

105TH CONGRESS  
1ST SESSION

# H. R. 2500

To amend title 11 of the United States Code.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 1997

Mr. McCOLLUM (for himself and Mr. BOUCHER) introduced the following bill;  
which was referred to the Committee on the Judiciary

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## A BILL

To amend title 11 of the United States Code.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Responsible Borrower Protection Bankruptcy Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

### TITLE I—CONSUMER BANKRUPTCY ISSUES

Sec. 101. Needs based bankruptcy.

Sec. 102. Adequate income shall be committed to a plan that pays unsecured  
creditors.

Sec. 103. Notice of alternatives.

Sec. 104. Fraudulent debts are nondischargeable in chapter 13 cases.

- Sec. 105. Giving secured creditors fair treatment in chapter 13.
- Sec. 106. Debts incurred to pay nondischargeable debts.
- Sec. 107. Credit extensions on the eve of bankruptcy presumed nondischargeable.
- Sec. 108. Stopping abusive conversions from chapter 13.
- Sec. 109. Discouraging bad faith repeat filings.
- Sec. 110. Restraining abusive purchases on secured credit.
- Sec. 111. Fair valuation of collateral.
- Sec. 112. Debtor retention of personal property security.
- Sec. 113. Bankruptcy Exemption Study Commission.
- Sec. 114. Timely filing and confirmation of plans in chapter 13.
- Sec. 115. Definition of substantial abuse.
- Sec. 116. Giving debtors the ability to keep leased personal property by assumption.
- Sec. 117. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 118. Applying the co-debtor stay only when it protects the debtor.
- Sec. 119. Definition of household goods.
- Sec. 120. Protection of holders of claims secured by debtor's principal residence.
- Sec. 121. Extend period between bankruptcy discharges.

#### TITLE II—IMPROVED BANKRUPTCY ADMINISTRATION

- Sec. 201. Improved bankruptcy statistics.
- Sec. 202. Audit procedures.
- Sec. 203. Nationwide docket of cases under title 11.
- Sec. 204. Adequate preparation time for creditors before the first meeting of creditors in individual cases.
- Sec. 205. Creditor representation at first meeting of creditors.
- Sec. 206. Giving creditors fair notice in chapter 7 and 13 cases.
- Sec. 207. Prompt relief from stay in individual cases.
- Sec. 208. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 209. Filing proofs of claim.
- Sec. 210. Debtor to provide tax returns and other information.
- Sec. 211. Dismissal for failure to file schedules timely or provide required information.
- Sec. 212. Adequate protection of lessors and purchase money secured creditors.
- Sec. 213. Adequate time to prepare for hearing on confirmation of the plan.

### 1 **SEC. 2. FINDINGS.**

2       The Congress finds the following:

- 3           (1) Record numbers of consumer debtors are
- 4       filing for bankruptcy relief, and the number of
- 5       consumer debtors who do so are projected to con-
- 6       tinue to increase.

1           (2) The present consumer bankruptcy provi-  
2           sions of the Bankruptcy Code encourage debtors to  
3           avoid their financial and moral responsibilities by  
4           giving too generous relief to debtors with ability to  
5           pay some part of their debts. The cost of credit is  
6           unnecessarily increased by such relief to the dis-  
7           advantage of responsible American consumers.

8           (3) The present consumer bankruptcy provi-  
9           sions of the Bankruptcy Code have lessened the pro-  
10          tection which historically has been given to secured  
11          credit. Such protection encourages availability and  
12          lowers the cost of such credit to responsible Amer-  
13          ican consumers.

14          (4) The present procedural provisions of the  
15          Bankruptcy Code unnecessarily impose high admin-  
16          istrative and participation costs upon creditors  
17          whose borrowers file for consumer bankruptcy relief.

18          (5) The basic relief available for debtors under  
19          the present Bankruptcy Code is reasonable and nec-  
20          essary for those whose financial circumstances jus-  
21          tify such relief.

## 22                   **TITLE I—CONSUMER** 23                   **BANKRUPTCY ISSUES**

### 24   **SEC. 101. NEEDS BASED BANKRUPTCY.**

25           Title 11, United States Code, is amended—

1 (1) in section 101 as follows:

2 (A) by inserting after paragraph (10) the  
3 following:

4 “(10A) ‘current monthly total income’ means  
5 the average monthly income from all sources derived  
6 which the debtor, or in a joint case, the debtor and  
7 the debtor’s spouse, receive without regard to wheth-  
8 er it is taxable income, in the six months preceding  
9 the date of determination, and includes any amount  
10 paid by anyone other than the debtor or, in a joint  
11 case, the debtor and the debtor’s spouse on a regular  
12 basis to the household expenses of the debtor or the  
13 debtor’s dependents and, in a joint case, the debtor’s  
14 spouse if not otherwise a dependent;” and

15 (B) by inserting after paragraph (40) the  
16 following:

17 “(40A) ‘national median family income’ and  
18 ‘national median household income for one earner’  
19 shall mean during any calendar year, the national  
20 median family income and the national median  
21 household income for one earner which the Bureau  
22 of the Census has reported as of January 1 of such  
23 calendar year for the most recent previous calendar  
24 year.”;

1           (2) in section 104(b)(1) by striking “109(e)”  
2           and inserting “subsections (b), (e), and (h) of sec-  
3           tion 109”;

4           (3) in section 109(b)—

5                 (A) in paragraph (2) by striking “or” at  
6                 the end;

7                 (B) in paragraph (3) by striking the period  
8                 and inserting “; or”; and

9                 (C) by adding at the end the following:

10                 “(4) an individual or, in a joint case, an indi-  
11                 vidual and such individual’s spouse, who have in-  
12                 come available to pay creditors as determined under  
13                 subsection (h) of this section.”;

14                 (4) by adding at the end of section 109 the fol-  
15                 lowing:

16                 “(h)(1) An individual or, in a joint case, an individual  
17                 and such individual’s spouse, have income available to pay  
18                 creditors if the individual, or, in a joint case, the individual  
19                 and the individual’s spouse combined, as of the date of  
20                 the order for relief, have—

21                         “(A) current monthly total income of 75 per-  
22                         cent of the national median family income for a fam-  
23                         ily of equal size or, in the case of a household of one  
24                         person, 75 percent of the national median household

1 income for one earner, or more as of the date of the  
2 order for relief;

3 “(B) projected monthly net income greater than  
4 \$50; and

5 “(C) projected monthly net income sufficient to  
6 repay twenty percent or more of unsecured non-pri-  
7 ority claims during a five-year repayment plan.

8 “(2) Projected monthly net income shall be sufficient  
9 under paragraph (1)(C) if, when multiplied by 60 months,  
10 it equals or exceeds 20 percent of the total amount sched-  
11 uled as payable to unsecured nonpriority creditors.

12 “(3) ‘Projected monthly net income’ means current  
13 monthly total income less—

14 “(A) the expense allowances under the applica-  
15 ble National Standards, Local Standards and Other  
16 Necessary Expenses allowance (excluding payments  
17 for debts) for the debtor, the debtor’s dependents,  
18 and, in a joint case, the debtor’s spouse if not other-  
19 wise a dependent, in the area in which the debtor re-  
20 sides as determined under the Internal Revenue  
21 Service financial analysis for expenses in effect as of  
22 the date of the order for relief;

23 “(B) the average monthly payment on account  
24 of secured creditors, which shall be calculated as the  
25 total of all amounts scheduled as contractually pay-

1       able to secured creditors in each month of the 60  
2       months following the date of the petition by the  
3       debtor, or, in a joint case, by the debtor and the  
4       debtor's spouse combined, and dividing that total by  
5       60 months; and

6               “(C) the average monthly payment on account  
7       of priority creditors, which shall be calculated as the  
8       total amount of debts entitled to priority, reasonably  
9       estimated by the debtor as of the date of the peti-  
10      tion, and dividing that total by 60 months.

11       “(4) In the event that the debtor establishes extraor-  
12      dinary circumstances that require allowance for additional  
13      expenses, projected monthly net income for purposes of  
14      this section shall be the amount calculated under para-  
15      graph (3) less such additional expenses as such extraor-  
16      dinary circumstances require.

17               “(A) This paragraph shall not apply unless the  
18      debtor files with the petition—

19                       “(i) a written statement that this para-  
20                      graph applies in determining the debtor's eligi-  
21                      bility for relief under chapter 7 of this title;

22                       “(ii) a list itemizing each additional ex-  
23                      pense which exceeds the expenses allowances  
24                      provided under paragraph (3)(A);

1           “(iii) a detailed description of the extraor-  
2           dinary circumstances which explain why each of  
3           the additional expenses itemized under subpara-  
4           graph (II) requires allowance; and

5           “(iv) a sworn statement signed by the  
6           debtor and, if the debtor is represented by  
7           counsel, by the debtor’s attorney, that the infor-  
8           mation required under this paragraph is true  
9           and correct.

10          “(B) Until the trustee or any party in interest  
11          objects to the debtor’s statement that this paragraph  
12          applies and the court rejects or modifies the debtor’s  
13          statement, the projected monthly net income in the  
14          debtor’s statement shall be the projected monthly  
15          net income for the purposes of this section. If an ob-  
16          jection is filed with the court within 60 days after  
17          the debtor has filed all information required to be  
18          filed under section 521(1), the court, after notice  
19          and hearing, shall determine whether such extraor-  
20          dinary circumstances exist and shall establish the  
21          amount of the additional expense allowance, if any.  
22          The burden of proving such extraordinary cir-  
23          cumstances shall be on the debtor.”;

24                 (5) in section 704—



1 (A) by striking “and” at the end of para-  
2 graph (8);

3 (B) by striking the period at the end of  
4 paragraph (9) and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(10) with respect to an individual debtor, re-  
7 view all materials filed by the debtor under para-  
8 graphs (6), (7) and (8) of section 521, investigate  
9 and verify the debtor’s projected monthly net income  
10 and within 30 days after the order for relief under  
11 this chapter, file a report with the court as to wheth-  
12 er the debtor qualifies for relief under this chapter  
13 under section 109(b)(4).”;

14 (6) in section 1302(b)—

15 (A) in paragraph (1)—

16 (i) by striking “704(7) and” and in-  
17 sserting “704(7),”; and

18 (ii) by inserting “and 704(10)” after  
19 “704(9)”; and

20 (B) in paragraph (4) by striking “and” at  
21 the end;

22 (C) in paragraph (5) by striking the period  
23 and inserting a semicolon; and

24 (D) by adding at the end the following:

1           “(6) investigate and verify the debtor’s monthly  
2 net income and other information provided by the  
3 debtor pursuant to section 521 and 1322, and pur-  
4 suant to section 111, if applicable; and

5           “(7) file annual reports with the court, with  
6 copies to holders of claims under the plan, as to  
7 whether a modification of the amount paid creditors  
8 under the plan is appropriate because of changes in  
9 the debtor’s monthly net income.”.

10 **SEC. 102. ADEQUATE INCOME SHALL BE COMMITTED TO A**  
11 **PLAN THAT PAYS UNSECURED CREDITORS.**

12 Title 11, United States Code, is amended—

13           (1) in section 101 by inserting after paragraph  
14 (39) the following:

15           “(39A) ‘monthly net income’ means the amount  
16 determined by taking as of the date of the petition  
17 the current monthly total income of the debtor less  
18 the expense allowances under the applicable National  
19 Standards, Local Standards and Other Necessary  
20 Expenses allowance (excluding payments for debts)  
21 for the debtor, the debtor’s dependents, and, in a  
22 joint case, the debtor’s spouse if not otherwise a de-  
23 pendent, in the area in which the debtor resides as  
24 determined under the Internal Revenue Service fi-

1 nancial analysis for expenses in effect as of the date  
2 of the order for relief.”;

3 (2) in section 104(b)(1) by striking “and  
4 523(a)(2)(C)” and inserting “523(a)(2)(C), and  
5 1325(b)(1)”;

6 (3) by adding after section 110 the following:

7 **“§ 111. Adjustment to monthly net income**

8 “(a) Monthly net income for purposes of a plan under  
9 chapter 13 of this title shall be adjusted under this section  
10 when the debtor’s extraordinary circumstances require ad-  
11 justment as determined herein. Under this section, month-  
12 ly net income shall be determined by subtracting there-  
13 from such loss of income or additional expenses as the  
14 debtor’s extraordinary circumstances require as deter-  
15 mined under this section. This section shall not apply un-  
16 less—

17 “(1) the debtor files with the court and, in a  
18 case in which a trustee has been appointed, with the  
19 trustee at the times required in subsection (b) a  
20 statement of extraordinary circumstances as fol-  
21 lows—

22 “(A) a written statement that this section  
23 applies in determining the debtor’s monthly net  
24 income;

1           “(B) if applicable, an explanation of what  
2           income has been lost in the six months preced-  
3           ing the date of determination and any replace-  
4           ment income which has been secured or is ex-  
5           pected, and an itemization of such lost and re-  
6           placement income;

7           “(C) if applicable, a list itemizing each ad-  
8           ditional expense which exceeds the expense al-  
9           lowance provided in determining monthly net  
10          income under section 101(39A);

11          “(D) if applicable, a detailed description of  
12          the extraordinary circumstances which explains  
13          why each of the additional expenses itemized  
14          under paragraph (C) requires allowance; and

15          “(E) a sworn statement signed by the  
16          debtor and, if the debtor is represented by  
17          counsel, by the debtor’s attorney, of the amount  
18          of monthly net income that the debtor has pur-  
19          suant to this subsection and that the informa-  
20          tion provided under this subsection is true and  
21          correct; and

22          “(2) until the trustee or any party in interest  
23          objects to the debtor’s request that this section be  
24          applied and the court rejects or modifies the debtor’s  
25          statement, the monthly net income in the debtor’s

1 statement shall be the monthly net income for the  
2 purposes of the debtor’s plan. If an objection is filed  
3 with the court within the times provided in sub-  
4 section (b), the court, after notice and hearing, shall  
5 determine whether such extraordinary circumstances  
6 asserted by the debtor exist and establish the  
7 amount of the loss of income and such additional ex-  
8 pense allowance, if any. The burden of proving such  
9 extraordinary circumstances and the amount of the  
10 loss of income and the additional expense allowance,  
11 if any, shall be on the debtor.

12 “(b) For the purposes of chapter 13 of this title, the  
13 statement of extraordinary circumstances shall be filed  
14 with the court and served on the trustee on or before 45  
15 days before each anniversary of the confirmation of the  
16 plan in order to be applicable during the next year of the  
17 plan. Any objection thereto shall be filed 30 days after  
18 the statement is filed with the trustee. Whenever a state-  
19 ment is timely filed with the trustee, the trustee shall give  
20 notice to creditors that such statement has been filed and  
21 the amount of monthly net income stated therein within  
22 15 days of receipt of the statement.”;

23 (4) in section 1322(a)—

24 (A) by striking “and” at the end of para-  
25 graph (2);

1 (B) by striking the period at the end of  
2 paragraph (3) and inserting a semicolon; and

3 (C) by adding at the end the following:

4 “(4) state, under penalties of perjury, the  
5 amount of monthly net income, which may be as ad-  
6 justed under section 111, if applicable, of this title  
7 and the amount of monthly net income which will  
8 paid per month to unsecured non-priority creditors  
9 under the plan.”; and

10 (5) by amending section 1325(b)(1)(B) to read  
11 as follows:

12 “(B) the plan provides—

13 “(i) that payments to unsecured non-prior-  
14 ity creditors who are not insiders shall equal or  
15 exceed \$50 in each month of the plan;

16 “(ii) that during the applicable commit-  
17 ment period beginning on the date that the first  
18 payment is due under the plan, the total  
19 amount of monthly net income received by the  
20 debtor shall be paid to unsecured nonpriority  
21 creditors under the plan less only payments  
22 pursuant to section 1326(b); the ‘applicable  
23 commitment period’ shall be 5 years if the debt-  
24 or’s total current monthly income is 75 percent  
25 of the national median family income for a fam-

1           ily of equal size or, in the case of a household  
2           of one person, 75 percent of the national me-  
3           dian household income for one earner, or more  
4           as of the date of confirmation of the plan and  
5           shall be 3 years if the debtor’s total current  
6           monthly income is less than 75 percent of the  
7           national median family income for a family of  
8           equal size or, in the case of a household of one  
9           person, and less than 75 percent of the national  
10          median household income for one earner, as of  
11          the date of confirmation of the plan; and

12                 “(iii) that the amount payable to each  
13           class of unsecured nonpriority claims under the  
14           plan shall be increased or decreased during the  
15           plan proportionately to the extent the debtor’s  
16           monthly net income during the plan increases  
17           or decreases as reasonably determined by the  
18           trustee, subject to section 111 of this title, no  
19           less frequently than as of each anniversary of  
20           the confirmation of the plan based on monthly  
21           net income as of 45 days before such anniver-  
22           sary.”; and

23           (6) by striking section 1325(b)(2).

24 **SEC. 103. NOTICE OF ALTERNATIVES.**

25           (a) Title 11, United States Code, is amended—

1           (1) by striking subsection (b) of section 342  
2           and inserting the following:

3           “(b) Prior to the commencement of a case under this  
4 title by an individual whose debts are primarily consumer  
5 debts, the individual shall be given or obtain (as required  
6 to be certified in section 521(1)) a written notice which  
7 is prescribed by the United States Trustee for the district  
8 in which the petition is filed pursuant to title 28 United  
9 States Code section 586 and which contains the following:

10           “(1) A brief description of chapters 7, 11, 12  
11           and 13 of this title and the general purpose, benefits  
12           and costs of proceeding under each of those chap-  
13           ters.

14           “(2) A brief description of services which may  
15           be available to that individual from an independent  
16           nonprofit debt counselling service.

17           “(3) The name, address and telephone number  
18           of each nonprofit debt counselling service with an of-  
19           fice located in the district in which the petition is  
20           filed, if any. Any such non-profit debt counselling  
21           service which has registered with the clerk of the  
22           bankruptcy court on or before December 10 of the  
23           preceding year shall be included in such list unless  
24           the chief bankruptcy judge of the district, after no-  
25           tice to the debt counselling service and the United



1 States Trustee and opportunity for a hearing, for  
2 good cause, orders that a particular debt counselling  
3 service shall not be so listed.”; and

4 (2) by striking “and a statement of the debtor’s  
5 financial affairs;” in paragraph (1) of section 521  
6 and inserting the following:

7 “a statement of the debtor’s financial affairs and, if  
8 applicable, a certificate—

9 “(A) of an attorney whose name is on the  
10 petition as the attorney for the debtor or any  
11 bankruptcy petition preparer signing the peti-  
12 tion pursuant to section 110(b)(1) of this title  
13 indicating that such attorney or bankruptcy pe-  
14 tition preparer delivered to the debtor any no-  
15 tice required by section 342(b) of this title; or

16 “(B) if no attorney for the debtor is indi-  
17 cated and no bankruptcy petition preparer  
18 signed the petition, of the debtor that such no-  
19 tice was obtained and read by the debtor.”.

20 (b) Section 586(a) of title 28, United States Code,  
21 is amended—

22 (1) in paragraph (5) by striking “and” at the  
23 end;

24 (2) in paragraph (6) by striking the period at  
25 the end and inserting “; and”; and

1 (3) by adding at the end the following:

2 “(7) on or before January 1 of each calendar  
3 year, and also within 30 days of any change in the  
4 nonprofit debt counselling services registered with  
5 the bankruptcy court, prescribe and make available  
6 on request the notice described in section 342(b)(3)  
7 of title 11 for each district included in the region.”.

8 **SEC. 104. FRAUDULENT DEBTS ARE NONDISCHARGEABLE**  
9 **IN CHAPTER 13 CASES.**

10 Section 1328(a)(2) of title 11, United States Code,  
11 is amended by inserting “(2), (4),” after “paragraph”.

12 **SEC. 105. GIVING SECURED CREDITORS FAIR TREATMENT**  
13 **IN CHAPTER 13.**

14 Section 1325(a)(5)(B)(i) of title 11, United States  
15 Code, is amended to read as follows:

16 “(i) the plan provides that the holder of  
17 such claim retain the lien securing such claim  
18 until discharge under section 1328; and”.

19 **SEC. 106. DEBTS INCURRED TO PAY NONDISCHARGEABLE**  
20 **DEBTS.**

21 Title 11, United States Code, is amended—

22 (1) in section 507 by adding at the end the fol-  
23 lowing:

24 “(e) For the purposes of subsection (a), a claim aris-  
25 ing from a debt which is nondischargeable under section

1 523(a)(14) shall have the same priority as the claim for  
2 the underlying obligation which was paid by that non-  
3 dischargeable debt.”;

4 (2) in section 523(a) by amending paragraph  
5 (14) to read as follows:

6 “(14) incurred to pay a debt that would be non-  
7 dischargeable pursuant to any other provision of this  
8 subsection;”.

9 **SEC. 107. CREDIT EXTENSIONS ON THE EVE OF BANK-**  
10 **RUPTCY PRESUMED NONDISCHARGEABLE.**

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

13 “(C) for purposes of subparagraph (A) of  
14 this paragraph, consumer debts owed to a sin-  
15 gle creditor incurred by an individual debtor on  
16 or within 90 days before the order for relief  
17 under this title are presumed to be non-  
18 dischargeable.”.

19 **SEC. 108. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**  
20 **TER 13.**

21 Section 348(f)(1) of title 11, United States Code, is  
22 amended—

23 (1) by striking in subparagraph (B) “in the  
24 converted case, with allowed secured claims” and in-  
25 serting in lieu thereof “only in a case converted to

1 chapter 11 or 12 but not in one converted to chapter  
2 7, with allowed secured claims in cases under chap-  
3 ters 11 and 12”; and

4 (2) in subparagraph (A) by striking “and” at  
5 the end;

6 (3) in subparagraph (B) by striking the period  
7 and inserting “; and”; and

8 (4) by adding at the end the following:

9 “(C) with respect to cases converted from chap-  
10 ter 13, the claim of any creditor holding security as  
11 of the date of the petition shall continue to be se-  
12 cured by that security unless the full amount of that  
13 claim determined under applicable non-bankruptcy  
14 law has been paid in full as of the date of conver-  
15 sion, notwithstanding any valuation or determination  
16 of the amount of an allowed secured claim made for  
17 the purposes of the chapter 13 proceeding.”.

18 **SEC. 109. DISCOURAGING BAD FAITH REPEAT FILINGS.**

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

21 (1) in paragraph (1) by striking “and” at the  
22 end;

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

1           (3) by adding at the end the following new  
2 paragraphs:

3           “(3) If a single or joint case is filed by or  
4 against an individual debtor under chapter 7, 11, or  
5 13, and if a single or joint case of that debtor was  
6 pending within the previous year but was dismissed,  
7 other than a case refiled under a chapter other than  
8 chapter 7 after dismissal under section 707(b) of  
9 this title, the stay under subsection (a) with respect  
10 to any action taken with respect to a debt or prop-  
11 erty securing such debt or with respect to any lease  
12 will terminate with respect to the debtor on the 30th  
13 day after the filing of the later case. If a party in  
14 interest requests, the court may extend the stay in  
15 particular cases as to any or all creditors (subject to  
16 such conditions or limitations as the court may then  
17 impose) after notice and a hearing completed before  
18 the expiration of the 30-day period only if the party  
19 in interest demonstrates that the filing of the later  
20 case is in good faith as to the creditors to be stayed.  
21 A case is presumptively not filed in good faith (but  
22 such presumption may be rebutted by clear and con-  
23 vincing evidence to the contrary)—

24           “(A) as to all creditors if—

1           “(i) more than 1 previous case under  
2           any of chapters 7, 11, or 13 in which the  
3           individual was a debtor was pending within  
4           the 1-year period;

5           “(ii) a previous case under any of  
6           chapters 7, 11, or 13 in which the individ-  
7           ual was a debtor was dismissed within the  
8           time period stated in this paragraph after  
9           the debtor failed to file or amend the peti-  
10          tion or other documents as required by this  
11          title or the court without substantial ex-  
12          cuse (but mere inadvertence or negligence  
13          shall not be substantial excuse), failed to  
14          pay adequate protection as ordered by the  
15          court, or failed to perform the terms of a  
16          plan confirmed by the court; or

17          “(iii) there has not been a substantial  
18          change in the financial or personal affairs  
19          of the debtor since the dismissal of the  
20          next most previous case under any of chap-  
21          ters 7, 11, or 13, or any other reason to  
22          conclude that the later case will be con-  
23          cluded, if a chapter 7 case, with a dis-  
24          charge, and if a chapter 11 or 13 case, a

1 confirmed plan which will be fully per-  
2 formed;

3 “(B) as to any creditor which commenced  
4 an action under subsection (d) hereof in a pre-  
5 vious case in which the individual was a debtor  
6 if, as of the date of dismissal of that case, that  
7 action was still pending or had been resolved by  
8 terminating, conditioning, or limiting the stay  
9 as to actions of that creditor.

10 “(4) If a request is made for relief from the  
11 stay under subsection (a) with respect to real or per-  
12 sonal property of any kind, and such request is  
13 granted in whole or in part, the court may in addi-  
14 tion order that the relief so granted shall be in rem  
15 either for a definite period not less than 1 year or  
16 indefinitely. After such an order, the stay under sub-  
17 section (a) shall not apply to any property subject  
18 to such an in rem order in any case of the debtor.  
19 If such an order so provides, such stay shall also not  
20 apply in any case of any entity under this title if the  
21 entity had reason to know of the order at the time  
22 it obtained any interest in the property affected, or  
23 if an entity was notified of the commencement of the  
24 proceeding for relief from the stay at a time at  
25 which no case in which it was a debtor was pending.

1           “(5) For the purposes of this section, a case is  
2           pending from the time of the order for relief until  
3           the case is closed.”.

4 **SEC. 110. RESTRAINING ABUSIVE PURCHASES ON SECURED**  
5 **CREDIT.**

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

8           “(e) In an individual case under chapter 7, 11, 12,  
9           or 13—

10           “(1) subsection (a) shall not apply to an al-  
11           lowed claim to the extent attributable in whole or in  
12           part to the purchase price of personal property ac-  
13           quired by the debtor within 180 days of the filing of  
14           the petition, except for the purpose of applying para-  
15           graph (3) of this subsection;

16           “(2) if such allowed claim attributable to the  
17           purchase price is secured only by the personal prop-  
18           erty so acquired, the value of the personal property  
19           and the amount of the allowed secured claim shall  
20           be the sum of the unpaid principal balance of the  
21           purchase price and accrued and unpaid interest and  
22           charges at the contract rate;

23           “(3) if such allowed claim attributable to the  
24           purchase price is secured by the personal property so  
25           acquired and other property, the value of the secu-



1 rity may be determined under subsection (a), but the  
2 value of the security and the amount of the allowed  
3 secured claim shall be not less than the unpaid prin-  
4 cipal balance of the purchase price of the personal  
5 property acquired and unpaid interest and charges  
6 at the contract rate; and

7 “(4) in any subsequent case under this title  
8 which is filed by or against the individual debtor  
9 within two years of the date of filing of the original  
10 case, the value of the personal property and the  
11 amount of the allowed secured claim shall be deemed  
12 to be not less than the amount provided under sub-  
13 paragraphs (2) and (3), as applicable.”.

14 **SEC. 111. FAIR VALUATION OF COLLATERAL.**

15 Section 506(a) of title 11, United States Code, is  
16 amended by adding at the end the following:

17 “In the case of an individual debtor under chapters 7 and  
18 13, such value with respect to property securing an al-  
19 lowed claim shall be determined based on the replacement  
20 value of such property as of the date of filing the petition  
21 without deduction for costs of sale or marketing. With re-  
22 spect to property acquired for personal, family or house-  
23 hold purpose, replacement value shall mean retail value.”.

1 **SEC. 112. DEBTOR RETENTION OF PERSONAL PROPERTY**  
2 **SECURITY.**

3 Title 11, United States Code, is amended—

4 (1) in section 521—

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

7 (B) in paragraph (5) by striking the period  
8 at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(6) in an individual chapter 7 case, not retain  
11 possession of personal property as to which a credi-  
12 tor has an allowed claim for the purchase price se-  
13 cured in whole or in part by an interest in that per-  
14 sonal property unless, in the case of an individual  
15 debtor, the debtor takes one of the following actions  
16 within 60 days after the filing of the petition or the  
17 order for relief, whichever is later—

18 “(A) enters into a reaffirmation agreement  
19 with the creditor pursuant to section 524(e) of  
20 this title with respect to the claim secured by  
21 such property; or

22 “(B) redeems such property from the secu-  
23 rity interest pursuant to section 722 of this  
24 title.

25 “If the debtor fails to so act within the 60-day pe-  
26 riod, the personal property affected shall no longer

1 be property of the estate, and the creditor may take  
2 whatever action as to such property as is permitted  
3 by applicable nonbankruptcy law.”; and

4 (2) in section 722 by inserting “in full at the  
5 time of redemption” before the period at the end.

6 **SEC. 113. BANKRUPTCY EXEMPTION STUDY COMMISSION.**

7 (a) ESTABLISHMENT.—There is established the  
8 Bankruptcy Exemption Study Commission (in this section  
9 referred to as the “Commission”).

10 (b) DUTIES.—The duties of the Commission are to  
11 investigate, study, solicit divergent views of all parties in-  
12 terested in the bankruptcy system and report on issues  
13 and problems and any proposals of the Commission relat-  
14 ing to exemptions under section 522, title 11, United  
15 States Code, including whether exemptions under that sec-  
16 tion should be uniform nationally, and the size of exemp-  
17 tions appropriate in individual cases under title 11.

18 (c) MEMBERSHIP.—The Commission shall be com-  
19 posed of 8 members as follows:

20 (1) Two members shall be appointed by the  
21 President, 1 of whom shall be designated chairman  
22 by the President.

23 (2) Three members shall be appointed by the  
24 majority leader of the Senate.

1           (3) Three members shall be appointed by the  
2           Speaker of the House of Representatives.  
3           Members of Congress, and officers and employees of the  
4           executive branch, shall be ineligible for appointment to the  
5           Commission. Members of the Commission shall be ap-  
6           pointed for the life of the Commission.

7           (d) QUORUM.—Three members of the Commission  
8           shall constitute a quorum, but a lesser number may con-  
9           duct meetings.

10          (e) FIRST APPOINTMENTS.—The first appointments  
11          made under paragraph (3) shall be made within 60 days  
12          after the date of enactment of this Act.

13          (f) FIRST MEETING.—The first meeting of the Com-  
14          mission shall be called by the chairman and shall be held  
15          within 100 days after the date of the enactment of this  
16          Act.

17          (g) VACANCIES.—A vacancy on the Commission re-  
18          sulting from the death or resignation of a member shall  
19          not affect its powers and shall be filled in the same man-  
20          ner in which the original appointment was made.

21          (h) CONTINUATION OF SERVICE.—If any member of  
22          the Commission who was appointed to the Commission as  
23          an officer or employee of a government leaves the office,  
24          or if any member of the Commission who was not ap-  
25          pointed in such a capacity becomes an officer or employee

1 of a government, the member may continue as a member  
2 of the Commission for not longer than a 90-day period  
3 beginning on the date the member leaves that office or  
4 becomes such an officer or employee, as the case may be.

5 (i) COMPENSATION.—A member of the Commission  
6 who is an officer or employee of the United States shall  
7 serve without additional compensation.

8 (j) EXPENSES OF MEMBERS.—Members of the Com-  
9 mission shall be reimbursed for travel, subsistence, and  
10 other necessary expenses incurred by them in the perform-  
11 ance of their duties.

12 (k) PERSONNEL.—The chairman of the Commission  
13 may, without regard to the civil service laws and regula-  
14 tions, appoint, and terminate such personnel as are nec-  
15 essary to enable the Commission to perform its duties. The  
16 chairman of the Commission may fix the compensation of  
17 the personnel without regard to the provisions of chapter  
18 51 and subchapter II of chapter 53 of title 5, United  
19 States Code, relating to classification of positions and  
20 General Schedule pay rates, except that the rate of pay  
21 for the executive director and other personnel may not ex-  
22 ceed the rate payable for level V of the Executive Schedule  
23 under section 5316 of that title.

24 (l) EXPERTS AND CONSULTANTS.—The Commission  
25 may procure temporary and intermittent services of ex-

1 perts and consultants under section 3109(b) of title 5,  
2 United States Code.

3 (m) HEARINGS.—The Commission or, on authoriza-  
4 tion of the Commission, a member of the Commission,  
5 may hold such hearings, sit and act at such time and  
6 places, take such testimony, and receive such evidence, as  
7 the Commission considers appropriate. The Commission  
8 or a member of the Commission may administer oaths  
9 or affirmations to witnesses appearing before it.

10 (n) OBTAINING INFORMATION.—The Commission  
11 may secure directly from any Federal department, agency,  
12 or court information necessary to enable it to carry out  
13 this section. Upon request of a Federal department or  
14 agency, or a chief judge of a Federal court shall furnish  
15 such information, consistent with law, to the Commission.

16 (o) FACILITIES AND SUPPORT SERVICES.—The Ad-  
17 ministrator of General Services shall provide to the Com-  
18 mission on a reimbursable basis such facilities and support  
19 services as the Commission may request. Upon request of  
20 the Commission, the head of a Federal department or  
21 agency may make any of the facilities or services of the  
22 agency available to the Commission to assist the Commis-  
23 sion in carrying out its duties under this section.

24 (p) EXPENDITURES AND CONTRACTS.—The Commis-  
25 sion or, on authorization of the Commission, a member

1 of the Commission, may make expenditures and enter into  
2 contracts for the procurement of such supplies, services,  
3 and property as the Commission or member considers ap-  
4 propriate for the purposes of carrying out the duties of  
5 the Commission. Such expenditures and contracts may be  
6 made only to such extent or in such amounts as are pro-  
7 vided in appropriation action.

8 (q) USE OF MAILS.—The Commission may use the  
9 United States mails in the same manner and under the  
10 same conditions as other Federal departments and agen-  
11 cies of the United States.

12 (r) DONATIONS.—The Commission may accept, use,  
13 and dispose of gifts or donations of services or property.

14 (s) REPORT.—The Commission shall submit to the  
15 Congress, the Chief Justice of the United States, and the  
16 President a report not later than 1 year after the date  
17 of enactment of this Act. The report shall contain a de-  
18 tailed statement of the findings and conclusions of the  
19 Commission, together with its recommendations for such  
20 legislative or administrative action as it considers appro-  
21 priate.

22 (t) TERMINATION.—The Commission shall cease to  
23 exist on the date that is 30 days after the date on which  
24 it submits its report.

1 (u) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated \$500,000 to carry out this  
3 section.

4 **SEC. 114. TIMELY FILING AND CONFIRMATION OF PLANS IN**  
5 **CHAPTER 13.**

6 Title 11, United States Code, is amended—

7 (1) by inserting in section 1321 after “plan”  
8 the following:

9 “on or before 90 days after the filing of the petition unless  
10 the court, after notice and hearing, orders otherwise.”;  
11 and

12 (2) in section 1324 by adding at the end the  
13 following:

14 “Such hearing shall be held within forty-five days of the  
15 filing of the plan, unless the court, after notice and hear-  
16 ing, orders otherwise.”.

17 **SEC. 115. DEFINITION OF SUBSTANTIAL ABUSE.**

18 Section 707(b) of title 11, United States Code, is  
19 amended to read as follows:

20 “(b)(1) After notice and a hearing, the court, on its  
21 own motion or on motion by the United States trustee or  
22 any party in interest shall dismiss a case filed by an indi-  
23 vidual debtor under this chapter if it finds that the grant-  
24 ing of relief would be a substantial abuse of the provisions  
25 of this chapter.



1       “(2) The court shall determine that substantial abuse  
2 exists if either—

3               “(A) the debtor is excluded from this chapter  
4 pursuant to section 109 of this title; or

5               “(B) the totality of the circumstances of the  
6 debtor’s financial situation demonstrate substantial  
7 abuse.

8       “(3) In the case of a motion brought by a party in  
9 interest other than the trustee or United States Trustee  
10 under paragraph (1) which is denied by the court and  
11 found to be based on unsubstantiated allegations, the  
12 court may award against the moving party reasonable at-  
13 torney’s fees and costs which the debtor incurred in de-  
14 fending the motion.”.

15 **SEC. 116. GIVING DEBTORS THE ABILITY TO KEEP LEASED**  
16 **PERSONAL PROPERTY BY ASSUMPTION.**

17       Section 365 of title 11, United States Code, is  
18 amended by adding at the end the following:

19       “(p)(1) If a lease of personal property is rejected or  
20 not timely assumed by the trustee under subsection (d),  
21 the leased property is no longer property of the estate and  
22 the stay under section 362(a) of this title is automatically  
23 terminated.

24       “(2) In the case of an individual under chapter 7,  
25 the debtor may notify the creditor in writing that the debt-

1 or desires to assume the lease. Upon being so notified,  
2 the creditor may, at its option, notify the debtor that it  
3 is willing to have the lease assumed by the debtor and  
4 may condition such assumption on cure of any outstanding  
5 default on terms set by the lessor. If within 30 days of  
6 such notice the debtor notifies the lessor in writing that  
7 the lease is assumed, the liability under the lease will be  
8 assumed by the debtor and not by the estate. The stay  
9 under section 362 of this title and the injunction under  
10 section 524(a)(2) of this title shall not be violated by noti-  
11 fication of the debtor and negotiation of cure under this  
12 subsection.

13 “(3) In a chapter 11 case in which the debtor is an  
14 individual and in a chapter 13 case, if the debtor is the  
15 lessee with respect to personal property and the lease is  
16 not assumed in the plan confirmed by the court, the lease  
17 is deemed rejected as of the conclusion of the hearing on  
18 confirmation. If the lease is rejected, the stay under sec-  
19 tion 362 of this title and any stay under section 1301 is  
20 automatically terminated with respect to the property sub-  
21 ject to the lease.”.

22 **SEC. 117. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**  
23 **IN CERTAIN CASES.**

24 Title 11, United States Code, is amended—

1           (1) by amending section 1322(d) to read as fol-  
2           lows:

3           “(d) If the total current monthly income of the debtor  
4 and in a joint case, the debtor and the debtor’s spouse  
5 combined, is 75 percent of the national median family in-  
6 come for a family of equal size or, in the case of a house-  
7 hold of one person, 75 percent of the national median  
8 household income for one earner, or more, the plan may  
9 not provide for payments over a period that is longer than  
10 5 years, unless the court, for cause, approves a longer pe-  
11 riod, but the court may not approve a period that is longer  
12 than 7 years. If the total current monthly income of the  
13 debtor or in a joint case, the debtor and the debtor’s  
14 spouse combined, is less than 75 percent of the national  
15 median family income for a family of equal size or, in the  
16 case of a household of one person, and less than, 75 per-  
17 cent of the national median household income for one  
18 earner, the plan may not provide for payments over a pe-  
19 riod that is longer than three years, unless the court, for  
20 cause, approves a longer period, but the court may not  
21 approve a period that is longer than five years.”;

22           (2) in section 1329—

23           (A) by striking in subsection (c) “three  
24           years” and inserting “the applicable commit-  
25           ment period under section 1325(b)(1)(B)(ii)”

1 and by striking “five years” and inserting  
2 “maximum duration period”; and

3 (B) by inserting at the end of subsection  
4 (c) the following:

5 “The maximum duration period shall be 5 years if the  
6 debtor’s total current monthly income is \$2,000 or more  
7 as of the date of modification and shall be three years  
8 if the debtor’s total current monthly income is less than  
9 \$2,000 or less as of the date of modification.”

10 **SEC. 118. APPLYING THE CO-DEBTOR STAY ONLY WHEN IT**  
11 **PROTECTS THE DEBTOR.**

12 Section 1301(b) of title 11, United States Code, is  
13 amended—

14 (1) by inserting “(1)” after “(b)”; and

15 (2) by adding at the end the following:

16 “(2) When the debtor did not receive the consider-  
17 ation for the claim held by a creditor, the stay provided  
18 by subsection (a) does not apply to such creditor, notwith-  
19 standing subsection (c), to the extent the creditor proceeds  
20 against the individual which received such consideration  
21 or against property not in the possession of the debtor  
22 which secures such claim.

23 “(3) When the debtor’s plan provides that the debt-  
24 or’s interest in personal property subject to a lease as to  
25 which the debtor is the lessee will be surrendered or aban-

1 doned or no payments will be made under the plan on ac-  
2 count of the debtor’s obligations under the lease, the stay  
3 provided by subsection (a) shall terminate as of the date  
4 of confirmation of the plan notwithstanding subsection  
5 (c).”.

6 **SEC. 119. DEFINITION OF HOUSEHOLD GOODS.**

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

9 “(4) As used in this paragraph, ‘household goods’  
10 shall have the meaning given in the Trade Regulation Rule  
11 on Credit Practices promulgated by the Federal Trade  
12 Commission, 16 C.F.R. 444.1(i) as in existence on the  
13 date of enactment.”.

14 **SEC. 120. PROTECTION OF HOLDERS OF CLAIMS SECURED**  
15 **BY DEBTOR’S PRINCIPAL RESIDENCE.**

16 Title 11, United States Code, is amended—

17 (1) in section 101 by inserting after paragraph  
18 (13) the following:

19 “(13A) ‘debtor’s principal residence’ means a  
20 residential structure including incidental property  
21 when the structure contains one to four units,  
22 whether or not that structure is attached to real  
23 property, and includes, without limitation, an indi-  
24 vidual condominium or cooperative unit or mobile or  
25 manufactured home or trailer;

1           “(13B) ‘incidental property’ means property in-  
2           cidental to such residence including, without limita-  
3           tion, property commonly conveyed with a principal  
4           residence where the real estate is located, window  
5           treatments, carpets, appliances and equipment lo-  
6           cated in the residence, and easements, appur-  
7           tenances, fixtures, rents, royalties, mineral rights, oil  
8           and gas rights, escrow funds and insurance pro-  
9           ceeds.”;

10           (A) in paragraph (17) by striking “or” at  
11           the end thereof;

12           (B) in paragraph (18) by striking the pe-  
13           riod at the end; and

14           (C) in section 362(b) by inserting after  
15           paragraph (18) the following:

16           “(19) under subsection (a), until a prepetition  
17           default is cured fully in a chapter 13 of this title  
18           case by actual payment of all arrears as required by  
19           the plan, of the postponement, continuation or other  
20           similar delay of a prepetition foreclosure proceeding  
21           or sale in accordance with applicable nonbankruptcy  
22           law, but nothing herein shall imply that such post-  
23           ponement, continuation or other similar delay is a  
24           violation of the stay under subsection (a).”;

1           (2) by amending section 1322(b)(2) to read as  
2 follows:

3           “(2) modify the rights of holders of secured  
4 claims, other than a claim secured only by a security  
5 interest in property used as the debtor’s principal  
6 residence at any time during 180 days prior to the  
7 filing of the petition, or of holders of unsecured  
8 claims, or leave unaffected the rights of holders of  
9 any class of claims;”.

10 **SEC. 121. EXTEND PERIOD BETWEEN BANKRUPTCY DIS-**  
11 **CHARGES.**

12 Title 11, United States Code, is amended—

13           (1) in section 727(a)(8) by striking “six” and  
14 inserting “10”; and

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

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

1                   **TITLE II—IMPROVED**  
2                   **BANKRUPTCY ADMINISTRATION**

3                   **SEC. 201. IMPROVED BANKRUPTCY STATISTICS.**

4                   (a) AMENDMENT.—Title 28, United States Code, is  
5 amended by adding after section 158 the following new  
6 section:

7                   **“§ 159. Bankruptcy statistics**

8                   “The clerk of each district shall compile statistics re-  
9 garding individual debtors with primarily consumer debts  
10 seeking relief under chapters 7, 11, and 13 of title 11,  
11 United States Code. Such statistics shall be in a form pre-  
12 scribed by the Administrative Office of the United States  
13 Courts. The Office shall compile such statistics, and make  
14 them public, and report annually to the Congress on the  
15 information collected, and on its analysis thereof, no later  
16 than October 31 of each year. Such compilation shall be  
17 itemized by chapter of title 11 of the United States Code,  
18 shall be presented in the aggregate and for each district,  
19 and shall include the following:

20                   “(1) Total assets and total liabilities of such  
21 debtors, and in each category of assets and liabil-  
22 ities, as reported in the schedules prescribed pursu-  
23 ant to 28 U.S.C. 2075 and filed by such debtors.

24                   “(2) The current total monthly income, pro-  
25 jected monthly net income, and average income and



1 average expenses of such debtors as reported on the  
2 schedules and statements the debtor has filed under  
3 sections 111, 521 and 1322 of this title.

4 “(3) The aggregate amount of debt discharged  
5 in the reporting period, determined as the difference  
6 between the total amount of debt and obligations of  
7 a debtor reported on the schedules and the amount  
8 of such debt reported in categories which are pre-  
9 dominantly non-dischargeable.

10 “(4) The average time between the filing of the  
11 petition and the closing of the case.

12 “(5) The number of cases in the reporting pe-  
13 riod in which a reaffirmation was filed and the total  
14 number of reaffirmations filed in that period, and of  
15 those cases in which a reaffirmation was filed, the  
16 number in which the debtor was not represented by  
17 an attorney, and of those the number of cases in  
18 which the reaffirmation was approved by the court.

19 “(6) With respect to cases filed under chapter  
20 13 of title 11—

21 “(A) the number of cases in which a final  
22 order was entered determining the value of  
23 property securing a claim less than the claim,  
24 and the total number of such orders in the re-  
25 porting period; and

1           “(B) the number of cases dismissed for  
2           failure to make payments under the plan.

3           “(7) The number of cases in which the debtor  
4           filed another case within the 6 years previous to the  
5           filing.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7           subsection (a) shall take effect 18 months after the date  
8           of the enactment of this Act.

9           **SEC. 202. AUDIT PROCEDURES.**

10          (a) AMENDMENT.—Section 586 of title 28, United  
11          States Code, is amended—

12                 (1) by amending paragraph (6) to read as fol-  
13          lows:

14                 “(6) make such reports as the Attorney General  
15                 directs, including the results of audits performed  
16                 under subsection (f).”;

17                 (2) by inserting at the end the following:

18                 “(f)(1) The Attorney General shall establish proce-  
19                 dures for the auditing of the accuracy and completeness  
20                 of petitions, schedules and other information which the  
21                 debtor is required to provide under sections 521 and 1322,  
22                 and, if applicable, section 111, of title 11 in individual  
23                 cases filed under chapter 7 or 13 of such title. Such audits  
24                 shall be in accordance with generally accepted auditing  
25                 standards and performed by independent certified public

1 accountants or independent licensed public accountants.

2 Such procedures shall—

3           “(A) establish a method of selecting appropriate  
4 qualified persons to contract with the United States  
5 Trustee to perform such audits;

6           “(B) establish a method of randomly selecting  
7 cases to be audited according to generally accepted  
8 audit standards, provided that no less than one out  
9 of every fifty cases in each Federal judicial district  
10 shall be selected for audit;

11           “(C) require audits for schedules of income and  
12 expenses which reflect higher than average variances  
13 from the statistical norm of the district in which the  
14 schedules were filed;

15           “(D) establish procedures for reporting the re-  
16 sults of such audits and any material misstatement  
17 of income, expenditures or assets of a debtor to the  
18 Attorney General, the United States Attorney and  
19 the court, as appropriate, and for providing public  
20 information no less than annually on the aggregate  
21 results of such audits including the percentage of  
22 cases, by district, in which a material misstatement  
23 of income or expenditures is reported; and

24           “(E) establish procedures for fully funding such  
25 audits, including procedures requiring each debtor

1 with sufficient available income or assets to contrib-  
2 ute to the payment for such audits, either as an ad-  
3 ministrative expense or otherwise.

4 “(2) The United States trustee for each district is  
5 authorized to contract with auditors to perform audits in  
6 cases designated by the United States trustee according  
7 to the procedures established under paragraph (1) of this  
8 subsection.

9 “(3) According to procedures established under para-  
10 graph (1), upon request of a duly appointed auditor, the  
11 debtor shall cause the accounts, papers, documents, finan-  
12 cial records, files and all other papers, things or property  
13 belonging to the debtor as the auditor requests and which  
14 are reasonably necessary to facilitate audit to be made  
15 available for inspection and copying.

16 “(4) The report of each such audit shall be filed with  
17 the court, the Attorney General, and the United States  
18 Attorney, as required under procedures established by the  
19 Attorney General under paragraph (1). If a material  
20 misstatement of income or expenditures or of assets is re-  
21 ported, a statement specifying such misstatement shall be  
22 filed with the court and the United States trustee shall  
23 give notice thereof to the creditors in the case and, in an  
24 appropriate case, in the opinion of the United States trust-

1 ee, requires investigation with respect to possible criminal  
2 violations, the United States Attorney for the district.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect 18 months after the date of  
5 the enactment of this Act.

6 **SEC. 203. NATIONWIDE DOCKET OF CASES UNDER TITLE 11.**

7 (a) AMENDMENT.—Section 586 of title 28, United  
8 States Code, as amended by section 202, is amended by  
9 adding at the end the following:

10 “(g)(1) The Administrative Office of the United  
11 States Courts shall establish a nationwide docket of the  
12 name, address, bankruptcy case number, and district of  
13 filing of the debtors who file after that date for relief  
14 under title 11, chapter 7, 11, 12, and 13, to be established  
15 and maintained by the Administrative Office of the United  
16 States Courts. The docket may include any other informa-  
17 tion disclosed on the petition or otherwise which the Ad-  
18 ministrative Office of the United States Courts determines  
19 is necessary to assure the accuracy and integrity of the  
20 identification of the debtor and the debtor’s case in the  
21 docket. The Administrative Office of the United States  
22 Courts is authorized to prescribe regulations, forms, and  
23 procedures for the prompt entry and maintenance in such  
24 central docket by the district court of the required infor-  
25 mation. Such docket shall be subject to nationwide search

1 by users alphabetically by last name, numerically by the  
2 surname of the debtor, and in a joint case, the surname  
3 of the debtor's spouse, or by street address, or by any  
4 other category of identification information contained  
5 therein.

6       “(2) The Administrative Office of the United States  
7 Courts shall prescribe standards and procedures with re-  
8 spect to access to the docket created under paragraph (1),  
9 except that the United States trustees, any trustee ap-  
10 pointed and duly serving in a case pending under chapter  
11 7, 11, 12, or 13 of title 11, and any creditor in such a  
12 case shall have access pursuant to such procedures, but  
13 such procedures may impose limitations and controls on  
14 such access and on the use of information obtained reason-  
15 ably related to protecting the privacy of those registered.

16       “(3) The Administrative Office of the United States  
17 Courts may prescribe a reasonable access fee to defray the  
18 cost of creating and maintaining the docket created under  
19 paragraph (1), provided that such fee shall be charged  
20 every user of the docket including the United States trust-  
21 ee and any trustee, and provided that such fee shall not  
22 exceed \$5 per search of any combination of information  
23 with respect to any one debtor.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect 18 months after the date  
3 of the enactment of this Act.

4 **SEC. 204. ADEQUATE PREPARATION TIME FOR CREDITORS**  
5 **BEFORE THE FIRST MEETING OF CREDITORS**  
6 **IN INDIVIDUAL CASES.**

7 Section 341(a) of title 11, United States Code, is  
8 amended by inserting after the first sentence the follow-  
9 ing:

10 “If the debtor is an individual in a voluntary case under  
11 chapter 7, 11, or 13, the first meeting of creditors shall  
12 not be convened earlier than 60 days (or later than 90  
13 days) after the date of the order for relief, unless the  
14 court, after notice and hearing, determines unusual cir-  
15 cumstances justify an earlier meeting.”.

16 **SEC. 205. CREDITOR REPRESENTATION AT FIRST MEETING**  
17 **OF CREDITORS.**

18 Section 341(c) of title 11, United States Code, is  
19 amended by inserting after the first sentence the follow-  
20 ing:

21 “Notwithstanding any local court rule, provision of a State  
22 constitution, any other State or Federal nonbankruptcy  
23 law, or other requirement that representation at the meet-  
24 ing of creditors under subsection (a) be by an attorney,  
25 a creditor holding a consumer debt or its representatives

1 (which representatives may include an entity or an em-  
2 ployee of an entity and may be a representative for more  
3 than one creditor) shall be permitted to appear at and par-  
4 ticipate in the meeting of creditors in a case under chapter  
5 7 or 13 either alone or in conjunction with an attorney  
6 for the creditor. Nothing in this subsection shall be con-  
7 strued to require any creditor to be represented by an at-  
8 torney at any meeting of creditors.”.

9 **SEC. 206. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7**  
10 **AND 13 CASES.**

11 Section 342 of title 11, United States Code, is  
12 amended—

13 (1) in subsection (c)—

14 (A) by striking “, but the failure of such  
15 notice to contain such information shall not in-  
16 validate the legal effect of such notice”; and

17 (B) by adding the following at the end:

18 “If the credit agreement between the debtor and the credi-  
19 tor or the last communication before the filing of the peti-  
20 tion in a voluntary case from the creditor to a debtor who  
21 is an individual states an account number of the debtor  
22 which is the current account number of the debtor with  
23 respect to any debt held by the creditor against the debtor,  
24 the debtor shall include such account number in any notice  
25 to the creditor required to be given under this title. If the



1 creditor has specified to the debtor an address at which  
2 the creditor wishes to receive correspondence regarding  
3 the debtor's account, any notice to the creditor required  
4 to be given by the debtor under this title shall be given  
5 at such address. For the purposes of this section, 'notice'  
6 shall include, but shall not be limited to, any correspond-  
7 ence from the debtor to the creditor after the commence-  
8 ment of the case, any statement of the debtor's intention  
9 under section 521(2) of this title, notice of the commence-  
10 ment of any proceeding in the case to which the creditor  
11 is a party, and any notice of the hearing under section  
12 1324.”;

13           (2) by adding at the end of section 342 the fol-  
14       lowing:

15       “(d) At any time, a creditor in a case of an individual  
16 under chapter 7 or 13 may file with the court and serve  
17 on the debtor a notice of the address to be used to notify  
18 the creditor in that case. Five days after receipt of such  
19 notice, if the court or the debtor is required to give the  
20 creditor notice, such notice shall be given at that address.

21       “(e) An entity may file with the court a notice stating  
22 its address for notice in cases under chapters 7 and 13.  
23 After 30 days following the filing of such notice, any notice  
24 in any case filed under chapters 7 or 13 given by the court

1 shall be to that address unless specific notice is given  
2 under subsection (d) with respect to a particular case.

3 “(f) Notice given to a creditor other than as provided  
4 in this section shall not be effective notice until it has been  
5 brought to the attention of the creditor. If the creditor  
6 has designated a person or department to be responsible  
7 for receiving notices concerning bankruptcy cases and has  
8 established reasonable procedures so that bankruptcy no-  
9 tices received by the creditor will be delivered to such de-  
10 partment or person, notice will not be brought to the at-  
11 tention of the creditor until received by such person or  
12 department. No sanction under section 362(h) of this title  
13 or any other sanction which a court may impose on ac-  
14 count of violations of the stay under section 362(a) of this  
15 title or failure to comply with section 542 or 543 of this  
16 title may be imposed on any action of the creditor unless  
17 the action takes place after the creditor has received notice  
18 of the commencement of the case effective under this sec-  
19 tion.”.

20 **SEC. 207. PROMPT RELIEF FROM STAY IN INDIVIDUAL**  
21 **CASES.**

22 Section 362(e) of title 11, United States Code, is  
23 amended by inserting at the end the following:

24 “Notwithstanding the foregoing, in the case of an individ-  
25 ual filing under chapter 7, 11, or 13, the stay under sub-

1 section (a) of this section shall terminate 60 days after  
2 a request under subsection (d) of this section, unless—

3 “(1) a final decision is rendered by the court  
4 within such 60-day period; or

5 “(2) such 60-day period is extended either by  
6 agreement of all parties in interest or by the court  
7 for a specific time which the court finds is required  
8 by compelling circumstances.”.

9 **SEC. 208. RELIEF FROM STAY WHEN THE DEBTOR DOES**  
10 **NOT COMPLETE INTENDED SURRENDER OF**  
11 **CONSUMER DEBT COLLATERAL.**

12 Title 11, United States Code, is amended as fol-  
13 lows—

14 (1) in section 362—

15 (A) by striking “(e), and (f)” in subsection  
16 (c) and inserting in lieu thereof “(e), (f), and  
17 (h)”; and

18 (B) by redesignating subsection (h) as sub-  
19 section (i) and by inserting after subsection (g)  
20 the following:

21 “(h) In an individual case pursuant to chapter 7, 11,  
22 or 13 the stay provided by subsection (a) is terminated  
23 with respect to property of the estate securing in whole  
24 or in part a claim, or subject to an unexpired lease, if

1 the debtor fails within 30 days after the expiration of the  
2 applicable time set by section 521(2) of this title—

3           “(1) to file timely any statement of intention  
4           required under section 521(2) of this title with re-  
5           spect to that property or to indicate therein that the  
6           debtor will either surrender the property or retain it  
7           and, if retaining it, either redeem the property pur-  
8           suant to section 722 of this title, reaffirm the debt  
9           it secures pursuant to section 524(c) of this title, or  
10          assume the unexpired lease pursuant to section  
11          365(p) of this title if the trustee does not do so, as  
12          applicable; or

13           “(2) to take timely the action specified in that  
14          statement of intention, as it may be amended before  
15          expiration of the period for taking action, unless the  
16          statement of intention specifies reaffirmation and  
17          the creditor refuses to reaffirm on the original con-  
18          tract terms.”;

19           (2) in section 521—

20           (A) in subsection (2) by striking  
21          “consumer”;

22           (B) in paragraph (2)(B)—

23           (i) by striking “forty-five” each place  
24          it appears and inserting “ninety”; and

1 (ii) by striking “the filing of a notice  
2 of intent under this section” and inserting  
3 “order for relief”; and  
4 (C) in paragraph (2)(C) by inserting “ex-  
5 cept as provided in section 362(h)” before the  
6 semicolon.

7 **SEC. 209. FILING PROOFS OF CLAIM.**

8 Section 501 of title 11, United States Code, is  
9 amended by adding at the end the following:

10 “(e) In a case under chapter 7 or 13, a proof of claim  
11 or interest is deemed filed under this section for any claim  
12 or interest that appears in the schedules filed under sec-  
13 tion 521(1) of this title, except a claim or interest that  
14 is scheduled as disputed, contingent, or unliquidated.”.

15 **SEC. 210. DEBTOR TO PROVIDE TAX RETURNS AND OTHER**  
16 **INFORMATION.**

17 Section 521 of title 11, United States Code, is  
18 amended—

19 (1) by inserting “(a)” before “The”;

20 (2) by amending paragraph (1) to read as fol-  
21 lows:

22 “(1) file—

23 “(A) a list of creditors, and

24 “(B) unless the court orders otherwise—

1           “(i) a schedule of assets and liabil-  
2 ities;

3           “(ii) a schedule of current income and  
4 current expenditures;

5           “(iii) a statement of the debtor’s fi-  
6 nancial affairs;

7           “(iv) copies of any federal tax returns,  
8 including any schedules or attachments,  
9 filed by the debtor for the 3 years preced-  
10 ing the order for relief;

11           “(v) copies of all payment advices or  
12 other evidence of payment, if any, received  
13 by the debtor from any employer of the  
14 debtor in the period 60 days prior to the  
15 filing of the petition;

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

19           “(vii) if applicable, any statement  
20 under paragraphs (3) and (4) of section  
21 109(h); and

22           “(viii) a statement disclosing any rea-  
23 sonably anticipated increase in income or  
24 expenditures over the next 12 months;”;  
25 and

1           (3) by adding at the end the following:

2           “(b) At any time, a creditor in a case of an individual  
3 under chapters 7 or 13 may file with the court and serve  
4 on the debtor notice that the creditor requests the petition,  
5 schedules and statement of affairs filed by the debtor in  
6 the case. At any time, a creditor in a case under chapter  
7 13 may file with the court and serve on the debtor notice  
8 that the creditor requests the plan filed by the debtor in  
9 the case. Within 10 days of the first such request in a  
10 case under this subsection for the petition, schedules and  
11 statement of affairs and the first such request for the plan  
12 under this subsection, the debtor shall serve on that credi-  
13 tor a conformed copy of the requested documents or plan  
14 and any amendments thereto as of that date, and shall  
15 thereafter promptly serve on that creditor at the time filed  
16 with the court—

17           “(1) any requested document or plan which is  
18 not filed with the court at the time requested; and

19           “(2) any amendment to any requested docu-  
20 ment or plan.

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

23           “(1) at the time filed with the taxing authority,  
24 all tax returns, including any schedules or attach-  
25 ments, with respect to the period from the com-

1       mencement of the case until such time as the case  
2       is closed;

3             “(2) at the time filed with the taxing authority,  
4       all tax returns, including any schedules or attach-  
5       ments, that were not filed with the taxing authority  
6       when the schedules under section 521(1) were filed  
7       with respect to the period three years before the  
8       order for relief;

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

12            “(4) in a case under chapter 13, from a time  
13       which is the later of ninety days after the close of  
14       the debtor’s tax year or one year after the order for  
15       relief unless a plan has then been confirmed, and  
16       thereafter on or before 45 days before each anniver-  
17       sary of the confirmation of the plan until the case  
18       is closed, a statement subject to the penalties of per-  
19       jury by the debtor of the debtor’s income and ex-  
20       penditures in the preceding tax year and monthly  
21       net income, showing how calculated. Such statement  
22       shall disclose the amount and sources of income of  
23       the debtor, the identity of any persons responsible  
24       with the debtor for the support of any dependents of  
25       the debtor, and any persons who contributed and the



1 amount contributed to the household in which the  
2 debtor resides. Such tax returns, amendments and  
3 statement of income and expenditures shall be avail-  
4 able to the United States Trustee, any bankruptcy  
5 administrator, any trustee and any party in interest  
6 for inspection and copying.”.

7 **SEC. 211. DISMISSAL FOR FAILURE TO FILE SCHEDULES**  
8 **TIMELY OR PROVIDE REQUIRED INFORMA-**  
9 **TION.**

10 Section 707 of title 11, United States Code, is  
11 amended by adding at the end the following:

12 “(c) Notwithstanding subsection (a), if an individual  
13 debtor in a voluntary case under chapters 7 or 13 fails  
14 to file all of the information required under section 521(1)  
15 of this title within 45 days after the filing of the petition,  
16 the case shall be automatically dismissed effective on the  
17 16th day after the filing of the petition without the need  
18 for any order of court, but any party in interest may re-  
19 quest the court to enter an order dismissing the case and  
20 the court shall, if so requested, enter an order of dismissal  
21 within 5 days of such request. Upon request of the debtor  
22 made within 45 days after the filing of the petition, the  
23 court may allow the debtor up to an additional 15 days  
24 to file the information required under section 521(1) of

1 this title if the court finds compelling justification for  
2 doing so.

3       “(d) If an individual debtor in a case under chapters  
4 7 or 13 fails to perform any of the duties imposed by para-  
5 graph (7) or (8) of section 521 of this title, any party  
6 in interest may request that the court order the debtor  
7 to comply. Within 10 days of such request the court shall  
8 order that the debtor do so within a period of time set  
9 by the court no longer than 30 days. If the debtor does  
10 not comply with that order within the period of time set  
11 by the court, the court shall, on request of any party in  
12 interest certifying that the debtor has not so complied,  
13 enter an order dismissing the case within 5 days of such  
14 request.”.

15 **SEC. 212. ADEQUATE PROTECTION OF LESSORS AND PUR-**  
16 **CHASE MONEY SECURED CREDITORS.**

17       Title 11, United States Code, is amended by adding  
18 after section 1306 the following:

19 **“§ 1307A. Adequate protection in chapter 13 cases**

20       “(a)(1) On or before 30 days after the filing of a case  
21 under this chapter, the debtor shall make cash payments  
22 in the amount described below to any lessor of personal  
23 property and to any creditor holding a claim secured by  
24 personal property to the extent such claim is attributable  
25 to the purchase of such property by the debtor. The debtor

1 or the plan shall continue such payments until the earlier  
2 of—

3           “(A) the time at which the creditor begins to  
4           receive actual payments under the plan; or

5           “(B) the debtor relinquishes possession of such  
6           property to the lessor or creditor, or to any third  
7           party acting under claim of right, as applicable.

8           “(2) Such cash payments shall be in the amount of  
9           any weekly, biweekly, monthly or other periodic payment  
10          scheduled as payable under the contract between the debt-  
11          or and creditor; shall be paid at the times at which such  
12          payments are scheduled to be made; and shall not include  
13          any arrearages, penalties, or default or delinquency  
14          charges. Such payments shall be deemed to be adequate  
15          protection payments under section 362 of this title.

16          “(b) The court may, after notice and hearing, change  
17          the amount and timing of the adequate protection pay-  
18          ment under subsection (a), but in no event shall it be pay-  
19          able less frequently than monthly or in an amount less  
20          than the reasonable depreciation of such property month  
21          to month.

22          “(c) Notwithstanding section 1326(b) of this title, if  
23          a confirmed plan provides for payments to a creditor or  
24          lessor described in subsection (a) and provides that pay-  
25          ments to such creditor or lessor under the plan will be

1 deferred until payment of amounts described in section  
2 1326(b) of this title, the payments required hereunder  
3 shall nonetheless be continued in addition to plan pay-  
4 ments until actual payments to the creditor begin under  
5 the plan.

6 “(d) Notwithstanding sections 362, 542, and 543 of  
7 this title, a lessor or creditor described in subsection (a)  
8 may retain possession of property described in subsection  
9 (a) which was obtained rightfully prior to the date of filing  
10 of the petition until the first such adequate protection pay-  
11 ment is received by the lessor or creditor. Such retention  
12 of possession and any acts reasonably related thereto shall  
13 not violate the stay imposed under section 362(a) of this  
14 title, nor any obligations imposed under section 542 or  
15 543 of this title.

16 “(e) On or before 60 days after the filing of a case  
17 under this chapter, a debtor retaining possession of per-  
18 sonal property subject to a lease or securing a claim attrib-  
19 utable in whole or in part to the purchase price of that  
20 property shall provide each creditor or lessor reasonable  
21 evidence of the maintenance of any required insurance  
22 coverage with respect to the use or ownership of such  
23 property and continue to do so for so long as the debtor  
24 retains possession of such property.”.

1 **SEC. 213. ADEQUATE TIME TO PREPARE FOR HEARING ON**  
2 **CONFIRMATION OF THE PLAN.**

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

5 (1) by striking “After” and inserting the follow-  
6 ing:

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

9 (2) by adding at the end the following:

10 “(b) If a creditor objects not later than 5 days after  
11 receiving notice of a hearing on confirmation of the plan,  
12 the hearing on confirmation of the plan may be held no  
13 earlier than twenty days after the first meeting of credi-  
14 tors under section 341(a) of this title.”.

○