

Union Calendar No. 188

105TH CONGRESS
1ST Session

H. R. 764

[Report No. 105-324]

A BILL

To make technical corrections to title 11, United States Code, and for other purposes.

OCTOBER 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1997

Mr. HYDE (for himself, Mr. GEKAS, and Mr. MCCOLLUM) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 13, 1997]

A BILL

To make technical corrections to title 11, United States Code, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. SHORT TITLE.**
- 4 *This Act may be cited as the “Bankruptcy Amend-*
- 5 *ments of 1997”.*

1 **SEC. 2. DEFINITIONS.**

2 *Section 101 of title 11, United States Code, is amend-*
3 *ed—*

4 *(1) by striking “In this title—” and inserting*
5 *“In this title:”,*

6 *(2) in each paragraph by inserting “The term”*
7 *after the paragraph designation,*

8 *(3) in paragraph (35)(B) by striking “para-*
9 *graphs (21B) and (33)(A)” and inserting “para-*
10 *graphs (23) and (35)”,*

11 *(4) in paragraphs (35A) and (38) by striking “;*
12 *and” at the end and inserting a period,*

13 *(5) in paragraph (51B)—*

14 *(A) by inserting “who is not a family farm-*
15 *er” after “debtor” the first place it appears, and*

16 *(B) by striking “\$4,000,000” and inserting*
17 *“\$15,000,000 as of the date of the filing of the*
18 *petition”,*

19 *(6) by amending paragraph (54) to read as fol-*
20 *lows:*

21 *“(54) The term ‘transfer’ means—*

22 *“(A) creation of a lien;*

23 *“(B) retention of title as a security interest;*

24 *“(C) foreclosure of the debtor’s equity of re-*
25 *demption; or*

1 “(D) every mode, direct or indirect, absolute
2 or conditional, voluntary or involuntary, of dis-
3 posing of or parting with property or with an
4 interest in property;”

5 (7) in paragraphs (1) through (35), in para-
6 graphs (36) and (37), and in paragraphs (40)
7 through (55), including paragraph (54) as added by
8 this section, by striking the semicolon at the end and
9 inserting a period, and

10 (8) by redesignating paragraphs (4) through
11 (55), including paragraph (54) as added by this sec-
12 tion, in entirely numerical sequence.

13 **SEC. 3. ADJUSTMENT OF DOLLAR AMOUNTS.**

14 Section 104 of title 11, United States Code, is amended
15 by inserting “522(f)(3),” after “522(d),” each place it ap-
16 pears.

17 **SEC. 4. EXTENSION OF TIME.**

18 Section 108(c)(2) of title 11, United States Code, is
19 amended by striking “922” and all that follows through
20 “or”, and inserting “922, 1201, or”.

1 **SEC. 5. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
2 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
3 **TITIONS.**

4 *Section 110(j)(3) of title 11, United States Code, is*
5 *amended by striking “attorney’s” and inserting*
6 *“attorneys’ ”.*

7 **SEC. 6. LIMITATION ON COMPENSATION OF PROFESSIONAL**
8 **PERSONS.**

9 *Section 328(a) of title 11, United States Code, is*
10 *amended by inserting “on a fixed or percentage fee basis,”*
11 *after “hourly basis,”.*

12 **SEC. 7. COMPENSATION TO OFFICERS.**

13 *Section 330(a) of title 11, United States Code, is*
14 *amended—*

15 *(1) in paragraph (1) by inserting “, or the debt-*
16 *or’s attorney” after “1103”, and*

17 *(2) in paragraph (3) by striking “(3)(A) In”*
18 *and inserting “(3) In”.*

19 **SEC. 8. SPECIAL TAX PROVISIONS.**

20 *Section 346(g)(1)(C) of title 11, United States Code,*
21 *is amended by striking “, except” and all that follows*
22 *through “1986”.*

23 **SEC. 9. EFFECT OF CONVERSION.**

24 *Section 348(f)(2) of title 11, United States Code, is*
25 *amended by inserting “of the estate” after “property” the*
26 *first place it appears.*

1 **SEC. 10. AUTOMATIC STAY.**

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

4 *(1) in paragraph (17) by striking “or” at the*
5 *end,*

6 *(2) in paragraph (18) by striking the period at*
7 *the end and inserting “; or”, and*

8 *(3) by adding at the end the following:*

9 *“(19) under subsection (a) of this section, of any*
10 *transfer that is not avoidable under section 544 and*
11 *not avoidable under section 549.”.*

12 **SEC. 11. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

13 *Section 365 of title 11, United States Code, is amend-*
14 *ed—*

15 *(1) in subsection (b)(2)—*

16 *(A) in subparagraph (C) by striking “or”*
17 *at the end, and*

18 *(B) by striking subparagraph (D) and in-*
19 *serting the following:*

20 *“(D) the satisfaction of any penalty rate or*
21 *penalty provision relating to a default arising*
22 *from a failure to perform nonmonetary obliga-*
23 *tions under an executory contract or under an*
24 *unexpired lease of real or personal property;*

25 *“(E) the satisfaction of any provision (other*
26 *than a penalty rate or penalty provision) relat-*

1 *ing to a default arising from any failure to per-*
2 *form nonmonetary obligations under an*
3 *unexpired lease of real property, if it is impos-*
4 *sible for the trustee to cure such default by per-*
5 *forming nonmonetary acts at and after the time*
6 *of assumption; or*

7 *“(F) the satisfaction of any provision (other*
8 *than a penalty rate or penalty provision) relat-*
9 *ing to a default arising from any failure to per-*
10 *form nonmonetary obligations under an execu-*
11 *tory contract, if it is impossible for the trustee*
12 *to cure such default by performing nonmonetary*
13 *acts at and after the time of assumption and if*
14 *the court determines, based on the equities of the*
15 *case, that paragraph (1) should not apply with*
16 *respect to such default.”,*

17 *(2) in subsection (c)—*

18 *(A) in paragraph (2) by adding “or” at the*
19 *end,*

20 *(B) in paragraph (3) by striking “; or” at*
21 *the end and inserting a period, and*

22 *(C) by striking paragraph (4),*

23 *(3) in subsection (d)—*

24 *(A) by striking paragraphs (5) through (9),*

25 *and*

1 (B) by redesignating paragraph (10) as
2 paragraph (5).

3 (4) in subsection (f)(1) by striking “; except
4 that” and all that follows through the end of the para-
5 graph and inserting a period.

6 **SEC. 12. AMENDMENT TO TABLE OF SECTIONS.**

7 The table of sections for chapter 5 of title 11, United
8 States Code, is amended by striking the item relating to
9 section 556 and inserting the following:

 “556. Contractual right to liquidate a commodities contract or forward contract.”.

10 **SEC. 13. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

11 Section 503(b)(4) of title 11, United States Code, is
12 amended by inserting “subparagraph (A), (B), (C), (D), or
13 (E) of” before “paragraph (3)”.

14 **SEC. 14. PRIORITIES.**

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

17 (1) in paragraph (3)(B) by striking the semi-
18 colon at the end and inserting a period, and

19 (2) in paragraph (7) by inserting “unsecured”
20 after “allowed”.

21 **SEC. 15. EXEMPTIONS.**

22 Section 522 of title 11, United States Code, is amend-
23 ed—

24 (1) in subsection (f)(1)(A)(ii)(II)—

1 (A) by striking “includes a liability des-
2 ignated as” and inserting “is for a liability that
3 is designated as, and is actually in the nature
4 of,” and

5 (B) by striking “, unless” and all that fol-
6 lows through “support.”, and

7 (2) in subsection (g)(2) by striking “subsection
8 (f)(2)” and inserting “subsection (f)(1)(B)”.

9 **SEC. 16. EXCEPTIONS TO DISCHARGE.**

10 Section 523 of title 11, United States Code, is amend-
11 ed—

12 (1) in subsection (a)(3) by striking “or (6)” each
13 place it appears and inserting “(6), or (15)”,

14 (2) as amended by section 304(e) of Public Law
15 103–394 (108 Stat. 4133), in paragraph (15) by
16 transferring such paragraph so as to insert it after
17 paragraph (14) of subsection (a),

18 (3) in paragraph (9) by inserting “, watercraft,
19 or aircraft” after “motor vehicle”,

20 (4) in subsection (a)(15), as so redesignated by
21 operation of paragraph (2), by inserting “to a spouse,
22 former spouse, or child of the debtor and” after
23 “(15)”,

24 (5) in subsection (a)(17)—

1 **SEC. 19. PROPERTY OF THE ESTATE.**

2 *Section 541(b)(4)(B)(ii) of title 11, United States Code*
3 *is amended by inserting “365 or” before “542”.*

4 **SEC. 20. LIMITATIONS ON AVOIDING POWERS.**

5 *Section 546 of title 11, United States Code, is amended*
6 *by redesignating the second subsection (g) as subsection (h).*

7 **SEC. 21. PREFERENCES.**

8 *Section 547 of title 11, United States Code, is amend-*
9 *ed—*

10 *(1) in subsection (b) by striking “subsection (c)”*
11 *and inserting “subsections (c) and (h)”, and*

12 *(2) by adding at the end the following:*

13 *“(h) If the trustee avoids under subsection (b) a secu-*
14 *rity interest given between 90 days and 1 year before the*
15 *date of the filing of the petition, by the debtor to an entity*
16 *that is not an insider for the benefit of a creditor that is*
17 *an insider, then such security interest shall be considered*
18 *to be avoided under this section only with respect to the*
19 *creditor that is an insider.”.*

20 **SEC. 22. POSTPETITION TRANSACTIONS.**

21 *Section 549(c) of title 11, United States Code, is*
22 *amended—*

23 *(1) by inserting “an interest in” after “transfer*
24 *of”,*

25 *(2) by striking “such property” and inserting*
26 *“such real property”, and*

1 (3) by striking “the interest” and inserting
2 “such interest”.

3 **SEC. 23. SETOFF.**

4 Section 553(b)(1) of title 11, United States Code, is
5 amended by striking “362(b)(14)” and inserting
6 “362(b)(17)”.

7 **SEC. 24. DISPOSITION OF PROPERTY OF THE ESTATE.**

8 Section 726(b) of title 11, United States Code, is
9 amended by striking “1009,”.

10 **SEC. 25. GENERAL PROVISIONS.**

11 Section 901(a) of title 11, United States Code, is
12 amended by inserting “1123(d),” after “1123(b),”.

13 **SEC. 26. APPOINTMENT OF ELECTED TRUSTEE.**

14 Section 1104(b) of title 11, United States Code, is
15 amended—

16 (1) by inserting “(1)” after “(b),” and

17 (2) by adding at the end the following new para-
18 graph:

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

22 Upon the filing of a report under the preceding sentence—

23 “(i) the trustee elected under paragraph (1) shall
24 be considered to have been selected and appointed for
25 purposes of this section, and

1 “(ii) the service of any trustee appointed under
2 subsection (d) shall terminate.

3 “(B) In the case of any dispute arising out of an elec-
4 tion under subparagraph (A), the court shall resolve the dis-
5 pute.”.

6 **SEC. 27. ABANDONMENT OF RAILROAD LINE.**

7 Section 1170(e)(1) of title 11, United States Code, is
8 amended by striking “section 11347” and inserting “section
9 11326(a)”.

10 **SEC. 28. CONTENTS OF PLAN.**

11 Section 1172(c)(1) of title 11, United States Code, is
12 amended by striking “section 11347” and inserting “section
13 11326(a)”.

14 **SEC. 29. DISCHARGE.**

15 Subsections (a) and (c) of section 1228 of title 11,
16 United States Code, are amended by striking “1222(b)(10)”
17 each place it appears and inserting “1222(b)(9)”.

18 **SEC. 30. CONTENTS OF PLAN.**

19 Section 1322 of title 11, United States Code, is amend-
20 ed—

21 (1) in subsection (b) by striking “(c)” and in-
22 serting “(d)”, and

23 (2) in subsection (e) by striking “default, shall”
24 and inserting “default shall”.

1 **SEC. 31. DISCHARGE.**

2 *Paragraphs (1), (2), and (3) of section 1328(a) of title*
3 *11, United States Code, are amended to read as follows:*

4 *“(1) provided for under section 1322(b)(5) of this*
5 *title;*

6 *“(2) of the kind specified in paragraph (5), (8),*
7 *or (9) of section 523(a) of this title; or*

8 *“(3) for restitution, or a criminal fine, included*
9 *in a sentence on the debtor’s conviction of a crime.”.*

10 **SEC. 32. BANKRUPTCY CASES AND PROCEEDINGS.**

11 *Section 1334(d) of title 28, United States Code, is*
12 *amended—*

13 *(1) by striking “made under this subsection” and*
14 *inserting “made under subsection (c)”, and*

15 *(2) by striking “This subsection” and inserting*
16 *“Subsection (c) and this subsection”.*

17 **SEC. 33. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
18 **RULE.**

19 *Section 156(a) of title 18, United States Code, is*
20 *amended—*

21 *(1) in the first undesignated paragraph—*

22 *(A) by inserting “(1) the term” before*
23 *“bankruptcy”, and*

24 *(B) by striking the period at the end and*
25 *inserting “; and”, and*

26 *(2) in the second undesignated paragraph—*

1 (A) by inserting “(2) the term” before “ ‘doc-
2 ument’”, and

3 (B) by striking “this title” and inserting
4 “title 11”.

5 **SEC. 34. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

6 (a) *EFFECTIVE DATE.*—*Except as provided in sub-*
7 *section (b), this Act and the amendments made by this Act*
8 *shall take effect on the date of the enactment of this Act.*

9 (b) *APPLICATION OF AMENDMENTS.*—*The amendments*
10 *made by this Act shall apply only with respect to cases com-*
11 *menced under title 11 of the United States Code on or after*
12 *the date of the enactment of this Act.*