



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147

WASHINGTON, TUESDAY, JULY 31, 2001

No. 109

House of Representatives

APPOINTMENT OF CONFEREES ON H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 333) to amend title 11, United States Code, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. BALDWIN of Wisconsin moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the House bill (H.R. 333) be instructed to agree to title X (relating to protection of family farmers and family fishermen) of the Senate amendment.

The SPEAKER pro tempore (Mr. SUNUNU). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Wisconsin (Ms. BALDWIN) each will control 30 minutes.

The Chair recognizes the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Chapter 12 bankruptcy protection was created to help farmers in crisis keep their family farms. H.R. 333 makes Chapter 12 permanent. While waiting for this comprehensive bankruptcy reform legislation, Chapter 12 has expired five times. Just during the current Congress, we have been forced to pass two extensions to Chapter 12. It is time to treat our family farmers with the respect that they have earned. Adjusting eligibility to more properly reflect the needs of real family farmers

would make a significant improvement to the underlying bill.

This motion on H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001 would instruct the House conferees to accept Senate language on Chapter 12 bankruptcy protection. The other body expanded the definition of family farmer to allow more family farmers to file under the protections of Chapter 12. These changes do three simple things to allow more of our family farmers to qualify for Chapter 12 bankruptcy protection.

First, the amendment will increase from \$1.5 million to \$3 million the amount of aggregate debt that may be accrued by the family farmer. This is necessary because many family farmers accrue more than the \$1.5 million in debt before filing for bankruptcy.

Second, the amendment will reduce from 80 percent to 50 percent the value of a family farm's aggregate non-contingent liquidated debts that must be related to the farming operation. Again, this expanded definition will allow for more families to keep their farms under chapter 12 rather than having to liquidate their farm assets.

Finally, under current law, the person or family must earn more than 50 percent of their gross income from farming in the year prior to bankruptcy. The amendment would look at one of the last 3 years prior to the bankruptcy rather than just the prior year. This change is very important because many farm families split their time between farm and other employment out of necessity. It is not at all unusual for one spouse to work on a nonfarm job to secure health or other benefits for the entire family. In a year prior to declaring bankruptcy, that nonfarm income may easily exceed farm-related income, since low prices and crop failures can dramatically reduce gross income in that year. Looking at one of the 3 years prior to bank-

ruptcy filing will keep true family farms from being denied chapter 12 relief.

During committee consideration, I proposed similar language to expand the definition of family farmer. The majority did not accept the amendment due to a desire to maintain the language negotiated by the Bankruptcy Conference Committee in the 106th Congress in an attempt to avoid a conference committee in this session. My discussions with the bill's author and others in the majority revealed no substantive objection to expanding this definition. Now that the other body has decided to include it in their version of the bill, I hope the House will incorporate it into the bill.

This motion also instructs conferees to accept the Senate language with respect to extending chapter 12 bankruptcy protection to family fishermen. Family fishermen face the same type of financial pressures that are beyond their control as family farmers do. They harvest the oceans like our family farmers harvest the land. Allowing family fishermen to reorganize their debts without losing their equipment that is essential to their livelihood will ensure the continued viability of our family fishermen.

Mr. Speaker, I urge my colleagues to vote in favor of this motion to instruct conferees to accept the chapter 12 positions from the other body. These commonsense amendments will improve the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001 to protect some of the most vulnerable families in America and allow them to maintain their farms and their livelihoods.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their

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remarks and to include extraneous material on the motion to instruct conferees currently under debate.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume first to state that I have no objection to the motion to instruct, and I would urge that the House go on and speedily approve it, hopefully without a rollcall.

Secondly, a concern that I have, and I am looking at the Senate amendment and I am not sure whether it is properly drafted, is to make sure that a family fisherman is a commercial fisherman, rather than having someone claim to be a sport fisherman and thus protecting very expensive yachts, that are used occasionally for fishing purposes, from being sold and the assets distributed amongst the creditors. So the provision in the Senate bill might need some clarification.

But with that reservation, I am happy to support the motion to instruct.

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

Ms. BALDWIN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. NADLER), a member of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I rise in support of the motion offered by the gentlewoman from Wisconsin, and I want to commend her for her consistent and forceful stand on behalf of this Nation's embattled family farmers.

The proposed instruction is very straightforward and should not draw any opposition. The Senate language represents a bipartisan consensus that family farmers and embattled family fishermen who now face a crisis ought to be able to reorganize their debts and continue the work on the land or on the water that their families have pursued for generations. That is what this is all about.

The Senate language would expand eligibility for chapter 12 to reflect the current economic realities, not the economic realities of 1986. It increases eligibility from \$1.5 million in debt to \$3 million in debt. The House bill does not do that. It merely allows the amounts to be adjusted in the future, but does not take into account 15 years of inflation.

Like the House bill, the Senate provision would make chapter 12 permanent. Unlike the House bill, it would recognize for the first time that many family farmers, especially those in distress, do not receive more than 50 percent of their income from farming because one spouse may need to work off the farm to keep the farm afloat. We should not now penalize these people for doing everything in their power to avoid bankruptcy through hard work.

The proposed amendment also extends chapter 12 protection to family

fishermen for the first time. They too are subject to the stresses of fluctuating commodity prices, and they also have similar problems of large capital investments and significant preseason debts against the coming harvest which characterize family farmers, and for which chapter 12 has been specifically tailored.

Chapter 12 is not a bailout, it is merely a way for a family farmer, or as we extend it for a family fisherman, to reorganize debts and stay on the land or on the water. It protects family farmers from being swallowed up by agribusiness or suburbanization, it protects our watersheds and drinking water, and it protects those families and communities who have been the backbone of rural America and of our Nation.

Again I commend the gentlewoman from Wisconsin for this motion, and I urge everyone to support it.

Ms. BALDWIN. Mr. Speaker, I yield myself such time as I may consume to respond to the gentleman's concerns relating to the language adopted in title X by the other body. As I read the definition of family fisherman, I feel quite confident that this is limited to commercial fishing enterprises and operations and that the gentleman's concern of individuals trying to protect yachts and other luxury boats not used in a commercial fishing venture would not be covered under this.

I am wondering whether the gentleman is supportive of the entire motion or whether he might want to read and satisfy himself that this is indeed protecting only commercial fishing operations.

Mr. SENSENBRENNER. Mr. Speaker, will the gentlewoman yield?

Ms. BALDWIN. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I am not sure that the definition of commercial fishing operation contained in section 1007 in the Senate bill is sufficiently tightly worded to prevent someone who uses a yacht for sport fishing and derives income therefrom from being able to protect the yacht under the bankruptcy code. That is what my concern is.

What I am suggesting to the gentlewoman from Wisconsin, my colleague, is that perhaps section 1007 should be looked at very closely to make sure we are not creating a loophole and that it not be treated as holy writ, not subject to any modification whatsoever.

Mr. CONYERS. Mr. Speaker, I rise in strong support of the Motion to Instruct. This will put the House on the record as supporting Senate passed provisions that are more favorable to our farmers and fishermen.

We always talk about the special need to protect our farmers. They face harsh weather and are constantly being squeezed by corporate farms and huge buyers and wholesalers. The least we can do is help honest farmers and fishermen reorganize their affairs so they can stay in business.

The Senate bill is preferable to the House bill in four key respects. First, it reduces from

80 percent to 50 percent the amount of total debt that must be related to farming. Many farm families are forced to seek multiple outside jobs in order to keep their farms afloat. This should not be a reason that you lose your farm in bankruptcy.

Second, the Senate provision permits family farmers to file for Chapter 12 if they meet the 50 percent requirement in any of the three years prior to filing. For farm families that split their income, low prices or crop failures can dramatically reduce gross income in the year prior to filing. Allowing consideration of any of three years prior to filing will keep farm families from being unfairly denied Chapter 12 relief.

Third, the Senate provision increases the jurisdictional debt limit for filing Chapter 12 from \$1.5 million to \$3 million. This new figure offsets the effects of inflation of the last 15 years. The \$1.5 million limit was established in 1986.

Finally, the Senate bill extends protections to family fishermen so they can protect their boats and fishing equipment. Like agricultural farmers, fishermen face a hostile economic environment and thousands of fishermen leave the business every year. There is no reason to discriminate between family farmers and family fishermen in providing basic key protections.

These provisions will help rural and coastal communities retain their unique character and allow farmers and fishermen to keep their farms and boats. I urge a yes vote on the Motion to Instruct.

Ms. BALDWIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Wisconsin (Ms. BALDWIN).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on the Judiciary for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, HYDE, GEKAS, SMITH of Texas, CHABOT, BARR of Georgia, CONYERS, BOUCHER, NADLER, and WATT of North Carolina.

From the Committee on Financial Services, for consideration of sections 901 through 906, 907A through 909, 911, and 1301 through 1309 of the House bill, and sections 901 through 906, 907A through 909, 911, and 913-4 and title XIII of the Senate amendment, and modifications committed to conference: Messrs. OXLEY, BACHUS, and LAFALCE.

From the Committee on Energy and Commerce, for consideration of title XIV of the Senate amendment, and modifications committed to conference: Messrs. TAUZIN, BARTON of Texas, and DINGELL.

From the Committee on Education and the Workforce, for consideration of section 1403 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, CASTLE and KILDEE.

There was no objection.

□ 1845

RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1140) to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries, as amended.

The Clerk read as follows:

H.R. 1140

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 “Railroad Retirement and Survivors’ Improvement Act of 2001”.

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

Sec. 101. Expansion of widow’s and widower’s benefits.

Sec. 102. Retirement age restoration.

Sec. 103. Vesting requirement.

Sec. 104. Repeal of railroad retirement maximum.

Sec. 105. Investment of railroad retirement assets.

Sec. 106. Elimination of supplemental annuity account.

Sec. 107. Transfer authority revisions.

Sec. 108. Annual ratio projections and certifications by the Railroad Retirement Board.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 201. Amendments to the Internal Revenue Code of 1986.

Sec. 202. Exemption from tax for National Railroad Retirement Investment Trust.

Sec. 203. Repeal of supplemental annuity tax.

Sec. 204. Employer, employee representative, and employee tier 2 tax rate adjustments.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

SEC. 101. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.

(a) **IN GENERAL.**—Section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) is amended by adding at the end the following new subdivision:

“(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow’s or widower’s initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work, without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the

Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to section 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security Act.

“(ii) For the purposes of this subdivision, the widow or widower’s initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

“(A) in subsection (g)(1)(i) ‘100 per centum’ shall be substituted for ‘50 per centum’; and

“(B) in subsection (g)(2)(ii) ‘130 per centum’ shall be substituted for ‘80 per centum’ both places it appears.

“(iii) If a widow or widower who was previously entitled to a widow’s or widower’s annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow’s or widower’s annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow’s or widower’s annuity under section 2(d)(1)(i) of this Act.”.

(b) EFFECTIVE DATE.—

(1) **IN GENERAL.**—The amendment made by this section shall take effect on the first day of the first month that begins more than 30 days after enactment, and shall apply to annuity amounts accruing for months after the effective date in the case of annuities awarded—

(A) on or after that date; and

(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 357).

(2) **SPECIAL RULE FOR ANNUITIES AWARDED BEFORE THE EFFECTIVE DATE.**—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow’s or widower’s annuity.

SEC. 102. RETIREMENT AGE RESTORATION.

(a) **EMPLOYEE ANNUITIES.**—Section 3(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(2)) is amended by inserting after “(2)” the following new sentence: “For purposes of this subsection, individuals entitled to an annuity under section 2(a)(1)(ii) of this Act shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act).”.

(b) **SPOUSE AND SURVIVOR ANNUITIES.**—Section 4(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)(2)) is amended by striking “if an” and all that follows through “section 2(c)(1) of this Act” and inserting “a spouse entitled to an annuity under section 2(c)(1)(B) of this Act”.

(c) **CONFORMING REPEALS.**—Sections 3(a)(3), 4(a)(3), and 4(a)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(3), 231c(a)(3), and 231c(a)(4)) are repealed.

(d) EFFECTIVE DATES.—

(1) **GENERALLY.**—Except as provided in paragraph (2), the amendments made by this section shall apply to annuities that begin to accrue on or after January 1, 2002.

(2) **EXCEPTION.**—The amount of the annuity provided for a spouse under section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)) shall be computed under section 4(a)(3) of such Act, as in effect on December 31, 2001, if the annuity amount provided under section 3(a) of such Act (45 U.S.C. 231b(a)) for the individual on whose

employment record the spouse annuity is based was computed under section 3(a)(3) of such Act, as in effect on December 31, 2001.

SEC. 103. VESTING REQUIREMENT.

(a) **CERTAIN ANNUITIES FOR INDIVIDUALS.**—Section 2(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)) is amended—

(1) by inserting in subdivision (1) “(or, for purposes of paragraphs (i), (iii), and (v), five years of service, all of which accrues after December 31, 1995)” after “ten years of service”; and

(2) by adding at the end the following new subdivision:

“(4) An individual who is entitled to an annuity under paragraph (v) of subdivision (1), but who does not have at least ten years of service, shall, prior to the month in which the individual attains age 62, be entitled only to an annuity amount computed under section 3(a) of this Act (without regard to section 3(a)(2) of this Act) or section 3(f)(3) of this Act. Upon attainment of age 62, such an individual may also be entitled to an annuity amount computed under section 3(b), but such annuity amount shall be reduced for early retirement in the same manner as if the individual were entitled to an annuity under section 2(a)(1)(iii).”.

(b) **COMPUTATION RULE FOR INDIVIDUALS’ ANNUITIES.**—Section 3(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

“(3) If an individual entitled to an annuity under section 2(a)(1)(i) or (iii) of this Act on the basis of less than ten years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(a)(1)(i) or (iii) of this Act, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began, or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.”.

(c) **SURVIVORS’ ANNUITIES.**—Section 2(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(d)(1)) is amended by inserting “(or five years of service, all of which accrues after December 31, 1995)” after “ten years of service”.

(d) **LIMITATION ON ANNUITY AMOUNTS.**—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

“(i) An individual entitled to an annuity under this section who has completed five years of service, all of which accrues after 1995, but who has not completed ten years of service, and the spouse, divorced spouse, and survivors of such individual, shall not be entitled to an annuity amount provided under section 3(a), section 4(a), or section 4(f) of this Act unless the individual, or the individual’s spouse, divorced spouse, or survivors, would be entitled to a benefit under title II of the Social Security Act on the basis of the individual’s employment record under both this Act and title II of the Social Security Act.”.

(e) **COMPUTATION RULE FOR SPOUSES’ ANNUITIES.**—Section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

“(3) If a spouse entitled to an annuity under section 2(c)(1)(ii)(A), section