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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, March 1, 2005, at 2 p.m.

Senate

MONDAY, FEBRUARY 28, 2005

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray. Eternal Spirit, who is the same yesterday, today, and forever, we are transient creatures who long for a sense of permanence. Give us that permanence as we find in You our fixed and abiding center of faith. We praise You because You are changeless, without any variability in Your judgment and mercy.

Strengthen our lawmakers for the challenges of our time. Keep them in the shadow of Your wings and teach them to show mercy. Use Your powerful arm to rescue our Nation from the hands of all enemies of freedom. Guide each of us on life's journey. Lord, hasten the day when people everywhere will seek and find You. Let the tranquility of Your dominion increase until the Earth is filled with the knowledge of Your love. We pray in Your glorious Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, I welcome everyone back from the President's Day recess. I suspect the weather outside today makes our distinguished President pro tempore homesick for his home, Alaska.

As we communicated over the last week, today, in just a few minutes, we will begin debate on the bankruptcy bill, S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. The chairman and ranking member are here to begin the opening remarks. Other Members will want to speak, I am sure, this afternoon.

Our agreement provides for debate only today. Therefore, as previously announced, we will have no rollcall votes today. We do have several speakers. I don't expect a lengthy session today. I ask my colleagues to come to the Chamber to make opening statements and keep the afternoon full. I want people to make sure they have that opportunity to speak today, but do not expect a lengthy session because of the weather.

We expect to begin the amendment process on the bill tomorrow. I encourage Members to notify their respective cloakrooms if they intend to offer amendments to this bill. I had the opportunity to talk to the Democratic leader over the recess, as well, and we both agreed we would encourage our

caucuses to bring those amendments forward to the ranking member and the chairman so they can be addressed in an efficient and effective way. I expect we will make progress on amendments during tomorrow's session, although it is unlikely we will vote before the policy luncheons. I ask the chairman to consider having a vote shortly after the 2:15 reconvening tomorrow if at all possible.

I understand we are just beginning today, but I encourage the amendment process to begin in the morning. Hopefully, we can debate amendments in the morning.

I thank everyone for their assistance on this snowy Monday and look forward to a very constructive legislative period over the next several weeks. I will say more on the bankruptcy bill tomorrow morning.

Let me say how pleased I am we are moving forward in considering this bill that many people have looked at for longer than 7 years. Over the last 7 years we have passed this bill, or a bill very similar to it, repeatedly, again and again, both in the House and in the Senate.

The reason we have been able to pass the bill is that both sides of the aisle recognize the current system is calling for reform. Personal bankruptcies are skyrocketing and wealthy debtors are walking away from debts they can repay. This abuse is hurting everyone, not just the creditor they owe, but it hurts all who ultimately pay higher fees in prices to cover the loss.

With that, I yield the floor as we begin debate on S. 256, the Bankruptcy

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S1725

Abuse and Prevention Consumer Protection Act of 2005.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 256, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments.

(Strike the part shown in black brackets and insert the parts shown in italic.)

S. 256

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

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

(a) SHORT TITLE.—This Act may be cited as the “Bankruptcy Abuse Prevention and Consumer Protection Act of 2005”.

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

Sec. 1. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
 Sec. 102. Dismissal or conversion.
 Sec. 103. Sense of Congress and study.
 Sec. 104. Notice of alternatives.
 Sec. 105. Debtor financial management training test program.
 Sec. 106. Credit counseling.
 Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
 Sec. 202. Effect of discharge.
 Sec. 203. Discouraging abuse of reaffirmation agreement practices.
 Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
 Sec. 205. GAO study and report on reaffirmation agreement process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
 Sec. 212. Priorities for claims for domestic support obligations.
 Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
 Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
 Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
 Sec. 216. Continued liability of property.
 Sec. 217. Protection of domestic support claims against preferential transfer motions.
 Sec. 218. Disposable income defined.
 Sec. 219. Collection of child support.
 Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.

Sec. 222. Sense of Congress.
 Sec. 223. Additional amendments to title 11, United States Code.
 Sec. 224. Protection of retirement savings in bankruptcy.
 Sec. 225. Protection of education savings in bankruptcy.
 Sec. 226. Definitions.
 Sec. 227. Restrictions on debt relief agencies.
 Sec. 228. Disclosures.
 Sec. 229. Requirements for debt relief agencies.
 Sec. 230. GAO study.
 Sec. 231. Protection of personally identifiable information.
 Sec. 232. Consumer privacy ombudsman.
 Sec. 233. Prohibition on disclosure of name of minor children.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
 Sec. 302. Discouraging bad faith repeat filings.
 Sec. 303. Curbing abusive filings.
 Sec. 304. Debtor retention of personal property security.
 Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
 Sec. 306. Giving secured creditors fair treatment in chapter 13.
 Sec. 307. Domiciliary requirements for exemptions.
 Sec. 308. Reduction of homestead exemption for fraud.
 Sec. 309. Protecting secured creditors in chapter 13 cases.
 Sec. 310. Limitation on luxury goods.
 Sec. 311. Automatic stay.
 Sec. 312. Extension of period between bankruptcy discharges.
 Sec. 313. Definition of household goods and antiques.
 Sec. 314. Debt incurred to pay nondischargeable debts.
 Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
 Sec. 316. Dismissal for failure to timely file schedules or provide required information.
 Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
 Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
 Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
 Sec. 320. Prompt relief from stay in individual cases.
 Sec. 321. Chapter 11 cases filed by individuals.
 Sec. 322. Limitations on homestead exemption.
 Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
 Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.
 Sec. 325. United States trustee program filing fee increase.
 Sec. 326. Sharing of compensation.
 Sec. 327. Fair valuation of collateral.
 Sec. 328. Defaults based on nonmonetary obligations.
 Sec. 329. Clarification of postpetition wages and benefits.
 Sec. 330. Delay of discharge during pendency of certain proceedings.
 Sec. 331. *Limitation on retention bonuses, severance pay, and certain other payments.*

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Adequate protection for investors.

Sec. 402. Meetings of creditors and equity security holders.
 Sec. 403. Protection of refinancing of security interest.
 Sec. 404. Executory contracts and unexpired leases.
 Sec. 405. Creditors and equity security holders committees.
 Sec. 406. Amendment to section 546 of title 11, United States Code.
 Sec. 407. Amendments to section 330(a) of title 11, United States Code.
 Sec. 408. Postpetition disclosure and solicitation.
 Sec. 409. Preferences.
 Sec. 410. Venue of certain proceedings.
 Sec. 411. Period for filing plan under chapter 11.
 Sec. 412. Fees arising from certain ownership interests.
 Sec. 413. Creditor representation at first meeting of creditors.
 Sec. 414. Definition of disinterested person.
 Sec. 415. Factors for compensation of professional persons.
 Sec. 416. Appointment of elected trustee.
 Sec. 417. Utility service.
 Sec. 418. Bankruptcy fees.
 Sec. 419. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 431. Flexible rules for disclosure statement and plan.
 Sec. 432. Definitions.
 Sec. 433. Standard form disclosure statement and plan.
 Sec. 434. Uniform national reporting requirements.
 Sec. 435. Uniform reporting rules and forms for small business cases.
 Sec. 436. Duties in small business cases.
 Sec. 437. Plan filing and confirmation deadlines.
 Sec. 438. Plan confirmation deadline.
 Sec. 439. Duties of the United States trustee.
 Sec. 440. Scheduling conferences.
 Sec. 441. Serial filer provisions.
 Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
 Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
 Sec. 444. Payment of interest.
 Sec. 445. Priority for administrative expenses.
 Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
 Sec. 447. Appointment of committee of retired employees.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

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

TITLE VI—BANKRUPTCY DATA

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

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
 Sec. 702. Treatment of fuel tax claims.
 Sec. 703. Notice of request for a determination of taxes.
 Sec. 704. Rate of interest on tax claims.
 Sec. 705. Priority of tax claims.
 Sec. 706. Priority property taxes incurred.
 Sec. 707. No discharge of fraudulent taxes in chapter 13.