

Qadhafi refuses to accept the judgment of the Scottish court or to comply with the requirements of the Security Council under existing resolutions: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),*

#### SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the "Justice for the Victims of Pan Am 103 Resolution of 2001".

#### SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the entire international community should condemn, in the strongest possible terms, the Government of Libya and its leader, Colonel Muammar Qadhafi, for support of international terrorism, including the bombing of Pan Am 103;

(2) the Government of Libya should immediately—

(A) make a full and complete accounting of its involvement in the bombing of Pan Am 103;

(B) accept responsibility for the actions of Libyan officials;

(C) provide appropriate compensation to the families of the victims of Pan Am 103; and

(D) demonstrate in word and deed a full renunciation of support for international terrorism;

(3) the President should instruct the United States Permanent Representative to the United Nations to use the voice, and, if necessary, the vote of the United States, to maintain United Nations sanctions against Libya until all conditions laid out or referred to in the applicable Security Council resolutions are met; and

(4) the President should instruct the United States Permanent Representative to the United Nations to seek the reimposition of sanctions against Libya currently suspended in the event that Libya fails to comply with those United Nations Security Council resolutions.

#### SEC. 3. POLICY OF THE UNITED STATES TOWARD LIBYA.

It should be the policy of the United States to—

(1) oppose the removal of United Nations sanctions until the Government of Libya has—

(A) made a full and complete accounting of its involvement in the bombing of Pan Am 103;

(B) accepted responsibility for the actions of Libyan officials;

(C) provided appropriate compensation to the families of the victims of Pan Am 103; and

(D) demonstrated in word and deed a full renunciation of support for international terrorism; and

(2) maintain United States sanctions on Libya, including those sanctions on all forms of assistance and all other United States restrictions on trade and travel to Libya, until—

(A) the Government of Libya has fulfilled the requirements of United Nations Security Council Resolutions 731, 748, 883, and 1192;

(B) the President—

(i) certifies under section 620A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(c)) that Libya no longer provides support for international terrorism; and

(ii) has provided to Congress an explanation of the steps taken by the Government of Libya to resolve any outstanding claims against that government by United States persons relating to international terrorism; and

(C) the Government of Libya is not pursuing weapons of mass destruction or the means to deliver them in contravention of United States law.

#### SEC. 4. TRANSMITTAL OF CONCURRENT RESOLUTION.

The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 42. Mrs. BOXER (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table.

SA 43. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 44. Mr. WYDEN (for himself, Mr. BAUCUS, Mrs. MURRAY, and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 45. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 46. Mr. DURBIN (for himself, Mrs. CLINTON, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 47. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 48. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 49. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 50. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 51. Mr. FEINGOLD (for himself, and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 52. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 53. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 54. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 55. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 56. Mr. LEAHY (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 57. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 58. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 59. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 60. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 61. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 62. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 63. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 64. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 65. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 66. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 67. Mr. KOHL (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill S. 420, supra; which was ordered to lie on the table.

SA 68. Mr. KOHL (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by them to the bill S. 420, supra; which was ordered to lie on the table.

SA 69. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 70. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 71. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 72. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 73. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 74. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 75. Mr. DODD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill S. 420, supra; which was ordered to lie on the table.

SA 76. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 77. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 78. Mr. WYDEN (for himself, Mr. BAUCUS, and Mrs. MURRAY) submitted an amendment intended to be proposed

by them to the bill S. 420, supra; which was ordered to lie on the table.

SA 79. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 80. Mr. BREAUX (for himself, Mr. SPECTER, Mrs. LINCOLN, Mr. JOHNSON, Ms. LANDRIEU, Mr. NELSON of Nebraska, Mr. CLELAND, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by them to the bill S. 420, supra; which was ordered to lie on the table.

SA 81. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 82. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 83. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 84. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 85. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 86. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 87. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 88. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 89. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 90. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 91. Mr. LEVIN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 92. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 93. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 420, supra; which was ordered to lie on the table.

SA 94. Mr. BREAUX (for himself, Mr. SPECTER, and Mrs. LINCOLN, Mr. JOHNSON, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. CLELAND, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by them to the bill S. 420, supra; which was ordered to lie on the table.

SA 95. Mr. SMITH of Oregon (for himself and Mr. WYDEN) proposed an amendment to amendment SA 78 pro-

posed by Mr. WYDEN to the bill S. 420, supra.

#### TEXT OF AMENDMENTS

SA 42. Mrs. BOXER (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 310.

SA 43. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes, which was ordered to lie on the table; as follows:

On page 173, line 11, strike "discharge a debtor" and insert "discharge an individual debtor".

On page 244, line 8, strike "described in section 523(a)(2)" and insert "described in subparagraph (A) or (B) of section 523(a)(2) that is owed to a domestic governmental unit or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31, United States Code, or any similar State statute."

SA 44. Mr. WYDEN (for himself, Mr. BAUCUS, Mrs. MURRAY, and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes, which was ordered to lie on the table; as follows:

After section 419, insert the following:

#### SEC. 420. NONDISCHARGEABILITY OF DEBTS ARISING FROM THE EXCHANGE OF ELECTRIC ENERGY.

(a) IN GENERAL.—Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(6) The confirmation of a plan does not discharge a debtor—

"(A) in the case of a debtor that is a corporation, from any debt for wholesale electric power received that is incurred by that debtor under an order issued by the Secretary of Energy (or any amendment of or attachment to that order) under section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) and requested by the California Independent System Operator; or

"(B) in the case of debt owed to a Federal, State, or local government agency named in an order referred to in subparagraph (A) for wholesale electric power received by the debtor."

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

(1) in paragraph (28), as added by section 907(d) of this Act, by striking "or" at the end;

(2) in paragraph (29), as added by section 1106 of this Act, by striking the period at the end and inserting "; or"; and

(3) by inserting after that paragraph (29) the following:

"(30) under subsection (a), of the commencement or continuation, and conclusion to the entry of final judgment or order, of a judicial, administrative, or other action or proceeding for debts that are nondischargeable under section 1141(d)(6)."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1141(a) of title 11, United States Code, is amended by striking "subsections (d)(2) and (d)(3) of this section" and inserting "paragraphs (2), (3), and (6) of subsection (d)".

(d) APPLICABILITY.—This section and the amendments made by this section shall apply with respect to any petition for bankruptcy filed under title 11, United States Code, on or after March 1, 2001.

SA 45. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, strike line 9 and all that follows through page 203, line 14, and insert the following:

"(e) In a small business case—

"(1) not later than 45 days after the date of the order for relief, the court shall conduct a status conference pursuant to section 105(d) and, after consideration of relevant facts and circumstances, shall fix a deadline for the filing of a plan and disclosure statement; and

"(2) the deadline established by the court in the status conference referred to in paragraph (1) may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates a reasonable likelihood 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."

On page 208, line 10, insert ", absent unusual circumstances specifically identified by the court," after "shall".

On page 208, line 15, insert ", absent unusual circumstances specifically identified by the court," after "granted".

On page 208, line 16, strike "establishes" and all that follows through "filed" on line 19 and insert the following: "establishes that—

"(A) there is a reasonable likelihood that a plan will be confirmed".

Redesignate sections 439 through 445 as sections 438 through 444, respectively.

Amend the table of contents accordingly.

SA 46. Mr. DURBIN (for himself, Mrs. CLINTON, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XIII, add the following:  
**SEC. 1311. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.**

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(1)(A) In a clear and conspicuous manner, repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

"(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

"(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made;

"(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly

payments and if no further advances are made; and

“(iv) the following statement: ‘If your current rate is a temporary introductory rate, your total costs may be higher.’”

“(B) In making the disclosures under subparagraph (A) the creditor shall apply the annual interest rate that applies to that balance with respect to the current billing cycle for that consumer in effect on the date on which the disclosure is made.”

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 105 of the Truth in Lending Act (15 U.S.C. 1604) for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this paragraph.

(C) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: “In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or of paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a) or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b).”

(2) DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(1)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B)) is amended by adding at the end the following:

“(iv) CREDIT WORKSHEET.—An easily understandable credit worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

“(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement must appear in a clear and conspicuous manner: ‘Your preapproval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.’”

“(vi) AVAILABILITY OF CREDIT REPORT.—That the consumer is entitled to a copy of his or her credit report in accordance with the Fair Credit Reporting Act.”

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 105 of the Truth in Lending Act (15 U.S.C. 1604) for the purpose of compliance with section 127(c)(1)(B) of the Truth in Lending Act, as amended by this paragraph.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 2002.

Amend the table of contents accordingly.

SA. 47. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes;

which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

**SEC. 204. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code, is amended as follows—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(10) the claim is based on a secured debt, if the creditor has materially failed to comply with any applicable requirement under subsection (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).”

SA. 48. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 306 and insert the following:

**SEC. 306. RESTORING THE FOUNDATION FOR SECURED CREDIT.**

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

“(e) In an individual case under chapter 13—

“(1) except for the purpose of applying paragraph (3) of this subsection, subsection (a) shall not apply to an allowed claim that is attributable to the purchase price of personal property if—

“(A) the holder of the claim has a security interest in that property; and

“(B) the property was purchased by the debtor within 180 days before the date of filing of the petition;

“(2) if an allowed claim referred to in paragraph (1) is secured only by the personal property acquired, the value of the personal property described in that paragraph and the amount of the allowed secured claim shall be the sum of—

“(A) the unpaid principal balance of the purchase price; and

“(B) the accrued and unpaid interest and charges at the applicable contract rate attributable to such property;

“(3) if an allowed claim referred to in paragraph (1) is secured by the personal property described in that paragraph and other property, the value of the security may be determined under subsection (a), except that the value of the security and the amount of the allowed secured claim shall not be less than—

“(A) the unpaid principal balance of the purchase price of the personal property described in paragraph (1); and

“(B) any unpaid interest and charges at the contract rate attributable to the property acquired; and

“(4) in any case under this title that is filed subsequently by or against the debtor in the original case, the value of the personal property described in paragraph (1) and the amount of the allowed secured claim with respect to that property shall be deemed to be not less than an amount determined in the same manner as the original under paragraph (2) or (3).”

Amend the table of contents accordingly.

SA 49. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.**

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

“(14B) incurred to pay fines or penalties imposed under Federal election law;”

Amend the table of contents accordingly.

SA 50. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.**

Section 105 of title 11, United States Code, is amended by adding at the end the following:

“(e) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not file for bankruptcy under this title.”

Amend the table of contents accordingly.

SA 51. Mr. FEINGOLD (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 439, strike line 19 and all that follows through page 440, line 12.

Amend the table of contents accordingly.

SA 52. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 152, strike line 9 and all that follows through page 153, line 20, and insert the following:

“(4) For purposes of paragraph (1)(B), the term ‘household goods’ includes tangible personal property normally found in or around a home, but does not include motorized vehicles used for transportation purposes.”

SA 53. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

**SEC. 233. PROHIBITION ON ASSERTING CLAIMS IN CASES OF VIOLATIONS OF THE PRIVACY PROTECTIONS OF THE GRAMM-LEACH-BLILEY ACT.**

A creditor that fails to comply with the financial privacy requirements of subtitle A of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.), may not assert any claim under this Act or title 11, United States Code, as amended by this Act, against any debtor for the amount of a debt that the debtor accrues on a credit card that is issued in violation of any such financial privacy requirements.

SA 54. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 151, strike line 23 and all that follows through page 152, line 3, and insert 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 a case filed under chapter 7 of this title during the one-year period preceding the date of the order for relief under this chapter.”

SA. 55. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 318 and insert the following:  
**SEC. 318. CHAPTER 13 PLAN 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 not longer than 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 that is longer than 3 years, but not longer than 5 years.”

Amend the table of contents accordingly.

SA 56. Mr. LEAHY (for himself, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, strike line 6 and all that follows through page 25, line 6.

On page 25, line 7, strike “(i)” and insert “(h)”.

SA 57. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1224.

SA 58. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1235 and insert the following:

**SEC. 1235. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.**

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking “Subject to subsection (b),” and inserting “Subject to subsections (b) and (d)(2),” and

(2) in subsection (d)—

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

(B) by adding at the end the following:

“(2)(A) A court of appeals that would have jurisdiction of a subsequent appeal under paragraph (1) or other law may authorize an immediate appeal of an order or decree, not

otherwise appealable, that is entered in a case or proceeding pending under section 157 or is entered by the district court or bankruptcy appellate panel exercising jurisdiction under subsection (a) or (b), if the bankruptcy court, district court, bankruptcy appellate panel, or the parties acting jointly certify that—

“(i) the order or decree involves—

“(I) a substantial question of law;

“(II) a question of law requiring resolution of conflicting decisions; or

“(III) a matter of public importance; and

“(ii) an immediate appeal from the order or decree may materially advance the progress of the case or proceeding.

“(B) An appeal under this paragraph does not stay proceedings in the court from which the order or decree originated, unless the originating court or the court of appeals orders such a stay.”

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, as added by subsection (a) of this section, until a rule of practice and procedure relating to such provision and appeal is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, bankruptcy court, or bankruptcy appellate panel may enter a certification as described in section 158(d)(2) of title 28, United States Code, during proceedings pending before that court or panel.

(3) PROCEDURE.—Subject to the other provisions of this subsection, an appeal by permission under section 158(d)(2) of title 28, United States Code, shall be taken in the manner prescribed in rule 5 of the Federal Rules of Appellate Procedure.

(4) FILING PETITION.—When permission to appeal is requested on the basis of a certification of the parties, a district court, bankruptcy court, or bankruptcy appellate panel, the petition shall be filed within 10 days after the certification is entered or filed.

(5) ATTACHMENT.—When permission to appeal is requested on the basis of a certification of a district court, bankruptcy court, or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(6) PANEL AND CLERK.—In a case pending before a bankruptcy appellate panel in which permission to appeal is requested, the terms “district court” and “district clerk”, as used in rule 5 of the Federal Rules of Appellate Procedure, mean “bankruptcy appellate panel” and “clerk of the bankruptcy appellate panel”, respectively.

(7) APPLICATION OF RULES.—In a case pending before a district court, bankruptcy court, or bankruptcy appellate panel in which a court of appeals grants permission to appeal, the Federal Rules of Appellate Procedure apply to the proceedings in the court of appeals, to the extent relevant, as if the appeal were taken from a final judgment, order, or decree of a district court, bankruptcy court, or bankruptcy appellate panel exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SA 59. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 148, line 4, strike “(a) IN GENERAL.”

On page 148, strike line 8 and all that follows through page 151, line 15, and insert the following:

“(22) under subsection (a), of the commencement or continuation of any eviction, unlawful detainer, or similar proceeding by a lessor against a debtor involving residential property, except in a case in which a tenant of such residential property has a written lease with an unexpired specified term, and can demonstrate the ability to pay the rent then due and to become due during the unexpired term of the lease, in which case—

“(A) the debtor shall have the right, by ex parte application (on a preprinted form developed by the court and provided on request by the clerk of the court to the debtor), to obtain an order temporarily staying any eviction, unlawful detainer, or similar proceeding pending a hearing, if the debtor submits with the application a copy of an unexpired written lease of the subject residential property, signed by the lessor of the property; and

“(B) upon issuance of an order under subparagraph (A), the clerk of the court shall set a hearing on a date that is not later than 10 days after the date of filing of the application under subparagraph (A), and give the lessor of the property notice thereof; and

“(C) at the conclusion of the hearing referred to in subparagraph (B)—

“(i) a temporary stay ordered under subparagraph (A) shall be deemed effective and ordered until the earlier of the expiration of the lease or the termination of the stay otherwise under this section, if the debtor can demonstrate to the satisfaction of the court—

“(I) a written lease of the residential property with an unexpired term;

“(II) an ability to pay the rent as it comes due under the lease for the unexpired term; and

“(III) the ability to pay any past due rent on a schedule to be set by the court; or

“(ii) the temporary stay ordered under subparagraph (A) shall be lifted, if the debtor cannot meet the terms of clause (i).

SA 60. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 294, line 10, delete the comma after “mortgage”;

On page 295, line 15, insert “mortgage” before “loan”;

On page 296, line 25, strike “or” and insert “including”;

On page 299, line 17, strike “or” and insert “including”;

On page 301, line 18, strike “or any” and insert “including any”;

On page 302, line 23, insert “mortgage” before “loans”;

On page 303, line 3, insert “mortgage” before “loans”;

On page 304, line 16, strike “or” after “(V)” and insert “including”;

On page 306, line 10, insert “is of a type” after “clause and”;

On page 308, line 5, strike “or any” and insert “including any”;

On page 308, line 23, strike “the Gramm-Leach-Bliley Act,” and insert “the Gramm-Leach-Bliley Act, and”;

On page 308, line 25, strike all after “2000” and insert a period following “2000”;

On page 309, strike lines 1 through 3;

On page 320, line 10, strike “and”;

On page 321, line 4, strike the period at the end of the line and insert “; and”

On page 321, insert after line 4 the following:

“(3) by including at the end of section 11(e) the following new paragraph:

“( ) SAVINGS CLAUSE.—The meaning of terms used in this subsection (e) are applicable for purposes of this subsection (e) only,

and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities law (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act."

On page 327, line 7, strike "408" and insert "407A";

On page 327, line 20, strike "or" the second time it appears;

On page 328, line 3, strike all following "receiver" through "agency" on line 4;

On page 328, line 7, strike all following "receiver" through "bank" on line 9;

On page 328, line 12, strike the comma after "Act";

On page 328, line 18, strike all following "conservator" through "agency" on line 20;

On page 328, line 23, strike all following "conservator" through "bank" on line 25;

On page 329, line 25, insert "in the case of an uninsured national bank or uninsured Federal branch or agency" after "Currency";

On page 330, line 1, insert "in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Act,";

On page 330, line 3, insert "solely" before "to implement";

On page 330, line 5, strike "to implement this section," and insert "limited solely to implementing paragraphs (8), (9), (10) and (11) of section 11(e) of the Federal Deposit Insurance Act,";

On page 330, line 7, insert "each" before "shall ensure";

On page 330, line 8, strike "that the" and insert "that their";

On page 332, line 4, strike "(D), or" and insert "(D) including";

On page 333, line 14, insert "mortgage" before "loans";

On page 333, line 18, insert "mortgage" before "loans";

On page 334, line 21, strike "(iv), or" and insert "(iv) including";

On page 336, line 5 strike "or an" and insert "or";

On page 336, line 8, strike "or a" and insert "or";

On page 336, line 10, strike "credit spread, total return, or a" and insert "total return, credit spread or";

On page 336, line 22, insert after "(I)" the following: "is of a type that";

On page 338, line 13, strike "(v), or" and insert "(v) including";

On page 338, line 18, strike "do";

On page 339, line 9, insert "and" after "Act,";

On page 339, line 10, strike all after "2000" through "Commission" on line 13 and insert a period after "2000";

On page 340, line 20, insert "mortgage" before "loan";

On page 342, line 2, strike "or any" and insert "including any";

On page 343, line 21, strike "or any" and insert "including any";

On page 346, line 7, strike "or" the first time it appears;

On page 346, line 25, insert "including any guarantee or reimbursement obligation related to 1 or more of the foregoing" following "foregoing";

On page 352, line 24, insert "a securities clearing agency," after "association,";

On page 353, line 25, insert "a securities clearing agency," before "a contract market";

On page 355, line 5, insert "a securities clearing agency," after "association,";

On page 355, line 6, strike the end parenthesis after "Act";

On page 358, line 13, strike "5(c)" and insert "5c(c)";

On page 358, line 24, strike "a national securities exchange";

On page 359, line 4, insert "a securities clearing agency," after "association,";

On page 363, line 13, insert "a securities clearing agency," after "association,";

On page 365, strike lines 18 through 22, and on page 366, strike lines 1 through 2, and insert in lieu thereof the following:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may by regulation require more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured financial institution is in a troubled condition (as such term is defined by the Corporation pursuant to 12 USC 1831i).";

On page 372, line 18, insert "governmental unit, limited liability company (including a single member limited liability company)," after "partnership,";

On page 373, line 22, insert "on or" after "State law";

On page 374, line 10, insert "and" before "the Commodity" and strike all after "Act" through line 12 and insert a period after "Act".

SA 61. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 184, strike line 20 and all that follows through page 186, line 22 and insert the following:

**SEC. 329. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH THE COMMISSION OF VIOLENCE AT CLINICS.**

Section 523(a) of title 11, United States Code, as amended by this Act, is amended—

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

(2) in paragraph (18), as added by this Act, by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(19) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

"(A) an actual or potential action under section 248 of title 18;

"(B) an actual or potential action under any Federal, State, or local law, the purpose of which is to protect—

"(i) access to a health care facility, including a facility providing reproductive health services, as defined in section 248(e) of title 18 (referred to in this paragraph as a 'health care facility'); or

"(ii) the provision of health services, including reproductive health services (referred to in this paragraph as 'health services');

"(C) an actual or potential action alleging the violation of any Federal, State, or local statutory or common law, including chapter 96 of title 18 and the Federal civil rights laws (including sections 1977 through 1980 of the Revised Statutes) that results from the debtor's actual, attempted, or alleged—

"(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against any person—

"(I) because that person provides or has provided health services;

"(II) because that person is or has been obtaining health services; or

"(III) to deter that person, any other person, or a class of persons from obtaining or providing health services; or

"(ii) damage or destruction of property of a health care facility; or

"(D) an actual or alleged violation of a court order or injunction that protects access to a health care facility or the provision of health services."

SA 62. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 186, beginning on line 6, strike "provides or has provided lawful goods or services;" and insert "seeks to exercise, exercises, or has exercised constitutionally protected rights;"

On page 186, strike lines 9 through 15 and insert the following:

"(II) to deter any person from exercising constitutionally protected rights, or from assisting any other person in the exercise of such rights; or

"(III) because that person assists any person in the exercise of constitutionally protected rights, or provides or assists in the provision of constitutionally protected goods or services; or"

On page 186, beginning on line 17, strike "providing lawful goods or services;" and insert "or of a person because that facility or person provides, assists in providing, uses, or seeks constitutionally protected goods or services;"

SA 63. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 17 and 18, insert the following:

"(V) In addition, the debtor's monthly expenses shall include the actual, reasonable expenses for operation of transportation and for public transportation, including costs for fuel, maintenance, automobile insurance, and public transportation, to the extent that the actual costs exceed the Local Standards issued by the Internal Revenue Service for operating and public transportation costs.

"(VI) In addition, if a debtor owns a home, the debtor's monthly expenses shall include the actual, reasonable expenses for utilities and home maintenance, including costs for repairs, maintenance, taxes, and home insurance. In the case of a debtor who does not own a home, such expenses shall be included to the extent that such expenses cause the debtor's housing expenses to exceed the amounts permitted under the Local Standards issued by the Internal Revenue Service for housing and utilities.

"(VII) In addition, if the debtor owns a motor vehicle for which no secured debt payments are scheduled, or for which secured debt payments are scheduled for less than 60 months, the debtor's monthly expenses shall include the monthly ownership costs permitted by the Internal Revenue Service for the number of months in which no secured debt payment on the vehicle is scheduled, divided by 60. Such additional ownership costs shall be included for each vehicle for which the debtor would be permitted ownership costs under the Internal Revenue Service National Standards.

SA 64. Mr. SCHUMER submitted an amendment intended to be proposed by

him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

**SEC. 204. AWARD OF FEES AND DAMAGES AUTHORIZED.**

(a) SECTION 502.—Section 502 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(1)(1) The court may award the debtor reasonable attorneys’ fees and costs if, after an objection is filed by a debtor, the court—

“(A)(i) disallows the claim; or  
“(ii) reduces the claim by an amount greater than 20 percent of the amount of the initial claim filed by a party in interest, or \$500, whichever is less; and

“(B) finds that the position of the party filing the claim is not substantially justified.

“(2) If the court finds that the position of a claimant under this section is not substantially justified, the court may, in addition to awarding a debtor reasonable attorneys’ fees and costs under paragraph (1), award such damages as may be required by the equities of the case.”.

(b) SECTION 523.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking “a false representation” and inserting “a material false representation upon which the defrauded person justifiably relied”; and

(2) by striking subsection (d) and inserting the following:

“(d)(1) Subject to paragraph (3), if a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys’ fees and costs.

“(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court may award reasonable attorneys’ fees and costs under paragraph (1) and such damages as may be required by the equities of the case.

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a)(2) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved was not reasonable.”.

(c) SECTION 524.—Section 524 of title 11, United States Code, as otherwise amended by this Act, is amended by adding at the end the following:

“(l) 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).

“(m) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

“(1) the greater of—

“(A)(i) the amount of actual damages; multiplied by—

“(ii) 3; or

“(B) \$5,000; and

“(2) costs and attorneys’ fees.”.

(d) SECTION 362.—Section 362(h) of title 11, United States Code, is amended to read as follows:

“(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

“(A) actual damages; and

“(B) reasonable costs, including attorneys’ fees.

“(2) In addition to recovering actual damages, costs, and attorneys’ fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.”.

**SEC. 205. DISCHARGE.**

(e) SECTION 727.—Section 727 of title 11, United States Code, is amended—

(1) in subsection (c), by adding at the end the following:

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved was not reasonable.”; and

(2) by adding at the end the following:

“(f)(1) The court may award the debtor reasonable attorneys’ fees and costs in any case in which a creditor files a motion to deny relief to a debtor under this section and that motion—

“(A) is denied; or

“(B) is withdrawn after the debtor has repaid.

“(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court may assess against the creditor such damages as may be required by the equities of the case.”.

Amend the table of contents accordingly.

SA 65. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, lines 18 and 23, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census” each place it appears.

On page 17, lines 3, 14, 19, and 24, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census” each place it appears.

On page 20, lines 4, 9, 20, and 25, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during

which such median income is not reported by the Bureau of the Census)” after “Census” each place it appears.

On page 24, lines 20 and 25, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census” each place it appears.

On page 25, line 5, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census”.

On page 159, lines 14, 19, and 24, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census” each place it appears.

On page 165, line 25, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census”.

On page 166, lines 5, 10, 20, and 25 insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census” each place it appears.

On page 167, line 5, insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census”.

On page 168, lines 8 and 14 insert “(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median income is not reported by the Bureau of the Census)” after “Census” each place it appears.

SA 66. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 160, line 22, insert “, to the extent ordered by the court for reasonable cause shown,” after “court”.

SA 67. Mr. KOHL (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:  
**SEC. 330. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.**

Section 503(b)(1)(A) of title II, United States Code, is amended to read as follows:

“(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits awarded pursuant to an action brought in a court of law or the National Labor Relations Board as back

pay attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal or State law, without regard to when the original unlawful act occurred or to whether any services were rendered if the court determines that the award will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case;"

SA 68. Mr. KOHL (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 140, strike line 14 and all that follows through page 176, line 19 and insert the following:

**SEC. 308. LIMITATION.**

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

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsection (o)," before "any property"; and

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

"(o)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, \$125,000 in value in—

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

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

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

"(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer."

**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 a case under chapter 11 or 12, but not in a case converted to a case under 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, not later than 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 in which the debtor is an individual and in a case under chapter 13, 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) 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 commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(A) proposed by the plan to the trustee;

"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

"(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. 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 and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

"(4) Not later than 60 days after the date of 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 the lessor or secured creditor 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."

**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 the 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.**

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

(1) by inserting after paragraph (21), as added by this Act, the following:

"(23) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential real property—

"(A) on which the debtor resides as a tenant; and

"(B) with respect to which—

"(i) the debtor fails to make a rental payment that initially becomes due under applicable nonbankruptcy law after the date of filing of the petition or during the 10-day period preceding the date of filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification upon the debtor; or

"(ii) the debtor's lease has expired according to its terms, and—

"(I) a member of the lessor's immediate family intends to personally occupy that property; or

"(II) the lessor has entered into an enforceable lease agreement with another tenant prior to the filing of the petition, if the lessor files with the court a certification of such facts and serves a copy of the certification to the debtor;

“(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential real property, if during the 1-year period preceding the date of filing of the petition, the debtor or another occupant of the leased premises—

“(A) commenced another case under this title; and

“(B) failed to make a rental payment that initially became due under applicable nonbankruptcy law after the date of filing of the petition for that other case;

“(25) under subsection (a)(3), of an eviction action, to the extent that it seeks possession based on endangerment of property or the illegal use of controlled substances on the property, if the lessor files with the court a certification that such an eviction has been filed or the debtor has endangered property or illegally used or allowed to be used a controlled substance on the property during the 30-day period preceding the date of filing of the certification, and serves a copy of the certification upon the debtor;” and

(2) by adding at the end of the flush material at the end of the subsection the following: “With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in any such paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under any such paragraph, unless—

“(A) the debtor files a certification and serves a copy of that certification upon the lessor, that—

“(i) contests the truth or legal sufficiency of the lessor’s certification; or

“(ii) states that the tenant has taken such action as may be necessary to remedy the subject of the certification under paragraph (23), except that no tenant may take advantage of such remedy more than once; or

“(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability.”.

(b) FORMS.—The Judicial Conference of the United States shall promulgate forms for the certifications required under paragraphs (23) and (25) of section 362(b) of title 11, United States Code, as added by this section, that are suitable for use by lessors and debtors who are not represented by attorneys.

**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 inserting after subsection (e) 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.**

(a) DEFINITION.—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 the toys and hobby equipment of minor dependent children and wedding rings) 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 (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.”.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director’s findings.

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

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

“(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);”.

(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), (3), (4), (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, as amended by this Act, is amended—

(1) in subsection (c)—

(A) by inserting “(1)” after “(c)”;

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

(C) by adding at the end the following:

“(2) If, within the 90 days prior to the date of the filing of a petition in a voluntary case, the creditor supplied the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number. In the event the creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if the creditor supplied the debtor in the last 2 communications with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number.”; and

(2) by adding at the end the following:

“(e) 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.

“(f) 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 (e) with respect to a particular case.

“(g)(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(k) 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 this Act, is amended—

(1) in subsection (a), as so designated by this Act, 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 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;

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

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

(2) by adding at the end the following:

“(e)(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) The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to filing for which a tax return has been or should have been filed, to the trustee, not later than 7 days before the date first set for the first meeting of creditors, or the case shall be dismissed, unless the debtor demonstrates that the failure to file a return as required is due to circumstances beyond the control of the debtor.

“(B) If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax return or transcript to the requesting creditor at the time the debtor provides the tax return or transcript to the trustee, or the case shall be dismissed, unless the debtor demonstrates that the debtor is unable to provide such information due to circumstances beyond the control of the debtor.

“(3)(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.

“(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of any party in interest—

“(1) at the time filed with the taxing authority, all tax returns required under applicable law, 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 required under applicable law, 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 of 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.

“(g)(1) A statement referred to in subsection (f)(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 subsection (e)(2)(A) and subsection (f) 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 (h).

“(h)(1) Not later than 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, 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 and 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, 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.

“(i) 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 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.**

Section 1324 of title 11, United States Code, is amended—

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

“(a) Except as provided in subsection (b) and after”; and

(2) by adding at the end the following:

“(b) The hearing on confirmation of the plan may be held not earlier than 20 days

and not later than 45 days after the date of the meeting of creditors under section 341(a).”

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

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

“(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus \$525 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 5 years.

“(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus \$525 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.”

(2) in section 1325(b)(1)(B), by striking “three-year period” and inserting “applicable commitment period”; and

(3) in section 1325(b), as amended by this Act, by adding at the end the following:

“(4) For purposes of this subsection, the ‘applicable commitment period’—

“(A) subject to subparagraph (B), shall be—

“(i) 3 years; or

“(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

“(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus \$525 per month for each individual in excess of 4; and

“(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.”; and

(4) in section 1329(c), by striking “three years” and inserting “the applicable commitment period under section 1325(b)(1)(B)”.  
**SEC. 319. SENSE OF 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. CHAPTER 11 CASES FILED BY INDIVIDUALS.**

(a) PROPERTY OF THE ESTATE.—

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

**“§ 1115. Property of the estate**

“(a) In a case concerning an individual debtor, property of the estate includes, in addition to the property specified in section 541—

“(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

“(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.”.

“(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.”.

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

“1115. Property of the estate.”.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

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

(2) in paragraph (7), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings

from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.”.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

“(15) In a case concerning an individual in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

“(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

“(B) the value of the property to be distributed under the plan is not less than the debtor's projected disposable income (as that term is defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer.”.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: “, except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)”.

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “The confirmation of a plan does not discharge an individual debtor” and inserting “A discharge under this chapter does not discharge a debtor”; and

(2) by adding at the end the following:

“(5) In a case concerning an individual—

“(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payments under the plan; and

“(B) at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

“(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

“(ii) modification of the plan under 1127 of this title is not practicable.”.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

“(e) In a case concerning an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

“(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

“(2) extend or reduce the time period for such payments; or

“(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

“(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

“(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125, as the court may direct, notice and a hearing, and such modification is approved.”.

SA 69. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 243, line 23, strike “(1)(B)”.

SA 70. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, line 9, strike “6” and insert “2”.

SA 71. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 151, strike line 18 and all that follows through page 152, line 3, and insert the following:

Section 727(a)(8) of title II, United States Code, is amended by striking “six” and inserting “8”.

SA 72. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 912 (relating to asset-backed securitizations).

SA 73. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 441, after line 2, add the following:

(c) EXEMPTIONS.—

(1) CERTAIN UNEMPLOYED WORKERS.—This Act and the amendments made by this Act do not apply to any debtor that can demonstrate to the satisfaction of the court that the reason for filing is due to the debtor having become unemployed and the debtor is part of a group of workers certified by the Secretary of Labor as being eligible for trade adjustment assistance under title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), unless the debtor elects to make a provision of this Act or an amendment made by this Act applicable to that debtor.

(2) APPLICABILITY.—Title 11, United States Code, as in effect on the day before the effective date of this Act and the amendments made by this Act, shall apply to persons referred to in paragraph (1) on and after the date of enactment of this Act, unless the debtor elects otherwise in accordance with paragraph (1).

SA 74. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 441, after line 2, add the following:

## (c) EXEMPTIONS.—

(1) IN GENERAL.—This Act and the amendments made by this Act do not apply to any debtor that can demonstrate to the satisfaction of the court that the household income of the debtor at the time of filing is equal to or below 200 percent of the Federal poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), unless the debtor elects to make a provision of this Act or an amendment made by this Act applicable to that debtor.

(2) APPLICABILITY.—Title 11, United States Code, as in effect on the day before the effective date of this Act and the amendments made by this Act, shall apply to persons referred to in paragraph (1) on and after the date of enactment of this Act, unless the debtor elects otherwise in accordance with paragraph (1).

SA 75. Mr. DODD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table.

At the end of Title XIII, add the following:  
**SEC. 1311. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.**

(a) IN GENERAL.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(8) APPLICATIONS FROM UNDERAGE CONSUMERS.—

“(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

“(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

“(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21;

“(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account; or

“(iii) proof by the consumer that the consumer has completed a credit counseling course of instruction by an approved nonprofit budget and credit counseling agency that meets the requirements of section 111 of title 11, United States Code.”.

(b) REGULATORY AUTHORITY.—The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out section 127(c)(8) of the Truth in Lending Act, as amended by this section.

Amend the table of contents accordingly.

SA 76. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 420, to amend title 11, United States Code, and of other purposes, which was ordered to lie on the table; as follows:

On page 152, strike line 4 and all that follows through page 154, line 11.

SA 77. Mr. SCHUMER submitted an amendment intended to be proposed by

him to the bill S. 420, to amend title 11, United States Code, and for other purposes, which was ordered to lie on the table; as follows:

At the appropriate place, insert:

**SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.**

Section 363 of title 11, US Code, is amended by adding at the end the following:

“(p) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act (15 U.S. Code 1601 et. seq.), or any interest in a consumer credit contract as defined by the Federal Trade Commission Preservation of Claims Trade Regulation, and that interest is purchased through a sale under this section, then that person shall remain subject to all claims and defenses that are related to the consumer credit transaction or contract, to the same extent as that person would be subject to such claims and defenses of the consumer had the sale taken place other than under title 11.”

SA 78. Mr. WYDEN (for himself, Mr. BAUCUS, and Mrs. MURRAY) submitted an amendment intended to be proposed by them to the bill S. 420, to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table.

After section 419, insert the following:

**SEC. 420. NONDISCHARGEABILITY OF DEBTS ARISING FROM THE EXCHANGE OF ELECTRIC ENERGY.**

(a) IN GENERAL.—Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(6) The confirmation of a plan does not discharge a debtor—

“(A) in the case of a debtor that is a corporation, from any debt for wholesale electric power received that is incurred by that debtor under an order issued by the Secretary of Energy (or any amendment of or attachment to that order) under section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) and requested by the California Independent System Operator; or

“(B) in the case of debt owed to a Federal, State, or local government agency named in an order referred to in subparagraph (A) for wholesale electric power received by the debtor except to the extent the rate charged for power traded by the California Power Exchange or delivered to the California Independent System Operator is determined by the Federal Energy Regulatory Commission to be unjust and unreasonable, in which case this subparagraph should only apply to debt for the actual cost of production and distribution of energy.”.

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

(1) in paragraph (28), as added by section 907(d) of this Act, by striking “or” at the end;

(2) in paragraph (29), as added by section 1106 of this Act, by striking the period at the end and inserting “; or”;

(3) by inserting after that paragraph (29) the following:

“(30) under subsection (a), of the commencement or continuation, and conclusion to the entry of final judgment or order, of a judicial, administrative, or other action or proceeding for debts that are nondischargeable under section 1141(d)(6).”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1141(a) of title 11, United States Code, is amended by striking “sub-

sections (d)(2) and (d)(3) of this section” and inserting “paragraphs (2), (3), and (6) of subsection (d)”.

(d) APPLICABILITY.—This section and the amendments made by this section shall apply with respect to any petition for bankruptcy filed under title 11, United States Code, on or after March 1, 2001.

SA 79. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

**SEC. 204. AWARD OF FEES AND DAMAGES AUTHORIZED.**

(a) SECTION 502.—Section 502 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(1)(1) The court may award the debtor reasonable attorneys’ fees and costs if, after an objection is filed by a debtor, the court—

“(A)(i) disallows the claim; or

“(ii) reduces the claim by an amount greater than 20 percent of the amount of the initial claim filed by a party in interest, or \$500, whichever is less; and

“(B) finds that the position of the party filing the claim is not substantially justified.

“(2) If the court finds that the position of a claimant under this section is not substantially justified, the court may, in addition to awarding a debtor reasonable attorneys’ fees and costs under paragraph (1), award such damages as may be required by the equities of the case.”.

(b) SECTION 523.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking “a false representation” and inserting “a material false representation upon which the defrauded person justifiably relied”; and

(2) by striking subsection (d) and inserting the following:

“(d)(1) Subject to paragraph (3), if a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys’ fees and costs.

“(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court may award reasonable attorneys’ fees and costs under paragraph (1) and such damages as may be required by the equities of the case.

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a)(2) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved was not reasonable.”.

(c) SECTION 524.—Section 524 of title 11, United States Code, as otherwise amended by this Act, is amended by adding at the end the following:

“(1) 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).

“(m) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

“(1) the greater of—

“(A)(i) the amount of actual damages; multiplied by—

“(ii) 3; or

“(B) \$5,000; and

“(2) costs and attorneys’ fees.”.

(d) SECTION 362.—Section 362(h) of title 11, United States Code, is amended to read as follows:

“(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

“(A) actual damages; and

“(B) reasonable costs, including attorneys’ fees.

“(2) In addition to recovering actual damages, costs, and attorneys’ fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.”.

#### SEC. 205. DISCHARGE.

(e) SECTION 727.—Section 727 of title 11, United States Code, is amended—

(1) in subsection (c), by adding at the end the following:

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved was not reasonable.”; and

(2) by adding at the end the following:

“(f)(1) The court may award the debtor reasonable attorneys’ fees and costs in any case in which a creditor files a motion to deny relief to a debtor under this section and that motion—

“(A) is denied; or

“(B) is withdrawn after the debtor has replied.

“(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court may assess against the creditor such damages as may be required by the equities of the case.”.

SA 80. Mr. BREAUX (for himself, Mr. SPECTER, Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . AUTHORITY TO ISSUE A RULE RELATING TO ERGONOMICS.

(a) FINDINGS.—Congress makes the following findings:

(1) The National Academy of Sciences issued a report entitled “Musculoskeletal Disorders and the Workplace—Low Back and

Upper Extremities” on January 18, 2001. The report was issued after the Occupational Safety and Health Administration promulgated a final rule relating to ergonomics (published at 65 Fed. Reg. 68261 (2000)).

(2) According to the National Academy of Sciences, musculoskeletal disorders of the low back and upper extremities are an important and costly national health problem. An estimated 1,000,000 workers each year lose time from work as a result of work-related musculoskeletal disorders.

(3) Conservative estimates of the economic burden imposed by work-related musculoskeletal disorders, as measured by compensation costs, lost wages, and lost productivity, are between \$45,000,000,000 and \$54,000,000,000 annually.

(4) Congress enacted the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions,” and charged the Secretary of Labor with implementing the Act to accomplish this purpose.

(5) Promulgation of a standard on workplace ergonomics is needed to address a serious workplace safety and health problem and to protect working men and women from work-related musculoskeletal disorders. Any workplace ergonomics standard should take into account the cost and feasibility of compliance with such requirements and the sound science of the National Academy of Sciences report.

(b) AUTHORITY TO ISSUE RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this Act, the Secretary of Labor shall, in accordance with section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), issue a final rule relating to ergonomics. The standard under the final rule shall take effect not later than 90 days after the date on which the rule is promulgated. The standard shall—

(A) address work-related musculoskeletal disorders and workplace ergonomic hazards;

(B) not apply to non-work-related musculoskeletal disorders that occur outside the workplace or non-work-related musculoskeletal disorders that are aggravated by work; and

(C) set forth in clear terms—

(i) the circumstances under which an employer is required to take action to address ergonomic hazards;

(ii) the measures required of an employer under the standard; and

(iii) the compliance obligations of an employer under the standard.

(2) AUTHORIZATION.—Paragraph (1) shall be considered a specific authorization by Congress in accordance with section 801(b)(2) of title 5, United States Code, with respect to the issuance of a new ergonomic rule.

(3) PROHIBITION.—In issuing a new rule under this subsection, the Secretary of Labor shall ensure that nothing in the rule expands the application of State workers’ compensation laws.

(4) STANDARD SETTING AUTHORITY.—Nothing in this subsection shall be construed to restrict or alter the authority of the Secretary of Labor under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) to adopt health or safety standards (as defined in section 3(8) (29 U.S.C. 652(8)) of such Act) for other hazards pursuant to section 6 (29 U.S.C. 655) of such Act.

(5) INFORMATION AND TRAINING MATERIALS.—The Secretary of Labor shall, prior to the date on which the new rule under this subsection becomes effective, develop information and training materials, and implement an outreach program and other initiatives, to provide compliance assistance to employers and employees concerning the

new rule and the requirements under the rule.

SA 81. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

#### SEC. 204. GAO STUDY ON REAFFIRMATION PROCESS.

(a) STUDY.—The General Accounting Office (in this section referred to as the “GAO”) shall conduct a study of the reaffirmation process under title 11, United States Code, to determine the overall treatment of consumers within the context of that process, including consideration of—

(1) the policies and activities of creditors with respect to reaffirmation; and

(2) whether there is abuse or coercion of consumers inherent in the process.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any abusive or coercive tactics found within the reaffirmation process.

SA 82. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 3 and 4, insert the following:

#### SEC. 108. TREASURY DEPARTMENT STUDY ON THE OPERATION OF THE MEANS TEST SAFE HARBOR.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the “Secretary”) shall conduct a study of those debtors who, based on the information provided in the schedules filed with the bankruptcy court, would be subject to the presumption under section 707(b)(2) of title 11, United States Code, as added by this Act, but are not subject to that presumption because the current monthly income of those debtors is under the applicable median income required under section 707(b)(7) of that title, as added by this Act, to determine the ability of those debtors excluded from the operation of the means test by the exemption provided in section 707(b)(2) of that title, to pay.

(2) DETERMINATIONS.—The study required by this subsection shall cover the 1-year period beginning on the date of enactment of this Act, and shall include—

(A) the average amount that a debtor with the ability to pay would be able to pay a nonpriority unsecured creditor, as determined by the net income of that debtor under section 707(b)(2) of title 11, United States Code, as added by this Act, and projecting that amount over the applicable commitment period under section 1325(b) of that title; and

(B) the aggregate amount that all debtors referred to in subparagraph (A) would be able to pay during the period of the study.

(b) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address the abusive use of any chapter of title 11, United States Code.

SA 83. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, line 5, insert "creditor, or other party in interest, and only the" after "No".

On page 17, line 5, after "panel trustee," insert "or".

On page 17, line 6, strike "or other party in interest".

On page 17, line 9, after "relief" insert the following: "(except if the debtor and the spouse of the debtor are not in a joint case, and are either legally separated or the court determines, after notice and hearing, that the debtor and the spouse of the debtor are living separate and apart, and the spouse is not providing any support to the debtor or the dependents of the debtor, then only the current monthly income of the debtor as of the date of the order for relief)".

SA 84. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

**SEC. 204. TREASURY STUDY ON REAFFIRMATION PROCESS.**

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the "Secretary") shall conduct a study of the effect on consumers of the provisions in title 11, United States Code, relating to reaffirmation of consumer debt which has been discharged in a proceeding commenced under that title.

(2) CONSIDERATIONS.—The study required by this subsection shall include analysis of—

(A) the policies and activities of creditors representative in their class with respect to reaffirmation;

(B) the role of debtors' counsel in the reaffirmation process;

(C) the economic and personal benefits accruing to consumers who reaffirm debt; and

(D) the effectiveness of applicable consumer protection provisions.

(b) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any policy concerns resulting from the study.

SA 85. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 62, after the material between lines 3 and 4, insert the following:

**SEC. 204. SPECIAL AUDITS.**

(a) IN GENERAL.—If a debt relief agency has provided bankruptcy assistance to more than 10 assisted persons—

(1) whose cases have been dismissed or converted under section 707(b) of title 11, United States Code;

(2) in whose cases the stay under section 362(a) of title 11, United States Code, has terminated under section 362(c)(3)(A) of that title, or was not in effect under section 362(c)(4)(A)(i) of that title; or

(3) with respect to which, the court entered an order under section 362(d)(4) of title 11, United States Code,

the Attorney General shall order an audit to be conducted of all cases filed in the 1-year period preceding the date of such order in which the debt relief agency provided bankruptcy assistance.

(b) AUDIT.—The audit required by subsection (a) shall be conducted by auditors selected under section 603 of this Act, and such audit shall be conducted as though each case was a file selected for audit under that section.

(c) REPORT.—The Attorney General shall report the results of the audit required by this section to the judge of each bankruptcy court in which any case subject to audit was filed.

SA 86. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, line 4, strike "of 4." and all that follows through line 25, and insert the following "of 4.".

SA 87. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, line 10, insert ", nonpriority" before "creditors".

SA 88. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, strike lines 5 through 10, and insert the following:

"(7) No creditor or other party in interest, and only the judge, United States trustee, panel trustee, or bankruptcy administrator, may bring a motion under paragraph (2), if the current monthly income of the debtor and the spouse of the debtor, combined, as of the date of the order for relief (except if the debtor and the spouse of the debtor are not in a joint case and are either legally separated, or the court determines, after notice and hearing, that the debtor and the spouse of the debtor are living separate and apart, and the spouse is not providing any support to the debtor or the dependents of the debtor, then only the current monthly income of the debtor as of the date of the order for relief), when multiplied by 12, is equal to or less than—".

SA 89. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, line 21, strike "received" and all that follows through page 30, line 2 and insert the following: "participated in a credit counseling program (including over the telephone or on the Internet) that includes a budget analysis and development of a payment plan, and provides the debtor with counseling concerning how the debtor attained his or her present financial status, and any related appropriate counseling, unless the bankruptcy court, after notice and hearing, determines for cause that the debtor is unable to participate in such activities, or that in light of the debtor's circumstances, there is no benefit to the debtor

in participating in such program, in which case the debtor shall have received, during the 180-day period preceding the date of filing of the petition of that individual from such an approved nonprofit budget and credit counseling agency an individual or group briefing (including a briefing conducted by telephone or over the Internet) that outlined the opportunities for available credit counseling, and assisted that individual in performing a related budget analysis."

SA 90. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title II, add the following:

**SEC. 230. GAO STUDY.**

(c) STUDY.—The General Accounting Office (in this section referred to as the "GAO") shall conduct a study of the reaffirmation process under title 11, United States Code, to determine the overall treatment of consumers within the context of that process, including consideration of—

(1) the policies and activities of creditors with respect to reaffirmation; and

(2) whether there is abuse or coercion of consumers inherent in the process.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any abusive or coercive tactics found within the reaffirmation process.

SA 91. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:  
**SEC. 233. PROHIBITION ON FINANCE CHARGES FOR ON-TIME PAYMENTS.**

Section 27 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN FINANCE CHARGES FOR ON-TIME PAYMENTS.—In the case of any credit card account under an open end consumer credit plan, where no other balance is owing on the account, no finance or interest charge may be imposed with regard to any amount of a new extension of credit that was paid on or before the date on which it was due."

SA 92. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 186, strike lines 6 through 22 and insert the following:

(I) because that person seeks to exercise, exercises or has exercised constitutionally protected rights; or

(II) to deter any person from exercising constitutionally protected rights or from assisting any other person in the exercise of such rights; or

(III) because that person assists any person in the exercise of constitutionally protected rights, or provides or assists in the provision of constitutionally protected good or services; or

(ii) damage or destruction of property of a facility or of a person because that facility

or person provides, assists in providing, uses, or seeks constitutionally protected goods or services; or

“(B) a violation of a court order or injunction that protects access to a facility that provides constitutionally protected goods or services or that protects persons who seek, provide, or assist in providing constitutionally protected goods or services.”

SA 93. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table.

Strike out all after the enacting clause and insert:

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

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

(b) **TABLE OF CONTENTS.**—The table of contents for 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.

**TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS**

Sec. 201. Allowance of claims or interests.

Sec. 202. Exceptions to discharge.

Sec. 203. Effect of discharge.

Sec. 204. Automatic stay.

Sec. 205. Discharge.

Sec. 206. Discouraging predatory lending practices.

Sec. 207. Enhanced disclosure for credit extensions secured by dwelling.

Sec. 208. Dual-use debit card.

Sec. 209. Enhanced disclosures under an open end credit plan.

Sec. 210. Violations of the automatic stay.

Sec. 211. Discouraging abusive reaffirmation practices.

Sec. 212. Sense of the Senate regarding the homestead exemption.

Sec. 213. Encouraging creditworthiness.

Sec. 214. Treasury Department study regarding security interests under an open end credit plan.

**TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM**

Sec. 301. Notice of alternatives.

Sec. 302. Fair treatment of secured creditors under chapter 13.

Sec. 303. Discouragement of bad faith repeat filings.

Sec. 304. Timely filing and confirmation of plans under chapter 13.

Sec. 305. Application of the codebtor stay only when the stay protects the debtor.

Sec. 306. Improved bankruptcy statistics.

Sec. 307. Audit procedures.

Sec. 308. Creditor representation at first meeting of creditors.

Sec. 309. Fair notice for creditors in chapter 7 and 13 cases.

Sec. 310. Stopping abusive conversions from chapter 13.

Sec. 311. Prompt relief from stay in individual cases.

Sec. 312. Dismissal for failure to timely file schedules or provide required information.

Sec. 313. Adequate time for preparation for a hearing on confirmation of the plan.

Sec. 314. Discharge under chapter 13.

Sec. 315. Nondischargeable debts.

Sec. 316. Credit extensions on the eve of bankruptcy presumed nondischargeable.

Sec. 317. Definition of household goods and antiques.

Sec. 318. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.

Sec. 319. Adequate protection of lessors and purchase money secured creditors.

Sec. 320. Limitation.

Sec. 321. Miscellaneous improvements.

Sec. 322. Bankruptcy judgeships.

Sec. 323. Definition of domestic support obligation.

Sec. 324. Priorities for claims for domestic support obligations.

Sec. 325. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.

Sec. 326. Exceptions to automatic stay in domestic support obligation proceedings.

Sec. 327. Nondischargeability of certain debts for alimony, maintenance, and support.

Sec. 328. Continued liability of property.

Sec. 329. Protection of domestic support claims against preferential transfer motions.

Sec. 330. Protection of retirement savings in bankruptcy.

Sec. 331. Additional amendments to title 11, United States Code.

Sec. 332. Debt limit increase.

Sec. 333. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.

Sec. 334. Prohibit retroactive assessment of disposable income.

Sec. 335. Amendment to section 1325 of title 11, United States Code.

Sec. 336. Protection of savings earmarked for the postsecondary education of children.

**TITLE IV—FINANCIAL INSTRUMENTS**

Sec. 401. Bankruptcy Code amendments.

Sec. 402. Recordkeeping requirements.

Sec. 403. Damage measure.

Sec. 404. Asset-backed securitizations.

Sec. 405. Prohibition on certain actions for failure to incur finance charges.

Sec. 406. Fees arising from certain ownership interests.

Sec. 407. Bankruptcy fees.

Sec. 408. Applicability.

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

Sec. 501. Amendment to add a chapter 6 to title 11, United States Code.

Sec. 502. Amendments to other chapters in title 11, United States Code.

**TITLE VI—MISCELLANEOUS**

Sec. 601. Executory contracts and unexpired leases.

Sec. 602. Expedited appeals of bankruptcy cases to courts of appeals.

Sec. 603. Creditors and equity security holders committees.

Sec. 604. Repeal of sunset provision.

Sec. 605. Cases ancillary to foreign proceedings.

Sec. 606. Limitation.

Sec. 607. Amendment to section 546 of title 11, United States Code.

Sec. 608. Amendment to section 330(a) of title 11, United States Code.

**TITLE VII—TECHNICAL CORRECTIONS**

Sec. 701. Definitions.

Sec. 702. Adjustment of dollar amounts.

Sec. 703. Extension of time.

Sec. 704. Who may be a debtor.

Sec. 705. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.

Sec. 706. Limitation on compensation of professional persons.

Sec. 707. Special tax provisions.

Sec. 708. Effect of conversion.

Sec. 709. Automatic stay.

Sec. 710. Amendment to table of sections.

Sec. 711. Allowance of administrative expenses.

Sec. 712. Priorities.

Sec. 713. Exemptions.

Sec. 714. Exceptions to discharge.

Sec. 715. Effect of discharge.

Sec. 716. Protection against discriminatory treatment.

Sec. 717. Property of the estate.

Sec. 718. Preferences.

Sec. 719. Postpetition transactions.

Sec. 720. Technical amendment.

Sec. 721. Disposition of property of the estate.

Sec. 722. General provisions.

Sec. 723. Appointment of elected trustee.

Sec. 724. Abandonment of railroad line.

Sec. 725. Contents of plan.

Sec. 726. Discharge under chapter 12.

Sec. 727. Extensions.

Sec. 728. Bankruptcy cases and proceedings.

Sec. 729. Knowing disregard of bankruptcy law or rule.

Sec. 730. Rolling stock equipment.

Sec. 731. Curbing abusive filings.

Sec. 732. Study of operation of title 11 of the United States Code with respect to small businesses.

Sec. 733. Transfers made by nonprofit charitable corporations.

Sec. 734. 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” and inserting “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 last sentence and inserting the following:

“(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

“(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 30 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

“(B) the debtor filed a petition for the relief in bad faith.

“(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion and finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified, the court shall order

the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

“(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) of this subsection.

“(4)(A) Except as provided in subparagraph (B), 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) However, 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 current monthly total income equal to or less than the national median household monthly income calculated on a monthly basis for a household of equal size. However, for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals plus \$583 for each additional member of that household.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of 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.”

## TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

### SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

“(k)(1) The court may award the debtor reasonable attorneys' fees and costs if, after an objection is filed by a debtor, the court—

“(A)(i) disallows the claim; or

“(ii) reduces the claim by an amount greater than 20 percent of the amount of the initial claim filed by a party in interest; and

“(B) finds the position of the party filing the claim is not substantially justified.

“(2) If the court finds that the position of a claimant under this section is not substantially justified, the court may, in addition to awarding a debtor reasonable attorneys' fees and costs under paragraph (1), award such

damages as may be required by the equities of the case.”

### SEC. 202. EXCEPTIONS TO DISCHARGE.

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

(1) in subsection (a)(2)(A), by striking “a false representation” and inserting “a material false representation upon which the defrauded person justifiably relied”; and

(2) by striking subsection (d) and inserting the following:

“(d)(1) Subject to paragraph (3), if a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys' fees and costs.

“(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court may award reasonable attorneys' fees and costs under paragraph (1) and such damages as may be required by the equities of the case.

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a)(2) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved to was not reasonable.”

### SEC. 203. 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).

“(j) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

“(1) the greater of—

“(A)(i) the amount of actual damages; multiplied by

“(ii) 3; or

“(B) \$5,000; and

“(2) costs and attorneys' fees.”

### SEC. 204. AUTOMATIC STAY.

Section 362(h) of title 11, United States Code, is amended to read as follows:

“(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

“(A) actual damages; and

“(B) reasonable costs, including attorneys' fees.

“(2) In addition to recovering actual damages, costs, and attorneys' fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.”

### SEC. 205. DISCHARGE.

Section 727 of title 11, United States Code, is amended—

(1) in subsection (c), by adding at the end the following:

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved to was not reasonable.”; and

(2) by adding at the end the following:

“(f)(1) The court may award the debtor reasonable attorneys' fees and costs in any case in which a creditor files a motion to deny relief to a debtor under this section and that motion—

“(A) is denied; or

“(B) is withdrawn after the debtor has replied.

“(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court may assess against the creditor such damages as may be required by the equities of the case.”

### SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(10) the claim is based on a secured debt if the creditor has failed to comply with the requirements of subsection (a), (b), (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).”

### SEC. 207. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY DWELLING.

(a) OPEN-END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking “CONSULTATION OF TAX ADVISOR.—A statement that the” and inserting the following: “TAX DEDUCTIBILITY.—A statement that—

“(A) the”; and

(B) by striking the period at the end and inserting the following: “; and

“(B) in any case in which the extension of credit exceeds the fair market value of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.”

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking “If any” and inserting the following:

“(1) IN GENERAL.—If any”; and

(B) by adding at the end the following:

“(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling shall include a clear and conspicuous statement that—

“(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(B) the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and charges.”

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

“(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

“(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(B) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.”; and

(B) in subsection (b), by adding at the end the following:

“(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.”.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

“(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling shall clearly and conspicuously state that—

“(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(2) the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and charges.”.

(c) EFFECTIVE DATE.—This section shall become effective one year after the date of enactment of this Act.

**SEC. 208. DUAL-USE DEBIT CARD.**

(a) CONSUMER LIABILITY.—

(1) IN GENERAL.—Section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g) is amended—

(A) by redesignating subsections (b) through (e) as subsections (d) through (g), respectively;

(B) in subsection (a)—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(ii) by inserting “CARDS NECESSITATING UNIQUE IDENTIFIER.—

“(1) IN GENERAL.—” after “(a)”;

(iii) by striking “other means of access can be identified as the person authorized to use it, such as by signature, photograph,” and inserting “other means of access can be identified as the person authorized to use it by a unique identifier, such as a photograph, retina scan,”; and

(iv) by striking “Notwithstanding the foregoing,” and inserting the following:

“(2) NOTIFICATION.—Notwithstanding paragraph (1),”;

(C) by inserting before subsection (d), as so designated by this section, the following new subsections:

“(b) CARDS NOT NECESSITATING UNIQUE IDENTIFIER.—A consumer shall be liable for an unauthorized electronic fund transfer only if—

“(1) the liability is not in excess of \$50;

“(2) the unauthorized electronic fund transfer is initiated by the use of a card that has been properly issued to a consumer other than the person making the unauthorized transfer as a means of access to the account of that consumer for the purpose of initiating an electronic fund transfer;

“(3) the unauthorized electronic fund transfer occurs before the card issuer has

been notified that an unauthorized use of the card has occurred or may occur as the result of loss, theft, or otherwise; and

“(4) such unauthorized electronic fund transfer did not require the use of a code or other unique identifier (other than a signature), such as a photograph, fingerprint, or retina scan.

“(c) NOTICE OF LIABILITY AND RESPONSIBILITY TO REPORT LOSS OF CARD, CODE, OR OTHER MEANS OF ACCESS.—No consumer shall be liable under this title for any unauthorized electronic fund transfer unless the consumer has received in a timely manner the notice required under section 905(a)(1), and any subsequent notice required under section 905(b) with regard to any change in the information which is the subject of the notice required under section 905(a)(1).”.

(2) CONFORMING AMENDMENT.—Section 905(a)(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)(1)) is amended to read as follows:

“(1) the liability of the consumer for any unauthorized electronic fund transfer and the requirement for promptly reporting any loss, theft, or unauthorized use of a card, code, or other means of access in order to limit the liability of the consumer for any such unauthorized transfer;”.

(b) VALIDATION REQUIREMENT FOR DUAL-USE DEBIT CARDS.—

(1) IN GENERAL.—Section 911 of the Electronic Fund Transfer Act (15 U.S.C. 1693i) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

“(c) VALIDATION REQUIREMENT.—No person may issue a card described in subsection (a), the use of which to initiate an electronic fund transfer does not require the use of a code or other unique identifier other than a signature (such as a fingerprint or retina scan), unless—

“(1) the requirements of paragraphs (1) through (4) of subsection (b) are met; and

“(2) the issuer has provided to the consumer a clear and conspicuous disclosure that use of the card may not require the use of such code or other unique identifier.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 911(d) of the Electronic Fund Transfer Act (15 U.S.C. 1993i(d)) (as redesignated by subsection (a)(1) of this section) is amended by striking “For the purpose of subsection (b)” and inserting “For purposes of subsections (b) and (c)”.

**SEC. 209. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.**

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(11)(A) In a clear and conspicuous manner, repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

“(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

“(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made;

“(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly payments and if no further advances are made; and

“(iv) the following statement: ‘If your current rate is a temporary introductory rate, your total costs may be higher.’.

“(B) In making the disclosures under subparagraph (A) the creditor shall apply the annual interest rate that applies to that balance with respect to the current billing cycle for that consumer in effect on the date on which the disclosure is made.”.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this paragraph.

(C) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: “In connection with the disclosures referred to in subsections (a) and (b) of section 1637 of this title, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 1635, 1637(a), or of paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 1610(a)(2) as any of the terms or items referred to in section 1637(a), paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) of this title.”.

(2) DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(1)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B)) is amended by adding the following:

“(iv) CREDIT WORKSHEET.—An easily understandable credit worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

“(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement must appear in a clear and conspicuous manner: ‘Your preapproval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.’.

“(vi) AVAILABILITY OF CREDIT REPORT.—That the consumer is entitled to a copy of his or her credit report in accordance with the Fair Credit Reporting Act.”.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(c)(1)(B) of the Truth in Lending Act, as amended by this paragraph.

(b) EFFECTIVE DATE.—The provisions of this section shall become effective on January 1, 2001.

**SEC. 210. VIOLATIONS OF THE AUTOMATIC STAY.**

(a) Section 362(a) is amended by adding after paragraph (8) the following:

“(9) any communication threatening a debtor, at any time after the commencement and before the granting of a discharge in a case under this title, an intention to file a motion to determine the dischargeability of a debt, or to file a motion under section

707(b) of title 11, United States Code, to dismiss or convert a case, or to repossess collateral from the debtor to which the stay applies.”.

**SEC. 211. DISCOURAGING ABUSIVE REAFFIRMATION PRACTICES.**

Section 524 of title 11, United States Code, is amended—

(1) in subsection (c)(2)(B) by adding at the end the following:

“(C) such agreement contains a clear and conspicuous statement which advises the debtor what portion of the debt to be reaffirmed is attributable to principal, interest, late fees, creditor’s attorneys fees, expenses or other costs relating to the collection of the debt.”.

(2)(A) in subsection (c)(6)(B), by inserting after “real property” the following: “or is a debt described in subsection (c)(7)”;

(B) by adding at the end of subsection (c) the following:

“(7) in a case concerning an individual, if the consideration for such agreement is based in whole or in part on an unsecured consumer debt, or is based in whole or in part upon a debt for an item of personalty the value of which at point of purchase was \$250 or less, and in which the creditor asserts a purchase money security interest, the court, approves such agreement as—

“(A) in the best interest of the debtor in light of the debtor’s income and expenses;

“(B) not imposing an undue hardship on the debtor’s future ability of the debtor to pay for the needs of children and other dependents (including court ordered support);

“(C) not requiring the debtor to pay the creditor’s attorney’s fees, expenses or other costs relating to the collection of the debt;

“(D) not entered into to protect property that is necessary for the care and maintenance of children or other dependents that would have nominal value on repossession;

“(E) not entered into after coercive threats or actions by the creditor in the creditor’s course of dealings with the debtor.

“(F) not unfair because excessive in amount based upon the value of the collateral.”.

(3) in subsection (d)(2) by striking “subsections (c)(6)” and inserting “subsections (c)(6) and (c)(7)”, and after “of this section,” by striking “if the consideration for such agreement is based in whole or in part on a consumer debt that is not secured by real property of the debtor” and adding at the end: “as applicable”.

**SEC. 212. SENSE OF THE SENATE REGARDING THE HOMESTEAD EXEMPTION.**

(a) FINDINGS.—The Senate finds that—

(1) one of the most flagrant abuses of the bankruptcy system involves misuse of the homestead exemption, which allows a debtor to exempt his or her home, up to a certain value, as established by State law, from being sold off to satisfy debts;

(2) while the vast majority of States responsibly cap the exemption at not more than \$40,000, 5 States exempt homes regardless of their value;

(3) in the few States with unlimited homestead exemptions, debtors can shield their assets in luxury homes while legitimate creditors get little or nothing;

(4) beneficiaries of the homestead exemption include convicted insider traders and savings and loan criminals, while short-changed creditors include children, spouses, governments, and banks; and

(5) the homestead exemption should be capped at \$100,000 to prevent such high-profile abuses.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) meaningful bankruptcy reform cannot be achieved without capping the homestead exemption; and

(2) bankruptcy reform legislation should include a cap of \$100,000 on the homestead exemption to the bankruptcy laws.

**SEC. 213. ENCOURAGING CREDITWORTHINESS.**

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the “Board”) shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 24 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the credit industry’s indiscriminate solicitation and extension of credit;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

**SEC. 214. TREASURY DEPARTMENT STUDY REGARDING SECURITY INTERESTS UNDER AN OPEN END CREDIT PLAN.**

(a) STUDY.—Within 180 days of the enactment of this Act, the Federal Reserve Board in consultation with the Treasury Department, the general credit industry, and consumer groups, shall prepare a study regarding the adequacy of information received by consumers regarding the creation of security interests under open end credit plans.

(b) FINDINGS.—This study shall include the Board’s findings regarding—

(1) whether consumers understand at the time of purchase of property under an open end credit plan that such property may serve as collateral under that credit plan;

(2) whether consumers understand at the time of purchase the legal consequences of disposing of property that is purchased under an open end credit plan and is subject to a security interest under that plan; and

(3) whether creditors holding security interests in property purchased under an open end credit plan use such security interests to coerce reaffirmations of existing debts under section 524 of the United States Bankruptcy Code.

In formulating these findings, the Board shall consider, among other factors it deems relevant, prevailing industry practices in this area.

(c) DISCLOSURE RECOMMENDATIONS.—This study shall also include the Board’s recommendations regarding the utility and practicality of additional disclosures by credit card issuers at the time of purchase regarding security interests under open end credit plans, including, but not limited to—

(1) disclosures of the specific property in which the creditor will receive a security interest;

(2) disclosures of the consequences of non-payment of the card balance, including how the security interest may be enforced; and

(3) disclosures of the process by which payments made on the card will be credited with respect to the lien created by the security contract and other debts on the card.

(d) SUBMISSION OF REPORT.—The Board shall submit this report to the Senate Committee on the Judiciary, the Senate Committee on Banking, Housing, and Urban Affairs, the House Committee on the Judiciary, and the House Committee on Banking and Financial Services within the time allotted by this section.

**TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM**

**SEC. 301. NOTICE OF ALTERNATIVES.**

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) 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 1 of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

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

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

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

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

(2) 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 pursuant to 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 prior to the filing of the petition;

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

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

(3) by adding at the end the following:

“(b)(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) 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 and the court shall make that plan available to the creditor who requests that plan.

“(c) 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.

“(d)(1) A statement referred to in subsection (c)(4) shall disclose—

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

“(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

“(C) the identity of any persons 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 (e).

“(e)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, 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 Consumer Bankruptcy Reform Act of 1998, 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—

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

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

“(f) If requested by the United States trustee or a trustee serving in the case, the debtor provide 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 such other personal identifying information relating to the debtor that establishes the identity of the debtor.”

(c) TITLE 28.—Section 586(a) of title 28, United States Code, is amended—

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

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

(3) by adding at the end the following:

“(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.”

**SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.**

(a) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking the matter preceding subparagraph (A) and inserting the following:

“(5) with respect to an allowed claim provided for by the plan that is secured under applicable nonbankruptcy law by reason of a lien on property in which the estate has an interest or is subject to a setoff under section 553—”;

(2) by adding at the end of the subsection the following flush sentence:

“For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph.”

(b) PAYMENT OF HOLDERS OF CLAIMS SECURED BY LIENS.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

“(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and”

(c) DETERMINATION OF SECURED STATUS.—Section 506 of title 11, United States Code, is amended by adding at the end the following:

“(e) Subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor during the 90-day period preceding the date of filing of the petition.”

**SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FILINGS.**

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

(1) by inserting “(1)” before “Except as”;

(2) by striking “(1) the stay” and inserting “(A) the stay”;

(3) by striking “(2) the stay” and inserting “(B) the stay”;

(4) by striking “(A) the time” and inserting “(i) the time”;

(5) by striking “(B) the time” and inserting “(ii) the time”; and

(6) by adding at the end the following:

“(2) Except as provided in subsections (d) through (f), 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 shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

“(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

“(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)) was pending during the preceding year but was dismissed.

“(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

“(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

“(A) with respect to the creditors involved, if—

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

“(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

“(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

“(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

“(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

“(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

“(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

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

“(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

“(i) for a definite period of not less than 1 year; or

“(ii) indefinitely.

“(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

“(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

“(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

“(II) the entity was notified of the commencement of the proceeding for relief from the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

“(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.”

**SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.**

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

**§ 1321. Filing of plan**

"The debtor shall file a plan not later than 90 days after the order for relief under this chapter, 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."

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: "That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise."

**SEC. 305. APPLICATION OF THE CODEBTOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.**

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

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

(2) by adding at the end the following:

"(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

"(i) the individual that received that consideration; or

"(ii) property not in the possession of the debtor that secures that claim.

"(B) Notwithstanding subparagraph (A), the stay provided by subsection (a) shall apply in any case in which the debtor is primarily obligated to pay the creditor in whole or in part with respect to a claim described in subparagraph (A) under a legally binding separation or property settlement agreement or divorce or dissolution decree with respect to—

"(i) an individual described in subparagraph (A)(i); or

"(ii) property described in subparagraph (A)(ii).

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

**SEC. 306. IMPROVED BANKRUPTCY STATISTICS.**

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

**§ 159. Bankruptcy statistics**

"(a) The clerk of each district 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, 1998, 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 pursuant to section 2075 of this title and filed by those debtors;

"(B) the current total 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 those cases, 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 within the 6 years previous to the filing; and

"(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of 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. 307. AUDIT PROCEDURES.**

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

(1) in subsection (a), as amended by section 301 of this Act, 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 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 500 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; and

"(iv) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits 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 is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

"(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 pursuant to section 3057 of title 18, United States Code; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11, United States Code."

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521 of title 11, United States Code, is amended in paragraphs (3) and (4) by adding "or an auditor appointed pursuant to section 586 of title 28, United States Code" after "serving in the case".

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) by deleting "or" at the end of paragraph (2);

(2) by substituting "; or" for the period at the end of paragraph (3); and

(3) adding the following at the end of paragraph (3)—

"(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit performed pursuant to section 586(f) of title 28, United States Code; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor that are requested for an audit conducted pursuant to section 586(f) of title 28, United States Code."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

**SEC. 308. 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 one 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. 309. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.**

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c), 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)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.

“(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor’s account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.

“(3) For purposes of this section, the term ‘notice’ shall include—

“(A) any correspondence from the debtor to the creditor after the commencement of the case;

“(B) any statement of the debtor’s intention under section 521(a)(2);

“(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and

“(D) any notice of a hearing under section 1324.

“(e)(1) At any time, a creditor, in a case of an individual 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.

“(2) If the court or the debtor is required to give the creditor notice, not later than 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.

“(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that 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 (e) with respect to a particular case.

“(g)(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.

“(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.”

**SEC. 310. 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, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.”

**SEC. 311. 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.”

**SEC. 312. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.**

Section 707 of title 11, United States Code, as amended by section 102 of this Act, is amended by adding at the end the following:

“(c)(1) Notwithstanding subsection (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 section 521(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. The court shall, if so requested, enter an order of dismissal not later than 5 days after that 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 50 days to file the information required under section 521(a)(1) if the court finds justification for extending the period for the filing.”

**SEC. 313. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.**

Section 1324 of title 11, United States Code, as amended by section 304 of this Act, 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) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a).”

**SEC. 314. 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), (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. NONDISCHARGEABLE 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) or (b), or 1328(b), or any other provision of this subsection, where the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly-created debt.”

**SEC. 316. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.**

Section 523(a)(2) of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subparagraph (A), by striking the semicolon at the end and inserting the following: “(and, for purposes of this subparagraph, consumer debts owed in an aggregate amount greater than or equal to \$400 incurred for goods or services not reasonably necessary for the maintenance or support of the debtor or a dependent child of the debtor to a single creditor that are incurred during the 90-day period preceding the date of the order for relief shall be presumed to be nondischargeable under this subparagraph); or”;

(2) in subparagraph (B), by striking “or” at the end; and

(3) by striking subparagraph (C).

**SEC. 317. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.**

Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall promulgate regulations defining “household goods” under section 522(c)(3) in a manner suitable and appropriate for cases under title 11 of the United States Code. If new regulations are not effective within 180 days of enactment of this Act, then “household goods” under section 522(c)(3) shall have the meaning given that term in section 444.1(i) of title 16, of the Code of Federal Regulations, except that the term shall also include any tangible personal property reasonably necessary for the maintenance or support of a dependent child.

**SEC. 318. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.**

(a) AUTOMATIC STAY.—Section 362 of title 11, United States Code, as amended by section 303, is amended—

(1) in subsection (c)(1), in the matter preceding subparagraph (A), by striking “(e) and (f)” and inserting “(e), (f), and (h)”; and

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following:

“(h) 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 that is in an amount greater than \$3,000, or subject to an unexpired lease with a remaining term of at least 1 year (in any case in which the debtor owes at least \$3,000 for a 1-year period), if within 30 days after the expiration of the applicable period under section 521(a)(2)—

“(1)(A) the debtor fails to timely file a statement of intention to surrender or retain the property; or

“(B) if the debtor indicates in the filing that the debtor will retain the property, the debtor fails to meet an applicable requirement to—

“(i) either—

“(I) redeem the property pursuant to section 722; or

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

“(ii) assume the unexpired lease pursuant to section 365(d) if the trustee does not do so; or

“(2) the debtor fails to timely take the action specified in a statement of intention referred to in paragraph (1)(A) (as amended, if that statement is amended before expiration of the period for taking action), unless—

“(A) the statement of intention specifies reaffirmation; and

“(B) the creditor refuses to reaffirm the debt on the original contract terms for the debt.”.

(b) DEBTOR'S DUTIES.—Section 521(a)(2) of title 11, United States Code, as redesignated by section 301(b) of this Act, is amended—

(1) in the matter preceding subparagraph (A), by striking “consumer”;

(2) in subparagraph (B)—

(A) by striking “forty-five days after the filing of a notice of intent under this section” and inserting “30 days after the first meeting of creditors under section 341(a)”;

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

(3) in subparagraph (C), by inserting “, except as provided in section 362(h)” before the semicolon.

**SEC. 319. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.**

(a) IN GENERAL.—Chapter 13 of title 11, United States Code, is amended by adding after section 1307 the following:

**“§ 1307A. 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)(A), 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, as applicable.

“(2) The payments referred to in paragraph (1)(A) shall be determined by the court.

“(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 a payment referred to in paragraph (1) shall not be less than the reasonable depreciation of the personal property described in subsection (a)(1), determined on a month-to-month basis.

“(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—

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

“(2) for 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.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

“1307A. Adequate protection in chapter 13 cases.”.

**SEC. 320. LIMITATION.**

Section 522 of title 11, United States Code, as amended by section 207(a), is amended—

(1) in subsection (b)(3)(A), by inserting “subject to subsection (n),” before “any property”; and

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

“(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds in the aggregate \$100,000 in value in—

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

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

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

“(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer.”.

**SEC. 321. MISCELLANEOUS IMPROVEMENTS.**

(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 preceding the date of filing of the petition of that individual, received credit counseling, including, at a minimum, participation in an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing an initial budget analysis, through a credit counseling program (offered through an approved credit counseling service described in section 111(a)) that has been approved by—

“(A) the United States trustee; or

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

“(2)(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 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 one 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 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 that was administered or approved by—

“(A) the United States trustee; or

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

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

“(f) 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 that was administered or approved by—

“(1) the United States trustee; or

“(2) the bankruptcy administrator for the district in which the petition is filed.”.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 301(b) and 318(b) of this Act, is amended by adding at the end the following:

“(e) 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) EXCEPTIONS TO DISCHARGE.—Section 523(d) of title 11, United States Code, as amended by section 202 of this Act, is amended by striking paragraph (3)(A)(i) and inserting the following:

“(i) within the applicable period of time prescribed under section 109(h), the debtor received credit counseling through a credit counseling program in accordance with section 109(h); and”.

(f) 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 that have been approved by—

“(1) the United States trustee; or  
“(2) the bankruptcy administrator for the district.

“(b) The United States trustee or each bankruptcy administrator referred to in subsection (a)(1) shall—

“(1) make available to debtors who are individuals an instructional course concerning personal financial management, under the direction of the bankruptcy court; and

“(2) maintain a list of instructional courses concerning personal financial management that are operated by a private entity and that have been approved by the United States trustee or that bankruptcy administrator.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of 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.*”.

(g) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 317 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 co-operative unit;” and

(2) by inserting after paragraph (27A), as added by section 318 of this Act, the following:

“(27B) ‘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. 322. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the “Bankruptcy Judgeship Act of 1998”.

(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 position.

(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 new subsection:

“(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 (1), 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).”.

#### SEC. 323. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, as amended by section 321(g) of this Act, 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. 324. 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 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:

“(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 of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or parent, 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 of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.”.

**SEC. 325. 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.”;

(2) 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 all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.”; and

(3) in section 1328(a), as amended by section 314 of this Act, 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, certifies that all amounts payable under such order or statute that are due on or before 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”.

**SEC. 326. 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 or continuation 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 adding at the end the following:

“(19) under subsection (a) with respect to the withholding of income pursuant to 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—  
“(A) the withholding, suspension, or restriction of drivers’ licenses, professional and occupational licenses, and recreational licenses pursuant to State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));  
“(B) 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)); or

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

**SEC. 327. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.**

Section 523 of title 11, United States Code, as amended by section 202 of this Act, is amended—

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

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

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

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

**SEC. 328. 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. 329. 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. 330. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.**

(a) IN GENERAL.—Section 522 of title 11, United States Code, 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 and which has not been pledged or promised to any person in connection with any extension of credit.”;

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

“(2) Property listed in this paragraph is property that is specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (3)(A) of this subsection 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)”; and  
(iv) by striking “Such property is—”;

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

“(4) For purposes of paragraph (3)(C), 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, 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 such applicable requirements, 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) 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) 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, is amended—

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

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

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

“(19) 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 (29 U.S.C. 1108(b)(1)); 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 that title.”; and

(4) by adding at the end of the flush material following paragraph (19) the following: “Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19)

may be construed to provide that any loan made under a governmental plan under section 414(d) 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, as amended by section 202, 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 (29 U.S.C. 1108(b)(1)); 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 that title.

Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d) 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)(19).”

**SEC. 331. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.**

(a) Section 507(a) of title 11, United States Code, 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) Section 523(a)(9) of title 11, United States Code, is amended by inserting “or vessel” after “vehicle”.

**SEC. 332. 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. 333. 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 one of the three calendar years preceding the year”.

**SEC. 334. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.**

(a) Section 1225(b) of title 11, United States Code, is amended by adding at the end the following:

“(3) If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B) of this subsection, those amounts equal or exceed the debtor’s projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.

(b) Section 1229 of title 11, United States Code, is amended by adding at the end the following:

“(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan.

“(2) A modification of the plan under this section to increase payments based on an increase in the debtor’s disposable income may not require payments to unsecured creditors in any particular month greater than the debtor’s disposable income for that month unless the debtor proposes such a modification.

“(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed unless the debtor proposes such a modification.”

**SEC. 335. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.**

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

**SEC. 336. PROTECTION OF SAVINGS EARMARKED FOR THE POSTSECONDARY EDUCATION OF CHILDREN**

Section 541(b) of title 11, United States Code, as amended by section 404 of this Act, is amended—

(1) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(2) by inserting after paragraph (6) the following:

“(7) except as otherwise provided under applicable State law, any funds placed in a qualified State tuition program (as described in section 529(b) of the Internal Revenue Code of 1986) at least 180 days before the date of entry of the order for relief; or

“(8) any funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) at least 180 days before the date of entry of the order for relief.”

**TITLE IV—FINANCIAL INSTRUMENTS**

**SEC. 401. BANKRUPTCY CODE AMENDMENTS.**

(a) DEFINITIONS OF SWAP AGREEMENT, SECURITIES CONTRACT, FORWARD CONTRACT, COMMODITY CONTRACT, AND REPURCHASE AGREEMENT.—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 new subparagraphs:

“(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

“(C) any option to enter into any agreement or transaction referred to in subparagraph (A) or (B);

“(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B) or (C), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that the master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B) or (C); or

“(E) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C) or (D);”;

(B) by amending paragraph (47) to read as follows:

“(47) the term ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

“(A) means—

“(i) an agreement, including related terms, which provides for the transfer of 1 or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers’ acceptances, securities, loans or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptances, securities, loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds; or any other similar agreement; and

“(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

“(iii) any option to enter into any agreement or transaction referred to in clause (i) or (ii);

“(iv) a master agreement that provides for an agreement or transaction referred to in clauses (i), (ii) or (iii), together with all supplements, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that the master agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii) or (iii); or

“(v) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clauses (i), (ii), (iii) or (iv); and

“(B) does not include any repurchase obligation under a participation in a commercial mortgage loan, and, for purposes of this paragraph, the term ‘qualified foreign government security’ means 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.”; and

(C) by amending paragraph (53B) to read as follows:

“(53B) the term ‘swap agreement’—

“(A) means—

“(i) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement;

“(ii) any agreement similar to any other agreement or transaction referred to in this subparagraph that—

“(I) is presently, or in the future becomes, regularly entered into in the swap agreement market (including terms and conditions incorporated by reference therein); and

“(II) is a forward, swap, future, or option on 1 or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

“(iii) any combination of agreements or transactions referred to in this subparagraph;

“(iv) any option to enter into any agreement or transaction referred to in this subparagraph;

“(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is described in any of such clause, except that the master agreement shall be considered to be a swap agreement only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

“(C) is applicable for purposes of this title only and shall not be construed or applied to challenge or affect the characterization, definition, or treatment of any swap agreement or any instrument defined as a swap agreement herein, 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) by amending section 741(7) to read as follows:

“(7) the term ‘securities contract’—

“(A) means—

“(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, or a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;

“(ii) any option entered into on a national securities exchange relating to foreign currencies;

“(iii) the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interest therein, or group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;

“(iv) any margin loan;

“(v) any other agreement or transaction that is similar to any agreement or transaction referred to in this subparagraph;

“(vi) any combination of the agreements or transactions referred to in this subparagraph;

“(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

“(viii) a master 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 any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that the master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); and

“(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph; and

“(B) does not include any purchase, sale, or repurchase obligation under a participation in or servicing agreement for a commercial mortgage loan.”; and

(3) in section 761(4)—

(A) by striking “or” at the end of subparagraph (D); and

(B) by adding at the end the following new subparagraphs:

“(F) any other agreement or transaction that is similar to any agreement or transaction referred to in this paragraph;

“(G) any combination of the agreements or transactions referred to in this paragraph;

“(H) any option to enter into any agreement or transaction referred to in this paragraph;

“(I) a master 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 any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master 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 related to any agreement or transaction referred to in this paragraph.”;

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by amending paragraph (22) to read as follows:

“(22) the term ‘financial institution’ means a Federal reserve bank, or a person that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such person and, when any such Federal reserve bank, receiver, or conservator or person acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer.”;

(2) by inserting after paragraph (22) the following new paragraph:

“(22A) the term ‘financial participant’ means any entity that, at the time it enters into a securities contract, commodity contract or forward contract, or at the time of the filing of the petition, has 1 or more agreements or transactions that is described in section 561(a)(2) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of at least \$1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross market-to-market positions of at least \$100,000,000 (aggregated across counterparties) in 1 or more such agreements or transactions with the debtor or any other entity (other than an

affiliate) on any day during the previous 15-month period.”; and

(3) by amending paragraph (26) to read as follows:

“(26) the term ‘forward contract merchant’ means a Federal reserve bank, or a person whose business 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(8) of this title, or any similar good, article, service, right, or interest which 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, is amended by inserting after paragraph (38) the following new paragraphs:

“(38A) the term ‘master netting agreement’ 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. 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, 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 amending paragraph (17) to read as follows:

“(17) under subsection (a), of the setoff by a swap participant of any mutual debt and claim under or in connection with 1 or more swap agreements that constitute the setoff of a claim against the debtor for any payment due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant under or in connection with any swap agreement or against cash, securities, or other property of the debtor held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle any swap agreement.”;

(D) in paragraph (20), by striking “or” at the end;

(E) in paragraph (21), by striking the period and inserting “; or”; and

(F) by inserting after paragraph (18) the following new paragraph:

“(22) 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 to the extent such participant could offset the claim 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, is amended by adding at the end the following new subsection:

“(i) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (22) of subsection (b) shall not be stayed by any 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)—

(A) by striking “under a swap agreement”;

(B) by striking “in connection with a swap agreement” and inserting “under or in connection with any swap agreement”;

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

(3) by inserting before subsection (i) (as redesignated) the following new subsection:

“(h) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, to the extent that under subsection (e), (f), or (g), the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with each individual contract covered by any master netting agreement that is made before the commencement of the case, the trustee may not avoid a transfer made by or to such master netting agreement participant under or in connection with the master netting agreement in issue, except under section 548(a)(1) of this title.”.

(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 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 takes for value to the extent of such transfer, but only to the extent that such participant would take for value under paragraph (B), (C), or (D) for each individual contract covered by the master netting agreement in issue.”.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read “**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 amending the section heading to read “**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 amending the section heading to read “**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 amending the section heading to read “**Contractual right to liquidate, terminate, or accelerate a swap agreement**”; and

(2) in the first sentence, by striking “termination of a swap agreement” and inserting “liquidation, termination, or acceleration of 1 or more swap agreements”; and

(3) by striking “in connection with any swap agreement” and inserting “in connection with the termination, liquidation, or acceleration of 1 or more swap agreements”.

(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) IN GENERAL.—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 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) EXCEPTION.—

“(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)(A) A party may not exercise a contractual right described in subsection (a) to offset or to net obligations arising under, or in connection with, a commodity contract against obligations arising under, or in connection with, any instrument listed in subsection (a) if the obligations are not mutual.

“(B) If a debtor is a commodity broker subject to subchapter IV of chapter 7 of this title, 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 listed in subsection (a) if the party has no positive net equity in the commodity account at the debtor, as calculated under subchapter IV.

“(c) DEFINITION.—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.”.

(1) MUNICIPAL BANKRUPTCIES.—Section 901 of title 11, United States Code, is amended—

(1) by inserting “, 555, 556” after “553”; and

(2) by inserting “, 559, 560, 561, 562” after “557”.

(m) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following new subsection:

“(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 will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any proceeding under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).”.

(n) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following new section:

“**§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 or affect the provisions of this subchapter IV regarding customer property or distributions.”.

(o) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following new section:

“**§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, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of rights or affect the provisions of this subchapter regarding customer property or distributions.”.

(p) 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), 555, 556, 559, 560, or 561 of this title)” before the period; and

(2) in subsection (b)(1), by striking “362(b)(14),” and inserting “362(b)(17), 555, 556, 559, 560, 561”.

(q) 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".

(r) TECHNICAL AND CONFORMING AMENDMENT.—Section 104 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(c) EXCEPTION FOR CERTAIN DEFINED TERMS.—No adjustments shall be made under this section to the dollar amounts set forth in the definition of the term 'financial participant' in section 101(22A)."

#### SEC. 402. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

#### SEC. 403. DAMAGE MEASURE.

(a) Title 11, United States Code, is amended by inserting after section 561 (as added by section 7(k)) the following new section:

#### "§ 561. 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 of this title, forward contract, repurchase agreement, or master netting agreement pursuant to section 365(a) of this title, or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates any 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."

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by designating the existing text as paragraph (1); and

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

"(2) A claim for damages calculated in accordance with section 562 of this title 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. 404. 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 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) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) ASSET-BACKED SECURITIZATION.—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) ELIGIBLE ASSET.—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) ELIGIBLE ENTITY.—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) ISSUER.—The term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto.

"(5) TRANSFERRED.—The term 'transferred' means the debtor, pursuant to 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. 405. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

Section 106 of the Truth in Lending Act (15 U.S.C. 1605) is amended by adding at the end the following:

"(g) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor may not, solely because a consumer has not incurred finance charges in connection with an extension of credit—

"(1) refuse to renew or continue to offer the extension of credit to that consumer; or

"(2) charge a fee to that consumer in lieu of a finance charge."

#### SEC. 406. 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 "such period," and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

#### SEC. 407. BANKRUPTCY FEES.

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

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the par-

ties" and inserting "Subject to subsection (f), the parties"; and

(2) by adding at the end the following:

"(f)(1) The Judicial Conference of the United States shall prescribe procedures for waiving fees under this subsection.

"(2) Under the procedures described in paragraph (1), the district court or the bankruptcy court may waive a filing fee described in paragraph (3) for a case commenced under chapter 7 of title 11 if the court determines that an individual debtor is unable to pay that fee in installments.

"(3) A filing fee referred to in paragraph (2) is—

"(A) a filing fee under subsection (a)(1); or

"(B) any other fee prescribed by the Judicial Conference of the United States under subsection (b) that is payable to the clerk of the district court or the clerk of the bankruptcy court upon the commencement of a case under chapter 7 of title 11.

"(4) In addition to waiving a fee described in paragraph (3) under paragraph (2), the district court or the bankruptcy court may waive any other fee prescribed under subsection (b) or (c) if the court determines that the individual is unable to pay that fee in installments."

#### SEC. 408. APPLICABILITY.

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.

### TITLE V—ANCILLARY AND OTHER CROSS-BORDER CASES

#### SEC. 501. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

#### "CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.

"601. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"602. Definitions.

"603. International obligations of the United States.

"604. Commencement of ancillary case.

"605. Authorization to act in a foreign country.

"606. Public policy exception.

"607. Additional assistance.

"608. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"609. Right of direct access.

"610. Limited jurisdiction.

"611. Commencement of bankruptcy case under section 301 or 303.

"612. Participation of a foreign representative in a case under this title.

"613. Access of foreign creditors to a case under this title.

"614. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"615. Application for recognition of a foreign proceeding.

"616. Presumptions concerning recognition.

"617. Order recognizing a foreign proceeding.

"618. Subsequent information.

"619. Relief that may be granted upon petition for recognition of a foreign proceeding.

"620. Effects of recognition of a foreign main proceeding.

"621. Relief that may be granted upon recognition of a foreign proceeding.

"622. Protection of creditors and other interested persons.

“623. Actions to avoid acts detrimental to creditors.

“624. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“625. Cooperation and direct communication between the court and foreign courts or foreign representatives.

“626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.

“627. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“628. Commencement of a case under this title after recognition of a foreign main proceeding.

“629. Coordination of a case under this title and a foreign proceeding.

“630. Coordination of more than 1 foreign proceeding.

“631. Presumption of insolvency based on recognition of a foreign main proceeding.

“632. Rule of payment in concurrent proceedings.

#### “§ 601. Purpose and scope of application

“(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

“(1) cooperation between—

“(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

“(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

“(2) greater legal certainty for trade and investment;

“(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

“(4) protection and maximization of the value of the debtor’s assets; and

“(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

“(b) This chapter applies where—

“(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

“(2) assistance is sought in a foreign country in connection with a case under this title;

“(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

“(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

“(c) This chapter does not apply to—

“(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

“(2) a natural person or a natural person and that person’s spouse who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

“SUBCHAPTER I—GENERAL PROVISIONS

#### “§ 602. Definitions

“For the purposes of this chapter, the term—

“(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

“(2) ‘establishment’ means any place of operations where the debtor carries out a 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 chapters 9 or 13 of this title; and

“(7) ‘within the territorial jurisdiction of the United States’ when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed to be located within that territory, including any property that may properly be seized or garnished by an action in a Federal or State court in the United States.

#### “§ 603. International obligations of the United States

“To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

#### “§ 604. Commencement of ancillary case

“A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

#### “§ 605. Authorization to act in a foreign country

“A trustee or another entity designated by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

#### “§ 606. Public policy exception

“Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

#### “§ 607. Additional assistance

“(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

“(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

“(1) just treatment of all holders of claims against or interests in the debtor’s property;

“(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

“(3) prevention of preferential or fraudulent dispositions of property of the debtor;

“(4) distribution of proceeds of the debtor’s property substantially in accordance with the order prescribed by this title; and

“(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

#### “§ 608. Interpretation

“In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this

chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

#### “§ 609. Right of direct access

“(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

“(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued.

“(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

“(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

#### “§ 610. Limited jurisdiction

“The sole fact that a foreign representative files a petition under sections 604 and 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

#### “§ 611. Commencement of bankruptcy case under section 301 or 303

“(a) Upon filing a petition for recognition, a foreign representative may commence—

“(1) an involuntary case under section 303; or

“(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

“(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative’s intent to commence a case under subsection (a) of this section prior to such commencement.

“(c) A case under subsection (a) shall be dismissed unless recognition is granted.

#### “§ 612. Participation of a foreign representative in a case under this title

“Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

#### “§ 613. Access of foreign creditors to a case under this title

“(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

“(b)(1) Subsection (a) of this section does not change or codify 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 those sections shall not be given a lower priority than the class of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

“(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify 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.

**“§ 614. Notification to foreign creditors concerning a case under this title**

“(a) Whenever in a case under this title, notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

“(b) The notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

“(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

“(1) indicate the time period for filing proofs of claim and specify the place for their filing;

“(2) indicate whether secured creditors need to file their proofs of claim; and

“(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

“(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

**“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF**

**“§ 615. Application for recognition of a foreign proceeding**

“(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

“(b) A petition for recognition shall be accompanied by—

“(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

“(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

**“§ 616. Presumptions concerning recognition**

“(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of section 101(24), the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether the documents have been subjected to legal processing under applicable law.

“(c) In the absence of evidence to the contrary, the debtor’s registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor’s main interests.

**“§ 617. Order recognizing a foreign proceeding**

“(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

“(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602 and is a foreign proceeding within the meaning of section 101(23);

“(2) the person or body applying for recognition is a foreign representative within the meaning of section 101(24); and

“(3) the petition meets the requirements of section 615.

“(b) The foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The foreign proceeding may be closed in the manner prescribed for a case under section 350.

**“§ 618. Subsequent information**

“From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative’s appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

**“§ 619. Relief that may be granted upon petition for recognition of a foreign proceeding**

“(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor’s assets;

“(2) entrusting the administration or realization of all or part of the debtor’s assets located in the United States to the foreign representative or another person designated by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

“(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

**“§ 620. Effects of recognition of a foreign main proceeding**

“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

“(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

“(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor’s business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

“(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

“(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

“(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

**“§ 621. Relief that may be granted upon recognition of a foreign proceeding**

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor’s assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

“(2) staying execution against the debtor’s assets to the extent it has not been stayed under section 620(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor’s assets, affairs, rights, obligations or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor’s assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, designated by the court;

“(6) extending relief granted under section 619(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court

may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, designated by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“§ 622. Protection of creditors and other interested persons

“(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

“§ 623. Actions to avoid acts detrimental to creditors

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

“§ 624. Intervention by a foreign representative

“Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“§ 625. Cooperation and direct communication between the court and foreign courts or foreign representatives

“(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

“(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

“§ 626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

“(a) In all matters included in section 601, the trustee or other person, including an examiner, designated by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

“(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court,

to communicate directly with foreign courts or foreign representatives.

“(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322(a).

“§ 627. Forms of cooperation

“Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

“(1) appointment of a person or body, including an examiner, to act at the direction of the court;

“(2) communication of information by any means considered appropriate by the court;

“(3) coordination of the administration and supervision of the debtor's assets and affairs;

“(4) approval or implementation of agreements concerning the coordination of proceedings; and

“(5) coordination of concurrent proceedings regarding the same debtor.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“§ 628. Commencement of a case under this title after recognition of a foreign main proceeding

“After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) and 1334(e), to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

“§ 629. Coordination of a case under this title and a foreign proceeding

“Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

“(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

“(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

“(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

“(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

“(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

“(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

“(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

“§ 630. Coordination of more than 1 foreign proceeding

“In matters referred to in section 601, with respect to more than one foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

“(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

“(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

“(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

“§ 631. Presumption of insolvency based on recognition of a foreign main proceeding

“In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

“§ 632. Rule of payment in concurrent proceedings

“Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.”.

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

“6. Ancillary and Other Cross-Border Cases ..... 601”.

SEC. 502. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: “and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6”; and

(2) by adding at the end the following:

“(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity designated by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.”.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

“(23) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

“(24) ‘foreign representative’ means a person or body, including 1 appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or

the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

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

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following: "(P) recognition of foreign proceedings and other matters under chapter 6."

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 6 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting "6," after "chapter".

#### TITLE VI—MISCELLANEOUS

##### SEC. 601. 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. 602. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

(a) IN GENERAL.—Section 158 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Any final judgment, decision, order, or decree of a bankruptcy judge entered for a case in accordance with section 157 may be appealed by any party in such case to the appropriate court of appeals if—

"(A) an appeal from such judgment, decision, order, or decree is first filed with the appropriate district court of the United States; and

"(B) the decision on the appeal described under subparagraph (A) is not filed by a district court judge within 30 days after the date such appeal is filed with the district court.

"(2) On the date that an appeal is filed with a court of appeals under paragraph (1), the chief judge for such court of appeals shall issue an order to the clerk for the district court from which the appeal is filed. Such order shall direct the clerk to enter the final judgment, decision, order, or decree of the bankruptcy judge as the final judgment, decision, order, or decree of the district court."; and

(3) in subsection (e), (as redesignated by paragraph (1) of this section) by striking "subsections (a) and (b)" and inserting "subsections (a), (b), and (d)".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 305(c) of title 11, United States Code, is amended by striking "section 158(d)" and inserting "section 158(e)".

(2) Section 1334(d) of title 28, United States Code, is amended by striking "section 158(d)" and inserting "section 158(e)".

(3) Section 1452(b) of title 28, United States Code, is amended by striking "section 158(d)" and inserting "section 158(e)".

##### SEC. 603. 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. 604. REPEAL OF SUNSET PROVISION.

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. 605. CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, as amended by section 410 of this Act, is amended by adding at the end the following:

"(e)(1) In this subsection—

"(A) the term 'domestic insurance company' means a domestic insurance company, as that term is used in section 109(b)(2);

"(B) the term 'foreign insurance company' means a foreign insurance company, as that term is used in section 109(b)(3);

"(C) the term 'United States claimant' means a beneficiary of any deposit referred to in paragraph (2)(A) or any multibeneficiary trust referred to in subparagraph (B) or (C) of paragraph (2);

"(D) 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

"(E) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

"(2) Notwithstanding subsections (b) and (c), the court may not grant relief under subsection (b) to a foreign insurance company that is not engaged in the business of insurance or reinsurance in the United States with respect to any claim made by a United States creditor against—

"(A) a deposit required by an applicable State insurance law;

"(B) a multibeneficiary trust required by an applicable State insurance law to protect United States policyholders or claimants against a foreign insurance company; or

"(C) a multibeneficiary trust authorized under an applicable State insurance law to allow a domestic insurance company that cedes reinsurance to the debtor to reflect the reinsurance as an asset or deduction from liability in the ceding insurer's financial statements."

##### SEC. 606. LIMITATION.

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

##### SEC. 607. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended by inserting at the end thereof:

"(I) Notwithstanding section 545 (2) and (3) of this title, the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods, as provided by section 7-209 of the Uniform Commercial Code."

##### SEC. 608. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

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

(1) in subsection (3)(A) after the word "awarded", by inserting "to an examiner,

chapter 11 trustee, or professional person"; and

(2) by adding at the end of subsection (3)(A) the following:

"(3)(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."

#### TITLE VII—TECHNICAL CORRECTIONS

##### SEC. 701. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section 317, 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 amending paragraph (54) to read as follows:

"(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 (56A) (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 (56A) in entirely numerical sequence, so as to result in numerical paragraph designations of (4) through (77), respectively.

##### SEC. 702. 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. 703. 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. 704. WHO MAY BE A DEBTOR.

Section 109(b)(2) of title 11, United States Code, is amended by striking "subsection (c) or (d) of".

##### SEC. 705. PENALTY FOR PERSONS WHO NEGLIGENCE 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. 706. 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. 707. 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. 708. 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. 709. AUTOMATIC STAY.**

Section 362(b) of title 11, United States Code, as amended by sections 326 and 401 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) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;

“(24) under subsection (a)(3) of this section, 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 and the debtor has not paid rent to the lessor pursuant to the terms of the lease agreement or applicable State law after the commencement and during the course of the case;

“(25) under subsection (a)(3) of this section, of the commencement or 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 that has terminated pursuant to the lease agreement or applicable State law;

“(26) under subsection (a)(3) of this section, of any eviction, unlawful detainer action, or similar proceeding, if the debtor has previously filed within the last year and failed to pay post-petition rent during the course of that case; or

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

**SEC. 710. AMENDMENT TO TABLE OF SECTIONS.**

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

“556. Contractual right to liquidate a commodities contract or forward contract.”

**SEC. 711. 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. 712. PRIORITIES.**

Section 507(a) of title 11, United States Code, as amended by section 323 of this Act, is amended—

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

(2) in paragraph (7), by inserting “unsecured” after “allowed”.

**SEC. 713. EXEMPTIONS.**

Section 522 of title 11, United States Code, as amended by section 320 of this Act, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking “includes a liability designated as” and inserting “is for a liability that is designated as, and is actually in the nature of,”; and

(B) by striking “, unless” and all that follows through “support”; and

(2) in subsection (g)(2), by striking “subsection (f)(2)” and inserting “subsection (f)(1)(B)”.

**SEC. 714. EXCEPTIONS TO DISCHARGE.**

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

(1) in subsection (a)(3), by striking “or (6)” each place it appears and inserting “(6), or (15)”;

(2) 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 after paragraph (14) of subsection (a);

(3) in subsection (a)(9), by inserting “, watercraft, or aircraft” after “motor vehicle”;

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting “to a spouse, former spouse, or child of the debtor and” after “(15)”;

(5) in subsection (a)(17)—

(A) by striking “by a court” and inserting “on a prisoner by any court”;

(B) by striking “section 1915 (b) or (f)” and inserting “subsection (b) or (f)(2) of section 1915”; and

(C) by inserting “(or a similar non-Federal law)” after “title 28” each place it appears; and

(6) in subsection (e), by striking “a insured” and inserting “an insured”.

**SEC. 715. 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) of this title, or that”.

**SEC. 716. 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. 717. 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. 718. PREFERENCES.**

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

(1) in subsection (b), by striking “subsection (c)” and inserting “subsections (c) and (h)”;

(2) by adding at the end the following:

“(h) 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.”

**SEC. 719. 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. 720. TECHNICAL AMENDMENT.**

Section 552(b)(1) of title 11, United States Code, is amended by striking “product” each place it appears and inserting “products”.

**SEC. 721. DISPOSITION OF PROPERTY OF THE ESTATE.**

Section 726(b) of title 11, United States Code, is amended by striking “1009”.

**SEC. 722. GENERAL PROVISIONS.**

Section 901(a) of title 11, United States Code, as amended by section 408, is amended by inserting “1123(d),” after “1123(b),”.

**SEC. 723. APPOINTMENT OF ELECTED TRUSTEE.**

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(b)”;

(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.

Upon the filing of a report under the preceding sentence—

“(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.

“(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.”

**SEC. 724. 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. 725. 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. 726. 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. 727. 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. 728. 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)”;

(2) by striking “This subsection” and inserting “Subsection (c) and this subsection”.

**SEC. 729. 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. 730. 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 that 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—

“(i) that 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) that 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) that 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, that is 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 pursuant to 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 prior to 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—

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

“(ii) that occurs 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) that occurs 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 pursuant to 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 pursuant to 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. 731. 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 pursuant to 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 709, 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 adding at the end the following:

“(26) under subsection (a) of this section, 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. The debtor in a subsequent case, however, 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

“(27) under subsection (a) of this section, 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. 732. STUDY OF OPERATION OF TITLE 11 OF THE UNITED STATES CODE WITH RESPECT TO SMALL BUSINESSES.**

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

(1) conduct a study to determine—

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

(B) how Federal laws relating to bankruptcy 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. 733. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.**

(a) **SALE OF PROPERTY OF ESTATE.**—Section 363(d) of title 11, United States Code, is amended—

(1) 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, is amended by adding at the end the following:

“(14) 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:

“(e) 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.

**SEC. 734. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) **EFFECTIVE DATE.**—Except as provided in subsection (b), this title and the amendments made by 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 only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.

SA 94. Mr. BREAUX (for himself, Mr. SPECTER, Mrs. LINCOLN, Mr. JOHNSON, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. CLELAND, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by them to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table.

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . AUTHORITY TO ISSUE A RULE RELATING TO ERGONOMICS.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The National Academy of Sciences issued a report entitled “Musculoskeletal Disorders and the Workplace—Low Back and Upper Extremities” on January 18, 2001. The report was issued after the Occupational Safety and Health Administration promulgated a final rule relating to ergonomics (published at 65 Fed. Reg. 68261 (2000)).

(2) According to the National Academy of Sciences, musculoskeletal disorders of the low back and upper extremities are an important and costly national health problem. An estimated 1,000,000 workers each year lose time from work as a result of work-related musculoskeletal disorders.

(3) Conservative estimates of the economic burden imposed by work-related musculoskeletal disorders, as measured by compensation costs, lost wages, and lost productivity, are between \$45,000,000,000 and \$54,000,000,000 annually.

(4) Congress enacted the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions,” and charged the Secretary of Labor with implementing the Act to accomplish this purpose.

(5) Promulgation of a standard on workplace ergonomics is needed to address a serious workplace safety and health problem and to protect working men and women from work-related musculoskeletal disorders. Any workplace ergonomics standard should take into account the cost and feasibility of compliance with such requirements and the sound science of the National Academy of Sciences report.

(b) **AUTHORITY TO ISSUE RULE.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this Act, the Secretary of Labor shall, in accordance with section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), issue a final rule relating to ergonomics. The standard under the final rule shall take effect not later than 90 days after the date on which the rule is promulgated. The standard shall—

(A) address work-related musculoskeletal disorders and workplace ergonomic hazards;

(B) not apply to non-work-related musculoskeletal disorders that occur outside the workplace or non-work-related musculoskeletal disorders that are aggravated by work; and

(C) set forth in clear terms—

(i) the circumstances under which an employer is required to take action to address ergonomic hazards;

(ii) the measures required of an employer under the standard; and

(iii) the compliance obligations of an employer under the standard.

(2) **AUTHORIZATION.**—Paragraph (1) shall be considered a specific authorization by Congress in accordance with section 801(b)(2) of title 5, United States Code, with respect to the issuance of a new ergonomic rule.

(3) **PROHIBITION.**—In issuing a new rule under this subsection, the Secretary of Labor shall ensure that nothing in the rule expands the application of State workers’ compensation laws.

(4) **STANDARD SETTING AUTHORITY.**—Nothing in this subsection shall be construed to restrict or alter the authority of the Secretary of Labor under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) to adopt health or safety standards (as defined in section 3(8) (29 U.S.C. 652(8)) of such Act) for other hazards pursuant to section 6 (29 U.S.C. 655) of such Act.

(5) **INFORMATION AND TRAINING MATERIALS.**—The Secretary of Labor shall, prior to the date on which the new rule under this subsection becomes effective, develop information and training materials, and implement an outreach program and other initiatives, to provide compliance assistance to employers and employees concerning the new rule and the requirements under the rule.

SA 95. Mr. SMITH of Oregon (for himself and Mr. WYDEN) proposed an amendment to amendment SA 78 proposed by Mr. WYDEN to the bill (S. 420) to amend title II, United States Code, and for other purposes; as follows:

Strike all after the first word and insert the following:

**420. NONDISCHARGEABILITY OF DEBTS ARISING FROM THE EXCHANGE OF ELECTRIC ENERGY.**

(a) **IN GENERAL.**—Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(6) The confirmation of a plan does not discharge a debtor—

“(A) in the case of a debtor that is a corporation, from any debt for wholesale electric power received that is incurred by that debtor under an order issued by the Secretary of Energy (or any amendment of or attachment to that order) under section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) and requested by the California Independent System Operator; or

“(B) in the case of debt owed to a Federal, State, or local government agency named in an order referred to in subparagraph (A) for wholesale electric power received by the debtor except to the extent the rate charged for power traded by the California Power Exchange delivered to the California Independent System Operator is determined by the Federal Energy Regulatory Commission (Commission) to be unjust and unreasonable in which case this subparagraph shall only apply to debt determined by the Commission to be just and reasonable.”.

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

(1) in paragraph (28), as added by section 907(d) of this Act, by striking “or” at the end;

(2) in paragraph (29), as added by section 1106 of this Act, by striking the period at the end and inserting “; or”; and

(3) by inserting after that paragraph (29) the following:

“(30) under subsection (a), of the commencement or continuation, and conclusion to the entry of final judgment or order, of a judicial, administrative, or other action or proceeding for debts that are nondischargeable under section 1141(d)(6).”

(c) APPLICABILITY.—This section and the amendments made by this section shall apply with respect to any petition for bankruptcy filed under title 11 United States Code, as amended by this bill, on or after March 7, 2001.

#### NOTICES OF HEARINGS/MEETINGS

##### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 14, 2001 at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a business meeting to consider the committee's views and estimates on the President's FY 2002 Budget Request for Indian Programs to be followed immediately by a hearing on S. 211, the Native American Education Improvement Act of 2001.

Those wishing additional information may contact Committee staff at 202/224-2251.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, March 13, 2001, at 9:30 a.m. on S. 415—Aviation Competition Restoration Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, March 13, 2001, at 2 p.m. on S. 361—Age 60 Rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FINANCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, March 13, 2001, to consider the Affordable Education Act of 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, March 13, 2001, to hear testimony regarding Living Without Health Insurance: Who's Uninsured and Why?

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, March 13, 2001, at 10 a.m., in Dirksen 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON VETERANS' AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet to hold a hearing on the Administration's proposed budget for veterans' programs for fiscal year 2002. The hearing will be held on Tuesday, March 13, 2001, at 9:30 a.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the Democratic Leader, pursuant to Public Law 101-509, the reappointment of Elizabeth Scott of South Dakota to the Advisory Committee on the Records of Congress.

#### NATIONAL GIRL SCOUT WEEK

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration S. Res. 59 submitted earlier by Senator HUTCHISON of Texas for herself and others.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 59) designating the week of March 11 through March 17, 2001, as "National Girl Scout Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and, finally, any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 59) was agreed to.

The preamble was agreed to.

(The text of S. Res. 59 is located in today's RECORD under "Submitted Resolutions.")

#### ORDERS FOR WEDNESDAY, MARCH 14, 2001

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, March 14. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day,

and the Senate then begin a period of morning business until 10:30 a.m., with Senators speaking for up to 5 minutes each, with the following exceptions: Senator THOMAS or his designee, 9:30 to 10 o'clock; Senator FEINGOLD or his designee, 10 o'clock to 10:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. GRASSLEY. For the information of all Senators, the Senate will be in a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the bankruptcy reform legislation. Votes will occur on the following amendments in a stacked sequence at approximately 10:45 a.m.: the Carnahan amendment No. 40, the Smith of Oregon amendment No. 95, and the Wyden amendment No. 78. Following the votes, debate on the Wellstone amendment regarding debt collection will resume. Further amendments are expected to be offered, debated, and also voted on.

By previous consent, the cloture vote will occur at 4 p.m. Therefore, pursuant to rule XXII, second-degree amendments must be filed by 3 p.m.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:35 p.m., adjourned until March 14, 2001, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate March 13, 2001:

##### DEPARTMENT OF DEFENSE

DOV S. ZAKHEIM, OF MARYLAND, TO BE UNDER SECRETARY OF DEFENSE (COMPTROLLER), VICE WILLIAM J. LYNN, III.

##### DEPARTMENT OF JUSTICE

THEODORE BEVRY OLSON, OF THE DISTRICT OF COLUMBIA, TO BE SOLICITOR GENERAL OF THE UNITED STATES, VICE SETH WAXMAN, RESIGNED.

##### FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

##### AGENCY FOR INTERNATIONAL DEVELOPMENT

E. CECILE ADAMS, OF TEXAS  
WILLIAM HAMMINK, OF FLORIDA

##### DEPARTMENT OF STATE

FRANK J. MANGANIELLO, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

##### AGENCY FOR INTERNATIONAL DEVELOPMENT

MATTHEW PHILIP RATHGEBER, OF TEXAS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA: