

on Friday. All Senators should be aware that votes could occur with respect to the appropriations process or amendments to the bankruptcy bill on Friday.

Several Senators have been asking about exactly what we can expect tomorrow. I cannot say. If we have an appropriations conference report that has been cleared that we are ready to move on, we will try to do it on a voice vote; but if we have to have a recorded vote, we just have to have a recorded vote. If we are ever going to get to the final days of the session, we have to be prepared to vote on Fridays and Mondays, if that is necessary. So we cannot give any assurance at this point that there will not be votes tomorrow. There very well may be.

Votes will occur at 5:30 Monday. And under this agreement, at least two votes will occur at 10:30 Tuesday.

Then, in conclusion, I wish to, again, thank all our colleagues for their cooperation this week. The fact that we did overwhelmingly pass this very important trade bill involving the Caribbean Basin area, Central America, and Africa, after a long period of time, is a significant and positive step for our country, I believe, not to mention the additional trading opportunities in other countries. And also to have completed the conference report on the financial services modernization—the second monumental achievement this week—I think the Senate, as a whole, can take a lot of pride. And now we are ready to begin a third one. I wish every week could be as productive.

With that, I yield the floor, Mr. President.

BANKING REFORM ACT OF 1999

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Bankruptcy Reform Act of 1999”.

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

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.
Sec. 105. Credit counseling.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Violations of the automatic stay.
Sec. 204. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

Sec. 211. *Definition of domestic support obligation.*
Sec. [211] 212. Priorities for claims for domestic support obligations.
Sec. [212] 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. [213] 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. [214] 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. [215] 216. Continued liability of property.
Sec. [216] 217. Protection of domestic support claims against preferential transfer motions.
[Sec. 217. Amendment to section 1325 of title 11, United States Code.
[Sec. 218. Definition of domestic support obligation.]
Sec. 218. *Disposable income defined.*
Sec. 219. Collection of child support.

Subtitle C—Other Consumer Protections

[Sec. 221. Definitions.
[Sec. 222. Disclosures.
[Sec. 223. Debtor's bill of rights.
[Sec. 224. Enforcement.]
Sec. 221. *Amendments to discourage abusive bankruptcy filings.*
Sec. [225] 222. Sense of Congress.
Sec. [226] 223. Additional amendments to title 11, United States Code.
Sec. 224. *Protection of retirement savings in bankruptcy.*

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Exemptions.
Sec. 308. Residency requirement for homestead exemption.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.

Sec. 320. Prompt relief from stay in individual cases.

Sec. 321. *Treatment of certain earnings of an individual debtor who files a voluntary case under chapter 11.*

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Rolling stock equipment.
Sec. 402. Adequate protection for investors.
Sec. 403. Meetings of creditors and equity security holders.
Sec. 404. Protection of refinancing of security interest.
Sec. 405. Executory contracts and unexpired leases.
Sec. 406. Creditors and equity security holders committees.
Sec. 407. Amendment to section 546 of title 11, United States Code.
Sec. 408. Limitation.
Sec. 409. Amendment to section 330(a) of title 11, United States Code.
Sec. 410. Postpetition disclosure and solicitation.
Sec. 411. Preferences.
Sec. 412. Venue of certain proceedings.
Sec. 413. Period for filing plan under chapter 11.
Sec. 414. Fees arising from certain ownership interests.
Sec. 415. Creditor representation at first meeting of creditors.
[Sec. 416. Elimination of certain fees payable in chapter 11 bankruptcy cases.]
Sec. [417] 416. Definition of disinterested person.
Sec. [418] 417. Factors for compensation of professional persons.
Sec. [419] 418. Appointment of elected trustee.
Sec. 419. *Utility service.*

Subtitle B—Small Business Bankruptcy Provisions

Sec. 421. Flexible rules for disclosure statement and plan.
Sec. 422. Definitions; effect of discharge.
Sec. 423. Standard form disclosure Statement and plan.
Sec. 424. Uniform national reporting requirements.
Sec. 425. Uniform reporting rules and forms for small business cases.
Sec. 426. Duties in small business cases.
Sec. 427. Plan filing and confirmation deadlines.
Sec. 428. Plan confirmation deadline.
Sec. 429. Prohibition against extension of time.
Sec. 430. Duties of the United States trustee.
Sec. 431. Scheduling conferences.
Sec. 432. Serial filer provisions.
Sec. 433. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 434. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 435. Payment of interest.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

Sec. 601. Audit procedures.
Sec. 602. Improved bankruptcy statistics.
Sec. 603. Uniform rules for the collection of bankruptcy data.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

- Sec. 701. Treatment of certain liens.
 Sec. 702. Effective notice to government.
 Sec. 703. Notice of request for a determination of taxes.
 Sec. 704. Rate of interest on tax claims.
 Sec. 705. Tolling of priority of tax claim time periods.
 Sec. 706. Priority property taxes incurred.
 Sec. 707. Chapter 13 discharge of fraudulent and other taxes.
 Sec. 708. Chapter 11 discharge of fraudulent taxes.
 Sec. 709. Stay of tax proceedings.
 Sec. 710. Periodic payment of taxes in chapter 11 cases.
 Sec. 711. Avoidance of statutory tax liens prohibited.
 Sec. 712. Payment of taxes in the conduct of business.
 Sec. 713. Tardily filed priority tax claims.
 Sec. 714. Income tax returns prepared by tax authorities.
 Sec. 715. Discharge of the estate's liability for unpaid taxes.
 Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
 Sec. 717. Standards for tax disclosure.
 Sec. 718. Setoff of tax refunds.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
 Sec. 802. Amendments to other chapters in title 11, United States Code.
 Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Bankruptcy Code amendments.
 Sec. 902. Damage measure.
 Sec. 903. Asset-backed securitizations.
 Sec. 904. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS

- Sec. 1001. Reenactment of chapter 12.
 Sec. 1002. Debt limit increase.
 Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
 Sec. 1004. Certain claims owed to governmental units.

[TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS]

- [Sec. 1101. Definitions.
 [Sec. 1102. Disposal of patient records.
 [Sec. 1103. Administrative expense claim for costs of closing a health care business.
 [Sec. 1104. Appointment of ombudsman to act as patient advocate.
 [Sec. 1105. Debtor in possession; duty of trustee to transfer patients.]

TITLE [XII] XI—TECHNICAL AMENDMENTS

- Sec. [1201] 1101. Definitions.
 Sec. [1202] 1102. Adjustment of dollar amounts.
 Sec. [1203] 1103. Extension of time.
 Sec. [1204] 1104. Technical amendments.
 Sec. [1205] 1105. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
 Sec. [1206] 1106. Limitation on compensation of professional persons.
 Sec. [1207] 1107. Special tax provisions.
 Sec. [1208] 1108. Effect of conversion.
 Sec. [1209] 1109. Allowance of administrative expenses.
 [Sec. 1210. Priorities.

[Sec. 1211. Exemptions.]

- Sec. [1212] 1110. Exceptions to discharge.
 Sec. [1213] 1111. Effect of discharge.
 Sec. [1214] 1112. Protection against discriminatory treatment.
 Sec. [1215] 1113. Property of the estate.
 Sec. [1216] 1114. Preferences.
 Sec. [1217] 1115. Postpetition transactions.
 Sec. [1218] 1116. Disposition of property of the estate.
 Sec. [1219] 1117. General provisions.
 Sec. [1220] 1118. Abandonment of railroad line.
 Sec. [1221] 1119. Contents of plan.
 Sec. [1222] 1120. Discharge under chapter 12.
 Sec. [1223] 1121. Bankruptcy cases and proceedings.
 Sec. [1224] 1122. Knowing disregard of bankruptcy law or rule.
 Sec. [1225] 1123. Transfers made by non-profit charitable corporations.
 Sec. [1226] 1124. Protection of valid purchase money security interests.
 Sec. [1227] 1125. Extensions.
 Sec. [1228] 1126. Bankruptcy judgeships.

TITLE [XIII] XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. [1301] 1201. Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 13";

and

(2) in subsection (b)—
 (A) by inserting "(1)" after "(b)";
 (B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—
 (I) by striking "but not at the request or suggestion" and inserting ", panel trustee or";

(II) by inserting " , or, with the debtor's consent, convert such a case to a case under chapter 13 of this title," after "consumer debts"; and

(III) by striking "substantial abuse" and inserting "abuse"; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims in the case; or

"(II) \$15,000.

"(ii) The debtor's monthly expenses shall be the applicable monthly (excluding payments for debts) expenses under standards issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent.

"(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—

"(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; divided by

"(II) 60.

"(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

"(I) the total amount of debts entitled to priority; divided by

"(II) 60.

"(B)(i) In any proceeding brought under this subsection, the presumption of abuse may be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly total income. In order to establish special circumstances, the debtor shall be required to—

"(I) itemize each additional expense or adjustment of income; and

"(II) provide—

"(aa) documentation for such expenses; and

"(bb) a detailed explanation of the special circumstances that make such expenses necessary and reasonable.

"(ii) The debtor, and the attorney for the debtor if the debtor has an attorney, shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

"(iii) The presumption of abuse may be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) multiplied by 60 to be less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims; or

"(II) \$15,000.

"(C)(i) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

"(ii) The Supreme Court shall promulgate rules under section 2075 of title 28, that prescribe a form for a statement under clause (i) and may provide general rules on the content of the statement.

"(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

"(A) whether the debtor filed the petition in bad faith; or

"(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse."

(b) DEFINITION.—Title 11, United States Code, is amended—

(1) in section 101, by inserting after paragraph (10) the following:

"(10A) 'current monthly income'—

"(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 180-day period preceding the date of determination; and

"(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent);"; and

(2) in section 704—

(A) by inserting “(a)” before “The trustee shall—”; and

(B) by adding at the end the following:

“(b)(1) With respect to an individual debtor under this chapter—

“(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days before the first meeting of creditors, file with the court a statement as to whether the debtor’s case would be presumed to be an abuse under section 707(b); and

“(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

“(2) The United States trustee or bankruptcy administrator shall not later than 30 days after receiving a statement filed under paragraph (1) file a motion to dismiss or convert under section 707(b), or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be [appropriate. If, appropriate, if based on the filing of such statement with the court, the United States trustee or bankruptcy administrator determines that the debtor’s case should be presumed to be an abuse under section 707(b) and the product of the debtor’s current monthly income, multiplied by 12 is not less than—

“(A) the highest national or applicable State median family income reported for a family of equal or lesser size, whichever is greater; or

“(B) in the case of a household of 1 person, the national or applicable State median household income for 1 earner, whichever is greater.

“(3)(A) The court shall order the counsel for the debtor to reimburse the panel trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys’ fees, if—

“(i) a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection; and

“(ii) the court—

“(I) grants that motion; and

“(II) finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified.

“(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

“(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

“(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

“(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

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

“(ii) determined that the petition—

“(I) is well grounded in fact; and

“(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

“(4)(A) Except as provided in subparagraph (B) and subject to paragraph (5), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee or United States trustee) under this subsection (including reasonable attorneys’ fees) if—

“(i) the court does not grant the motion; and

“(ii) the court finds that—

“(I) the position of the party that brought the motion was not substantially justified; or

“(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

“(B) A party in interest that has a claim of an aggregate amount less than \$1,000 shall not be subject to subparagraph (A).

“(5) Only the judge, United States trustee, bankruptcy administrator, or panel trustee may bring a motion under this section if the debtor and the debtor’s spouse combined, as of the date of the order for relief, have a total current monthly income equal to or less than the national or applicable State median family monthly income calculated on a monthly basis for a family of equal size.”.

(C) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

“707. Dismissal of a case or conversion to a case under chapter 13.”.

SEC. 103. NOTICE OF ALTERNATIVES.

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, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter I of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed under section 586 of title 28.

“(2) The notice shall contain the following:

“(A) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

“(B) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee for that district.”.

SEC. 104. 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—

(1) 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, United States Code, and who operate financial management education programs for debtors; and

(2) develop a financial management training curriculum and materials that may be used to educate individual debtors concerning how to better manage their finances.

(b) TEST.—

(1) IN GENERAL.—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) AVAILABILITY OF CURRICULUM AND MATERIALS.—For a 1-year period beginning not later than 270 days after the date of enactment of this Act, the curriculum and materials referred to in paragraph (1) shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed during that 1-year period under chapter 7 or 13 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—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 issued on October 20, 1997, that are representative of consumer education programs carried out by—

(i) the credit industry;

(ii) trustees serving under chapter 13 of title 11, United States Code; and

(iii) consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding the evaluation under paragraph (1), 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 Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 105. CREDIT COUNSELING.

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

“(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the [90-day period] 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit credit counseling service described in section 111(a) an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

“(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit credit counseling services for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from those programs by reason of the requirements of paragraph (1).

“(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.

“(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

“(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

“(ii) states that the debtor requested credit counseling services from an approved nonprofit credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

“(iii) is satisfactory to the court.

“(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.”.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

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

(2) in paragraph (10), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.”.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

“(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

“(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

“(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.”.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The debtor shall—”; and

(2) by adding at the end the following:

“(b) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

“(1) a certificate from the credit counseling service that provided the debtor services under section 109(h); and

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

(e) GENERAL PROVISIONS.—

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

“§111. Credit counseling services; financial management instructional courses

“(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and a list of instructional courses concerning personal financial management that have been approved by—

“(1) the United States trustee; or

“(2) the bankruptcy administrator for the district.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“111. Credit counseling services; financial management instructional courses.”.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

“(i) If a case commenced under chapter 7, 11, or 13 [of this title] is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.”.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

“(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

“(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor;

“(B) the offer of the debtor under subparagraph (A)—

“(i) was made at least 60 days before the filing of the petition; and

“(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

“(C) no part of the debt under the alternative repayment schedule is nondischargeable.

“(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

“(A) the creditor unreasonably refused to consider the debtor's proposal; and

“(B) the proposed alternative repayment schedule was made in the 60-day period specified in paragraph (1)(B)(i).”.

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.”.

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

“(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).”.

SEC. 203. VIOLATIONS OF THE AUTOMATIC STAY.

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

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

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

(3) by adding at the end the following:

“(9) any communication (other than a recitation of the creditor's legal rights) threatening a debtor (for the purpose of coercing an agreement for the reaffirmation of debt), at any time after the commencement and before the granting of a discharge in a case under this title, of an intention to—

“(A) file a motion to—

“(i) determine the dischargeability of a debt; or

“(ii) under section 707(b), [to] dismiss or convert a case; or

“(B) repossess collateral from the debtor to which the stay applies.”.

SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B), by inserting “and” at the end; and

(iii) by adding at the end the following:

“(C)(i) the consideration for such agreement is based on a wholly unsecured consumer debt; and

“(ii) such agreement contains a clear and conspicuous statement that advises the debtor that—

“(1) the debtor is entitled to a hearing before the court at which—

“(aa) the debtor shall appear in person; and

“(bb) the court shall decide whether the agreement constitutes an undue hardship, is not in the debtor's best interest, or is not the result of a threat by the creditor to take an action that, at the time of the threat, [that] the creditor may not legally take or does not intend to take; and

“(II) if the debtor is represented by counsel, the debtor may waive the debtor's right to a hearing under subclause (I) by signing a statement—

“(aa) waiving the hearing;

“(bb) stating that the debtor is represented by counsel; and

“(cc) identifying the counsel[.];”;

(B) in paragraph (6)(A)—

(i) in clause (i), by striking “and” at the end;

(ii) in clause (ii), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(iii) not an agreement that the debtor entered into as a result of a threat by the creditor to take an action that, at the time of the threat, the creditor could not legally take or did not intend to take[.]; except that”; and

(C) in paragraph (6)(B), by striking “Subparagraph” and inserting “subparagraph”; and

(2) in subsection (d), in the third sentence, by inserting after “during the course of negotiating an agreement” the following: “(or if the consideration by such agreement is based on a wholly secured consumer debt, and the debtor has not waived the right to a hearing under subsection (c)(2)(C))”.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

“§158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt

“(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt.

“(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

“(1) a United States attorney for each judicial district of the United States; and

“(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

“(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall have primary responsibility for carrying out the duties of a United States attorney under section 3057.”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

“158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt.”.

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

“(f) Nothing in this section or in any other provision of this title shall preempt any State law relating to unfair trade practices that imposes restrictions on creditor conduct that would give rise to liability—

“(1) under this section; or

“(2) under section 524, for failure to comply with applicable requirements for seeking a reaffirmation of debt.

“(g) ACTIONS BY STATES.—The attorney general of a State, or an official or agency designated by a State—

“(1) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d) or section 524(c); and

“(2) may bring an action in a State court to enforce a State criminal law that is similar to section 152 or 157 of title 18.”.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

“(14A) ‘domestic support obligation’ means a debt that accrues before or after the entry of an order for relief under this title that is—

“(A) owed to or recoverable by—

“(i) a spouse, former spouse, or child of the debtor or such child’s parent or legal guardian; or

“(ii) a governmental unit;

“(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent or legal guardian, without regard to whether such debt is expressly so designated;

“(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

“(i) a separation agreement, divorce decree, or property settlement agreement;

“(ii) an order of a court of record; or

“(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

“(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent or legal guardian of the child for the purpose of collecting the debt.”.

SEC. [211.] 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

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

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking “First” and inserting “Second”;

(4) in paragraph (3), as redesignated, by striking “Second” and inserting “Third”;

(5) in paragraph (4), as redesignated, by striking “Third” and inserting “Fourth”;

(6) in paragraph (5), as redesignated, by striking “Fourth” and inserting “Fifth”;

(7) in paragraph (6), as redesignated, by striking “Fifth” and inserting “Sixth”;

(8) in paragraph (7), as redesignated, by striking “Sixth” and inserting “Seventh”;

and

(9) by inserting before paragraph (2), as redesignated, the following:

“(1) First, allowed unsecured claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied and distributed in accordance with applicable nonbankruptcy law:

“(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or [parent] such child’s parent or legal guardian, or is filed by a governmental unit on behalf of that person.

“(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the

parent or legal guardian of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.”.

SEC. [212.] 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, 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 or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.”;

(1) in section 1322(a)—

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

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

(C) by adding in the end the following:

“(4) if the debtor is required by judicial or administrative order or statute to pay a domestic support obligation, unless the holder of such claim agrees to a different treatment of such claim, provide for the full payment of—

“(A) all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed; and

“(B) all amounts payable under such order before the date on which such petition was filed, if such amounts are owed directly to a spouse, former spouse, child of the debtor, or a parent or legal guardian of such child.”;

(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) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the plan provides for the full payment of all amounts payable under such order or statute for such obligation that initially become payable after the date on which the petition is filed.”;

(3) in section 1228(a)—

(A) by striking “(a) As soon as practicable” and inserting “(a)(1) Subject to paragraph (2), as soon as practicable”;

(B) by striking “(1) provided” and inserting the following:

“(A) provided”;

(C) by striking “(2) of the kind” and inserting the following:

“(B) of the kind”; and

(D) by adding at the end the following:

“(2) With respect to a debtor who is required by a judicial or administrative order or statute to pay a domestic support obligation, the court may not grant the debtor a discharge under paragraph (1) until after the debtor certifies that—

“(A) all amounts payable under that order or statute that initially became payable after the date on which the petition was filed (through the date of the certification) have been paid; and

“(B) all amounts payable under that order that, as of the date of the certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child, have been paid, unless the holder of such claim agrees to a different treatment of such claim.”;

[(2)] (4) 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 or statute to pay a

domestic support obligation, [the debtor has paid] the plan provides for full payment of all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.”; and

[(3)] (5) in section 1328(a), in the matter preceding paragraph (1), by inserting “, and with respect to a debtor who is required by a judicial or administrative order to pay a domestic support obligation, and with respect to whom the court certifies that all amounts payable under such order or [statute that are due on or before the date] statute that initially became payable after the date on which the petition was filed through the date of the [certification (including amounts due before or after the petition was filed) have been paid]” after “completion by the debtor of all payments under the plan”]; certification have been paid, after all amounts payable under that order that, as of the date of certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child have been paid (unless the holder of such claim agrees to a different treatment of such claim),” after “completion by the debtor of all payments under the plan”.

SEC. [213.] 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

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

(1) by striking paragraph (2) and inserting the following:

“(2) under subsection (a)—

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

“(i) the establishment of paternity [as a part of an effort to collect domestic support obligations]; or

“(ii) the establishment or modification of an order for domestic support obligations; or

“(B) the collection of a domestic support obligation from property that is not property of the estate.”;

[(2) in paragraph (17), by striking “or” at the end;

[(3) in paragraph (18), by striking the period at the end and inserting a semicolon; and

[(4) by inserting after paragraph (18) the following:

“(19) under subsection (a) with respect to the withholding of income under an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

[(20) under subsection (a) with respect to—]

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

“(5) under subsection (a) with respect to the withholding of income—

“(A) for payment of a domestic support obligation for amounts that initially become payable after the date the petition was filed; and

“(B) for payment of a domestic support obligation for amounts payable before the date the petition was filed, and owed directly to the spouse, former spouse, or child of the debtor, or the parent or guardian of such child”;;

(3) in paragraph (17), by striking “or” at the end;

(4) in paragraph (18), by striking the period at the end and inserting “; or”; and

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

“(19) under subsection (a) with respect to—

“(A) the withholding, suspension, or restriction of drivers’ licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) [or with respect];

“(B) [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 (42 U.S.C. 666(a)(7));

“(B) (C) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)), if such tax refund is payable directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child; or

“(C) (D) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).”

SEC. [214.] 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

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

“(1) in subsection (a), by striking paragraph (5) and inserting the following:

“(5) for a domestic support obligation;”;

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

“(5) for a domestic support obligation;”;

(B) in paragraph (15)—

(i) by inserting “or” after “court of record”; and

(ii) by striking “unless—” and all that follows through the end of the paragraph and inserting a semicolon; and

(2) in subsection (c), by striking “(6), or (15)” and inserting “or (6)”;

“(3) in paragraph (15), by striking “governmental unit” and all through the end of the paragraph and inserting a semicolon.]

SEC. [215.] 216. CONTINUED LIABILITY OF PROPERTY.

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

(1) in subsection (c), by striking paragraph (1) and inserting the following:

“(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));”;

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting “of a kind that is specified in section 523(a)(5); or”.

SEC. [216.] 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

“(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or”.

[SEC. 217. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.]

[Section 1325(b)(2) of title 11, United States Code, is amended by inserting “(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law and which is reasonably necessary to be expended)” after “received by the debtor”.

[SEC. 218. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.]

[Section 101 of title 11, United States Code, is amended—

“(1) by striking paragraph (12A); and

“(2) by inserting after paragraph (14) the following:

“(14A) ‘domestic support obligation’ means a debt that accrues before or after the entry of an order for relief under this title that is—

“(A) owed to or recoverable by—

“(i) a spouse, former spouse, or child of the debtor or that child’s legal guardian; or

“(ii) a governmental unit;

“(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

“(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

“(i) a separation agreement, divorce decree, or property settlement agreement;

“(ii) an order of a court of record; or

“(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

“(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.”]

SEC. 218. DISPOSABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting “for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law” after “dependent of the debtor”.

(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting “or for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law” after “dependent of the debtor”.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102(b) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking “and” at the end;

(B) in paragraph (9), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(10) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In any case described in subsection (a)(10), the trustee shall—

“(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. [654] 664 and 666, respectively) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures; [and]

“(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

“(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and

“(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor; and

“(III) with respect to the debtor’s case, the name of each creditor that holds a claim that—

“(aa) [that] is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(bb) [that] was reaffirmed by the debtor under section 524(c).

“(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (b)—

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

(B) in paragraph (6), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(7) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In any case described in subsection (b)(7), the trustee shall—

“(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) for the State in which the holder resides; and

“(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

“(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor; and

“(III) with respect to the debtor’s case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).

“(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

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

(B) in paragraph (5), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In any case described in subsection (b)(6), the trustee shall—

“(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) for the State in which the holder resides; and

“(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

“(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 1228, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor; and

“(III) with respect to the debtor's case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).

“(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”

[(b)] (d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, [as amended by section 102(b) of this Act,] is amended—

(1) in subsection (b)—

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

(B) in paragraph (5), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (d).”; and

[(s)] (2) by adding at the end the following:

“(d)(1) In any case described in subsection (b)(6), the trustee shall—

“(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666, respectively) for the State in which the holder resides; and

“(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

“(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim; [and]

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor; and

“(III) with respect to the debtor's case, the name of each creditor that holds a claim that—

“(aa) [that] is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(bb) [that] was reaffirmed by the debtor under section 524(c).

“(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”

Subtitle C—Other Consumer Protections

SEC. 221. 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 nonexempt 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 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 under section 110, 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 (12 U.S.C. 1813)) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1751)), or any affiliate or subsidiary of such a depository institution or credit union;”]

[(b) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting “(101(3),” after “sections”]

SEC. 222. 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 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).

[(“(2) To the extent not covered in the written notice described in paragraph (1) and not

later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

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

[(“(B) all assets and all liabilities shall be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset, as defined in section 506, shall be stated in those documents if requested after reasonable inquiry to establish such value;

[(“(C) total current monthly income, projected monthly net income and, in a case under chapter 13, monthly net income shall be stated after reasonable inquiry; and

[(“(D) information an assisted person provides during the case of that person may be audited under this title and the 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 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 a substantially similar statement. 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 choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

[(“If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 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 relief 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 relief.

["Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice."

["(c) Except to the extent the debt relief 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 agency providing bankruptcy assistance to an assisted person, to the extent permitted by 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 total current monthly income, projected monthly income and, in a case under chapter 13, net monthly 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; and

["(3) how to—

["(A) determine what property is exempt; and

["(B) value exempt property at replacement value, as defined in section 506.

["(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for a period of 2 years after the latest date on which the notice is given to the assisted person."

[(b) CONFORMING AMENDMENT.—The table of sections 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. 223. 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 222 of this Act, is amended by adding at the end the following:

["§ 527. Debtor's bill of rights

["(a)(1) A debt relief agency shall—

["(A) not later than 5 business days after the first date on which a debt relief agency provides any bankruptcy assistance services to an assisted person, but before that assisted person's petition under this title is filed—

["(i) 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

["(ii) give the assisted person a copy of the fully executed and completed contract in a form the person is able to retain;

["(B) 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 statement: 'We are a debt relief

agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement; and

["(C) if an advertisement directed to the general public indicates that the debt relief 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 agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement.

["(2) For purposes of paragraph (1)(B), an advertisement shall be of bankruptcy assistance services if that advertisement describes or offers bankruptcy assistance with a plan under chapter 12, without regard to whether chapter 13 is specifically mentioned. A statement such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or any other similar statement that would lead a reasonable consumer to believe that help with debts is being offered when in fact in most cases the help available is bankruptcy assistance with a plan under chapter 13 is a statement covered under the preceding sentence.

["(b) A debt relief agency shall not—

["(1) fail to provide any service that the debt relief 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, that—

["(A) is untrue and misleading; or

["(B) upon the exercise of reasonable care, should be known by the debt relief 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 agency may 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 under 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 sections for chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by inserting after the item relating to section 526 of title 11, United States Code, the following:

["527. Debtor's bill of rights."].

SEC. 224. ENFORCEMENT.

[(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by adding at the end the following:

["§ 528. Debt relief agency enforcement

["(a) Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 shall be void and may not be enforced by any Federal or State court or any other person.

["(b)(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance that does not comply with the material requirements of section 526 or

527 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 agency that has been found, after notice and hearing, to have—

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

["(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted because the debt relief agency's negligent failure to file bankruptcy papers, including papers specified in section 521; or

["(C) negligently or intentionally disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief 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 that the debt relief agency has already been paid on account of that proceeding.

["(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, 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) Notwithstanding any other provision of Federal law, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527, or engaged in a clear and consistent pattern or practice of violating section 526 or 527, the court may—

["(A) enjoin the violation of such section; or

["(B) impose an appropriate civil penalty against such person.

["(c) 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 except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency."

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by inserting after the item relating to section 527 of title 11, United States Code, the following:

["528. Debt relief agency enforcement."].

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting " , under the direct supervision of an attorney," after "who";

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

"(A) sign the document for filing; and

“(B) print on the document the name and address of that officer, principal, responsible person or partner.”;

(B) by striking paragraph (2) and inserting the following:

“(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

“(B) The notice under subparagraph (A)—

“(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

“(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

“(iii) shall—

“(I) be signed by—

“(aa) the debtor; and

“(bb) the bankruptcy petition preparer, under penalty of perjury; and

“(II) be filed with any document for filing.”;

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “(2) For purposes” and inserting “(2)(A) Subject to subparagraph (B), for purposes”; and

(ii) by adding at the end the following:

“(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer.”; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking “(d)(1)” and inserting “(d)”;

and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

“(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

“(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

“(i) whether—

“(I) to file a petition under this title; or

“(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

“(ii) whether the debtor’s debts will be eliminated or discharged in a case under this title;

“(iii) whether the debtor will be able to retain the debtor’s home, car, or other property after commencing a case under this title;

“(iv) concerning—

“(I) the tax consequences of a case brought under this title; or

“(II) the dischargeability of tax claims;

“(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

“(vi) concerning how to characterize the nature of the debtor’s interests in property or the debtor’s debts; or

“(vii) concerning bankruptcy procedures and rights.”;

(6) in subsection (f)—

(A) by striking “(f)(1)” and inserting “(f)”;

and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking “(g)(1)” and inserting “(g)”;

and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

“(h)(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.”;

(C) in paragraph (2), as redesignated by subparagraph (A) of this paragraph—

(i) by striking “Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a” and inserting “A”;

(ii) by inserting “by the bankruptcy petition preparer shall be filed together with the petition,” after “perjury”; and

(iii) by adding at the end the following: “If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).”;

(D) by striking paragraph (3), as redesignated by subparagraph (A) of this paragraph, and inserting the following:

“(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

“(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

“(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

“(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

“(C) An individual may exempt any funds recovered under this paragraph under section 522(b).”; and

(E) in paragraph (4), as redesignated by subparagraph (A) of this paragraph, by striking “or the United States trustee” and inserting “the United States trustee, or the court, on the initiative of the court.”;

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

“(i) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on motion of the debtor, trustee, or United States trustee, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking “a violation of which subjects a person to criminal penalty”;

(ii) in subparagraph (B)—

(I) by striking “or has not paid a penalty” and inserting “has not paid a penalty”; and

(II) by inserting “or failed to disgorge all fees ordered by the court” after “a penalty imposed under this section.”;

(B) by redesignating paragraph (3) as paragraph (4); and

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

“(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, or the United States trustee.”;

and

(11) by adding at the end the following:

“(I)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than \$500 for each such failure.

“(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

“(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

“(B) advised the debtor to use a false Social Security account number;

“(C) failed to inform the debtor that the debtor was filing for relief under this title; or

“(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

“(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

“(4) All fines imposed under this section shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this paragraph shall be available to fund the enforcement of this section on a national basis.”.

SEC. [225.] 222. SENSE OF CONGRESS.

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

SEC. [226.] 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Section 507(a) of title 11, United States Code, as amended by section [211] 212 of this Act, is amended by inserting after paragraph (9) the following:

“(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.”.

(b) VESSELS.—Section 523(a)(9) of title 11, United States Code, is amended by inserting “or vessel” after “vehicle”.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, as amended by section 215 of this Act, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking “(2)(A) any property” and inserting:

“(3) Property listed in this paragraph is—

“(A) any property”;

(ii) in subparagraph (A), by striking “and” at the end;

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

(iv) by adding at the end the following:

“(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”;

(B) by striking paragraph (1) and inserting:

“(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.”;

(C) in the matter preceding paragraph (2)—

(i) by striking “(b)” and inserting “(b)(1)”;

(ii) by striking “paragraph (2)” both places it appears and inserting “paragraph (3)”;

(iii) by striking “paragraph (1)” each place it appears and inserting “paragraph (2)”;

(iv) by striking “Such property is—”; and

(D) by adding at the end of the subsection the following:

“(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

“(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of

this title, those funds shall be presumed to be exempt from the estate.

“(B) If the retirement funds are in a retirement fund that has not received a favorable determination pursuant to such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

“(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

“(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

“(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

“(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

“(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

“(ii) A distribution described in this clause is an amount that—

“(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

“(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.”; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “subsection (b)(1)” and inserting “subsection (b)(2)”; and

(B) by adding at the end the following:

“(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”.

(b) **AUTOMATIC STAY.**—Section 362(b) of title 11, United States Code, as amended by section 214 of this Act, is amended—

(1) in paragraph (18), by striking “or” at the end;

(2) in paragraph (19), by striking the period and inserting “; or”;

(3) by inserting after paragraph (19) the following:

“(20) under subsection (a), of withholding of income from a debtor’s wages and collection of amounts withheld, pursuant to the debtor’s agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

“(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title.”; and

(4) by adding at the end of the flush material at the end of the subsection, the following: “Nothing in paragraph (20) may be construed to provide that any loan made under a govern-

mental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”.

(c) **EXCEPTIONS TO DISCHARGE.**—Section 523(a) of title 11, United States Code, is amended—

(1) by striking “or” at the end of paragraph (17);

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

(3) by adding at the end the following:

“(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

“(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”.

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

“(f) A plan may not materially alter the terms of a loan described in section 362(b)(20).”.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

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.

SEC. 302. 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:

“(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 the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

“(A) 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;

“(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, 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; and

“(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

“(i) as to all creditors, if—

“(I) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual

was a debtor was pending within the preceding 1-year period;

“(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

“(aa) 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 a substantial excuse unless the dismissal was caused by the negligence of the debtor’s attorney);

“(bb) provide adequate protection as ordered by the court; or

“(cc) 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 chapter 7, 11, or 13 [of this title], or any other reason to conclude that the later case will be concluded—

“(aa) if a case under chapter 7 [of this title], with a discharge; or

“(bb) if a case under chapter 11 or 13 [of this title], with a confirmed plan which will be fully performed; and

“(ii) 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 such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

“(4)(A)(i) 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 the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

“(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

“(B) if, within 30 days after the filing of the later case, a party in interest requests 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;

“(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

“(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

“(i) 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

“(ii) 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 such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.”.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

“(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

“(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

“(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.”.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section [213] 224 of this Act, is amended—

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

(2) in paragraph (20), by striking the period at the end; and

(3) by inserting after paragraph (20) the following:

“(21) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

“(22) under subsection (a), of any act to enforce any lien against or security interest in real property—

“(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

“(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.”.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so redesignated by section 105(d) of this Act—

(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 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 within 45 days after the first meeting of creditors under section 341(a)—

“(A) enters into an agreement with the creditor under section 524(c) with respect to the claim secured by such property; or

“(B) redeems such property from the security interest under section 722.”; and

(C) by adding at the end the following:

“(b) [If the debtor] For purposes of subsection (a)(6), if the debtor fails to so act within the 45-day period specified in subsection (a)(6), 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. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking “(e), and (f)” and inserting “(e), (f), and (h)”;

(B) by redesignating subsection (h), as amended by section 227 of this Act, as subsection (j) and by inserting after subsection (g) the following:

“(h)(1) Subject to paragraph (2), in an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable period of time set by section 521(a)(2) to—

“(A) file timely any statement of intention required under section 521(a)(2) with respect to that property or to indicate therein that the debtor—

“(i) will either surrender the property or retain the property; and

“(ii) if retaining the property, will, as applicable—

“(I) redeem the property under section 722;

“(II) reaffirm the debt the property secures under section 524(c); or

“(III) assume the unexpired lease under section 365(p) if the trustee does not do so; or

“(B) take timely the action specified in that statement of intention, as the statement 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.

“(2) Paragraph (1) shall not apply if 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 521, as amended by section 304 of this Act—

(A) in subsection (a)(2), as redesignated by section 105(d) of this Act—

(i) by striking “consumer”;

(ii) in subparagraph (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)”;

(II) by striking “forty-five day period” and inserting “30-day period”; and

(iii) in subparagraph (C), by inserting “except as provided in section 362(h)” before the semicolon; and

(B) by adding at the end the following:

“(c) If the debtor fails timely to take the action specified in subsection (a)(6), or in paragraph (1) or (2) of section 362(h), 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 that has the effect of placing the debtor in default under that 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. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

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

“(i) the plan provides that—

“(I) the holder of such claim retain the lien securing such claim until the earlier of—

“(aa) the payment of the underlying debt determined under nonbankruptcy law; or

“(bb) discharge under section 1328; and

“(II) 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”.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

“For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the debt that is the subject of the claim was incurred within the 5-year period preceding the filing of the petition and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 6-month period preceding that filing.”.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section [221] 211 of this Act, is amended—

(1) by inserting after paragraph (13) the following:

“(13A) ‘debtor’s principal residence’—

“(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

“(B) includes an individual condominium or cooperative unit;”; and

(2) by inserting after paragraph (27), the following:

“(27A) ‘incidental property’ means, with respect to a debtor’s principal residence—

“(A) property commonly conveyed with a principal residence in the area where the real estate is located;

“(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

“(C) all replacements or additions.”.

SEC. 307. EXEMPTIONS.

Section [522(b)(2)(A)] 522(b)(3)(A) of title 11, United States Code, as so designated by section 224 of this Act, is amended—

(1) by striking “180” and inserting “730”; and

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

SEC. 308. RESIDENCY REQUIREMENT FOR HOME-STEAD EXEMPTION.

Section 522 of title 11, United States Code, as amended by section 307 of this Act, is amended—

(1) in subsection [(b)(2)(A)] (b)(3)(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)] (b)(3)(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 730-day period ending on 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."

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) 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 such 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 chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured under 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."

(b) 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 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) is automatically terminated.

"(2)(A) 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 contract.

"(B) If within 30 days after notice is provided under subparagraph (A), 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.

"(C) The stay under section 362 and the injunction under section 524(a)(2) 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 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease."

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

[(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by inserting after section 1307 the following:

1308. Adequate protection in chapter 13 cases

[(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2), to—

[(i) any lessor of personal property; and

[(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

[(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

[(i) the creditor begins to receive actual payments under the plan; or

[(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

[(I) the lessor or creditor; or

[(II) any third party acting under claim of right.

[(2) The payments referred to in paragraph (1)(A) shall be the contract amount.

[(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount, and timing of the dates of payment, of payments made under subsection (a).

[(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

[(B) The amount of payments referred to in paragraph (1) shall not be less than the amount of any weekly, biweekly, monthly, or other periodic payment schedules as payable under the contract between the debtor and creditor.

[(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides for—

[(1) payments to a creditor or lessor described in subsection (a)(1); and

[(2) the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

[(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.

[(e) On or before the date that is 60 days after the filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to

do so for so long as the debtor retains possession of such property."

[(2) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended, in the matter relating to subchapter I, by inserting after the item relating to section 1307 the following:

["1308. Adequate protection in chapter 13 cases."]

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, is amended—

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

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(iii) if—

"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

"(II) the holder of the claim is secured by personal property the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Unless the court orders otherwise, the debtor shall—

"(A) commence making the payments proposed by a plan within 30 days after the plan is filed; or

"(B) if no plan is filed then as specified in the proof of claim, within 30 days after the order for relief or within 15 days after the plan is filed, whichever is earlier.

"(2) A payment made under this section shall be retained by the trustee until confirmation, denial of confirmation, or paid by the trustee as adequate protection payments in accordance with paragraph (3). If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3)(A) As soon as is practicable, and not later than 40 days after the filing of the case, the trustee shall—

"(i) pay from payments made under this section the adequate protection payments proposed in the plan; or

"(ii) if no plan is filed then, according to the terms of the proof of claim.

"(B) The court may, upon notice and a hearing, modify, increase, or reduce the payments required under this paragraph pending confirmation of a plan."

SEC. 310. LIMITATION ON LUXURY GOODS.

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

"(C)(i) for purposes of subparagraph (A)—

"(I) consumer debts owed to a single creditor and aggregating more than \$250 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than \$750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

"(ii) for purposes of this subparagraph—

"(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

"(II) the term 'open end credit plan' has the meaning given that term under section 103 of Consumer Credit Protection Act (15 U.S.C. 1602); and

“(III) the term ‘luxury goods or services’ does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.”.

SEC. 311. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by section 303(b) of this Act, is amended—

(1) in paragraph (21), by striking “or” at the end;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (22) the following:

“(23) under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement;

“(24) under subsection (a)(3), of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated under the lease agreement or applicable State law; or

“(25) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.”.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

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

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

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

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

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

“(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term ‘household goods’ means—

“(i) clothing;

“(ii) furniture;

“(iii) appliances;

“(iv) 1 radio;

“(v) 1 television;

“(vi) 1 VCR;

“(vii) linens;

“(viii) china;

“(ix) crockery;

“(x) kitchenware;

“(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

“(xii) medical equipment and supplies;

“(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

“(xiv) personal effects (including wedding rings and the toys and hobby equipment of minor dependent children) of the debtor and the dependents of the debtor.

“(B) The term ‘household goods’ does not include—

“(i) works of art (unless by or of the debtor or the dependents of the debtor);

“(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

“(iii) items acquired as antiques;

“(iv) jewelry (except wedding rings); and

“(v) a computer (except as otherwise provided for in this section), motor vehicle (in-

cluding a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.”.

SEC. 314. DEBT INCURRED TO PAY NON-DISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

“(14A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228(a), 1228(b), or 1328(b), or any other provision of this subsection, if the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly created debt; *except that*

“(B) [except that] all debts incurred to pay nondischargeable debts shall be presumed to be nondischargeable debts if incurred within 70 days before the filing of the petition (except that, in any case in which there is an allowed claim under section 502 for child support or spousal support entitled to priority under section 507(a)(1) and that was filed in a timely manner, debts that would otherwise be presumed to be nondischargeable debts by reason of this subparagraph shall be treated as dischargeable debts);”.

(b) DISCHARGE UNDER CHAPTER 13.

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) provided for under section 1322(b)(5);

“(2) of the kind specified in paragraph (2).

(4), (3)(B), (5), (8), or (9) of section 523(a);

“(3) for restitution, or a criminal fine, included in a sentence on the debtor’s conviction of a crime; or

“(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.”.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting “(1)” after “(c)”; and

(B) by striking “, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice”; and

(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)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

“(2) No sanction under section 362(h) or any other sanction that a court may impose on account of violations of the stay under

section 362(a) or failure to comply with section 542 or 543 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.”.

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, as amended by section 305 of this Act, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(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 and, if applicable, a certificate—

“(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); 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;

“(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

“(v) 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 before the filing of the petition;

“(vi) a statement of the amount of projected monthly net income, itemized to show how the amount is calculated; and

“(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;”;

(2) by adding at the end the following:

“(d)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

“(2)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

“(B) The court shall make such plan available to the creditor who requests such plan—

“(i) at a reasonable cost; and

“(ii) not later than 5 days after such request.

“(e) An individual debtor in a case under chapter 7 or 13 shall file with the court—

“(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

“(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

“(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

“(4) in a case under chapter 13, 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 income, that shows how the amounts are calculated—

“(A) beginning on the date that 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 been confirmed; and

“(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

“(f)(1) A statement referred to in subsection (e)(4) shall disclose—

“(A) the amount and sources of income of the debtor;

“(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

“(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (f)(1)(g).

“(g)(1) Not later than 30 days after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

“(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

“(3) Not later than 1 year after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

“(A) assesses the effectiveness of the procedures under paragraph (1); and

“(B) if appropriate, includes proposed legislation to—

“(i) further protect the confidentiality of tax information; and

“(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

“(h) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

“(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

“(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.”.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 315 of this Act, is amended by adding at the end the following:

“(j)(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

“(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

“(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.”.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

(a) HEARING.—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 later than 45 days after the meeting of creditors under section 341(a).”.

(b) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

“§ 1321. Filing of plan

“Not later than 90 days after the order for relief under this chapter, the debtor shall file a plan, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.”.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Section 1322(d) of title 11, United States Code, is amended to read as follows:

“(d)(1) Except as provided in paragraph (2), the plan may not provide for payments over a period that is longer than 3 years.

“(2) The plan may provide for payments over a period that is longer than 3 years if—

“(A) the plan is for a case that was converted to a case under this chapter from a case under chapter 7, or the plan is for a debtor who has been dismissed from chapter 7 by reason of section 707(b), in which case the plan shall provide for payments over a period of 5 years; or

“(B) the plan is for a case that is not described in subparagraph (A), and the court, for cause, approves a period longer than 3 years, but not to exceed 5 years.”.

SEC. 319. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of 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—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

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

(1) by inserting “(1)” after “(e)”; and

(2) by adding at the end the following:

“(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

“(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

“(B) that 60-day period is extended—

“(i) by agreement of all parties in interest; or

“(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.”.

SEC. 321. TREATMENT OF CERTAIN EARNINGS OF AN INDIVIDUAL DEBTOR WHO FILES A VOLUNTARY CASE UNDER CHAPTER 11.

Section 541(a)(6) of title 11, United States Code, is amended by inserting “(other than an individual debtor who, in accordance with section 301, files a petition to commence a voluntary case under chapter 11)” after “individual debtor”.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS **Subtitle A—General Business Bankruptcy Provisions**

SEC. 401. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

“§ 1168. Rolling stock equipment

“(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

“(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

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

“(i) occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

“(ii) occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

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

“(II) the expiration of such 60-day period; and

“(iii) occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

“(2) The equipment described in this paragraph—

“(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

“(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

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

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

“(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

“(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

“(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

“(1) the term ‘lease’ includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

“(2) the term ‘security interest’ means a purchase-money equipment security interest.

“(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term ‘rolling stock equipment’ includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.”.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

“§ 1110. Aircraft equipment and vessels

“(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

“(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

“(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

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

“(i) before the date of the order is cured before the expiration of such 60-day period;

“(ii) after the date of the order and before the expiration of such 60-day period is cured before the later of—

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

“(II) the expiration of such 60-day period; and

“(iii) on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

“(3) The equipment described in this paragraph—

“(A) is—

“(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued under chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

“(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

“(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

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

“(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

“(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

“(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

“(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

“(1) the term ‘lease’ includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

“(2) the term ‘security interest’ means a purchase-money equipment security interest.”.

SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 306(c) of this Act, 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 under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);”.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 311 of this Act, is amended—

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

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

(3) by inserting after paragraph (25) the following:

“(26) under subsection (a), of—

“(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization’s regulatory power;

“(B) 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

“(C) 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. 403. 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. 404. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking “10” each place it appears and inserting “30”.

SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

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

“(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

“(i) the date that is 120 days after the date of the order for relief; or

“(ii) the date of the entry of an order confirming a plan.

“(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.”.

SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: “On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders.”.

SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103-394) as subsection (i); and

(2) by adding at the end the following:

“(j)(1) Notwithstanding section 545 (2) and (3), the trustee may not avoid a warehouseman’s lien for storage, transportation or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7-209 of the Uniform Commercial Code."

SEC. 408. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking "20" and inserting "45".

SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) by striking "(A) the; and inserting "(i) the";

(2) by striking "(B)" and inserting "(ii)";

(3) by striking "(C)" and inserting "(iii)";

(4) by striking "(D)" and inserting "(iv)";

(5) by striking "(E)" and inserting "(v)";

(6) in subparagraph (A), by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(7) by adding at the end the following:

"(B) In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved."

SEC. 410. 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. 411. PREFERENCES.

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

(1) by striking paragraph (2) and inserting the following:

"(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 \$5,000."

SEC. 412. VENUE OF CERTAIN PROCEEDINGS.

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

SEC. 413. 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) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter."

SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

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

(1) by striking "dwelling" the first place it appears;

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

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "but nothing in this paragraph" 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, and until such time as the debtor or trustee has surrendered any legal, equitable or possessory interest in such unit, such corporation, or such lot, but nothing in this paragraph".

SEC. 415. 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 Federal or State law that is not a bankruptcy 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 any representative of the creditor (which 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. 416. 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 first sentence by striking "until the case is converted or dismissed, whichever occurs first"; and

[(2) in the second 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.

SEC. [417.] 416. 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;"

SEC. [418.] 417. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3)(A) of title 11, United States Code, as amended by section 409 of this Act, is amended—

(1) in [subparagraph (D)] clause (i), by striking "and" at the end;

(2) by redesignating [subparagraph (E)] clause (v) as [subparagraph (F)] clause (vi); and

(3) by inserting after [subparagraph (D)] clause (iv) the following:

"[(E)] (v) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field;"

SEC. [419.] 418. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(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)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute."

SEC. 419. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) through (5), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 20-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court."

Subtitle B—Small Business Bankruptcy Provisions

SEC. 421. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended by striking subsection (f) and inserting the following:

"(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 under 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 later 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. 422. DEFINITIONS; EFFECT OF DISCHARGE.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 402 of this Act, 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'—

"(A) subject to subparagraph (B), means a person (including any affiliate of such person that is also a debtor 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 \$4,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has appointed under section 1102(a)(1) a committee of unsecured creditors that the court has determined is sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$4,000,000 (excluding debt owed to 1 or more affiliates or insiders);"

(b) EFFECT OF DISCHARGE.—Section 524 of title 11, United States Code, as amended by section 204 of this Act, is amended by adding at the end the following:

"[(j)(1) An individual who is injured by the willful failure of a creditor to substantially comply with the requirements specified in subsections (c) and (d), or by any willful violation of the injunction operating under subsection (a)(2), shall be entitled to recover—

["(A) the greater of—

["(i) the amount of actual damages; or

["(ii) \$1,000; and

["(B) costs and attorneys' fees.

[(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action."]

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

SEC. 423. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of the enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall 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, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 424. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

"§ 308. Debtor reporting requirements

"(1) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(2) A small business debtor shall file periodic financial and other reports containing information including—

"(A) the debtor's profitability;

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

"(C) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(D)(i) whether the debtor is—

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

"(II) timely filing tax returns and paying taxes and other administrative claims when due; and

"(ii) if the debtor is not in compliance with the requirements referred to in clause (i)(I) or filing tax returns and making the payments referred to in clause (i)(II), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(iii) 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) CLERICAL AMENDMENT.—The table of sections for 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 under section 2075 of 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. 425. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference 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 file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

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

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor

to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 426. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11, 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 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

"(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, unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, 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 for 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. 427. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(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 that period is —

“(A) shortened on request of a party in interest made during the 90-day period;

“(B) extended as provided by this subsection, after notice and hearing; or

“(C) 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), 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 period of 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. 428. 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).”.

SEC. 429. PROHIBITION AGAINST EXTENSION OF TIME.

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

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

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

(3) 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), except as provided in section 1121(e)(3).”.

SEC. 430. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, 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;”; and

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

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

(4) by inserting after paragraph (6) the following:

“(7) 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—

“(i) begin to investigate the debtor’s viability;

“(ii) inquire about the debtor’s business plan;

“(iii) explain the debtor’s obligations to file monthly operating reports and other required reports;

“(iv) attempt to develop an agreed scheduling order; and

“(v) inform the debtor of other obligations;

“(B) if 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; and

“(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

“(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.”.

SEC. 431. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, as amended by section 429 of this Act, is amended—

(1) in the matter preceding paragraph (1), by striking

“; may”; and

(2) by striking paragraph (1) and inserting the following:

“(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. 432. SERIAL FILER PROVISIONS.

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

(1) in subsection (j), as redesignated by section 305(1) of this Act—

(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, the recovery under paragraph (1) against such entity shall be limited to actual damages.”; and

(2) by inserting after subsection (j) [as added by section 419 of this Act], the following:

“(k)(1) Except as provided in paragraph (2), 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—

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

“(B) was a debtor in a small business case that 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;

“(C) 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

“(D) 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).

“(2) Paragraph (1) does not apply to the filing of a petition if the debtor proves by a preponderance of the evidence that—

“(A) the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

“(B) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.”.

SEC. 433. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

“(b)(1) Except as provided in paragraph (2), in subsection (c), and section 1104(a)(3), on request of a party in interest, and after no-

tice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 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—

“(i) a period of time fixed under this title or by order of the court entered under section 1121(e)(3); or

“(ii) a reasonable period of time if no period of 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)(I) the act or omission will be cured within a reasonable period of time fixed by the court, but 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

“(II) compelling circumstances beyond the control of the debtor justify an extension.

“(3) 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.

“(4) 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) 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;

“(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.

“(5) 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, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.”.

SEC. 434. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General of the United States, 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, especially sole proprietorships, to become debtors in cases under title 11, 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 may be made more effective and efficient in assisting small businesses to remain viable; and

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

SEC. 435. 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 striking subparagraph (B) and inserting the following:

“(B) the debtor has commenced monthly payments that—

“(i) may, in the debtor’s sole discretion, notwithstanding section 363(c)(2), 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); and

“(ii) 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”.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. 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 striking the last sentence; and [inserting the following:]

(3) by adding at the end the following:

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

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section [901] 901(a) of title 11, United States Code, is amended—

(1) by inserting “555, 556,” after “553,”; and

(2) by inserting “559, 560,” after “557,”.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

SEC. 601. AUDIT PROCEDURES.

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

(1) in subsection (a), by striking paragraph (6) and inserting the following:

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

(2) by adding at the end the following:

“(f)(1)(A) The Attorney General shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

“(B) Those procedures shall—

“(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

“(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

“(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the [district] district in which the schedules were filed; and

“(iv) include procedures for providing, not less frequently than annually, public information concerning the aggregate results of the audits referred to in this subparagraph, including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

“(2) The United States trustee for each district may contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

“(3)(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

“(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

“(i) report the material misstatement, if appropriate, to the United States Attorney under section 3057 of title 18; and

“(ii) if advisable, take appropriate action, including commencing an adversary proceeding to revoke the debtor’s discharge under section 727(d) of title 11.”.

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, UNITED STATES CODE.—Paragraphs (3) and (4) of section 521(a) of title 11, United States Code, as amended by section 315 of this Act, are each amended by inserting “or an auditor appointed under section 586 of title 28” after “serving in the case” each place that term appears.

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, UNITED STATES CODE.—Section 727(d) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

“(4) the debtor has failed to explain satisfactorily—

“(A) a material misstatement in an audit performed under section 586(f) of title 28; or

“(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and any other papers, things, or property belonging to the debtor that are requested for an audit conducted under section 586(f).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“§ 159. Bankruptcy statistics

“(a) The clerk of each district court shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Office’).

“(b) The Director shall—

“(1) compile the statistics referred to in subsection (a);

“(2) make the statistics available to the public; and

“(3) not later than October 31, 1999, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

“(c) The compilation required under subsection (b) shall—

“(1) be itemized, by chapter, with respect to title 11;

“(2) be presented in the aggregate and for each district; and

“(3) include information concerning—

“(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed under section 2075 and filed by those debtors;

“(B) the total current monthly income, projected monthly net income, and average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

“(C) 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;

“(D) the average period of time between the filing of the petition and the closing of the case;

“(E) for the reporting period—

“(i) the number of cases in which a reaffirmation was filed; and

“(ii)(I) the total number of reaffirmations filed;

“(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

“(III) of the cases under each of subclauses (I) and (II), the number of cases in which the reaffirmation was approved by the court;

“(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

“(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

“(II) the number of final orders determining the value of property securing a claim issued;

“(ii) the number of cases dismissed for failure to make payments under the plan; and

“(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the date of filing;

“(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

“(H) the number of cases in which sanctions under Rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such rule.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by inserting after section 589a the following:

“§ 589b. Bankruptcy data

“(a) Within a reasonable period of time after the effective date of this section, the Attorney General of the United States shall 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) Each report 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 practicable access of the public, by—

“(1) physical inspection at 1 or more central filing locations; and

“(2) electronic access through the Internet or other appropriate media.

“(c)(1) The information required to be filed in the reports referred to in subsection (b) shall be information that is—

“(A) in the best interests of debtors and creditors, and in the public interest; and

“(B) reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system.

“(2) In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

“(A) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

“(B) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

“(d)(1) Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall include with respect to a case under such title, by appropriate category—

“(A) information about the length of time the case was pending;

“(B) assets abandoned;

“(C) assets exempted;

“(D) receipts and disbursements of the estate;

“(E) expenses of administration;

“(F) claims asserted;

“(G) claims allowed; and

“(H) distributions to claimants and claims discharged without payment.

“(2) In cases under chapters 12 and 13 of title 11, final reports proposed for adoption by trustees shall include—

“(A) the date of confirmation of the plan;

“(B) each modification to the plan; and

“(C) defaults by the debtor in performance under the plan.

“(3) The information described in paragraphs (1) and (2) shall be in addition to such other matters as are required by law for a final report or as the Attorney General, in the discretion of the Attorney General, may propose for a final report.

“(e)(1) Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall include—

“(A) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

“(B) the length of time the case has been pending;

“(C) the number of full-time employees—

“(i) as of the date of the order for relief; and

“(ii) at the end of each reporting period since the case was filed;

“(D) cash receipts, cash disbursements, and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

“(E) 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;

“(F) 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, 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 that would not have been so incurred); and

“(G) 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.

“(2) The information described in paragraph (1) shall be in addition to such other matters as are required by law for a periodic report or as the Attorney General, in the discretion of the Attorney General, may propose for a periodic report.”.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

“589b. Bankruptcy data.”.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) it should be the national policy of the United States 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, 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 VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. 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”; and

(2) in subsection (b)(2), by inserting “(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)” after “507(a)(1)”; 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), 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 under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

“(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3).

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4).”.

(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. 702. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 315(a) of this Act, is amended by adding at the end the following:

“(g)(1) 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, applicable rule, other provision of law, or order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted.

“(2) The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, if applicable), and describe the underlying basis for the claim of the governmental unit.

“(3) If the liability of the debtor 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 that individual, entity, organization, or name.

“(h) The clerk shall keep and update on a quarterly basis, in such form and manner as the Director of the Administrative Office of the United States Courts prescribes, a register in which a governmental unit may designate or redesignate a mailing address for service of notice in cases pending in the district. The clerk shall make such register available to debtors.”.

(b) ADOPTION OF RULES PROVIDING NOTICE.—

(1) IN GENERAL.—Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference shall propose for adoption enhanced rules for providing notice to Federal, State, and local

government units that have regulatory authority over the debtor or that may be creditors in the debtor's case.

(2) **PERSONS NOTIFIED.**—The rules proposed under paragraph (1) shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit (or subdivision thereof) who will be the appropriate persons authorized to act upon the notice.

(3) **RULES REQUIRED.**—At a minimum, the rules under paragraph (1) should require that the debtor—

(A) identify in the schedules and the notice, the subdivision, agency, or entity with respect to which such notice should be received;

(B) 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 in any case in which—

(i) the debtor may be a successor in interest; or

(ii) may not be the same entity as the entity that incurred the debt or obligation; and

(C) identify, in appropriate schedules, served together with the notice—

(i) the property with respect to which the claim or regulatory obligation may have arisen, if applicable;

(ii) the nature of such claim or regulatory obligation; and

(iii) 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), is amended by adding at the end the following:

“(i) A notice that does not comply with subsections (d) and (e) shall not be effective unless the debtor demonstrates by clear and convincing evidence that—

“(1) timely notice was given in a manner reasonably calculated to satisfy the requirements of this section; and

“(2) either—

“(A) the notice was timely sent to the address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

“(B) no 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.”.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

The second sentence of section 505(b) of title 11, United States Code, is amended by striking “Unless” and inserting “If the request is made substantially in the manner designated by the governmental unit and unless”.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

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

“§511. Rate of interest on tax claims

“If any provision of this title requires the payment of interest on a tax claim or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be as follows:

“(1) In the case of secured tax claims, unsecured ad valorem tax claims, other unsecured tax claims in which interest is required to be paid under section 726(a)(5), and administrative tax claims paid under section 503(b)(1), the rate shall be determined under applicable nonbankruptcy law.

“(2)(A) In the case of any tax claim other than a claim described in paragraph (1), the

minimum rate of interest shall be a percentage equal to the sum of—

“(i) 3; plus

“(ii) the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986.

“(B) In the case of any claim for Federal income taxes, the minimum rate of interest shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

“(C) In the case of taxes paid under a confirmed plan or reorganization under this title, the minimum rate of interest shall be determined as of the calendar month in which the plan is confirmed.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

“511. Rate of interest on tax claims.”.

SEC. 705. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(8)(A) of title 11, United States Code, [as redesignated by section 212 of this Act,] is amended—

(1) in clause (i), by inserting before the semicolon at the end, the following: “, plus any time during which the stay of proceedings was in effect in a prior case under this title, plus 6 months”; and

(2) by striking clause (ii) and inserting the following:

“(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

“(I) any time during which an offer in compromise with respect to that tax, was pending or in effect during that 240-day period, plus 30 days;

“(II) the lesser of—

“(aa) any time during which an installment agreement with respect to that tax was pending or in effect during that 240-day period, plus 30 days; or

“(bb) 1 year; and

“(III) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 6 months.”.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(9)(B) of title 11, United States Code, [as redesignated by section 221 of this Act,] is amended by striking “assessed” and inserting “incurred”.

SEC. 707. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, as amended by section [228] 314 of this Act, is amended by inserting “(1),” after “paragraph”.

SEC. 708. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

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

“(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt for a tax or customs duty with respect to which the debtor—

“(A) made a fraudulent return; or

“(B) willfully attempted in any manner to evade or defeat that tax or duty.”.

SEC. 709. STAY OF TAX PROCEEDINGS.

(a) **SECTION 362 STAY LIMITED TO PREPETITION TAXES.**—Section 362(a)(8) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: “, with respect to a tax liability for a taxable period ending before the order for relief under section 301, 302, or 303”.

(b) **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. 710. 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), by striking “deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,” and all that follows through the end of the subparagraph, and inserting “regular installment payments—

“(i) of a total value, as of the effective date of the claim, equal to the allowed amount of such claim in cash, but in no case with a balloon payment; and

“(ii) beginning not later than the effective date of the plan and ending on the earlier of—

“(I) the date that is 5 years after the date of the filing of the petition; or

“(II) the last date payments are to be made under the plan to unsecured creditors; and”; and

(3) by adding at the end the following:

“(D) with respect to a secured claim which would otherwise meet the description on an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).”.

SEC. 711. 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 in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law;”.

SEC. 712. 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) A tax under subsection (a) shall be paid when due in the conduct of business unless—

“(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches, by the trustee of a bankruptcy estate, under 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 makes 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 the priority of that tax.”.

(b) **PAYMENT OF AD VALOREM TAXES REQUIRED.**—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting “whether secured or unsecured, including

property taxes for which liability is in rem, in personam, or both," before "except".

(C) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), 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 with respect to the property" before the period at the end.

SEC. 713. 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 the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section.";

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

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

(1) in paragraph (1)(B)—

(A) by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i)—

(i) by inserting "or given" after "filed"; and

(ii) by striking "or" at the end; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following flush sentences:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term 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 a similar State or local law."

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of this Act, is amended by inserting "the estate," after "misrepresentation,".

SEC. 716. 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 [212] 213 and 306 of this Act, 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:] inserting after paragraph (7) the following:

"(8) if the debtor has filed all applicable Federal, State, and local tax returns as required by section 1309.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Chapter 13 of title 11, United States Code, as amended by section 309(c) of this Act, is amended by adding at the end the following:

"§ 1309. Filing of prepetition tax returns

"(a) Not later than the day before the day on which the first meeting of the creditors is convened under section 341(a), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 3-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), 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), the trustee may continue that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that first meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that first meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law.

"(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by clear and convincing evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or written stipulation to a judgment entered by a nonbankruptcy tribunal."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1308 the following:

"1309. 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 a tax return under section 1309, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss the case."

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following ", and except that in a case under chapter 13 [of this title], a claim of a governmental unit for a tax with respect to a return filed under section 1309 shall be timely if the claim is filed on or before the date that is 60 days after that return was filed in accordance with applicable requirements".

(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 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 the date that is 60 days after the date on which the debtor files all tax returns required under sections 1309 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 with respect to which a return is required to be filed under section 1309 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "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," after "records"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by section 402 of this Act, is amended—

(1) in paragraph (25), by striking "or" at the end;

(2) in paragraph (26), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, unless—

"(A) before that setoff, an action to determine the amount or legality of that tax liability under section 505(a) was commenced; or

"(B) in any case in which the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, in which case the governmental unit may hold the refund pending the resolution of the action."

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.

"1501. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"1502. Definitions.

"1503. International obligations of the United States.

"1504. Commencement of ancillary case.

"1505. Authorization to act in a foreign country.

"1506. Public policy exception.

"1507. Additional assistance.

"1508. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

- "1509. Right of direct access.
- "1510. Limited jurisdiction.
- "1511. Commencement of case under section 301 or 303.
- "1512. Participation of a foreign representative in a case under this title.
- "1513. Access of foreign creditors to a case under this title.
- "1514. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

- "1515. Application for recognition of a foreign proceeding.
- "1516. Presumptions concerning recognition.
- "1517. Order recognizing a foreign proceeding.
- "1518. Subsequent information.
- "1519. Relief that may be granted upon petition for recognition of a foreign proceeding.
- "1520. Effects of recognition of a foreign main proceeding.
- "1521. Relief that may be granted upon recognition of a foreign proceeding.
- "1522. Protection of creditors and other interested persons.
- "1523. Actions to avoid acts detrimental to creditors.
- "1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

- "1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
- "1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
- "1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

- "1528. Commencement of a case under this title after recognition of a foreign main proceeding.
- "1529. Coordination of a case under this title and a foreign proceeding.
- "1530. Coordination of more than 1 foreign proceeding.
- "1531. Presumption of insolvency based on recognition of a foreign main proceeding.
- "1532. Rule of payment in concurrent proceedings.

"§ 1501. 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 if—

- "(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);
 - "(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or
 - "(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970 (84 Stat. 1636 et seq.), a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 1502. 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 non-transitory 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 chapter 9 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.

"§ 1503. 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.

"§ 1504. 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 1515.

"§ 1505. Authorization to act in a foreign country

"A trustee or another entity, including an examiner, 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.

"§ 1506. 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.

"§ 1507. Additional assistance

"(a) Subject to the specific limitations under other provisions of this chapter, the court, upon recognition of a foreign proceeding, may 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.

"§ 1508. 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

"§ 1509. Right of direct access

"(a) A foreign representative is entitled to commence a case under section 1504 by filing a petition for recognition under section 1515, 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 1510, a foreign representative shall have the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

"(c) Subject to section 1510, a foreign representative is subject to laws of general application.

"(d) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign representative in any Federal or State court in the United States. Any request for comity or cooperation by a foreign representative in any court shall be accompanied by a sworn statement setting forth whether recognition under section 1515 has been sought and the status of any such petition.

"(e) 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.

"§ 1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§ 1511. Commencement of case under section 301 or 303

"(a) Upon 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) 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) prior to such commencement.

“§ 1512. 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.

“§ 1513. 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) does not change or codify law in effect on the date of enactment of this chapter as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under section 507 or 726 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) and paragraph (1) do not change or codify law in effect on the date of enactment of this chapter 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.

“§ 1514. 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

“§ 1515. 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.

“§ 1516. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, 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.

“§ 1517. Order recognizing a foreign proceeding

“(a) Subject to section 1506, after notice and a hearing 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 1502;

“(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

“(3) the petition meets the requirements of section 1515.

“(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 1502 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.

“§ 1518. Subsequent information

“After [the] the petition for recognition of the foreign proceeding is filed, 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.

“§ 1519. Relief that may be granted upon petition for recognition of a foreign proceeding

“(a) Beginning on the date on which a petition for recognition is filed and ending on the date on which 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 1521(a).

“(b) Unless extended under section 1521(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.

“§ 1520. 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;

“(2) a transfer, an 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; and

“(3) 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) 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) 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) 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.

“§ 1521. 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 the actions or proceedings have not been stayed under section 1520(a);

“(2) staying execution against the debtor’s assets to the extent the execution has not been stayed under section 1520(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent that right has not been suspended under section 1520(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 1519(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, if 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).

“§ 1522. Protection of creditors and other interested persons

“(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor’s business under section 1520(a)(2), to conditions that the court considers to be appropriate, including the giving of security or the filing of a bond.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate the relief referred to in subsection (b).

“(d) Section 1104(d) shall apply to the appointment of an examiner under this chap-

ter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

“§ 1523. Actions to avoid acts detrimental to creditors

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) In any case in which the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

“§ 1524. 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

“§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

“(a) Consistent with section 1501, 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.

“§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

“(a) Consistent with section 1501, 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, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

“§ 1527. Forms of cooperation

“Cooperation referred to in sections 1525 and 1526 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

“§ 1528. 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 such 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 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a), 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.

“§ 1529. Coordination of a case under this title and a foreign proceeding

“In any case in which 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 1525, 1526, and 1527, and the following shall apply:

“(1) If 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 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

“(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

“(2) If 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 1519 or 1521 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 1520(a) shall be modified or terminated if inconsistent with the relief granted in 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 1528 and 1529, the court may grant any of the relief authorized under section 305.

“§ 1530. Coordination of more than 1 foreign proceeding

“In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

“(1) Any relief granted under section 1519 or 1521 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 1519 or 1521 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.

“§ 1531. 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 as such debts become due.

“§1532. 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 13 the following:

“15. Ancillary and Other Cross-Border

Cases 1501”.
SEC. 802. 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, 304, 555 through 557, 559, and 560 apply in a case under chapter 15”; and

(2) by adding at the end the following:

“(j) Chapter 15 applies only in a case under such chapter, except that—

“(1) sections 1513 and 1514 apply in all cases under this title; and

“(2) section 1505 applies to trustees and to any other entity (including an examiner) authorized by the court under chapter 7, 11, or 12, to debtors in possession under chapter 11 or 12, and to debtors under chapter 9 who are authorized to act under section 1505.”.

(b) DEFINITIONS.—Paragraphs (23) and (24) of section 101 of title 11, United States Code, are amended to read as follows:

“(23) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign country, 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 15 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 15 of title 11, nothing in”.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting “15,” after “chapter”.

SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, is amended to read as follows:

“§304. Cases ancillary to foreign proceedings

“(a) For purposes of this section—

“(1) the term ‘domestic insurance company’ means a domestic insurance company, as such term is used in section 109(b)(2);

“(2) the term ‘foreign insurance company’ means a foreign insurance company, as such term is used in section 109(b)(3);

“(3) the term ‘United States claimant’ means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

“(4) the term ‘United States creditor’ means, with respect to a foreign insurance company—

“(i) a United States claimant; or

“(ii) any business entity that operates in the United States and that is a creditor; and

“(5) the term ‘United States policyholder’ means a holder of an insurance policy issued in the United States.

“(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.”.

TITLE IX—FINANCIAL CONTRACT PROVISIONS**SEC. 901. BANKRUPTCY CODE AMENDMENTS.**

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking “means a contract” and inserting “means—

“(A) a contract”;

(ii) by striking “, or any combination thereof or option thereon;” and inserting “, or any other similar agreement;”; and

(iii) by adding at the end the following:

“(B) a combination of agreements or transactions referred to in subparagraphs (A) and (C);

“(C) an option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

“(D) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master netting agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B) or (C); or

“(E) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract, option, agreement, or transaction referred to in subparagraph (A), (B), (C), or (D), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;”;

(B) by striking paragraph (47) and inserting the following:

“(47) ‘repurchase agreement’ and ‘reverse repurchase agreement’—

“(A) mean—

“(i) an agreement, including related terms, which provides for the transfer of—

“(I) a certificate of deposit, mortgage related security (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loan, interest in a mortgage related security or mortgage loan, eligible bankers’ acceptance, or qualified foreign government security (defined for purposes of this paragraph to mean a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development); or

“(II) a security that is a direct obligation of, or that is fully guaranteed by, the United States or an agency of the United States

against the transfer of funds by the transferee of such certificate of deposit, eligible bankers’ acceptance, security, loan, or interest;

with a simultaneous agreement by such transferee to transfer to the transferor thereof a certificate of deposit, eligible bankers’ acceptance, security, loan, or interest of the kind described in subclause (I) or (II), at a date certain that is not later than 1 year after the date of the transferor’s transfer or on demand, against the transfer of funds;

“(ii) a combination of agreements or transactions referred to in clauses (i) and (iii);

“(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii); or

“(iv) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that such master netting agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), or (iii); or

“(v) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

“(B) do not include a repurchase obligation under a participation in a commercial mortgage loan;”;

(C) in paragraph (48) by inserting “, or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission” after “1934”; and

(D) by striking paragraph (53B) and inserting the following:

“(53B) ‘swap agreement’—

“(A) means—

“(i) an agreement, including the terms and conditions incorporated by reference in such agreement, that is—

“(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

“(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

“(III) a currency swap, option, future, or forward agreement;

“(IV) an equity index or an equity swap, option, future, or forward agreement;

“(V) a debt index or a debt swap, option, future, or forward agreement;

“(VI) a credit spread or a credit swap, option, future, or forward agreement; or

“(VII) a commodity index or a commodity swap, option, future, or forward agreement;

“(ii) an agreement or transaction that is similar to an agreement or transaction referred to in clause (i) that—

“(I) is currently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

“(II) is a forward, swap, future, or option on a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an economic index or measure of economic risk or value;

“(iii) a combination of agreements or transactions referred to in clauses (i) and (ii);

“(iv) an option to enter into an agreement or transaction referred to in this subparagraph;

“(v) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to such master netting agreement and without regard to whether such master netting agreement contains an agreement or transaction described in any such clause, but only with respect to each agreement or transaction referred to in any such clause that is under such master netting agreement; except that

“(B) the definition under subparagraph (A) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.”;

(2) in section 741, by striking paragraph (7) and inserting the following:

“(7) ‘securities contract’—

“(A) means—

“(i) a contract for the purchase, sale, or loan of a security, a mortgage loan or an interest in a mortgage loan, a group or index of securities, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

“(ii) an option entered into on a national securities exchange relating to foreign currencies;

“(iii) the guarantee by or to a securities clearing agency of a settlement of cash, securities, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

“(iv) a margin loan;

“(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

“(vi) a combination of the agreements or transactions referred to in this subparagraph;

“(vii) an option to enter into an agreement or transaction referred to in this subparagraph;

“(viii) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master netting agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(ix) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this subparagraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

“(B) does not include a purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;”;

(3) in section 761(4)—

(A) by striking “or” at the end of subparagraph (D); and

[(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

[(C)] (B) by adding at the end the following:

“(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

“(G) a combination of the agreements or transactions referred to in this paragraph;

“(H) an option to enter into an agreement or transaction referred to in this paragraph;

“(I) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that such master netting agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

“(J) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition.”.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, as amended by section 802(b) of this Act, is amended—

(1) by striking paragraph (22) and inserting the following:

“(22) ‘financial institution’ means—

“(A)(i) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity; and

“(ii) if such Federal reserve bank, receiver, or conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

“(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;”;

(2) by inserting after paragraph (22) the following:

“(22A) ‘financial participant’ means an entity that is a party to a securities contract, commodity contract or forward contract, or on the date of the filing of the petition, has a commodity contract (as defined in section 761) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than \$1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than \$100,000,000 (aggregated across counterparties) in any such agreement or transaction with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;”;

(3) by striking paragraph (26) and inserting the following:

“(26) ‘forward contract merchant’ means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761, or any similar good, article, service, right, or interest that is presently or in the future becomes the subject of dealing or in the forward contract trade;”.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United

States Code, as amended by subsection (b) of this section, is amended by inserting after paragraph (38) the following new paragraphs:

“(38A) the term ‘master netting agreement’—

“(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with 1 or more contracts that are described in any 1 or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to 1 or more of the foregoing; except that

“(B) if a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of the paragraphs (1) through (5) of section 561(a);

“(38B) the term ‘master netting agreement participant’ means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;”.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by section 718 of this Act, is amended—

(A) in paragraph (6), by inserting “, pledged to, and under the control of,” after “held by”;

(B) in paragraph (7), by inserting “, pledged to, and under the control of,” after “held by”;

(C) by striking paragraph (17) and inserting the following:

“(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with a swap agreement that constitutes the setoff of a claim against the debtor for a payment or transfer due from the debtor under or in connection with a swap agreement against a payment due to the debtor from the swap participant under or in connection with a swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle a swap agreement;”;

(D) in paragraph (26), by striking “or” at the end;

(E) in paragraph (27), by striking the period at the end and inserting “; or”; and

(F) by inserting after paragraph (27) the following:

“(28) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with 1 or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against a payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, and under the control of, or due from such master netting agreement participant to margin, guarantee,

secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.”.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by section 432(2) of this Act, is amended by adding at the end the following:

“(1) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17) of subsection (b) shall not be stayed by an order of a court or administrative agency in any proceeding under this title.”.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101-311 (104 Stat. 267 et seq.))—

(A) by striking “under a swap agreement”; and

(B) by striking “in connection with a swap agreement” and inserting “under or in connection with any swap agreement”; and

(2) by inserting before subsection (i) (as redesignated by section 407 of this Act) the following new subsection:

“(h) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b), the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement (except under section 548(a)(1)(A)).”.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking “and”;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”; and

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

“(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.”.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§555. Contractual right to liquidate, terminate, or accelerate a securities contract”;

and

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract”;

and

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement”;

and

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§560. Contractual right to liquidate, terminate, or accelerate a swap agreement”;

(2) in the first sentence, by striking “termination of a swap agreement” and inserting “liquidation, termination, or acceleration of a swap agreement”; and

(3) by striking “in connection with any swap agreement” and inserting “in connection with the termination, liquidation, or acceleration of a swap agreement”.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—Title 11, United States Code, is amended by inserting after section 560 the following [new section]:

“§561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

“(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts or other transfer obligations arising under or in connection with 1 or more (or the termination, liquidation, or acceleration of 1 or more)—

“(1) securities contracts, as defined in section 741(7);

“(2) commodity contracts, as defined in section 761(4);

“(3) forward contracts;

“(4) repurchase agreements;

“(5) swap agreements; or

“(6) master netting agreements, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

“(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

“(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7 [of this title]—

“(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a), except to the extent that the party has [no] positive net equity in the commodity accounts at the debtor, as calculated under such subchapter IV; and

“(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements referred to in subsection (a).

“(c) As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.”.

(l) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following:

“(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms—

“(1) shall not be stayed or otherwise limited by—

“(A) operation of any provision of this title; or

“(B) order of a court in any case under this title;

“(2) shall limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11; and

“(3) shall not be limited based on the presence or absence of assets of the debtor in the United States.”.

(m) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

“§767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

“Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.”.

(n) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

“§753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

“Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.”.

(o) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(19), (28), 555, 556, 559, or 560)” before the period; and

(2) in subsection (b)(1), by striking “362(b)(14),” and inserting “362(b)(17), [362(b)(19)] 362(b)(28), 555, 556, 559, 560.”.

(p) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant";

(2) in section 546(e), by inserting "financial participant" after "financial institution,";

(3) in section 548(d)(2)(B), by inserting "financial participant" after "financial institution,";

(4) in section 555—

(A) by inserting "financial participant" after "financial institution,"; and

(B) by inserting before the period "a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice"; and

(5) in section 556, by inserting "financial participant" after "commodity broker".

(q) CONFORMING AMENDMENTS.—Title 11 [of the United States Code], *United States Code*, is amended—

(1) in the table of sections for chapter 5—

(A) by striking the items relating to sections 555 and 556 and inserting the following:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

(B) by striking the items relating to sections 559 and 560 and inserting the following:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(C) by adding after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

SEC. 902. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561 the following:

"§562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761) repurchase agree-

ment, or master netting agreement under section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration."; and

(2) in the table of sections for chapter 5 by inserting after the item relating to section 561 the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 561 shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, as if such claim had arisen before the date of the filing of the petition.".

SEC. 903. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "or" at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

"(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent that such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or"; and

(4) by adding at the end the following [new subsection]:

"(e) For purposes of this section, the following definitions shall apply:

"(1) The term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, the most senior of which are rated investment grade by 1 or more nationally recognized securities rating organizations, issued by an issuer.

"(2) The term 'eligible asset' means—

"(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, including residential and commercial mortgage loans, consumer receivables, trade receivables, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

"(B) cash; and

"(C) securities.

"(3) The term 'eligible entity' means—

"(A) an issuer; or

"(B) a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto.

"(4) The term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing secu-

rities backed by eligible assets, and taking actions ancillary thereto.

"(5) The term 'transferred' means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(5), irrespective, without limitation of—

"(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

"(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

"(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.".

SEC. 904. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE X—PROTECTION OF FAMILY FARMERS

SEC. 1001. REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on [April 1, 1999] October 1, 1999.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

"(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2001."

SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "the taxable year preceding the taxable year" and inserting "at least 1 of the 3 calendar years preceding the year".

SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

“(B) the holder of a particular claim agrees to a different treatment of that claim; and”.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(d) of title 11, United States Code, is amended by striking “a State or local governmental unit” and inserting “any governmental unit”.

[TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS]

[SEC. 1101. DEFINITIONS.]

[(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 1004(a) of this Act, is amended—

[(1) by redesignating paragraph (27A) as paragraph (27C); and

[(2) inserting after paragraph (27) the following:

[(“(27A) ‘health care business’—

[(“(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

[(“(i) the diagnosis or treatment of injury, deformity, or disease; and

[(“(ii) surgical, drug treatment, psychiatric or obstetric care; and

[(“(B) includes—

[(“(i) any—

[(“(I) general or specialized hospital;

[(“(II) ancillary ambulatory, emergency, or surgical treatment facility;

[(“(III) hospice;

[(“(IV) health maintenance organization;

[(“(V) home health agency; and

[(“(VI) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), (IV), or (V); and

[(“(ii) any long-term care facility, including any—

[(“(I) skilled nursing facility;

[(“(II) intermediate care facility;

[(“(III) assisted living facility;

[(“(IV) home for the aged;

[(“(V) domiciliary care facility; and

[(“(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;”.

[(b) HEALTH MAINTENANCE ORGANIZATION DEFINED.—Section 101 of title 11, United States Code, as amended by subsection (a), is amended by inserting after paragraph (27A) the following:

[(“(27B) ‘health maintenance organization’ means any person that undertakes to provide or arrange for basic health care services through an organized system that—

[(“(A)(i) combines the delivery and financing of health care to enrollees; and

[(“(ii)(I) provides—

[(“(aa) physician services directly through physicians or 1 or more groups of physicians; and

[(“(bb) basic health care services directly or under a contractual arrangement; and

[(“(II) if reasonable and appropriate, provides physician services and basic health care services through arrangements other than the arrangements referred to in clause (i); and

[(“(B) includes any organization described in subparagraph (A) that provides, or arranges for, health care services on a prepayment or other financial basis;”.

[(c) PATIENT.—Section 101 of title 11, United States Code, as amended by subsection (b), is amended by inserting after paragraph (40) the following:

[(“(40A) ‘patient’ means any person who obtains or receives services from a health care business;”.

[(d) PATIENT RECORDS.—Section 101 of title 11, United States Code, as amended by sub-

section (c), is amended by inserting after paragraph (40A) the following:

[(“(40B) ‘patient records’ means any written document relating to a patient or record recorded in a magnetic, optical, or other form of electronic medium;”.

[SEC. 1102. DISPOSAL OF PATIENT RECORDS.]

[(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

[(“§351. Disposal of patient records

[(“(If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

[(“(1) The trustee shall mail, by certified mail, a written request to each appropriate Federal or State agency to request permission from that agency to deposit the patient records with that agency.

[(“(2) If no appropriate Federal or State agency agrees to permit the deposit of patient records referred to in paragraph (1) by the date that is 60 days after the trustee mails a written request under that paragraph, the trustee shall—

[(“(A) publish notice, in 1 or more appropriate newspapers, that if those patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 60 days after the date of that notification, the trustee will destroy the patient records; and

[(“(B) during the 60-day period described in subparagraph (A), the trustee shall attempt to notify directly each patient that is the subject of the patient records concerning the patient records by mailing to the last known address of that patient an appropriate notice regarding the claiming or disposing of patient records.

[(“(3) If, after providing the notification under paragraph (2), patient records are not claimed during the 60-day period described in paragraph (2)(A) or in any case in which a notice is mailed under paragraph (2)(B), during the 90-day period beginning on the date on which the notice is mailed, by a patient or insurance provider in accordance with that paragraph, the trustee shall destroy those records by—

[(“(A) if the records are written, shredding or burning the records; or

[(“(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.”.

[(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

[(“351. Disposal of patient records.”.

[SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS.]

[Section 503(b) of title 11, 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) the actual, necessary costs and expenses of closing a health care business incurred by a trustee, including any cost or expense incurred—

[(“(A) in disposing of patient records in accordance with section 351; or

[(“(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business.”.

[SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.]

[(a) IN GENERAL.—

[(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

[(“§332. Appointment of ombudsman

[(“(a) Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall appoint an ombudsman to represent the interests of the patients of the health care business.

[(“(b) An ombudsman appointed under subsection (a) shall—

[(“(1) monitor the quality of patient care, to the extent necessary under the circumstances, including reviewing records and interviewing patients and physicians;

[(“(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

[(“(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.

[(“(c) An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information.”.

[(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

[(“332. Appointment of ombudsman.”.

[(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

[(1) in the matter proceeding subparagraph (A), by inserting “an ombudsman appointed under section 331, or” before “a professional person”; and

[(2) in subparagraph (A), by inserting “ombudsman,” before “professional person”.

[SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.]

[(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by section 219 of this Act, is amended—

[(1) in paragraph (9), by striking “and” at the end;

[(2) in paragraph (10), by striking the period and inserting “; and”; and

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

[(“(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

[(“(A) is in the vicinity of the health care business that is closing;

[(“(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

[(“(C) maintains a reasonable quality of care.”.

[(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking “and 704(9)” and inserting “704(9), and 704(10)”.

TITLE [XII] XI—TECHNICAL AMENDMENTS

SEC. [1201.] 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section [1101] 1003 of this Act, is amended—

(1) by striking “In this title—” and inserting “In this title;”;

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.

SEC. [1202.] 1102. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3), [707(b)(5).]" after "522(d)," each place it appears.

SEC. [1203.] 1103. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. [1204.] 1104. TECHNICAL AMENDMENTS.

Title 11, [of the] United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

[(2) in section 541(b)(4), by adding "or" at the end; and

[(3)] (2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

SEC. [1205.] 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking "attorney's" and inserting "attorneys".

SEC. [1206.] 1106. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. [1207.] 1107. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking ", except" and all that follows through "1986".

SEC. [1208.] 1108. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. [1209.] 1109. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

[SEC. 1210. PRIORITIES.

[Section 507(a) of title 11, United States Code, as amended by sections 211 and 229 of this Act, is amended—

[(1) in paragraph (4)(B), by striking the semicolon at the end and inserting a period; and

[(2) in paragraph (8), by inserting "unsecured" after "allowed".

[SEC. 1211. EXEMPTIONS.

[Section 522(g)(2) of title 11, United States Code, as amended by section 311 of this Act, is amended by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".]

SEC. [1212.] 1110. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section [229] 714 of this Act, is amended—

(1) as amended by section 304(e) of Public Law 103-394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert [it] such paragraph after paragraph (14) of subsection (a);

[(2) in subsection (a)—

[(A) in paragraph (3), by striking "or (6)" each place it appears and inserting "(6), or (15)";

[(B) in paragraph (9), by striking "motor vehicle or vessel" and inserting "motor vehicle, vessel, or aircraft"; and

[(C) in paragraph (15), as so redesignated by paragraph (1) of this subsection, by inserting "to a spouse, former spouse, or child of the debtor and" after "(15)"; and]

(2) in subsection (a)(9), by striking "motor vehicle or vessel" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. [1213.] 1111. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

SEC. [1214.] 1112. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. [1215.] 1113. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

SEC. [1216.] 1114. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201(b) of this Act, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider."

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that pending or commenced on or after the date of enactment of this Act.

SEC. [1217.] 1115. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of";

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. [1218.] 1116. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. [1219.] 1117. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by section [901(k)] 502 of this Act, is amended by inserting "1123(d)," after "1123(b),".

SEC. [1220.] 1118. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. [1221.] 1119. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. [1222.] 1120. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking "1222(b)(10)" each place it appears and inserting "1222(b)(9)".

SEC. [1223.] 1121. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. [1224.] 1122. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "document"; and

(B) by striking "this title" and inserting "title 11".

SEC. [1225.] 1123. TRANSFERS MADE BY NON-PROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable non-bankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 212 of this Act, is amended by adding at the end the following:

"(15) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust."

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if

the debtor had not filed a case under this title.”.

(d) **APPLICABILITY.**—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. [1226.] 1124. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking “20” and inserting “30”.

SEC. [1227.] 1125. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking “or October 1, 2002, whichever occurs first”; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking “or October 1, 2002, whichever occurs first”; and

(ii) in the matter following subclause (II), by striking “October 1, 2003, or”; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking “before October 1, 2003, or”; and

(ii) by striking “, whichever occurs first”.

SEC. [1228.] 1126. BANKRUPTCY JUDGESHIPS.

(a) **SHORT TITLE.**—This section may be cited as the “Bankruptcy Judgeship Act of 1999”.

(b) **TEMPORARY JUDGESHIPS.**—

(1) **APPOINTMENTS.**—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) **VACANCIES.**—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1);

shall not be filled.

(c) **EXTENSIONS.**—

(1) **IN GENERAL.**—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) **APPLICABILITY OF OTHER PROVISIONS.**—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship positions.

(d) **TECHNICAL AMENDMENT.**—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: “Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.”.

(e) **TRAVEL EXPENSES OF BANKRUPTCY JUDGES.**—Section 156 of title 28, United States Code, is amended by adding at the end the following:

“(g)(1) In this subsection, the term ‘travel expenses’—

“(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

“(B) shall not include the travel expenses of a bankruptcy judge if—

“(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

“(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

“(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

“(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

“(B) The annual report under this paragraph shall include—

“(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

“(ii) a description of the subject matter and purpose of the travel relating to each

travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

“(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

“(4)(A) The Director of the Administrative Office of the United States Courts shall—

“(i) consolidate the reports submitted under paragraph (3) into a single report; and

“(ii) annually submit such consolidated report to Congress.

“(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).”.

TITLE [XIII] XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. [1301.] 1201. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) **EFFECTIVE DATE.**—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) **APPLICATION OF AMENDMENTS.**—The amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

The committee amendments were agreed to.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before we start this very important bankruptcy reform legislation, first, thanks for working out the necessary parliamentary arrangements for bringing this bill up are owed to our majority leader, the Senator from Mississippi, and our minority leader, the Democratic leader, the Senator from South Dakota. So I thank them very much.

Then secondly, not only because this bill is up now on the floor of the Senate but also for the process of getting it through the Judiciary Committee, we, obviously, thank the Senator from Utah, the chairman of the Judiciary Committee, Mr. HATCH, for his leadership at the level of the committee and for a lot of things that had to be worked out to get us to the floor. And also thanks to the Senator from Vermont, the ranking Democratic member of the Judiciary Committee, for his cooperation.

Since the beginning of the year, I have had the opportunity to work with the ranking minority member of our subcommittee that I chair, the Subcommittee on Administrative Oversight and the Courts, the Senator from New Jersey, Mr. TORRICELLI. Working with him has been a real treat, always with efforts to reach agreement. And for people throughout this country who have a tendency to be cynical about Washington, because of the lack of cooperation between the Democratic Party and the Republican Party, I wish they could feel the working relationship Senator TORRICELLI, a Democrat, and I have had working on this legislation from its original introduction, with his not agreeing to everything I

introduced—he was a cosponsor—but with a spirit that throughout this process, which has gone on since January to this point of bringing the bill up on the floor of the Senate, that we would work cooperatively and in a spirit of cooperation to reach further compromises. I hope that brings us to a point where we do not have a lot of controversial amendments on the floor of the Senate, at least as they relate to the bankruptcy subject, the relevant amendments.

There will be a lot of amendments that have been in this bipartisan unanimous-consent agreement that are considered nongermane amendments, which will be brought up, that are controversial. We expected that to be part of the process. But for the amendments we have that relate to bankruptcy, I think there will be a lot fewer amendments because of the cooperation Senator TORRICELLI has shown in this compromise.

For the second time in 2 years, the Senate is considering fundamental bankruptcy reform. Last year, we passed a bankruptcy reform bill but the Senate was prevented from considering the final conference report at the very end of the 105th Congress. This year, we have the chance to finish this important work. We've been waiting for some time to get this bill up on the floor, and now that we're here, I'm anxious to begin the debate.

Bankruptcy is one of the most complicated subjects we will consider this year. So, at the outset, Mr. President, I think it's important for me as the chairman of the subcommittee with jurisdiction over bankruptcy to take a few minutes to describe what bankruptcy reform is really all about in commonsense terms that we can all understand. Simply put, bankruptcy is a court proceeding where people get their debts wiped away. Every time a debt is wiped away through bankruptcy somebody loses money. That's plain and simple common sense. Of course, when somebody who extends credit has their obligation wiped away in bankruptcy, they are forced to make a decision. Should this loss simply be swallowed as a cost of business? Or do you raise prices for other customers to make up for your losses?

When bankruptcy losses are rare or infrequent, lenders can just swallow the loss. But when bankruptcies are frequent and common, lenders have to raise their prices to offset losses. For this reason, Treasury Secretary Larry Summers testified at his confirmation hearing before the Senate Finance Committee that bankruptcies tend to drive up interest rates. Mr. President, if you believe Secretary Summers, bankruptcies are everyone's problem. Regular hardworking Americans have to pay higher prices for goods and services as a result of bankruptcies. The bankruptcy bill we're considering will discourage bankruptcies, and therefore lessen upward pressure on interest rates and higher prices by making it

harder for people who can repay their debts to wipe them away. It seems like common sense to require people who can repay their debts to pull their own weight. But under our current bankruptcy laws, someone can get full debt cancellation in chapter 7 with no questions asked. If we pass S. 625, bankruptcy judges and trustees will start asking questions about ability to repay. And, if someone seeking bankruptcy can repay, they will be channeled into Chapter 13 of the Bankruptcy Code, which requires people to repay some portion of their debts as a pre-condition for limited debt cancellation. Of course, people who can't repay can still use the bankruptcy system as they would have before. But, for people with higher incomes who can repay their debts, the free ride will be over.

The basic bankruptcy policy question the Senate has to answer is this: Should people with means be required to pay at least some of their debts under Chapter 13 or not? Right now, the current bankruptcy system is oblivious to the financial condition of someone asking to be excused from paying his debts. The richest captain of industry could walk into a Bankruptcy Court tomorrow and walk out with his debts erased. And, as I described earlier, the rest of America will pay higher prices for goods and services as a result.

I would ask my colleagues to think about that for a second. If we had no bankruptcy system at all, and we were starting from scratch, would we design a system that lets the rich walk away from their debts and shift the costs to society at large, including the poor and the middle class? I don't think that any of us here would design such a system. But somehow, that's exactly the system we have now. I could easily imagine the fiery rhetoric from our more liberal friends if we on the Republican side were to even suggest that the Senate create a bankruptcy system that lets the wealthy and the well-to-do walk away from their debts and stick working Americans with the tab. But we have just such a system in place today.

Mr. President, if Senators ask themselves the question "Who wins and who loses under current law, and who will win and who will lose if we pass S. 625," then I think that the importance of bankruptcy reform becomes pretty obvious. If you believe President Clinton's own Treasury Secretary, society at large loses under the current system when bankruptcies drive up interest rates. Of course, it's the deadbeats who walk away from their debts who win under the current system. If we pass this bill, then the American people will win as upward pressure on interest rates and prices is removed. And people who look at bankruptcy as a convenient financial planning tool will lose.

Mr. President, I think our situation is urgent. Our bankruptcy system is spiraling out of control. These are good times in our Nation. Thanks to the fis-

cal discipline initiated by Congress, and the hard work of the American people, we have the first balanced budget in a generation. Unemployment is low, we have a burgeoning stock market and most Americans are optimistic about the future. But in the midst of such prosperity, about one and a half million Americans declared bankruptcy just in 1998. Based on filings for the first two quarters of 1999, it looks like there will be just under 1.4 million bankruptcy filings for this year. To put this in some historical context, since 1990 the rate of personal bankruptcy filings has increased almost 100 percent. Now, I don't think that anyone knows all the reasons underlying the bankruptcy crisis. But I think I can talk about what's not at the root of the bankruptcy crisis. I have a chart here that shows the dramatic increase in bankruptcies since 1993. During the same timeframe, as the chart shows, unemployment has declined just as dramatically and real wages have risen to an all-time high.

The economic numbers tell us that the bankruptcy crisis isn't the result of people who can't get jobs. And the jobs that people do have are paying more than ever. So, the bankruptcy crisis isn't about desperate people confronting layoffs and underemployment. With the economy doing so well, and with so many Americans with high-quality, good-paying jobs, we have to look deep into the eroding moral values of some to find out what's driving the bankruptcy crisis. Some people flat out don't want to honor their obligations and are looking for an easy way out. In the opinion of this Senator, a significant part of the bankruptcy crisis is basically a moral crisis. Some people just don't have a sense of personal responsibility.

It seems clear to me that our lax bankruptcy system must bear some of the blame for the bankruptcy crisis. Just as the welfare system we used to have encouraged people not to get jobs and encouraged people not to even think about pulling their own weight, our lax bankruptcy system doesn't even ask people to consider paying what they owe. Such a system obviously contributes to the fraying of the moral fiber of our Nation. Why pay your bills when you can walk away with no questions asked? Why honor your obligations when you can take the easy way out through bankruptcy? If we don't tighten the bankruptcy system, this moral erosion will certainly continue.

Mr. President, the polls are very clear that the American people want the bankruptcy system tightened up. In my home State of Iowa, 78 percent of Iowans surveyed favor bankruptcy reform. And the picture is the same nationally. According to the PBS program "Techno-Politics," almost 70 percent of Americans support bankruptcy reform. The American people seem to sense that the bankruptcy crisis is fundamentally a moral crisis. According

to a poll conducted by the Democratic polling firm of Penn & Schoen on perceptions of bankruptcy, 84 percent of Americans think that bankruptcy is more socially acceptable today than a few years ago. Of course, Penn & Schoen is a Democratic polling firm used by President Clinton. So, I think that this number is very telling given that it was produced by a liberal polling firm.

In my State of Iowa, the editorial page of the Des Moines Register has summed up the problem we have with the bankruptcy system by stating that bankruptcy "was never intended as the one-stop, no-questions-asked solution to irresponsibility." I totally agree. So, let's look at the situation we face today. We have a bankruptcy system which fosters irresponsibility and which operates as a regressive system for redistributing economic resources from America's working families to the wealthy. In effect, blue collar factory workers are paying the tab for well-compensated professionals to live high on the hog.

Mr. President, as we move forward to debate bankruptcy reform, I believe that we must keep in mind the fact that the bankruptcy crisis is both an economic problem and moral problem. If we pass meaningful bankruptcy reform this year, as I hope and expect that we will, the Senate can remove a drag on the economy and at the same time contribute the rebuilding of our Nation's moral foundations.

Mr. President, over 30 years ago, Senator Albert Gore, Sr.—the father of the Vice-President—introduced a bill to means-test Chapter 7 debtors. In his introductory statement, in words that still ring true today, he described the similarities between special tax loopholes and lax bankruptcy laws. Senator Gore said that bankruptcy is like a special interest tax loophole in that someone gets out of paying his fair share at the expense of hardworking Americans who play by the rules. I think that Senator Gore had it exactly right all the way back then.

In the last Congress we almost closed the Chapter 7 loophole. The Senate and House both passed good bills, and we made them both better in a conference report that received overwhelming bipartisan support in the other body. But we ran out of time in the Senate. I've made every effort to be fair and bipartisan throughout this process. When Senator TORRICELLI became my ranking member at the beginning of this year, I went to him and asked him to work with me on a new bankruptcy bill. Senator TORRICELLI asked for several modifications to last year's bankruptcy bill to respond to concerns raised by Members on his side of the aisle. I agree to make many of these changes. The means-test is much more flexible in this year's bill, giving judges greater discretion to consider the individual circumstances of each debtor. The bill contains much tougher penalties for using threats to coerce

debtors into paying debts which could be wiped away once they are in bankruptcy. The bill also requires the Justice Department to concentrate law enforcement resources on enforcing consumer protection laws against abusive debt collection practices, and allows State law enforcement to enforce State consumer protections in bankruptcy court. The committee report lists these modifications in greater detail and summarizes the major changes from last year's conference report. Mr. President, when all of these many changes are considered in a fair and reasonable way, I believe that it will be clear that a great majority of Senators can support S. 625 as it is right now. But there's more. The Grassley-Torricelli amendment contains even more changes to ensure that lower income Americans are not disadvantaged by this reform. A provision to impose personal liability on debtor attorneys—which I strongly support—has been removed. And the Grassley-Torricelli amendment contains numerous changes to the small business title of the bankruptcy bill to add new flexibility.

Shortly, I will cosponsor an amendment with Senator TORRICELLI to require credit card companies to give consumers meaningful information about minimum payments on credit cards. Consumers will be warned against making only minimum payments, and there will be an example to drive this point home. Finally, consumers will be given a toll-free phone number to call where they can get information about how long it will take to pay off their own credit card balances if they make only the minimum payments. This new information will truly educate consumers. This new information will improve the financial literacy of American consumers.

In the Judiciary Committee, S. 625 was passed on a strong, bipartisan vote of 14-4. All Republicans and half of the Democrats voted for the bill. So, we have a good bill and one that most Members of the Senate should be able to support at the end of the day. With so many consumer protections and disclosures, I'm confident that the Senate will pass S. 625 with strong support.

In addition to benefitting society at large, lessening upward pressures on interest rates, S. 625 makes a number of changes which I believe will be very beneficial to especially vulnerable segments of our society. Child support claimants have been given the highest priority when the assets of a bankruptcy estate are distributed to creditors. Bankruptcy trustees and creditors of bankrupts are required to give information about the location of deadbeat parents who owe child support, turning our bankruptcy courts into a low cost locator service for custodial parents. And finally, under S. 625 parents owning child support can erase a wider array of debts than is typically the case, thereby preventing private creditors from competing with child

support claims in a post-bankruptcy environment. This is an important point that I think everyone should realize. Under the Senate bill, child support will never compete with private creditors after bankruptcy. This is a unique feature of this year's Senate bill, so many Members may not be aware of it. I would ask Senators interested in child support and bankruptcy to study section 314 of the bill.

S. 625 also makes Chapter 12 of the Bankruptcy Code permanent. This means that America's family farms are guaranteed the ability to reorganize as our farm economy continues to be weak. As we all know from our recent debate on emergency farm aid, while prices have rebounded somewhat recently, farmers in my home State of Iowa and across the Nation are getting some of the lowest prices ever for pork, corn and soybeans. Clearly, this bill is an important step in preserving the integrity of our farming economy and preserving the family farm.

S. 625 contains changes to deal with the complex problem of international bankruptcies. S. 625 will speed up the Chapter 11 process for small businesses and will reduce the risk of domino-like failures in financial markets.

In Conclusion, S. 625 is good for family farmers, good for small businesses, good for single parents who depend on child support and good for consumers. If you care about making people in string financial shape pull their own weight, you should vote for this bill. If you care about the lax morality associated with letting people who have the clear ability to pay walk away from their debts with no question asked, you should vote for this bill. When the time comes, I'm sure that common sense will reign and the Senate will pass S. 625, with strong support.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased we are finally considering the Bankruptcy Reform Act of 1999. I would like to express my personal appreciation to Senator LOTT for his efforts, along with those of Senator DASCHLE, which resulted in this opportunity for floor consideration of the bill. Also, I am grateful for the hard work of Senator GRASSLEY, the chairman of the Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, along with Senator TORRICELLI, the ranking Member of the subcommittee, for their tireless efforts in working out this bipartisan bill. I also thank Senators SESSIONS, BIDEN, and others for their dedication and hard work on this bankruptcy reform bill.

As I have said before, I remain confident that given the opportunity to consider the merits of this legislation, the Senate will pass this bill with overwhelming, bipartisan support. As we consider S. 625, I am hopeful that we will keep in mind the broad support for the substance of this important legislation. I hope we will see quick passage

of these much needed reforms to the bankruptcy system, because the reform proposals have been studied by Congress at length, they are bipartisan, and they are fair.

First, the reforms proposed in this bill have been deliberated at length. Indeed, Congress has been engaged in the consideration of this issue for several years, and the Subcommittee on Administrative Oversight and the Courts, which is chaired by Senator GRASSLEY, has held numerous hearings on the issue of bankruptcy reform. The subcommittee heard extensive testimony from literally dozens of witnesses on this subject.

Second, this bill is truly bipartisan. During our consideration of this bill at both the subcommittee and full Judiciary Committee levels, numerous changes suggested by the minority were included in the bill. We have been able to reach a number of compromises on this legislation in order to respond to the concern of both parties. I would like to take this opportunity to once again thank Senators GRASSLEY and TORRICELLI for their bipartisan efforts to create this balanced bill.

Finally, this bill is fair. One of the principles that guided the authors of our country's original bankruptcy laws, and which is guiding us as we overhaul these laws today, is the concept of a fresh start. The bankruptcy system was designed to provide a fresh start to people in serious financial difficulty, who have no other way out of their predicament. Mr. President, S. 625 does just that. It ensures that people in the most serious financial difficulty will continue to have access to the debt relief they need. At the same time, this legislation ensures that more of the people who have the capacity to repay their debts are required to do so.

Depending on what study you believe, anywhere from 6 to 15 percent of bankruptcy filers are using bankruptcy as a financial planning tool, running up debts and erasing them under laws that consider income irrelevant—all without any noticeable impact on their lifestyle. I would doubt that any of my colleagues feel that these are the sort of filers who need a fresh start. What they need is a lesson in personal responsibility.

I believe that S. 625 accomplishes both goals. The bill continues to make bankruptcy an accessible option for those who truly need it. But, it makes it more difficult for spendthrifts—those people who have no desire to change their excessive lifestyles and see bankruptcy as a convenient way to erase their debts.

It is no secret that the current bankruptcy system is broken and that Congress must fix it to preserve the opportunity for those individuals in financial straits to obtain a "fresh start." Despite this country's strong economy—unemployment is down and inflation is low—the rate of personal bankruptcy filings has increased dramati-

cally. Instead of bankruptcy being a safety net, it has become for some a convenient financial management tool.

I find it unacceptable and inherently unfair that those who pay their bills have to foot the bill for those who are able to pay, but choose not to. It has been conservatively estimated that personal bankruptcies cost every household \$400 per year, and it takes fifteen responsible borrowers to cover the cost of one bankruptcy of convenience.

The goal of our bankruptcy system has always been to protect those who need protecting—to provide those who experience genuine and serious financial hardship the opportunity to wipe the slate clean. We must return our system back to its original mission.

Bankruptcy reform is not a Republican or a Democratic issue—it is a consumer issue. According to a recent poll, 76 percent of Americans believe that individuals should not be allowed to erase all their debts in bankruptcy if they are able to repay a portion of what they owe. This survey merely reflects the American public's belief that individuals should be responsible for their own actions. S. 625 helps remedy the glaring problems of today's bankruptcy system by creating a needs-based system to determine the chapter under which a person should file for bankruptcy.

Mr. President, the House bankruptcy reform bill passed by an overwhelming margin of 313 to 108. Half of the House Democratic Caucus joined with every House Republican to support a bill with more stringent measures than those we are considering in the Senate.

S. 625 contains new measures to protect against fraud in bankruptcy, such as a requirement that debtors supply income tax return and pay stubs, audits of bankruptcy cases, and limits on repeat bankruptcy filings. It eliminates a number of loopholes, such as the one that allows debtors to transfer their interest in real property sooths who then file for bankruptcy relief and invoke the automatic stay. And, it puts some controls on the ability of debtors get large case advances on their credit cards and to pay luxury goods on the eve of filing for bankruptcy.

At the same time, s. 625 provides many unprecedented new consumer protections. It imposes penalties upon creditors who refuse to negotiate in good faith with debtors prior to declaring bankruptcy. Also, it imposes penalties on creditors who wilfully fail to properly credit payments made by the debtor in a chapter 13 plan, and for creditors who threaten to file motions in order to coerce a reaffirmation without justification. Moreover, the bill imposes new measures to discourage abusive reaffirmation practices.

It also addresses the problem of bankruptcy mills, firms that aggressively promote bankruptcy as a financial planning tool, and often end up hurting unwitting debtors by putting

them in bankruptcy when it may not be in their best interest. The legislation also imposes penalties on bankruptcy petition preparers who mislead debtors.

Importantly, S. 625 makes major strides in trying to break the cycle of indebtedness. It educates debtors with regard to the alternatives available to them, sets up a financial management education pilot program for debtors, and requires credit counseling for debtors.

I am particularly proud that the bill makes extensive reform of the bankruptcy laws in order to protect our children. I have authored provisions to ensure that bankruptcy cannot be used by deadbeat dads to avoid paying child support and alimony. Under my provisions, the obligation to pay child support and alimony is moved to a first priority status, as opposed to its current place at seventh in line behind attorneys fees and other special interests. My measures also ensure the collection of child support and alimony payments by, among other things, exempting state child support collection authorities from the "automatic stay" that otherwise prevents collection of debts after a debtor files for bankruptcy, and by exempting from discharge virtually all obligations one spouse owes another.

S. 625 also includes a provision to create new legal protections for a large class of retirement savings in bankruptcy. This measure has widespread support from a long list of groups, ranging from the American Association of Retired Persons, to the Small Business Council of America and the National Council on Teacher Retirement.

Let me take this opportunity also to point out that the assets of some pension plans already are protected from bankruptcy proceedings. The United States Supreme Court has ruled in *Patterson v. Shumate*, reported at 504 U.S. 753 (1992), that assets of pension plans which have, and are required by law to have, anti-alienation provisions, are excluded from bankruptcy estates. Let me be clear that my amendment is intended to expand the protection of retirement savings to protect assets that were not previously protected. My amendment is not intended in any way to diminish the protections offered under existing law and under the United States Supreme Court's decision in *Patterson v. Shumate*, but, rather, is intended to provide protection to other retirement plans and accounts not currently protected.

I am proud to propose several enhancements to the bill that primarily are designed to protect consumers and further provide incentives for consumers to take personal responsibility in dealing with debt management.

In the area of domestic support, as I indicated earlier, Senator TORRICELLI and I intend to build upon the new legal protections we have created, as part of the underlying bill, for ex-spouses and children who are owed

child support and alimony. The changes will further strengthen the ability of ex-spouses and children to collect the payments they are owed, and will make changes to a number of existing provisions in the bill to clarify that they will not directly or indirectly undermine the collection of child support or alimony payments.

I must highlight just a few of these important enhancements: our amendment prevents bankruptcy from holding up child custody and domestic violence cases. It facilitates wage withholding to collect child support from deadbeat parents. In addition, our amendment helps avoid administrative roadblocks to get kids the support they need. It makes staying current on child support a condition of discharge in bankruptcy. Also, our amendment makes the payment of child support arrears a condition of plan confirmation. Finally, it allows for the payment of child support with interest by those with means.

In the area of debtor education, I have developed an amendment that will protect from creditors contributions made to education IRAs and qualified state tuition savings programs for educational expenses. This is a significant protection for those who honestly put money away for the benefit of their children and grandchildren's future schooling. The potential that education savings accounts will be abused in bankruptcy is addressed by the amendment's requirement that only contributions made more than a year prior to bankruptcy are protected. I believe that protecting educational savings accounts is particularly important because college savings accounts encourage families to save for college, thereby increasing access to higher education. Nationwide, there are more than a million educational savings accounts, meaning there are more than a million children who could potentially benefit from this amendment. As much as I believe that bankruptcy laws need to be reformed to prevent abuse and to ensure debtors take personal responsibility, the ability to use dedicated funds to pay the educational costs of children should not be jeopardized by the bankruptcy of their parents or grandparents.

I developed a debt counseling incentive provision, which builds on the credit counseling provisions currently in S. 625. It removes any disincentive for debtors to use credit counseling services by prohibiting credit counseling services from reporting to credit reporting agencies that an individual has received debt management or credit counseling, and establishes a penalty for credit counseling services that do. Debt management education is vital to reducing the number of Americans who, because of poor financial planning skills, are forced to declare bankruptcy. Providing credit counseling—instruction regarding personal financial management—to current and potential bankruptcy filers will help curb bankruptcy filings.

In addition, I intend to offer an amendment that is designed to curb fraud in bankruptcy filings. This amendment puts in place new procedures and provides new resources to enhance of bankruptcy fraud laws. It will require (1) that bankruptcy courts develop procedures for referring suspected fraud to the FBI and the U.S. Attorney's Office for investigation and prosecution and (2) that the Attorney General designate one Assistant U.S. Attorney and one FBI agent in each judicial district as having primary responsibility for investigating and prosecuting fraud in bankruptcy.

I also plan to offer an amendment that allows the victim of a crime of violence or drug trafficking offense to move the bankruptcy court to dismiss a voluntary petition filed by a debtor who was convicted of the crime of violence or drug trafficking offense. To protect women and children who may be owed payments by such a debtor, however, the amendment still allows the bankruptcy petition to continue if the debtor can show that the filing of the petition is necessary to ensure his ability to meet domestic support obligations. Bankruptcy is not an entitlement—it is a process by which certain qualifying individuals with substantial debts may cancel their debts and obtain a "fresh start." Under this amendment, violent criminals and drug traffickers—individuals who have chosen to engage in serious, criminal conduct—would be precluded from availing themselves of the benefits of bankruptcy protection.

Mr. President, if we do not take the opportunity to reform our bankruptcy system, every family in my own State of Utah and throughout the Country, many of whom struggle to make ends meet, will continue to bear the financial burden of those who take advantage of the system. Last year alone, approximately \$45 billion in consumer debt was erased in personal bankruptcies. Losses of this magnitude are passed on the American families at an estimated cost—if we use low estimates—of \$400 for every household in America every year.

Rampant bankruptcy filings are a big problem. In 1998, 1.4 million Americans filed for bankruptcy. That was more Americans than graduated from college. That was also more Americans than were on active military duty.

Not long ago, I received a letter from a long list of organizations, ranging from the U.S. Chamber of Commerce to the National Ski and Snowboard Retailers Association, the American Sheep Industry Association, the National Cattlemen's Beef Association and the National Multi-Housing Council. In the letter, they drove home the importance of this legislation to small businesses. I would like to read a quote from that letter:

Delay of this will . . . hurt America's small businesses—the heart and soul of this nation. These hard-working entrepreneurs, trying to live out their American dream, can

be financially devastated by one "bankruptcy of convenience". Additionally, frivolous bankruptcy filings force businesses to charge more for goods and services. This is why small business owners throughout the country are calling on Congress to repair our fundamentally flawed bankruptcy system—they've waited long enough.

In closing, let me say I hope we can move through this bill in a timely and orderly fashion. I hope Members who intend to offer amendments do so sooner rather than later, so we may consider as many amendments as we can and hopefully finish consideration of this bill by early next week. I look forward to doing what I can to help Senators GRASSLEY and TORRICELLI move this process along.

I do not think this is going to be difficult given the many compromises already reached in this legislation. This bill is fair, balanced, and long overdue.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent during consideration of S. 625, the following staffers be extended the privilege of the floor: Rene Augustine, Makan Delrahim, Kolan Davis, John McMickle, Kyle Sampson, and Leah Belaire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I again commend Senators GRASSLEY and TORRICELLI for the great work they have done and all members on the Senate Judiciary Committee for having worked so hard to get this bill ready for presentation today. I hope we can pass it quickly. With that, I end my remarks and turn the time over to Senator SESSIONS.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank Senator HATCH, who made very impressive remarks on this subject, for his leadership as chairman of the Judiciary Committee. I particularly wish to express my appreciation to the Presiding Officer who has led this effort since I have been in the Senate to reform our bankruptcy court system. Make no mistake about it, we are talking about a Federal court system that provides the ability for individual Americans, who legitimately owe debts to people not to pay their debts and to wipe those debts out.

This is a historic American principle. We have had bankruptcy courts. They are referred to in the Constitution of the United States. They are uniquely and totally a Federal court procedure.

I think it is appropriate for us to make timely changes as the nature of our times in court change. We review what is happening and make sure our law is effective to accomplish the best and highest ideals of the American people.

We last passed historic bankruptcy reform in 1978. We have not since that time confronted the issue squarely and fundamentally and comprehensively to see what is happening and see what we

can do about it. Any Federal court system must be fair, it must be coherent and logical, it must be commonsensical, and it must help us further our economic growth and vitality as a nation.

At the same time, any legal system we establish, as the Chair so eloquently said, has a moral component. We need to make sure as a nation that our bankruptcy laws encourage the highest and best ideals of the American people. In fact, all laws should do that; particularly, I suggest, bankruptcy laws. We believe, as Americans, that people who get hopelessly in debt ought to be able to start over and not have their lives forever burdened by debts they could never repay. That is the historic principle. We should not retreat from that, and certainly this bill reflects no retreat from that.

But it is never a good thing to go into bankruptcy. It is an unfortunate event, when people reach a point in their lives when they are unable to pay a just debt they incurred because they got some benefit from that debt. They borrowed money to buy a TV set; they borrowed money to buy a car; they borrowed money to take a trip. Somebody loaned them that money. The purpose of that loan was to have it repaid, and most people believe they ought to repay that debt. If ever in this country we believe that we do not have to pay debts, because it is inconvenient or difficult, we have a real problem because the ability of honest and hard-working people to obtain loans is going to be much more difficult.

An individual citizen should pay his or her debt. It is possible—and we made great progress, Mr. President, under your leadership—to create a system that does allow people to start over. But at the same time, it does not reward those who lightly walk away from debts they have every ability to repay either in whole or in part. Fundamentally, the way this system works is very unusual, in many respects. If a person makes a salary of \$80,000 and if that person has a debt of \$50,000 and that is the only debt they have, it may strike you they could easily pay it off in 2 or 3 years without a great deal of strain, perhaps. It may strike Americans as strange to realize, regardless of their ability to pay it off in relatively short order, they could walk into bankruptcy court, file under chapter 7, and wipe out that debt and not ever have to pay it. Some people do that and abuse the system.

I heard recently of an individual who made \$35,000 a year, had a \$1,500 debt, and filed for bankruptcy because he did not want to pay that debt. That kind of thing happens in our court. That is an extreme example, but there are less extreme examples of it on a routine basis. If a person is able to pay back a part of their debt, why should they not?

You say, well, it was for a hospital. Why should the hospital not get paid if he can pay some of his legitimate hospital bills? Why would we not want

them to do that? Why should we say to an honest person who struggles to pay the hospital bill: You are just a chump; you are the clever guy, you went and got a lawyer, paid him \$1,000, and he is going to wipe out your \$3,000 debt to the hospital. If a person cannot pay their hospital bill, if they cannot pay their other bills, if their income will not support it, then bankruptcy is for them. But there are abuses, I assure you, and they are quite common—too common, I suggest.

There is a strange tendency in the filings, whether you file under chapter 13 or chapter 7—as you know, when you file in chapter 7, you simply offer up your assets, wipe out all your debts and walk away, never to have to pay any of those debts again. If you file under chapter 13, the court will work with you and your attorney and develop a repayment plan for all or a portion of that debt. They will stay the interest that is accruing on the debts. They will say how much ought to be paid to each creditor. They will keep those creditors from suing or filing any harassment action against the person paying them off until the debts are paid.

In my home State of Alabama, in Birmingham, which is where chapter 13 payments began quite a number of years ago, over half, maybe more than 60 percent of the individual citizens, for some reason—for various reasons—have chosen to file under chapter 13 and pay back all or a portion of their debts. But in some of the larger urban areas of this country, that figure is even under 10 percent. Routinely, the lawyers come in and advise their clients to file under chapter 7. They file under chapter 7 and wipe out all their debts when many of those could easily pay them back.

There are some good reasons why people would want to file under chapter 13 and pay back a lot of the debts they owe. They will be able to have more self respect as individuals if they pay off their debts. It stops the creditors from suing them, the phone calls, and the harassment that might come when you owe many different debts. You have a better credit rating when you have paid off your debts, and you are able to keep certain items you might not be able to keep otherwise. There are other advantages to filing chapter 13.

If a court were to decide, as they could under our new law, that you have the ability to pay back and you are shifted to chapter 13, it is not all bad. There are many reasons why a careful lawyer representing a client would suggest chapter 13 is a good way to go.

So we have a system today that is very enticing to the irresponsible. We have a system today that is driven by a lot of different factors. One factor is the advertisements we see on television describing how to avoid your debts.

People see those advertisements and then go to the attorneys who specialize in bankruptcy. The attorneys tell them: You have these debts, and the

easy thing to do is file chapter 7; I will file your bankruptcy for \$700, \$1,000, and you will not have to pay any more debts. You have to put everything you have on your credit card for the next 3 months. Do not pay any bills; do not pay any of your payments on any of your notes; take that money and give it to me; set aside the rest of it; we will file bankruptcy and just wipe it all out.

That is what is happening in America today. People are induced to do that.

I thought about it: Do they know? People get depressed and get panicky. They do not know what to do. People are suing them and threatening them. They go to their lawyer and ask for advice. I am of the opinion that at least a significant minority of those individuals want to pay their debts, but for various reasons they are in trouble and unable.

I visited in my hometown of Mobile an outstanding institution, a nonprofit credit counseling agency. That agency meets with families who are in financial trouble. The people at this agency sit down with these families and help them work out a budget. It helps the family members understand the consequences of spending. It helps them to set priorities on which debt to pay first. It helps them to set up a savings plan. Sometimes they will even receive the check and pay certain debts that are required and give the family a certain amount of cash to use for their weekly or monthly bills.

Normally, they bank the credit card companies, the banks, and other people who have claims against the family and negotiate a lower interest rate. They are able to do that. Companies will do it. And the families can pay off those debts in that fashion. It is highly successful.

One of the main reasons for divorce in America today is financial difficulty. That is a known fact. As a matter of fact, it is the main reason. These nonprofit agencies encourage people to undergo marital counseling. A lot of people are in financial trouble because of alcoholism. Credit counseling or nonprofit agencies care about the people who come before them and help them get alcoholism treatment or help them get into AA.

Many gamblers are in financial trouble. One member of the family gambles and has lost the money. This is a known fact. They get people into Gamblers Anonymous and help save their family.

Maybe they need mental health treatment. They can oftentimes get them into those treatment facilities. That kind of thing is healthy.

One of the things I suggested, something with which the chairman, Senator GRASSLEY, and others on the committee agreed, is before you file for bankruptcy, you have to contact a credit counseling agency and discuss with them the possibility of choosing an alternative to filing for bankruptcy. The truth is, most people want to pay their debts. They just do not know how

to do it in a way that will be OK in light of the creditors pressing on them.

We believe that can be a significant step forward in helping people in debt. They can be counseled by experts in money management on how to handle their money and get out of debt on their own, how to maintain their self-respect and pride, and to actually pay off the debts.

If you get a loan from your brother-in-law or if you borrow money from the bank, you ought to pay it back if you can. This bill encourages that.

There are people with high incomes who are filing for bankruptcy today. We have heard the stories of young lawyers and young professionals who get a new car, have student loans and \$5,000 or \$6,000 in credit card bills, and the creditors are calling. They do not really want to slow down. They can just file for bankruptcy and wipe out these debts. That is not right. We will be focusing on that.

It will not burden poor people. Credit counselors will have to be approved by the bankruptcy court. They will be nonprofit individuals who will be audited on a regular basis. These are the steps I believe will encourage people to avoid filing bankruptcy.

This bill will be a major step forward for families who are entitled to child support and alimony. They will be moved to the top of the priority list. It will be a great step forward for them. Child support and alimony will be improved.

A bankruptcy system for farmers that is adjusted to their unique problems will be enhanced and made permanent by this legislation. Senator GRASSLEY has been a champion of those issues for many years, and he has achieved that again in this bill. We will make it permanent with this bill.

I respect the work the Senator from Iowa is doing. This is a good piece of legislation. It calls on individuals to pay what they can. It allows judges to consider the circumstances involved before an order is given. It will improve the respect businesses and Americans have for bankruptcy if they know it is not being abused as it is today. We can stop it, and we can do better. This bill will do that.

There are loopholes that good lawyers have learned to exploit. I do not blame the lawyers for it. If we have it in the law of Congress that says this is appropriate, they are going to use it to the benefit of their clients.

We had a circumstance in which a tenant's 1-year lease had expired. He had not paid his debts. The landlord wanted to evict him. He filed for bankruptcy. People are filing all over America and getting a stay of legal action, causing the landlord to hire a lawyer and wait several more months before he can get the person removed from the premises. Maybe he never intended to lease it for more than 1 year anyway. Maybe he had another tenant to take the place after 12 months. That person, through abuse of the bankruptcy sys-

tem, could do that. That is very common in America.

Many of these problems are being addressed. I know the chairman believes strongly that creditors ought not have lawyers go down to court all the time. The bill allows you to represent yourself, if you choose, in bankruptcy court under many circumstances.

This legislation will improve the system of law in Federal courts. It will have a more just result. It will stop individuals who are able to pay back all or a portion of their debts from walking into court and wiping out their debts. This bill will stop that.

For people in serious debt who fall below the median income of America, they will be able to choose chapter 7 or 13. But for those with higher incomes, if they have the ability to pay the debts, we think this bill will make them do so, or at least a portion of what they owe, if the judge so orders. It is a step in the right direction.

I am proud to serve on the subcommittee which Senator GRASSLEY chairs. This bill is a step forward for our courts. I hope as we move forward we will have the support we had previously. It passed in this body last year with 94 out of 100 votes. It is essentially the same bill. It passed in our committee by a vote of 14-4. It passed the House with 303 votes to 100. It is a popular bill. It has broad bipartisan support. It has dragged on for far too long. It is time for us to see it to conclusion.

I thank the chairman for his leadership, determination, and persistence in driving this bill to a successful conclusion.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I now ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 1:29 p.m., a message from the House of Representatives, delivered by Mr. Barry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2389. An act to restore stability and predictability to the annual payments made to States and counties containing National Forest System lands and public domain

lands managed by the Bureau of Land Management for use by the counties for the benefit of public schools, roads, and other purposes.

At 2:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 75. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3194) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. YOUNG of Florida, Mr. LEWIS of California, and Mr. OBEY as the managers of the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, received on today, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 75. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6014. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Brazil; to the Committee on Foreign Relations.

EC-6015. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC-6016. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to the United Arab Emirates; to the Committee on Foreign Relations.

EC-6017. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services