

114TH CONGRESS
1ST SESSION

S. 194

To amend title 11 of the United States Code to clarify the rule allowing discharge as a nonpriority claim of governmental claims arising from the disposition of farm assets under chapter 12 bankruptcies.

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2015

Mr. GRASSLEY (for himself and Mr. FRANKEN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 11 of the United States Code to clarify the rule allowing discharge as a nonpriority claim of governmental claims arising from the disposition of farm assets under chapter 12 bankruptcies.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Farmer Bank-
5 ruptcy Clarification Act of 2015”.

1 **SEC. 2. CLARIFICATION OF RULE ALLOWING DISCHARGE**
 2 **TO GOVERNMENTAL CLAIMS ARISING FROM**
 3 **THE DISPOSITION OF FARM ASSETS UNDER**
 4 **CHAPTER 12 BANKRUPTCIES.**

5 (a) IN GENERAL.—Subchapter II of chapter 12 of
 6 title 11, United States Code, is amended by adding at the
 7 end the following:

8 **“§ 1232. Claim by a governmental unit based on the**
 9 **disposition of property used in a farming**
 10 **operation**

11 “(a) Any unsecured claim of a governmental unit
 12 against the debtor or the estate that arises before the fil-
 13 ing of the petition, or that arises after the filing of the
 14 petition and before the debtor’s discharge under section
 15 1228, as a result of the sale, transfer, exchange, or other
 16 disposition of any property used in the debtor’s farming
 17 operation—

18 “(1) shall be treated as an unsecured claim
 19 arising before the date on which the petition is filed;

20 “(2) shall not be entitled to priority under sec-
 21 tion 507;

22 “(3) shall be provided for under a plan; and

23 “(4) shall be discharged in accordance with sec-
 24 tion 1228.

25 “(b) For purposes of applying sections 1225(a)(4),
 26 1228(b)(2), and 1229(b)(1) to a claim described in sub-

1 section (a) of this section, the amount that would be paid
 2 on such claim if the estate of the debtor were liquidated
 3 in a case under chapter 7 of this title shall be the amount
 4 that would be paid by the estate in a chapter 7 case if
 5 the claim were an unsecured claim arising before the date
 6 on which the petition was filed and were not entitled to
 7 priority under section 507.

8 “(c) For purposes of applying sections 523(a),
 9 1228(a)(2), and 1228(c)(2) to a claim described in sub-
 10 section (a) of this section, the claim shall not be treated
 11 as a claim of a kind specified in section 523(a)(1).

12 “(d)(1) A governmental unit may file a proof of claim
 13 for a claim described in subsection (a) that arises after
 14 the date on which the petition is filed.

15 “(2) If a debtor files a tax return after the filing of
 16 the petition for a period in which a claim described in sub-
 17 section (a) arises, and the claim relates to the tax return,
 18 the debtor shall serve notice of the claim on the govern-
 19 mental unit charged with the responsibility for the collec-
 20 tion of the tax at the address and in the manner des-
 21 ignated in section 505(b)(1). Notice under this paragraph
 22 shall state that the debtor has filed a petition under this
 23 chapter, state the name and location of the court in which
 24 the case under this chapter is pending, state the amount
 25 of the claim, and include a copy of the filed tax return

1 and documentation supporting the calculation of the
2 claim.

3 “(3) If notice of a claim has been served on the gov-
4 ernmental unit in accordance with paragraph (2), the gov-
5 ernmental unit may file a proof of claim not later than
6 180 days after the date on which such notice was served.
7 If the governmental unit has not filed a timely proof of
8 the claim, the debtor or trustee may file proof of the claim
9 that is consistent with the notice served under paragraph
10 (2). If a proof of claim is filed by the debtor or trustee
11 under this paragraph, the governmental unit may not
12 amend the proof of claim.

13 “(4) A claim filed under this subsection shall be de-
14 termined and shall be allowed under subsection (a), (b),
15 or (c) of section 502, or disallowed under subsection (d)
16 or (e) of section 502, in the same manner as if the claim
17 had arisen immediately before the date of the filing of the
18 petition.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

20 (1) IN GENERAL.—Subchapter II of chapter 12
21 of title 11, United States Code, is amended—

22 (A) in section 1222(a)—

23 (i) in paragraph (2), by striking “un-
24 less—” and all that follows through “the
25 holder” and inserting “unless the holder”;

1 (ii) in paragraph (3), by striking
2 “and” at the end;

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

6 (iv) by adding at the end the fol-
7 lowing:

8 “(5) subject to section 1232, provide for the
9 treatment of any claim by a governmental unit of a
10 kind described in section 1232(a).”;

11 (B) in section 1228—

12 (i) in subsection (a)—

13 (I) in the matter preceding para-
14 graph (1)—

15 (aa) by inserting a comma
16 after “all debts provided for by
17 the plan”; and

18 (bb) by inserting a comma
19 after “allowed under section 503
20 of this title”; and

21 (II) in paragraph (2), by striking
22 “the kind” and all that follows and in-
23 serting “a kind specified in section
24 523(a) of this title, except as provided
25 in section 1232(c).”; and

1 (ii) in subsection (c)(2), by inserting
 2 “, except as provided in section 1232(c)”
 3 before the period at the end; and
 4 (C) in section 1229(a)—
 5 (i) in paragraph (2), by striking “or”
 6 at the end;
 7 (ii) in paragraph (3), by striking the
 8 period at the end and inserting “; or”; and
 9 (iii) by adding at the end the fol-
 10 lowing:

11 “(4) provide for the payment of a claim de-
 12 scribed in section 1232(a) that arose after the date
 13 on which the petition was filed.”.

14 (2) TABLE OF SECTIONS.—The table of sections
 15 for subchapter II of chapter 12 of title 11, United
 16 States Code, is amended by adding at the end the
 17 following:

“1232. Claim by a governmental unit based on the disposition of property used
 in a farming operation.”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to any bankruptcy case that—

20 (1) is pending on the date of enactment of this
 21 Act and relating to which an order of discharge
 22 under section 1228 of title 11, United States Code,
 23 has not been entered; or

1 (2) commences on or after the date of enact-
2 ment of this Act.

○