakley	Watt (NC)
Gejdenson	Mollohan	Waxman
Gephardt	Nadler	Wexler
Green	Neal	Wise
Gutierrez	Oberstar	Woolsey
Hall (OH)	Obey	Wynn
Hastings (FL)	Olver	Yates

NOES—290

Aderholt	Boucher	Crapo
Andrews	Boyd	Cubin
Archer	Brady (TX)	Cunningham
Armey	Bryant	Danner
Bachus	Bunning	Davis (VA)
Baesler	Burr	Deal
Baker	Burton	DeLay
Ballenger	Buyer	Deutsch
Barr	Callahan	Diaz-Balart
Barrett (NE)	Calvert	Dickey
Barrett (WI)	Camp	Dooley
Bartlett	Canady	Doolittle
Barton	Cannon	Dreier
Bass	Castle	Duncan
Bateman	Chabot	Dunn
Bentsen	Chambliss	Ehlers
Bereuter	Chenoweth	Ehrlich
Berry	Christensen	Emerson
Bilbray	Clement	English
Bilirakis	Coble	Ensign
Bishop	Coburn	Etheridge
Blagojevich	Collins	Everett
Bliley	Combest	Ewing
Blumenauer	Condit	Fawell
Blunt	Cook	Foley
Boehlert	Cooksey	Forbes
Boehner	Costello	Ford
Bonilla	Cox	Fossella
Bono	Cramer	Fowler
Boswell	Crane	Fox
Boyd	Crapo	Rohrabacher
Franks (NJ)	Cubin	Ros-Lehtinen
Frelinghuysen	Cunningham	Rothman
Frost	Danner	Roukema
Gallegly	Davis (VA)	Royce
Ganske	Deal	Ryun
Gekas	DeLay	Sabo
Gibbons	Deutsch	Salmon
Gilchrest	Diaz-Balart	Sandlin
Gillmor	Dickey	Saxton
Gilman	Dooley	Scarborough
Goode	Doolittle	Schaefer, Dan
Goodlatte	Dreier	Schaffer, Bob
Goodling	Duncan	Sensenbrenner
Gordon	Dunn	Sessions
Goss	Ehlers	Shadegg
Graham	Ehrlich	Shaw
Granger	Emerson	Sherman
Greenwood	English	Shimkus
Gutknecht	Ensign	Shuster
Hall (TX)	Etheridge	Sisisky
Hamilton	Everett	Skeen
Hansen	Ewing	Skelton
Hastert	Fawell	Smith (MI)
Hastings (WA)	Foley	Smith (NJ)
Hayworth	Forbes	Smith (OR)
Hefley	Ford	Smith (TX)
Herger	Fossella	Smith, Adam
Hill	Fowler	Smith, Linda
Hilleary	Fox	Snowbarger
Hobson	Frank (MA)	Snyder
Hoekstra	Franks (NJ)	Solomon
Holden	Frelinghuysen	Spence
Horn	Frost	Spratt
Hostettler	Gallegly	Stabenow
Houghton	Ganske	Stearns
Hoyer	Gekas	Stenholm
Hulshof	Gibbons	Stump
Hunter	Gilchrest	Sununu
Hutchinson	Gillmor	Talent
Hyde	Gilman	Tanner
Inglis	Goode	Tauscher
Istook	Goodlatte	Tauzin
Jefferson	Goodling	Taylor (MS)
Jenkins	Gordon	Taylor (NC)
John	Goss	Thomas
Johnson (CT)	Graham	Thornberry
Johnson (WI)	Granger	Thune
Johnson, Sam	Greenwood	Tiahrt
Jones	Gutknecht	Traficant
Kasich	Hall (TX)	Turner
Kelly	Hamilton	Upton
Kennedy (RI)	Hansen	Walsh
Kim	Hastert	Wamp
Kind (WI)	Hastings (WA)	Watkins
King (NY)	Hayworth	Watts (OK)
Kingston	Hefley	Weldon (FL)
Kleczka	Herger	Weldon (PA)
Klug	Hill	Weller
Knollenberg	Hilleary	Weygand
Kolbe	Hobson	White
LaHood	Hoekstra	Whitfield
Largent	Holden	Wicker
Latham	Horn	Wolf
LaTourette	Hostettler	Young (AK)
Lazio	Houghton	Young (FL)
Leach	Hoyer	
Lewis (CA)	Hulshof	
Lewis (KY)	Hunter	
Linder	Hutchinson	
Lipinski	Hyde	
Livingston	Inglis	
LoBiondo	Istook	
Lucas	Jefferson	
Luther	Jenkins	
Maloney (CT)	John	
Manzullo	Johnson (CT)	
Markey	Johnson (WI)	
McCarthy (MO)	Johnson, Sam	
McCollum	Jones	
McCrery	Kasich	
McDade	Kelly	
McHale	Kennedy (RI)	
McHugh	Kim	
McInnis	Kind (WI)	
McIntosh	King (NY)	
McIntyre	Kingston	
McKeon	Kleczka	
Menendez	Klug	
Metcalf	Knollenberg	
Mica	Kolbe	
Miller (FL)	LaHood	
Minge	Largent	
Moran (KS)	Latham	
Moran (VA)	LaTourette	
Morella	Lazio	
Murtha	Leach	
Myrick	Lewis (CA)	
Nethercutt	Lewis (KY)	
Neumann	Linder	
Ney	Lipinski	
Northup	Livingston	
Norwood	LoBiondo	
Nussle	Lucas	
Obey	Luther	
Oxley	Maloney (CT)	
Packard	Manzullo	
Pappas	Markey	
Parker	McCarthy (MO)	
Paul	McCollum	
Paxon	McCrery	
Pease	McDade	
Peterson (MN)	McHale	
Peterson (PA)	McHugh	
Petri	McInnis	
Pickering	McIntosh	
Pickett	McIntyre	
Pitts	McKeon	
Pombo	Menendez	
Pomeroy	Metcalf	
Porter	Mica	
Portman	Miller (FL)	
Pryce (OH)	Minge	
Quinn	Moran (KS)	
Radanovich	Moran (VA)	
Ramstad	Morella	
Rangel	Murtha	
Redmond	Myrick	
Regula	Nethercutt	
Riggs	Neumann	
Riley	Ney	
Roemer	Northup	
Rogan	Norwood	
Rogers	Nussle	
Rohrabacher	Obey	
Ros-Lehtinen	Oxley	
Rothman	Packard	
Roukema	Pappas	
Royce	Parker	
Ryun	Paul	
Sabo	Paxon	
Salmon	Pease	
Sandlin	Peterson (MN)	
Saxton	Peterson (PA)	
Scarborough	Petri	
Schaefer, Dan	Pickering	
Schaffer, Bob	Pickett	
Sensenbrenner	Pitts	
Sessions	Pombo	
Shadegg	Pomeroy	
Shaw	Porter	
Sherman	Portman	
Shimkus	Pryce (OH)	
Shuster	Quinn	
Sisisky	Radanovich	
Skeen	Ramstad	
Skelton	Rangel	
Smith (MI)	Redmond	
Smith (NJ)	Regula	
Smith (OR)	Riggs	
Smith (TX)	Riley	
Smith, Adam	Roemer	
Smith, Linda	Rogan	
Snowbarger	Rogers	
Snyder	Rohrabacher	
Solomon	Ros-Lehtinen	
Spence	Rothman	
Spratt	Roukema	
Stabenow	Royce	
Stearns	Ryun	
Stenholm	Sabo	
Stump	Salmon	
Sununu	Sandlin	
Talent	Saxton	
Tanner	Scarborough	
Tauscher	Schaefer, Dan	
Tauzin	Schaffer, Bob	
Taylor (MS)	Sensenbrenner	
Taylor (NC)	Sessions	
Thomas	Shadegg	
Thornberry	Shaw	
Thune	Sherman	
Tiahrt	Shimkus	
Traficant	Shuster	
Turner	Sisisky	
Upton	Skeen	
Walsh	Skelton	
Wamp	Smith (MI)	
Watkins	Smith (NJ)	
Watts (OK)	Smith (OR)	
Weldon (FL)	Smith (TX)	
Weldon (PA)	Smith, Adam	
Weller	Smith, Linda	
Weygand	Snowbarger	
White	Snyder	
Whitfield	Solomon	
Wicker	Spence	
Wolf	Spratt	
Young (AK)	Stabenow	
Young (FL)	Stearns	
	Stenholm	
	Stump	
	Sununu	
	Talent	
	Tanner	
	Tauscher	
	Tauzin	
	Taylor (MS)	
	Taylor (NC)	
	Thomas	
	Thornberry	
	Thune	
	Tiahrt	
	Traficant	
	Turner	
	Upton	
	Walsh	
	Wamp	
	Watkins	
	Watts (OK)	
	Weldon (FL)	
	Weldon (PA)	
	Weller	
	Weygand	
	White	
	Whitfield	
	Wicker	
	Wolf	
	Young (AK)	
	Young (FL)	

NOT VOTING—7

Berman	Gonzalez	Schumer
Clayton	Harman	
Farr	Lewis (GA)	

☐ 1828

Messrs. GRAHAM, MICA, WELLER and BURR of North Carolina changed their vote from ''aye'' to ''no.''

Messrs. MATSUI, SHAYS, ACKERMAN and BECERRA and Ms. RIVERS changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1830

Mr. NADLER. Mr. Chairman, I ask unanimous consent that the present unfinished business be considered to include a request for a recorded vote on the Nadler substitute.

The CHAIRMAN pro tempore (Mr. CALVERT). Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to House Resolution 462, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 3 offered by the gentleman from Massachusetts (Mr. DELAHUNT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 149, noes 278, not voting 6, as follows:

[Roll No. 220]

AYES—149

Abercrombie	Hinojosa	Neal
Ackerman	Hoyer	Oberstar
Barcia	Jackson (IL)	Obey
Barrett (WI)	Jackson-Lee (TX)	Olver
Becerra	Jefferson	Ortiz
Blumenauer	John	Owens
Bonior	Johnson (WI)	Pallone
Borski	Johnson, E. B.	Pascrell
Brady (PA)	Kanjorski	Pastor
Brown (CA)	Kaptur	Payne
Brown (FL)	Kennedy (MA)	Pelosi
Brown (OH)	Kennedy (RI)	Poshard
Campbell	Kennelly	Price (NC)
Capps	Kildee	Rahall
Carson	Kilpatrick	Rangel
Clay	Klink	Reyes
Clayton	Kucinich	Rodriguez
Clyburn	LaFalce	Roybal-Allard
Coburn	Lampson	Rush
Conyers	Lantos	Sabo
Costello	Lee	Sanders
Coyne	Levin	Sawyer
Cummings	Lipinski	Scott
Danner	Lofgren	Serrano
Davis (IL)	Lowey	Skaggs
DeFazio	Luther	Skelton
DeGette	Maloney (NY)	Slaughter
Delahunt	Manton	Stark
DeLauro	Markey	Stokes
Dicks	Martinez	Strickland
Dixon	Mascara	Stupak
Doyle	Matsui	Taylor (MS)
Edwards	McCarthy (MO)	Thompson
Engel	McCarthy (NY)	Thurman
Eshoo	McDermott	Tierney
Etheridge	McGovern	Torres
Evans	McKinney	Towns
Fattah	McNulty	Velazquez
Fazio	Meehan	Vento
Filner	Meek (FL)	Visclosky
Ford	Meeks (NY)	Waters
Furse	Millender-McDonald	Watt (NC)
Gejdenson	Miller (CA)	Waxman
Gephardt	Minge	Wexler
Green	Mink	Weygand
Gutierrez	Moakley	Wise
Harman	Mollohan	Woolsey
Hastings (FL)	Murtha	Wynn
Hefner	Nadler	Yates
Hilliard		
Hinchey		

NOES—278

Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berman
Farr
Frank (MA)
Gonzalez
Lewis (GA)
Schumer

□ 1837

Mr. SMITH of Michigan changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. GEKAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 8 offered by the gentleman from Pennsylvania (Mr. GEKAS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 204, not voting 7, as follows:

[Roll No. 221]

AYES—222

Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dreier
Duncan
Edwards
Ehrlich
English
Ensign
Ewing
Foley
Forbes
Fossella
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee (TX)
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Klug
Knollenberg
LaHood
Lampson
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Rahall
Ramstad
Redmond
Reyes
Rodriguez
Rogan
Rogers
Ros-Lehtinen
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—204

Abercrombie
Ackerman
Aderholt
Allen
Bachus
Baesler
Baldacci
Barrett (WI)
Becerra
Bereuter
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Brady (PA)
Brown (CA)
Brown (OH)
Buyer
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dunn
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Fattah
Fazio
Filner
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilchrest
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Houghton
Hoyer
Istook
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lantos
Largent
LaTourette
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntosh
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Rangel
Regula
Riggs
Riley
Rivers
Roemer
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Scott
Sensenbrenner
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Tierney
Torres
Towns
Upton
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Berman
Farr
Fawell
Ford
Gonzalez
Lewis (GA)
Schumer

□ 1846

Messrs. ROEMER, KASICH, KENNEDY of Rhode Island, ADERHOLT, LOBIONDO, and Ms. KILPATRICK changed their vote from ''aye'' to ''no.''

Mr. BARCIA changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. SCOTT

The CHAIRMAN pro tempore (Mr. CALVERT). The pending business is the demand for a recorded vote on amendment No. 9 offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 111, noes 316, not voting 6, as follows:

[Roll No. 222]

AYES—111

Abercrombie	Hinchey	Owens
Ackerman	Hinojosa	Pallone
Allen	Holden	Pascrell
Baldacci	Hooley	Payne
Barrett (WI)	Jackson (IL)	Pelosi
Becerra	Jackson-Lee (TX)	Pickett
Bentsen	Kanjorski	Pomeroy
Bishop	Kaptur	Reyes
Bonior	Kilpatrick	Rivers
Brady (PA)	Kind (WI)	Rogan
Brown (CA)	Kleczka	Rothman
Capps	Klink	Roybal-Allard
Carson	LaFalce	Rush
Clay	Lampson	Sabo
Clayton	Lee	Sanders
Conyers	Luther	Sandlin
Coyne	Maloney (CT)	Scott
Davis (FL)	Manton	Sensenbrenner
Davis (IL)	Markey	Sisisky
DeFazio	Mascara	Skaggs
DeGette	McCarthy (MO)	Smith, Adam
Delahunt	McCarthy (NY)	Spratt
DeLauro	McGovern	Stark
Deutsch	McKinney	Stokes
Dixon	McNulty	Strickland
Doggett	Meeks (NY)	Stupak
Dreier	Menendez	Sununu
Engel	Millender-McDonald	Tierney
Fattah	Miller (CA)	Torres
Filner	Mink	Velazquez
Ford	Moakley	Vento
Furse	Mollohan	Visclosky
Gejdenson	Murtha	Waters
Gephardt	Neal	Watt (NC)
Green	Olver	Wexler
Gutierrez	Ortiz	Woolsey
Hamilton	Owens	Wynn
Hefner	Pallone	Yates

NOES—316

Aderholt	Blunt	Canady
Andrews	Boehlert	Cannon
Archer	Boehner	Cardin
Armey	Bonilla	Castle
Bachus	Bono	Chabot
Baesler	Borski	Chambliss
Baker	Boswell	Chenoweth
Ballenger	Boucher	Christensen
Barcia	Boyd	Clement
Barr	Brady (TX)	Clyburn
Barrett (NE)	Brown (FL)	Coble
Bartlett	Brown (OH)	Coburn
Barton	Bryant	Collins
Bass	Bunning	Combest
Bateman	Burr	Condit
Bereuter	Burton	Cook
Berry	Buyer	Cooksey
Bilbray	Callahan	Costello
Bilirakis	Calvert	Cox
Blagojevich	Camp	Cramer
Bliley	Campbell	Crane
Blumenauer	Canady	Cummings
Blunt	Cannon	Cunningham
Boehlert	Cardin	Danner
Boehner	Castle	Davis (VA)
Bonilla	Chabot	Deal
Bono	Chambliss	DeLay
Borski	Chenoweth	Diaz-Balart
Boswell	Christensen	Dickey
Boucher	Clement	Dicks
Boyd	Clyburn	Dingell
Brady (TX)	Coble	Dooley
Brown (FL)	Coburn	Doolittle
Brown (OH)	Collins	Doyle
Bryant	Combest	Duncan
Bunning	Condit	Dunn
Burr	Cook	Edwards
Burton	Cooksey	Ehlers
Buyer	Costello	Ehrlich
Callahan	Cox	Emerson
Calvert	Cramer	English
Camp	Crane	Ensign
Campbell	Crapo	Eshoo
Canady	Cubin	Etheridge
Cannon	Cummings	Evans
Cardin	Cunningham	Everett
Castle	Danner	Ewing
Chabot	Davis (VA)	Fawell
Chambliss	Deal	Fazio
Chenoweth	DeLay	Foley
Christensen	Diaz-Balart	Forbes
Clement	Dickey	Fossella
Clyburn	Dicks	Fowler
Coble	Dingell	Fox
Coburn	Dooley	Frank (MA)
Collins	Doolittle	Franks (NJ)
Combest	Doyle	Frelinghuysen
Condit	Duncan	Frost
Cook	Dunn	Gallegly
Cooksey	Edwards	Ganske
Costello	Ehlers	Gekas
Cox	Ehrlich	Gibbons
Cramer	Emerson	Gilchrest
Crane	English	Gillmor
Crapo	Ensign	Gilman
Cubin	Eshoo	Goode
Cummings	Etheridge	Goodlatte
Cunningham	Evans	Goodling
Danner	Everett	Gordon
Davis (VA)	Ewing	Goss
Deal	Fawell	Graham
DeLay	Fazio	Granger
Diaz-Balart	Foley	Greenwood
Dickey	Forbes	Gutknecht
Dicks	Fossella	Hall (OH)
Dingell	Fowler	Hall (TX)
Dooley	Fox	Hansen
Doolittle	Frank (MA)	Harman
Doyle	Franks (NJ)	Hastert
Duncan	Frelinghuysen	Hastings (FL)
Dunn	Frost	Hastings (WA)
Edwards	Gallegly	Hayworth
Ehlers	Ganske	Hefley
Ehrlich	Gekas	Herger
Emerson	Gibbons	Hill
English	Gilchrest	Hilleary
Ensign	Gillmor	Hilliard
Eshoo	Gilman	Hobson
Etheridge	Goode	Hoekstra
Evans	Goodlatte	Horn
Everett	Goodling	Hostettler
Ewing	Gordon	Houghton
Fawell	Goss	Hoyer
Fazio	Graham	Hulshof
Foley	Granger	Hunter
Forbes	Greenwood	Hutchinson
Fossella	Gutknecht	Hyde
Fowler	Hall (OH)	Inglis
Fox	Hall (TX)	Istook
Frank (MA)	Hansen	Jefferson
Franks (NJ)	Harman	Jenkins
Frelinghuysen	Hastert	John
Frost	Hastings (FL)	Johnson (CT)
Gallegly	Hastings (WA)	Johnson (WI)
Ganske	Hayworth	Johnson, E. B.
Gekas	Hefley	Johnson, Sam
Gibbons	Herger	Jones
Gilchrest	Hill	Kasich
Gillmor	Hilleary	Kelly
Gilman	Hilliard	Kennedy (MA)
Goode	Hobson	Kennedy (RI)
Goodlatte	Hoekstra	Kennelly
Goodling	Horn	Kildee
Gordon	Hostettler	Kim
Goss	Houghton	King (NY)
Graham	Hoyer	Kingston
Granger	Hulshof	Klug
Greenwood	Hunter	Knollenberg
Gutknecht	Hutchinson	Kolbe
Hall (OH)	Hyde	Kucinich
Hall (TX)	Inglis	LaHood
Hansen	Istook	Lantos
Harman	Jefferson	Largent
Hastert	Jenkins	Latham
Hastings (FL)	John	LaTourette
Hastings (WA)	Johnson (CT)	Lazio
Hayworth	Johnson (WI)	Leach
Hefley	Johnson, E. B.	Levin
Herger	Johnson, Sam	Lewis (CA)
Hill	Jones	Lewis (KY)
Hilleary	Kasich	Linder
Hilliard	Kelly	Lipinski
Hobson	Kennedy (MA)	Livingston
Hoekstra	Kennedy (RI)	LoBiondo
Horn	Kennelly	Lofgren
Hostettler	Kildee	Lowey
Houghton	Kim	Lucas
Hoyer	King (NY)	Maloney (NY)
Hulshof	Kingston	Manzullo
Hunter	Klug	Martinez
Hutchinson	Knollenberg	Matsui
Hyde	Kolbe	McCollum
Inglis	Kucinich	McCrery
Istook	LaHood	McDade
Jefferson	Lantos	McDermott
Jenkins	Largent	McHale
John	Latham	McHugh
Johnson (CT)	LaTourette	McInnis
Johnson (WI)	Lazio	McIntosh
Johnson, E. B.	Leach	McIntyre
Johnson, Sam	Levin	McKeon
Jones	Lewis (CA)	Meehan
Kasich	Lewis (KY)	Meek (FL)
Kelly	Linder	Metcalf
Kennedy (MA)	Lipinski	Mica
Kennedy (RI)	Livingston	Miller (FL)
Kennelly	LoBiondo	Minge
Kildee	Lofgren	Moran (KS)
Kim	Lowey	Moran (VA)
King (NY)	Lucas	Morella
Kingston	Maloney (NY)	Myrick
Klug	Manzullo	Nadler
Knollenberg	Martinez	Nethercutt
Kolbe	Matsui	Neumann
Kucinich	McCollum	Ney
LaHood	McCrery	Northup
Lantos	McDade	Norwood
Largent	McDermott	Nussle
Latham	McHale	Oberstar
LaTourette	McHugh	Obey
Lazio	McInnis	Oxley
Leach	McIntosh	Packard
Levin	McIntyre	Pappas
Lewis (CA)	McKeon	Parker
Lewis (KY)	Meehan	Pastor
Linder	Meek (FL)	Paul
Lipinski	Metcalf	Paxon
Livingston	Mica	Pease
LoBiondo	Miller (FL)	Peterson (MN)
Lofgren	Minge	Peterson (PA)
Lowey	Moran (KS)	Petri
Lucas	Moran (VA)	Pickering
Maloney (NY)	Morella	Pitts
Manzullo	Myrick	Pombo
Martinez	Nadler	Porter
Matsui	Nethercutt	Portman
McCollum	Neumann	Poshard
McCrery	Ney	Price (NC)
McDade	Northup	Pryce (OH)
McDermott	Norwood	Quinn
McHale	Nussle	Radanovich
McHugh	Oberstar	Rahall
McInnis	Obey	Ramstad
McIntosh	Oxley	Rangel
McIntyre	Packard	Redmond
McKeon	Pappas	Regula
Meehan	Parker	Riggs
Meek (FL)	Pastor	Riley
Metcalf	Paul	Rodriguez
Mica	Paxon	Roemer
Miller (FL)	Pease	Rogers
Minge	Peterson (MN)	Rohrabacher
Moran (KS)	Peterson (PA)	Ros-Lehtinen
Moran (VA)	Petri	Roukema
Morella	Pickering	Royce
Myrick	Pitts	Ryun
Nadler	Pombo	Salmon
Nethercutt	Porter	Sanchez
Neumann	Portman	Sanford
Ney	Poshard	Sawyer
Northup	Price (NC)	Saxton
Norwood	Pryce (OH)	Scarborough
Nussle	Quinn	Schaefer, Dan
Oberstar	Radanovich	Schaffer, Bob
Obey	Rahall	Serrano
Oxley	Ramstad	Sessions
Packard	Rangel	Shadegg
Pappas	Redmond	Shaw
Parker	Regula	Shays
Pastor	Riggs	Sherman
Paul	Riley	Shimkus
Paxon	Rodriguez	Shuster
Pease	Roemer	Skeen
Peterson (MN)	Rogers	Skelton
Peterson (PA)	Rohrabacher	Slaughter
Petri	Ros-Lehtinen	Smith (MI)
Pickering	Roukema	Smith (NJ)
Pitts	Royce	Smith (OR)
Pombo	Ryun	Smith (TX)
Porter	Salmon	Smith, Linda
Portman	Sanchez	Snowbarger
Poshard	Sanford	Snyder
Price (NC)	Sawyer	Solomon
Pryce (OH)	Saxton	Souder
Quinn	Scarborough	Spence
Radanovich	Schaefer, Dan	Stabenow
Rahall	Schaffer, Bob	Stearns
Ramstad	Serrano	Stenholm
Rangel	Sessions	Stump
Redmond	Shadegg	Talent
Regula	Shaw	Tanner
Riggs	Shays	Tauscher
Riley	Sherman	Tauzin
Rodriguez	Shimkus	Taylor (MS)
Roemer	Shuster	Taylor (NC)
Rogers	Skeen	Thomas
Rohrabacher	Skelton	Thompson
Ros-Lehtinen	Slaughter	Thornberry
Roukema	Smith (MI)	Thune
Royce	Smith (NJ)	Thurman
Ryun	Smith (OR)	Tiahrt
Salmon	Smith (TX)	Towns
Sanchez	Smith, Linda	Traficant
Sanford	Snowbarger	Turner
Sawyer	Snyder	Upton
Saxton	Solomon	Walsh
Scarborough	Souder	Wamp
Schaefer, Dan	Spence	Watkins
Schaffer, Bob	Stabenow	Watts (OK)
Serrano	Stearns	Waxman
Sessions	Stenholm	Weldon (FL)
Shadegg	Stump	Weldon (PA)
Shaw	Talent	Weller
Shays	Tanner	Weygand
Sherman	Tauscher	White
Shimkus	Tauzin	Whitfield
Shuster	Taylor (MS)	Wicker
Skeen	Taylor (NC)	Wise
Skelton	Thomas	Wolf
Slaughter	Thompson	Wynn
Smith (MI)	Thornberry	Young (AK)
Smith (NJ)	Thune	Young (FL)
Smith (OR)	Thurman	
Smith (TX)	Tiahrt	
Smith, Linda	Towns	
Snowbarger	Traficant	
Snyder	Turner	
Solomon	Upton	
Souder	Walsh	
Spence	Wamp	
Stabenow	Watkins	
Stearns	Watts (OK)	
Stenholm	Waxman	
Stump	Weldon (FL)	
Talent	Weldon (PA)	
Tanner	Weller	
Tauscher	Weygand	
Tauzin	White	
Taylor (MS)	Whitfield	
Taylor (NC)	Wicker	
Thomas	Wise	
Thompson	Wolf	
Thornberry	Wynn	
Thune	Young (AK)	
Thurman	Young (FL)	
Tiahrt		
Towns		
Traficant		
Turner		
Upton		
Walsh		
Wamp		
Watkins		
Watts (OK)		
Waxman		
Weldon (FL)		
Weldon (PA)		
Weller		
Weygand		
White		
Whitfield		
Wicker		
Wise		
Wolf		
Wynn		
Young (AK)		
Young (FL)		

NOT VOTING—6

Berman	Farr	Lewis (GA)
Blumenauer	Gonzalez	Schumer

□ 1853

Mrs. KENNELLY of Connecticut changed her vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 12 OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment in the nature of a substitute No. 12 offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 140, noes 288, not voting 5, as follows:

[Roll No. 223]

AYES—140

Abercrombie	Hinchey	Oberstar
Ackerman	Hinojosa	Obey
Allen	Holden	Olver
Baldacci	Hooley	Ortiz
Becerra	Jackson (IL)	Owens
Bishop	Jefferson	Pallone
Blumenauer	Johnson (WI)	Pascrell
Bonior	Kanjorski	Pastor
Borski	Kaptur	Payne
Brady (PA)	Kennedy (MA)	Pelosi
Brown (CA)	Kennelly	Pomeroy
Brown (FL)	Kildee	Poshard
Brown (OH)	Kilpatrick	Price (NC)
Capps	Klink	Rahall
Carson	Kucinich	Rangel
Clay	LaFalce	Reyes
Clayton	Lantos	Rivers
Clyburn	Lee	Roybal-Allard
Conyers	Levin	Rush
Coyne	Lofgren	Sabo
Cummings	Lowey	Sanchez
Davis (IL)	Luther	Sanders
DeFazio	Maloney (NY)	Sawyer
DeGette	Manton	Scott
Delahunt	Markey	Serrano
DeLauro	Martinez	Skaggs
Dicks	Mascara	Slaughter
Dingell	Matsui	Stabenow
Dixon	McCarthy (MO)	Stark
Doyle	McCarthy (NY)	Stokes
Engel	McDermott	Strickland
Eshoo	McGovern	Stupak
Etheridge	McHale	Thompson
Evans	McKinney	Tierney
Fattah	McNulty	Torres
Fazio	Meehan	Towns
Filner	Meek (FL)	Velazquez
Ford	Meeks (NY)	Vento
Furse	Millender-McDonald	Visclosky
Gejdenson	Miller (CA)	Waters
Gephardt	Minge	Watt (NC)
Gutierrez	Mink	Waxman
Hall (OH)	Moakley	Wexler
Harman	Murtha	Wise
Hastings (FL)	Nadler	Woolsey
Hefner	Neal	Wynn
Hilliard		Yates

NOES—288

Aderholt	Bentsen	Bryant
Andrews	Bereuter	Bunning
Archer	Berry	Burr
Armey	Bilbray	Burton
Bachus	Bilirakis	Buyer
Baesler	Blagojevich	Callahan
Baker	Bliley	Calvert
Ballenger	Blunt	Camp
Barcia	Boehlert	Campbell
Barr	Boehner	Canady
Barrett (NE)	Bonilla	Cannon
Barrett (WI)	Bono	Cardin
Bartlett	Boswell	Castle
Barton	Boucher	Chabot
Bass	Boyd	Chambliss
Bateman	Brady (TX)	Chenoweth

Christensen	Hulshof	Quinn
Clement	Hunter	Radanovich
Coble	Hutchinson	Ramstad
Coburn	Hyde	Redmond
Collins	Inglis	Regula
Combest	Istook	Riggs
Condit	Jackson-Lee	Riley
Cook	(TX)	Rodriguez
Cooksey	Jenkins	Roemer
Costello	John	Rogan
Cox	Johnson (CT)	Rogers
Cramer	Johnson, E. B.	Rohrabacher
Crane	Johnson, Sam	Ros-Lehtinen
Crapo	Jones	Rothman
Cubin	Kasich	Roukema
Cunningham	Kelly	Royce
Danner	Kennedy (RI)	Ryun
Davis (FL)	Kim	Salmon
Davis (VA)	Kind (WI)	Sandlin
Deal	King (NY)	Sanford
DeLay	Kingston	Saxton
Deutsch	Kleczka	Scarborough
Diaz-Balart	Klug	Schaefer, Dan
Dickey	Knollenberg	Schaffer, Bob
Doggett	Kolbe	Sensenbrenner
Dooley	LaHood	Sessions
Doolittle	Lampson	Shadegg
Dreier	Largent	Shaw
Duncan	Latham	Shays
Dunn	LaTourette	Sherman
Edwards	Lazio	Shimkus
Ehlers	Leach	Shuster
Ehrlich	Lewis (CA)	Sisisky
Emerson	Lewis (KY)	Skeen
English	Linder	Skelton
Ensign	Lipinski	Smith (MI)
Everett	Livingston	Smith (NJ)
Ewing	LoBiondo	Smith (OR)
Fawell	Lucas	Smith (TX)
Foley	Maloney (CT)	Smith, Adam
Forbes	Manzullo	Smith, Linda
Fossella	McCollum	Snowbarger
Fowler	McCrery	Snyder
Fox	McDade	Solomon
Frank (MA)	McHugh	Souder
Franks (NJ)	McInnis	Spence
Frelinghuysen	McIntosh	Spratt
Frost	McIntyre	Stearns
Gallegly	McKeon	Stenholm
Ganske	Menendez	Stump
Gekas	Metcalf	Sununu
Gibbons	Mica	Talent
Gilchrest	Miller (FL)	Tanner
Gillmor	Mollohan	Tauscher
Gilman	Moran (KS)	Tauzin
Goode	Moran (VA)	Taylor (MS)
Goodlatte	Morella	Taylor (NC)
Goodling	Myrick	Thomas
Gordon	Nethercutt	Thornberry
Goss	Neumann	Thune
Graham	Ney	Thurman
Granger	Northup	Tiahrt
Green	Norwood	Traficant
Greenwood	Nussle	Turner
Gutknecht	Oxley	Upton
Hall (TX)	Packard	Walsh
Hamilton	Pappas	Wamp
Hansen	Parker	Watkins
Hastert	Paul	Watts (OK)
Hastings (WA)	Paxon	Weldon (FL)
Hayworth	Pease	Weldon (PA)
Hefley	Peterson (MN)	Weller
Herger	Peterson (PA)	Weygand
Hill	Petri	White
Hilleary	Pickering	Whitfield
Hobson	Pickett	Wicker
Hoekstra	Pitts	Wolf
Horn	Pombo	Young (AK)
Hostettler	Porter	Young (FL)
Houghton	Portman	
Hoyer	Pryce (OH)	

NOT VOTING—5

Berman	Gonzalez	Schumer
Farr	Lewis (GA)	

□ 1901

Messrs. RODRIGUEZ, BARCIA, EDWARDS, Mrs. EDDIE BERNICE JOHNSON of Texas and Ms. JACKSON-LEE of Texas changed their vote from ''aye'' to ''no.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. CALVERT). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. CALVERT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, pursuant to House Resolution 462, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Mr. Speaker, yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS of Michigan moves to recommit the bill (H.R. 3150) to the Committee on the Judiciary with instructions to report the bill back to the House forthwith, with the following amendments:

Page 6, line 11, insert the following before the 1st semicolon:

'', but excludes (1) maintenance for or support of a child of the debtor, received by the debtor, and (2) current alimony, maintenance, or support paid by the debtor for the benefit of a spouse, former spouse, or child of the debtor,''.

Page 48, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 119B. PROTECTION AGAINST REAFFIRMATION AGREEMENTS ADVERSELY AFFECTING CHILD SUPPORT.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) Notwithstanding any other provision of this title, an agreement of the kind described in subsection (c) shall be void unless the court determines that such agreement will not have an adverse impact on the ability of the debtor to support a dependent of the debtor.''.

Page 76, line 12, insert ''and any debt of a kind described in paragraph (6), (9), or (13) of section 523(a) of this title,'' before ''shall''.

Page 76, line 17, strike the close quotation marks and the period at the end.

Page 76, after line 17, insert the following:

''(b)(1) For purposes preserving the priority established in subsection (a), the holder of claim for a debt of a kind described in paragraph (2), (4), or (19) of section 523(a) of this title that is not discharged may not take any action to obtain payment or collection (including engaging in any communication with the debtor or with any person who holds property of the debtor) of such debt if such holder—

''(A) knew or should have known that taking such action, or obtaining payment of such debt, would impair the ability of the debtor to pay a debt that has priority under such subsection; or

''(B) failed to verify immediately before taking such action, by good faith means designed to identify all debts that have priority under such subsection, that the debtor does not then owe any debt that has priority under subsection (a).

''(2) If such holder violates paragraph (1), such holder shall be liable to any person injured by such violation for the sum of $3000, actual damages, and a reasonable attorney's fee.''.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) will be recognized for 5 minutes, and the gentleman from Pennsylvania (Mr. GEKAS) will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, this is a very simple and straightforward motion to recommit. It acknowledges the bankruptcy rights of creditors who are drunk driving victims and victims of crimes.

Mr. Speaker, the present bill does not make a single change to protect the rights of crime victims forced to compete against credit card companies in bankruptcy. This is why the Mothers Against Drunk Driving are opposed to the bill, and the National Organization for Victim Assistance are strongly opposed to the bill.

My amendment would ensure that crime victims receive the same rights to preempt credit card debts that alimony creditors receive in the bill.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, this motion makes four changes to the underlying bill to protect child support and alimony payments and victims of crime and drunk driving.

First, the motion clarifies that child support and alimony payments are to be excluded from the means test. The majority may try to claim that these payments are accounted for by IRS guidelines, but the bankruptcy experts disagree. In any event, there can be no harm in Congress clearly specifying

that child support should be deducted when calculating the means test. We should not leave our families at risk based on decisions made by IRS bureaucrats.

Second, the motion protects against reaffirmation agreements that adversely impact family support obligations. It is no secret that unscrupulous creditors can end-run the bankruptcy process by forcing debtors to reaffirm their debt. If this happens, none of the supposed child support protections provided under the bill would apply. We fix this problem by making sure that reaffirmation agreements do not make it more difficult for families to pay family support.

The motion also acknowledges the bankruptcy rights of creditors who are drunk driving victims and other victims of crimes, as the gentleman from Michigan (Mr. CONYERS) mentioned.

Finally, the motion provides for a real mechanism to enforce protections for child support and alimony payments. The changes made by the bill to protect child care payments create a right with no remedy. This amendment makes clear that credit card companies who illegally collect money that should be going to child care are subject to damage and statutory fines. This is the only way to truly protect child care payments outside of bankruptcy after the discharge.

Mr. Speaker, I urge the Members to vote for this motion to recommit which protects our families and victims of crime from aggressive credit collectors.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, about a year ago I rose on the floor of the House when we were facing a major dilemma and asked the question that has been asked by Solomon: Who loves the baby the most? Whether it was the mother who was willing to cut the baby in half and share, or whether or not it was the mother who said, ''Here you take it.''

Mr. Speaker, I ask this question today as we look at a bill that hurts children. Which one of us will be able to respond to Willie Sorrells who said: I am writing you regarding the proposed new bankruptcy laws. I am currently being forced to file bankruptcy as a last resort because I have recently gone through a terrible divorce from a marriage of 16 years, and my wife left me with the responsibility of our children and the majority of our community debt, complicated by the fact that she earns more income than I.

This Willie Sorrells, a single parent, will be denied the opportunity to protect his alimony or child support because credit card companies and others will be able to grapple after the only income that this gentleman will be able to have.

Mr. Speaker, the motion to recommit reestablishes the importance of child support and alimony. It reestablishes the importance of recognizing that none of us can determine the horns of dilemma when people fall upon hard times, whether or not it is catastrophic illnesses; whether or not it has to do with being unemployed, as 60 percent of those who file for bankruptcy are unemployed. The 300,000 who face divorce and who need child support, the motion to recommit reestablishes the right of the support child, one, to be of high priority; but two, not having to fight for the minimal income that has to be paid for the other debts.

I would say, Mr. Speaker, that we are now on the horns of a dilemma. Who loves the baby most? The one who is willing to cut the baby in half, or the one who is willing to give the baby? I would say the one who is willing to nurture and protect the baby.

Mr. Speaker, let us vote for the motion to recommit. Support child support, support alimony, support working Americans, keep the door of opportunity open and save $214 million that H.R. 3150 requires us to pay.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I urge Members to support the substitute and vote against this bill.

Mr. GEKAS. Mr. Speaker, the concerns that are contained in the motion to recommit have already been more than adequately addressed in the bill that is before us, matters of child support priority, victims' rights. In fact, H.R. 3150, the bill which we are about to pass, contains rights for every American, specially those citizens who become overwhelmed with debt who will need a fresh start.

We accord that responsibility and that right to those people who are overburdened with debt. But at the same time we say loudly and clearly that the time has come that we will no longer permit a system to be abused and to be used as an instrument by people who want to avoid debt and who want to avoid repayment of proper obligations.

So if Members want to change the system, reform it so that we can bring personal responsibility back to that system, they must reject the motion to recommit and eventually vote for the bill. Jobs and opportunities that we so much crave in our society to keep our economy on a stable course, as it now is, requires, in the words of the gentleman from Youngstown, Ohio (Mr. TRAFICANT), requires us to have a system which will protect the economy and protect jobs.

Mr. Speaker, that is what this bill does. It nurtures our economy. I ask Members to vote ''no'' on the motion to recommit and ''yes'' on final passage.

□ 1915

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—ayes 153, noes 270, not voting 10, as follows:

[Roll No. 224]

AYES—153

Abercrombie	Hefner	Nadler
Ackerman	Hilliard	Neal
Allen	Hinchey	Oberstar
Baldacci	Hinojosa	Obey
Barcia	Holden	Olver
Barrett (WI)	Hooley	Ortiz
Becerra	Jackson (IL)	Owens
Bentsen	Jackson-Lee (TX)	Pallone
Bishop	Jefferson	Pascrell
Blumenauer	Johnson (WI)	Pastor
Bonior	Johnson, E.B.	Payne
Borski	Kanjorski	Pelosi
Brady (PA)	Kaptur	Pomeroy
Brown (CA)	Kennedy (MA)	Poshard
Brown (FL)	Kennelly	Price (NC)
Brown (OH)	Kildee	Rahall
Capps	Kilpatrick	Rangel
Cardin	Klink	Reyes
Carson	Kucinich	Rivers
Clay	LaFalce	Rodriguez
Clayton	Lampson	Roybal-Allard
Clyburn	Lantos	Rush
Conyers	Lee	Sabo
Costello	Levin	Sanders
Coyne	Lofgren	Sandlin
Cummings	Lowey	Sawyer
Davis (IL)	Luther	Scott
DeFazio	Maloney (NY)	Serrano
DeGette	Manton	Skaggs
Delahunt	Markey	Slaughter
DeLauro	Martinez	Spratt
Dingell	Mascara	Stabenow
Dixon	Matsui	Stark
Doggett	McCarthy (MO)	Stokes
Doyle	McCarthy (NY)	Strickland
Edwards	McDermott	Stupak
Engel	McGovern	Thompson
Ensign	McHale	Thurman
Eshoo	McIntyre	Tierney
Etheridge	McKinney	Torres
Evans	McNulty	Towns
Fattah	Meehan	Velazquez
Filner	Meek (FL)	Vento
Ford	Meeks (NY)	Visclosky
Frost	Millender-McDonald	Waters
Furse	Miller (CA)	Watt (NC)
Gejdenson	Minge	Waxman
Gephardt	Mink	Wexler
Green	Moakley	Wise
Gutierrez	Moran (VA)	Woolsey
Hall (OH)		Yates
Hastings (FL)		

NOES—270

Aderholt	Bilirakis	Callahan
Andrews	Blagojevich	Calvert
Archer	Bliley	Camp
Armey	Blunt	Campbell
Bachus	Boehlert	Canady
Baesler	Boehner	Cannon
Baker	Bonilla	Castle
Ballenger	Bono	Chabot
Barr	Boswell	Chambliss
Barrett (NE)	Boucher	Chenoweth
Bartlett	Boyd	Christensen
Barton	Brady (TX)	Clement
Bass	Bryant	Coble
Bateman	Bunning	Coburn
Bereuter	Burr	Collins
Berry	Burton	Combest
Bilbray	Buyer	Condit

Cook	Jenkins	Regula
Cooksey	John	Riggs
Cramer	Johnson (CT)	Riley
Crane	Johnson, Sam	Roemer
Crapo	Jones	Rogan
Cubin	Kasich	Rogers
Cunningham	Kelly	Rohrabacher
Danner	Kennedy (RI)	Ros-Lehtinen
Davis (FL)	Kim	Rothman
Davis (VA)	Kind (WI)	Roukema
Deal	King (NY)	Royce
DeLay	Kingston	Ryun
Deutsch	Kleczka	Salmon
Diaz-Balart	Klug	Sanchez
Dickey	Knollenberg	Sanford
Dooley	Kolbe	Saxton
Doolittle	LaHood	Scarborough
Dreier	Latham	Schaefer, Dan
Duncan	LaTourette	Schaffer, Bob
Dunn	Lazio	Sensenbrenner
Ehlers	Leach	Sessions
Ehrlich	Lewis (CA)	Shadegg
Emerson	Lewis (KY)	Shaw
English	Linder	Shays
Everett	Lipinski	Sherman
Ewing	Livingston	Shimkus
Fazio	LoBiondo	Shuster
Foley	Lucas	Sisisky
Forbes	Maloney (CT)	Skeen
Fossella	Manzullo	Skelton
Fowler	McCollum	Smith (MI)
Fox	McCrery	Smith (NJ)
Frank (MA)	McDade	Smith (OR)
Franks (NJ)	McHugh	Smith (TX)
Frelinghuysen	McInnis	Smith, Adam
Gallegly	McIntosh	Smith, Linda
Ganske	McKeon	Snowbarger
Gekas	Menendez	Snyder
Gibbons	Metcalf	Solomon
Gilchrest	Mica	Souder
Gillmor	Miller (FL)	Spence
Gilman	Mollohan	Stearns
Goode	Moran (KS)	Stenholm
Goodlatte	Morella	Stump
Goodling	Murtha	Sununu
Gordon	Myrick	Talent
Goss	Nethercutt	Tanner
Graham	Neumann	Tauscher
Granger	Ney	Tauzin
Greenwood	Northup	Taylor (MS)
Gutknecht	Norwood	Taylor (NC)
Hall (TX)	Nussle	Thomas
Hamilton	Oxley	Thornberry
Hansen	Packard	Thune
Harman	Pappas	Tiahrt
Hastings (WA)	Parker	Traficant
Hayworth	Paul	Turner
Hefley	Paxon	Upton
Herger	Pease	Walsh
Hill	Peterson (MN)	Wamp
Hilleary	Peterson (PA)	Watkins
Hobson	Petri	Watts (OK)
Hoekstra	Pickering	Weldon (FL)
Horn	Pickett	Weldon (PA)
Hostettler	Pitts	Weller
Houghton	Pombo	Weygand
Hoyer	Porter	White
Hulshof	Portman	Whitfield
Hunter	Pryce (OH)	Wicker
Hutchinson	Quinn	Wolf
Hyde	Radanovich	Wynn
Inglis	Ramstad	Young (AK)
Istook	Redmond	Young (FL)

NOT VOTING—10

Berman	Fawell	Lewis (GA)
Cox	Gonzalez	Schumer
Dicks	Hastert	
Farr	Largent	

☐ 1931

Mr. BERRY changed his vote from ''aye'' to ''no.''

Mr. MORAN of Virginia changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HANSEN). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 306, noes 118, not voting 9, as follows:

[Roll No. 225]

AYES—306

Aderholt	Emerson	Lipinski
Andrews	English	Livingston
Archer	Ensign	LoBiondo
Armey	Etheridge	Lucas
Bachus	Everett	Luther
Baesler	Ewing	Maloney (CT)
Baker	Fawell	Manzullo
Baldacci	Fazio	McCarthy (MO)
Ballenger	Foley	McCarthy (NY)
Barcia	Forbes	McCollum
Barr	Fossella	McCrery
Barrett (NE)	Fowler	McDade
Bartlett	Fox	McHale
Barton	Frank (MA)	McHugh
Bass	Franks (NJ)	McInnis
Bateman	Frelinghuysen	McIntosh
Bentsen	Frost	McIntyre
Bereuter	Gallegly	McKeon
Berry	Ganske	Menendez
Bilbray	Gekas	Metcalf
Bilirakis	Gibbons	Mica
Bishop	Gilchrest	Miller (FL)
Blagojevich	Gillmor	Minge
Bliley	Gilman	Mollohan
Blumenauer	Goode	Moran (KS)
Blunt	Goodlatte	Moran (VA)
Boehlert	Goodling	Morella
Boehner	Gordon	Myrick
Bonilla	Goss	Nethercutt
Bono	Graham	Neumann
Boswell	Granger	Ney
Boucher	Greenwood	Northup
Boyd	Gutknecht	Norwood
Bryant	Hall (TX)	Nussle
Bunning	Hamilton	Oxley
Burr	Hansen	Packard
Burton	Harman	Pappas
Buyer	Hastert	Parker
Callahan	Hastings (WA)	Pascrell
Calvert	Hayworth	Pastor
Camp	Hefley	Paul
Campbell	Herger	Paxon
Canady	Hill	Pease
Cannon	Hilleary	Peterson (MN)
Capps	Hoekstra	Peterson (PA)
Cardin	Holden	Petri
Castle	Hooley	Pickering
Chabot	Horn	Pickett
Chambliss	Hostettler	Pitts
Chenoweth	Houghton	Pombo
Christensen	Hoyer	Pomeroy
Clement	Hulshof	Porter
Clyburn	Hunter	Portman
Coble	Hutchinson	Price (NC)
Coburn	Hyde	Pryce (OH)
Collins	Inglis	Quinn
Combest	Istook	Radanovich
Condit	Jefferson	Ramstad
Cook	Jenkins	Regula
Cooksey	John	Riggs
Cox	Johnson (CT)	Riley
Cramer	Johnson (WI)	Rivers
Crane	Johnson, Sam	Roemer
Crapo	Jones	Rogan
Cubin	Kasich	Rogers
Cummings	Kelly	Rohrabacher
Cunningham	Kennedy (RI)	Ros-Lehtinen
Danner	Kennelly	Rothman
Davis (FL)	Kim	Roukema
Davis (VA)	Kind (WI)	Royce
Deal	King (NY)	Ryun
DeLay	Kingston	Salmon
Deutsch	Kleczka	Sandlin
Diaz-Balart	Klug	Sanford
Dickey	Knollenberg	Saxton
Dicks	Kolbe	Scarborough
Doggett	LaHood	Schaefer, Dan
Dooley	Latham	Schaffer, Bob
Doolittle	LaTourette	Sensenbrenner
Dreier	Lazio	Sessions
Duncan	Leach	Shadegg
Dunn	Lewis (CA)	Shaw
Ehlers	Lewis (KY)	Shays
Ehrlich	Linder	Sherman
Shimkus	Stearns	Upton
Shuster	Stenholm	Velazquez
Sisisky	Strickland	Walsh
Skeen	Stump	Wamp
Skelton	Sununu	Watkins
Smith (MI)	Talent	Watts (OK)
Smith (NJ)	Tanner	Weldon (FL)
Smith (OR)	Tauscher	Weldon (PA)
Smith (TX)	Tauzin	Weller
Smith, Adam	Taylor (MS)	Weygand
Smith, Linda	Taylor (NC)	White
Snowbarger	Thomas	Whitfield
Snyder	Thornberry	Wicker
Solomon	Thune	Wise
Souder	Tiahrt	Wolf
Spence	Towns	Wynn
Spratt	Traficant	Young (AK)
Stabenow	Turner	Young (FL)

NOES—118

Abercrombie	Hilliard	Nadler
Ackerman	Hinchey	Neal
Allen	Hinojosa	Oberstar
Barrett (WI)	Jackson (IL)	Obey
Becerra	Jackson-Lee (TX)	Olver
Bonior	Johnson, E. B.	Ortiz
Borski	Kanjorski	Owens
Brady (PA)	Kaptur	Pallone
Brown (CA)	Kennedy (MA)	Payne
Brown (FL)	Kildee	Pelosi
Brown (OH)	Kilpatrick	Poshard
Carson	Klink	Rahall
Clay	Kucinich	Rangel
Clayton	LaFalce	Reyes
Conyers	Lampson	Rodriguez
Costello	Lantos	Roybal-Allard
Coyne	Lee	Rush
Davis (IL)	Levin	Sabo
DeFazio	Lofgren	Sanchez
DeGette	Lowey	Sanders
Delahunt	Maloney (NY)	Sawyer
DeLauro	Manton	Scott
Dingell	Markey	Serrano
Dixon	Martinez	Skaggs
Doyle	Mascara	Slaughter
Edwards	Matsui	Stark
Engel	McDermott	Stokes
Eshoo	McGovern	Stupak
Evans	McKinney	Thompson
Fattah	McNulty	Thurman
Filner	Meehan	Tierney
Ford	Meek (FL)	Torres
Furse	Meeks (NY)	Vento
Gejdenson	Millender-McDonald	Visclosky
Gephardt	Miller (CA)	Waters
Green	Mink	Watt (NC)
Gutierrez	Moakley	Waxman
Hall (OH)	Murtha	Wexler
Hastings (FL)		Woolsey
Hefner		Yates

NOT VOTING—9

Berman	Gonzalez	Lewis (GA)
Brady (TX)	Hobson	Redmond
Farr	Largent	Schumer

☐ 1938

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. REDMOND. Mr. Speaker, on rollcall No. 225, my pager did not respond and I inadvertently missed the vote. Had I been present, I would have voted ''yes.''

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3150, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?