

Union Calendar No. 66

106TH CONGRESS
1ST SESSION

H. R. 833

[Report No. 106-123]

A BILL

To amend title 11 of the United States Code, and
for other purposes.

APRIL 29, 1999

Reported from the Committee on the Judiciary with an
amendment

APRIL 29, 1999

Referral to the Committee on Banking and Financial
Services extended for a period ending not later than
April 29, 1999

APRIL 29, 1999

Committee on Banking and Financial Services dis-
charged; committed to the Committee of the Whole
House on the State of the Union and ordered to be
printed

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106TH CONGRESS
1ST SESSION

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[Report No. 106-123]

To amend title 11 of the United States Code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1999

Mr. GEKAS (for himself, Mr. BOUCHER, Mr. MCCOLLUM, Mr. MORAN of Virginia, Mr. ARMEY, Mr. FROST, Mr. MENENDEZ, Ms. PRYCE of Ohio, Mrs. FOWLER, Mr. KENNEDY of Rhode Island, Mr. DREIER, Mr. CANADY of Florida, Mr. GOODLATTE, Mr. CHABOT, Mr. BRYANT, Mr. ROTHMAN, Mrs. BONO, Mr. ANDREWS, Mr. BAKER, Mr. BEREUTER, Mr. CUNNINGHAM, Mr. DOOLEY of California, Ms. DUNN, Ms. HOOLEY of Oregon, Mrs. KELLY, Mr. LARGENT, Mr. MALONEY of Connecticut, Mr. RILEY, Mr. ROEMER, Mr. SESSIONS, Mr. SMITH of Washington, Mrs. TAUSCHER, Ms. VELÁZQUEZ, Mr. WYNN, Mr. DAVIS of Virginia, Mr. DAVIS of Florida, and Mr. HALL of Texas) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 29, 1999

Additional sponsors: Mr. COOK, Mr. COOKSEY, Mr. ENGLISH, Mr. GOODE, Mr. HILL of Montana, Mr. HILLEARY, Mr. METCALF, Mr. OXLEY, Mr. ROYCE, Mr. SISISKY, Mr. STUMP, Mr. TANNER, Mr. TAUZIN, Mr. BARTON of Texas, Mr. BUYER, Mrs. CAPPS, Mr. EHRlich, Mr. GRAHAM, Mr. HUNTER, Mr. SMITH of Michigan, Mr. STRICKLAND, Mr. SUNUNU, Mr. TALENT, Mr. BLILEY, Mr. BURTON of Indiana, Mr. CRANE, Mr. HOYER, Mr. PICKETT, Mr. WELLER, Mr. BOEHNER, Mr. BLUMENAUER, Mr. FOLEY, Mr. HOLDEN, Mr. ADERHOLT, Mr. JENKINS, Mr. CONDIT, Mr. CRAMER, Mr. DEUTSCH, Mr. LINDER, Mrs. MYRICK, Mr. NETHERCUTT, Mr. PETERSON of Pennsylvania, Mr. TERRY, Mr. WELDON of Florida, Mr. BARR of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KLECZKA, Mrs. NORTHUP, Mr. PASTOR, Ms. BERKLEY, Mr.

BLAGOJEVICH, Mr. LUCAS of Kentucky, Mr. SENSENBRENNER, Mr. BURR of North Carolina, Mr. NEY, Mr. SANDLIN, Mr. BOYD, Mr. COLLINS, Mr. GORDON, Mr. MCINTOSH, Mr. SCARBOROUGH, Mr. BARCIA, Mrs. CHENOWETH, Mr. UPTON, Mr. CAMP, Mr. SIMPSON, Mr. CASTLE, Mr. JOHN, Mr. NORWOOD, and Mr. SWEENEY

Deleted sponsor: Mr. BRADY of Pennsylvania (added March 23, 1999; deleted April 28, 1999)

APRIL 29, 1999

Reported from the Committee on the Judiciary with an amendment

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

APRIL 29, 1999

Referral to the Committee on Banking and Financial Services extended for a period ending not later than April 29, 1999

APRIL 29, 1999

Committee on Banking and Financial Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 24, 1999]

A BILL

To amend title 11 of the 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
5 *“Bankruptcy Reform Act of 1999”.*

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

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs based bankruptcy

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.

- Sec. 103. Notice of alternatives.*
Sec. 104. Debtor financial management training test program.

Subtitle B—Consumer Bankruptcy Protections

- Sec. 105. Definitions.*
Sec. 106. Enforcement.
Sec. 107. Sense of the congress.
Sec. 108. Discouraging abusive reaffirmation practices.
Sec. 109. Promotion of alternative dispute resolution.
Sec. 110. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 111. Dual use debit card.
Sec. 112. Enhanced disclosures under an open-end credit plan.
Sec. 113. Protection of savings earmarked for the postsecondary education of children.
Sec. 114. Effect of discharge.
Sec. 115. Limiting trustee liability.
Sec. 116. Reinforce the fresh start.
Sec. 117. Discouraging bad faith repeat filings.
Sec. 118. Curbing abusive filings.
Sec. 119. Debtor retention of personal property security.
Sec. 120. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 121. Giving secured creditors fair treatment in chapter 13.
Sec. 122. Restraining abusive purchases on secured credit.
Sec. 123. Fair valuation of collateral.
Sec. 124. Domiciliary requirements for exemptions.
Sec. 125. Restrictions on certain exempt property obtained through fraud.
Sec. 126. Rolling stock equipment.
Sec. 127. Discharge under chapter 13.
Sec. 128. Bankruptcy judgeships.
Sec. 129. Additional amendments to title 11, United States Code.
Sec. 130. Amendment to section 1325 of title 11, United States Code.
Sec. 131. Application of the codebtor stay only when the stay protects the debtor.
Sec. 132. Adequate protection for investors.
Sec. 133. Limitation on luxury goods.
Sec. 134. Giving debtors the ability to keep leased personal property by assumption.
Sec. 135. Adequate protection of lessors and purchase money secured creditors.
Sec. 136. Automatic stay.
Sec. 137. Extend period between bankruptcy discharges.
Sec. 138. Definition of domestic support obligation.
Sec. 139. Priorities for claims for domestic support obligations.
Sec. 140. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 141. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 142. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 143. Continued liability of property.
Sec. 144. Protection of domestic support claims against preferential transfer motions.
Sec. 145. Clarification of meaning of household goods.
Sec. 146. Nondischargeable debts.
Sec. 147. Monetary limitation on certain exempt property.

- Sec. 148. Bankruptcy fees.*
Sec. 149. Collection of child support.
Sec. 150. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 151. Clarification of postpetition wages and benefits.
Sec. 152. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 153. Automatic stay inapplicable to certain proceedings against the debtor.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 201. Reenactment of chapter 12.*
Sec. 202. Meetings of creditors and equity security holders.
Sec. 203. Protection of retirement savings in bankruptcy.
Sec. 204. Protection of refinance of security interest.
Sec. 205. Executory contracts and unexpired leases.
Sec. 206. Creditors and equity security holders committees.
Sec. 207. Amendment to section 546 of title 11, United States Code.
Sec. 208. Limitation.
Sec. 209. Amendment to section 330(a) of title 11, United States Code.
Sec. 210. Postpetition disclosure and solicitation.
Sec. 211. Preferences.
Sec. 212. Venue of certain proceedings.
Sec. 213. Period for filing plan under chapter 11.
Sec. 214. Fees arising from certain ownership interests.
Sec. 215. Claims relating to insurance deposits in cases ancillary to foreign proceedings.
Sec. 216. Defaults based on nonmonetary obligations.
Sec. 217. Sharing of compensation.
Sec. 218. Priority for administrative expenses.

TITLE III—GENERAL BUSINESS BANKRUPTCY PROVISIONS

- Sec. 301. Definition of disinterested person.*
Sec. 302. Miscellaneous improvements.
Sec. 303. Extensions.
Sec. 304. Local filing of bankruptcy cases.
Sec. 305. Permitting assumption of contracts.

TITLE IV SMALL BUSINESS BANKRUPTCY PROVISIONS

- Sec. 401. Flexible rules for disclosure Statement and plan.*
Sec. 402. Definitions.
Sec. 403. Standard form disclosure Statement and plan.
Sec. 404. Uniform national reporting requirements.
Sec. 405. Uniform reporting rules and forms for small business cases.
Sec. 406. Duties in small business cases.
Sec. 407. Plan filing and confirmation deadlines.
Sec. 408. Plan confirmation deadline.
Sec. 409. Prohibition against extension of time.
Sec. 410. Duties of the United States trustee.
Sec. 411. Scheduling conferences.
Sec. 412. Serial filer provisions.
Sec. 413. Expanded grounds for dismissal or conversion and appointment of trustee or examiner.

- Sec. 414. Study of operation of title 11 of the United States Code with respect to small businesses.*
- Sec. 415. Payment of interest.*

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

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

TITLE VI—STREAMLINING THE BANKRUPTCY SYSTEM

- Sec. 601. Creditor representation at first meeting of creditors.*
- Sec. 602. Audit procedures.*
- Sec. 603. Giving creditors fair notice in chapter 7 and 13 cases.*
- Sec. 604. Dismissal for failure to timely file schedules or provide required information.*
- Sec. 605. Adequate time to prepare for hearing on confirmation of the plan.*
- Sec. 606. Chapter 13 plans to have a 5-year duration in certain cases.*
- Sec. 607. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.*
- Sec. 608. Elimination of certain fees payable in chapter 11 bankruptcy cases.*
- Sec. 609. Study of bankruptcy impact of credit extended to dependent students.*
- Sec. 610. Prompt relief from stay in individual cases.*
- Sec. 611. Stopping abusive conversions from chapter 13.*
- Sec. 612. Bankruptcy appeals.*
- Sec. 613. GAO study.*

TITLE VII—BANKRUPTCY DATA

- Sec. 701. Improved bankruptcy statistics.*
- Sec. 702. Uniform rules for the collection of bankruptcy data.*
- Sec. 703. Sense of the Congress regarding availability of bankruptcy data.*

TITLE VIII—BANKRUPTCY TAX PROVISIONS

- Sec. 801. Treatment of certain liens.*
- Sec. 802. Effective notice to government.*
- Sec. 803. Notice of request for a determination of taxes.*
- Sec. 804. Rate of interest on tax claims.*
- Sec. 805. Tolling of priority of tax claim time periods.*
- Sec. 806. Priority property taxes incurred.*
- Sec. 807. Chapter 13 discharge of fraudulent and other taxes.*
- Sec. 808. Chapter 11 discharge of fraudulent taxes.*
- Sec. 809. Stay of tax proceedings.*
- Sec. 810. Periodic payment of taxes in chapter 11 cases.*
- Sec. 811. Avoidance of statutory tax liens prohibited.*
- Sec. 812. Payment of taxes in the conduct of business.*
- Sec. 813. Tardily filed priority tax claims.*
- Sec. 814. Income tax returns prepared by tax authorities.*
- Sec. 815. Discharge of the estate's liability for unpaid taxes.*
- Sec. 816. Requirement to file tax returns to confirm chapter 13 plans.*
- Sec. 817. Standards for tax disclosure.*
- Sec. 818. Setoff of tax refunds.*

TITLE IX—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 901. Amendment to add chapter 15 to title 11, United States Code.*

Sec. 902. Amendments to other chapters in title 11, United States Code.

TITLE X—FINANCIAL CONTRACT PROVISIONS

- Sec. 1001. Treatment of certain agreements by conservators or —receivers of insured depository institutions.*
- Sec. 1002. Authority of the corporation with respect to failed and failing institutions.*
- Sec. 1003. Amendments relating to transfers of qualified financial contracts.*
- Sec. 1004. Amendments relating to disaffirmance or repudiation of qualified financial contracts.*
- Sec. 1005. Clarifying amendment relating to master agreements.*
- Sec. 1006. Federal Deposit Insurance Corporation Improvement Act of 1991.*
- Sec. 1007. Bankruptcy Code amendments.*
- Sec. 1008. Recordkeeping requirements.*
- Sec. 1009. Exemptions from contemporaneous execution —requirement.*
- Sec. 1010. Damage measure.*
- Sec. 1011. Sipc stay.*
- Sec. 1012. Asset-backed securitizations.*
- Sec. 1013. Federal Reserve collateral requirements.*
- Sec. 1014. Effective date; application of —amendments.*

TITLE XI—TECHNICAL CORRECTIONS

- Sec. 1101. Definitions.*
- Sec. 1102. Adjustment of dollar amounts.*
- Sec. 1103. Extension of time.*
- Sec. 1104. Technical amendments.*
- Sec. 1105. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.*
- Sec. 1106. Limitation on compensation of professional persons.*
- Sec. 1107. Special tax provisions.*
- Sec. 1108. Effect of conversion.*
- Sec. 1109. Allowance of administrative expenses.*
- Sec. 1110. Priorities.*
- Sec. 1111. Exemptions.*
- Sec. 1112. Exceptions to discharge.*
- Sec. 1113. Effect of discharge.*
- Sec. 1114. Protection against discriminatory treatment.*
- Sec. 1115. Property of the estate.*
- Sec. 1116. Preferences.*
- Sec. 1117. Postpetition transactions.*
- Sec. 1118. Disposition of property of the estate.*
- Sec. 1119. General provisions.*
- Sec. 1120. Appointment of elected trustee.*
- Sec. 1121. Abandonment of railroad line.*
- Sec. 1122. Contents of plan.*
- Sec. 1123. Discharge under chapter 12.*
- Sec. 1124. Bankruptcy cases and proceedings.*
- Sec. 1125. Knowing disregard of bankruptcy law or rule.*
- Sec. 1126. Transfers made by nonprofit charitable corporations.*
- Sec. 1127. Prohibition on certain actions for failure to incur finance charges.*
- Sec. 1128. Protection of valid purchase money security interests.*
- Sec. 1129. Trustees.*

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF
AMENDMENTS

Sec. 1201. *Effective date; application of amendments.*

1 **TITLE I—CONSUMER**
2 **BANKRUPTCY PROVISIONS**
3 **Subtitle A—Needs based**
4 **bankruptcy**

5 **SEC. 101. CONVERSION.**

6 Section 706(c) of title 11, United States Code, is
7 amended by inserting “or consents to” after “requests”.

8 **SEC. 102. DISMISSAL OR CONVERSION.**

9 (a) *IN GENERAL.*—Section 707 of title 11, United
10 States Code, is amended—

11 (1) by striking the section heading and inserting
12 the following:

13 **“§707. Dismissal of a case or conversion to a case**
14 **under chapter 13”;**

15 and

16 (2) in subsection (b)—

17 (A) by inserting “(1)” after “(b)”; and

18 (B) in paragraph (1), as redesignated by
19 subparagraph (A) of this paragraph—

20 (i) in the first sentence—

21 (I) by striking “but not at the re-
22 quest or suggestion of” and inserting

23 “the trustee, or”;

1 (II) by inserting “, or, with the
2 debtor’s consent, convert such a case to
3 a case under chapter 13 of this title,”
4 after “consumer debts”; and

5 (III) by striking “substantial
6 abuse” and inserting “abuse”; and

7 (ii) by striking the second and third
8 sentences and inserting the following:

9 “(2)(A)(i) In considering under paragraph (1) whether
10 the granting of relief would be an abuse of the provisions
11 of this chapter, the court shall presume abuse exists if the
12 debtor’s current monthly income less estimated administra-
13 tive expenses and reasonable attorneys’ fees, and amounts
14 set forth in clauses (ii) for monthly expenses (which shall
15 include, if applicable, the continuation of actual expenses
16 of a dependent child under the age of 18 for tuition, books,
17 and required fees at a private elementary or secondary
18 school, not exceeding \$10,000 per year, which amount shall
19 be adjusted pursuant to section 104(b)), (iii) for monthly
20 payments on account of secured debts, and (iv) for monthly
21 unsecured priority debt payments, and multiplied by 60
22 months is not less than \$6,000.

23 “(ii) The debtor’s monthly expenses shall be the debt-
24 or’s applicable monthly expense amounts specified under
25 the National Standards and Local Standards, and the debt-

1 or's applicable monthly expenses for the categories specifi-
2 cally listed as *Other Necessary Expenses* issued by the Inter-
3 nal Revenue Service for the area in which the debtor resides,
4 as in effect on the date of the entry of the order for relief,
5 for the debtor, the dependents of the debtor, and the spouse
6 of the debtor in a joint case, if the spouse is not otherwise
7 a dependent. In addition, if it is demonstrated that it is
8 reasonable and necessary, the debtor may also subtract an
9 allowance of up to 5% of the food and clothing categories
10 as specified by the National Standards issued by the Inter-
11 nal Revenue Service. Notwithstanding any other provision
12 of this clause, the debtor's monthly expenses shall not in-
13 clude any payments for debts.

14 “(iii) The debtor's average monthly payments on ac-
15 count of secured debts shall be calculated as the total of all
16 amounts scheduled as contractually due to secured creditors
17 in each month of the 60 months following the date of the
18 petition, and dividing that total by 60 months.

19 “(iv) The debtor's monthly unsecured priority debt
20 payments (including payments for priority child support
21 and alimony claims) shall be calculated as the total amount
22 of unsecured debts entitled to priority, and dividing the
23 total by 60 months.

24 “(v) For the purposes of this subsection, a family or
25 household shall consist of the debtor, the debtor's spouse, and

1 *the debtor's dependents, but not a legally separated spouse*
2 *unless the spouse files a joint case with the debtor.*

3 “(B) *In any proceeding brought under this subsection,*
4 *the presumption of abuse may be rebutted only by dem-*
5 *onstrating extraordinary circumstances that require addi-*
6 *tional expenses or adjustment of current monthly income.*
7 *In order to establish extraordinary circumstances, the debt-*
8 *or must itemize each additional expense or adjustment of*
9 *income and provide documentation for such expenses or ad-*
10 *justment of income and a detailed explanation of the ex-*
11 *traordinary circumstances which make such expenses or ad-*
12 *justment of income necessary and reasonable. The debtor*
13 *shall attest under oath to the accuracy of any information*
14 *provided to demonstrate that additional expenses or adjust-*
15 *ment to income are required. The presumption of abuse may*
16 *be rebutted only if such additional expenses or adjustments*
17 *to income cause the debtor's current monthly income less*
18 *estimated administrative expenses and reasonable attor-*
19 *neys' fees, and the amounts set forth in clauses (ii), (iii),*
20 *and (iv) of subparagraph (A) when multiplied by 60 to be*
21 *less than \$6,000.*

22 “(C) *As part of the schedule of current income and*
23 *expenditures required under section 521 of this title, the*
24 *debtor shall include a statement of the debtor's current*
25 *monthly income, and the calculations which determine*

1 *whether a presumption arises under subparagraph (A)(i),*
2 *showing how each amount is calculated. The bankruptcy*
3 *rules promulgated under section 2075 of title 28, United*
4 *States Code, shall prescribe a form for such statement and*
5 *may provide general rules on its content.*

6 “(D) *No judge, United States trustee, panel trustee,*
7 *bankruptcy administrator or other party in interest shall*
8 *bring a motion under this paragraph if the debtor and the*
9 *debtor’s spouse combined, as of the date of the order for re-*
10 *lief, have current monthly total income equal to or less than*
11 *the regional median household monthly income calculated*
12 *on a semiannual basis for a household of equal size. How-*
13 *ever, for a household of more than 4 individuals, the median*
14 *income shall be that of a household of 4 individuals plus*
15 *\$583 for each additional member of that household.*

16 “(3) *In considering under paragraph (1) whether the*
17 *granting of relief would be an abuse of the provisions of*
18 *this chapter in a case in which the presumption in para-*
19 *graph (2)(A)(i) does not apply or has been rebutted, the*
20 *court shall consider—*

21 “(A) *whether the debtor filed the petition in bad*
22 *faith; or*

23 “(B) *the totality of the circumstances (including*
24 *whether the debtor seeks to reject a personal services*
25 *contract and the financial need for such rejection as*

1 sought by the debtor) of the debtor’s financial situa-
2 tion demonstrates abuse.

3 “(4)(A) If a panel trustee appointed under section
4 586(a)(1) of title 28 or bankruptcy administrator brings
5 a motion for dismissal or conversion under this subsection
6 and the court grants that motion and finds that the action
7 of the counsel for the debtor in filing under this chapter
8 violated Rule 9011, the court shall assess damages which
9 may include ordering:

10 “(i) the counsel for the debtor to reimburse the
11 trustee for all reasonable costs in prosecuting the mo-
12 tion, including reasonable attorneys’ fees.

13 “(ii) the assessment of an appropriate civil pen-
14 alty against the counsel for the debtor; and

15 “(iii) the payment of the civil penalty to the
16 panel trustee, bankruptcy administrator or the
17 United States trustee.

18 “(B) In the case of a petition filed under sections 301,
19 302, or 303 of this title and supporting lists, schedules and
20 documents filed under section 521(a)(1) of this title, the sig-
21 nature of an attorney on the petition shall constitute a cer-
22 tificate that the attorney has—

23 “(i) performed a reasonable investigation into
24 the circumstances that gave rise to the petition; and

1 “(ii) determined that the petition, lists, sched-
2 ules, and documents—

3 “(I) are well grounded in fact; and

4 “(II) are warranted by existing law or a
5 good faith argument for the extension, modifica-
6 tion, or reversal of existing law and do not con-
7 stitute an abuse under paragraph (1) of this sub-
8 section.

9 “(5) The court may award a debtor all reasonable costs
10 in contesting a motion filed by a party in interest (not in-
11 cluding a trustee or the United States trustee) under this
12 subsection (including reasonable attorneys’ fees) if—

13 “(A) the court does not grant the motion; and

14 “(B) the court finds that—

15 “(i) the position of the party that brought
16 the motion was not substantially justified; or

17 “(ii) the party brought the motion solely for
18 the purpose of coercing a debtor into waiving a
19 right guaranteed to the debtor under this title.

20 “(6) However, only the court, the United States trustee,
21 or the trustee may file a motion to dismiss or convert a
22 case under this subsection if the current monthly income
23 of the debtor and the debtor’s spouse combined, as of the
24 date of the order for relief, when multiplied by 12, is less
25 than the highest national median family income last re-

1 ported by the Bureau of the Census for a family of equal
2 or lesser size, or in the case of a household of 1 person, the
3 national median household income for 1 earner. Notwith-
4 standing the foregoing, the national median family income
5 for a family of more than 4 individuals shall be the na-
6 tional median family income last reported by the Bureau
7 of the Census for a family of 4 individuals plus \$583 for
8 each additional member of the family.

9 “(7) In making a determination whether to dismiss
10 a case under this section, the court may not take into con-
11 sideration whether a debtor has made, or continues to make,
12 charitable contributions (that meet the definition of ‘chari-
13 table contribution’ under section 548(d)(3)) to any qualified
14 religious or charitable entity or organization (as that term
15 is defined in section 548(d)(4)).

16 “(8) Not later than 3 years after the date of enactment
17 of the Bankruptcy Reform Act of 1999, the Director of the
18 Executive Office for United States Trustees shall submit a
19 report, to the Committee on the Judiciary of the House of
20 Representatives and the Committee on the Judiciary of the
21 Senate, containing its findings regarding the utilization of
22 the Internal Revenue Service standards for determining the
23 current monthly expenses under section 707(b)(1)(A)(ii) of
24 title 11, United States Code, of debtors and the impact that
25 the application of such standards has had on debtors and

1 *on the bankruptcy courts. Such report may include rec-*
2 *ommendations for amendments to such title, consistent with*
3 *the Director’s findings.”.*

4 (b) *DEFINITIONS.—Section 101 of title 11, United*
5 *States Code, is amended—*

6 (1) *by inserting after paragraph (10) the fol-*
7 *lowing:*

8 “(10A) ‘*current monthly income*’ means the aver-
9 *age monthly income from all sources derived which*
10 *the debtor, or in a joint case, the debtor and the debt-*
11 *or’s spouse, receive without regard to whether it is*
12 *taxable income, in the 180 days preceding the date of*
13 *determination, and includes any amount paid by*
14 *anyone other than the debtor or, in a joint case, the*
15 *debtor and the debtor’s spouse, on a regular basis to*
16 *the household expenses of the debtor or the debtor’s de-*
17 *pendents and, in a joint case, the debtor’s spouse if*
18 *not otherwise a dependent, but excludes payments to*
19 *victims of war crimes or crimes against humanity;”;*
20 *and*

21 (2) *by inserting after paragraph (17) the fol-*
22 *lowing:*

23 “(17A) ‘*estimated administrative expenses and*
24 *reasonable attorneys’ fees*’ means 10 percent of pro-
25 *jected payments under a chapter 13 plan;”.*

1 (c) *ADMINISTRATIVE PROVISIONS.*—Section 704 of
2 *title 11, United States Code, is amended—*

3 (1) *in paragraph (8) by striking “and” at the*
4 *end;*

5 (2) *in paragraph (9) by striking the period at*
6 *the end and inserting “; and”; and*

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

8 “(10)(A) *With respect to an individual debtor,*
9 *the trustee shall review all materials filed by the debt-*
10 *or, consider all information presented at the first*
11 *meeting of creditors, and within 10 days after the*
12 *first meeting of creditors file with the court a state-*
13 *ment as to whether the debtor’s case should be pre-*
14 *sumed to be an abuse under section 707(b) of this*
15 *title. The court shall provide a copy of such statement*
16 *to all creditors within 5 days after such statement is*
17 *filed. If, based on the filing of such statement with the*
18 *court, the trustee determines that the debtor’s case*
19 *should be presumed to be an abuse under section*
20 *707(b) of this title and if the current monthly income*
21 *of the debtor and the debtor’s spouse combined, as of*
22 *the date of the order for relief, when multiplied by 12,*
23 *is not less than the highest national median family*
24 *income reported for a family of equal or lesser size,*
25 *or in the case of a household of 1 person, the national*

1 *median household income for 1 earner, then the trust-*
2 *ee shall within 30 days of the filing of such statement,*
3 *either—*

4 *“(i) file a motion to dismiss or convert*
5 *under section 707(b) of this title; or*

6 *“(ii) file a statement setting forth the rea-*
7 *sons the trustee or bankruptcy administrator*
8 *does not believe that such a motion would be ap-*
9 *propriate.*

10 *“(B) Notwithstanding subparagraph (A), for*
11 *purposes of this paragraph the national family in-*
12 *come for a family of more than 4 individuals shall*
13 *be the national median family income last reported*
14 *by the Bureau of the Census for a family of 4 individ-*
15 *uals plus \$583 for each additional member of the*
16 *family.”.*

17 *(d) CLERICAL AMENDMENT.—The table of sections at*
18 *the beginning of chapter 7 of title 11, United States Code,*
19 *is amended by striking the item relating to section 707 and*
20 *inserting the following:*

“707. Dismissal of a case or conversion to a case under chapter 13.”.

21 **SEC. 103. NOTICE OF ALTERNATIVES.**

22 *Section 342(b) of title 11, United States Code, is*
23 *amended to read as follows:*

24 *“(b) Before the commencement of a case under this title*
25 *by an individual whose debts are primarily consumer debts,*

1 *the clerk shall give to such individual written notice*
 2 *containing—*

3 *“(1) a brief description of—*

4 *“(A) chapters 7, 11, 12, and 13 and the*
 5 *general purpose, benefits, and costs of proceeding*
 6 *under each of those chapters; and*

7 *“(B) the types of services available from*
 8 *credit counseling agencies; and*

9 *“(2) statements specifying that—*

10 *“(A) a person who knowingly and fraudu-*
 11 *lently conceals assets or makes a false oath or*
 12 *statement under penalty of perjury in connection*
 13 *with a bankruptcy case shall be subject to fine,*
 14 *imprisonment, or both; and*

15 *“(B) all information supplied by a debtor*
 16 *in connection with a bankruptcy case is subject*
 17 *to examination by the Attorney General.”.*

18 **SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING**

19 **TEST PROGRAM.**

20 *(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND*
 21 *TRAINING CURRICULUM AND MATERIALS.—The Director of*
 22 *the Executive Office for United States Trustees (in this sec-*
 23 *tion referred to as the “Director”) shall consult with a wide*
 24 *range of individuals who are experts in the field of debtor*
 25 *education, including trustees who are appointed under*

1 *chapter 13 of title 11 of the United States Code and who*
2 *operate financial management education programs for debt-*
3 *ors, and shall develop a financial management training*
4 *curriculum and materials that can be used to educate indi-*
5 *vidual debtors on how to better manage their finances.*

6 **(b) TEST—***(1) The Director shall select 6 judicial dis-*
7 *tricts of the United States in which to test the effectiveness*
8 *of the financial management training curriculum and ma-*
9 *terials developed under subsection (a).*

10 **(2)** *For a 18-month period beginning not later than*
11 *270 days after the date of the enactment of this Act, such*
12 *curriculum and materials shall be, for the 6 judicial dis-*
13 *tricts selected under paragraph (1), used as the instruc-*
14 *tional course concerning personal financial management for*
15 *purposes of section 111 of this title.*

16 **(c) EVALUATION.—***(1) During the 1-year period re-*
17 *ferred to in subsection (b), the Director shall evaluate the*
18 *effectiveness of—*

19 **(A)** *the financial management training cur-*
20 *riculum and materials developed under subsection*
21 *(a); and*

22 **(B)** *a sample of existing consumer education*
23 *programs such as those described in the Report of the*
24 *National Bankruptcy Review Commission (October*
25 *20, 1997) that are representative of consumer edu-*

1 *cation programs carried out by the credit industry,*
2 *by trustees serving under chapter 13 of title 11 of the*
3 *United States Code, and by consumer counselling*
4 *groups.*

5 *(2) Not later than 3 months after concluding such eval-*
6 *uation, the Director shall submit a report to the Speaker*
7 *of the House of Representatives and the President pro tem-*
8 *pore of the Senate, for referral to the appropriate commit-*
9 *tees of the Congress, containing the findings of the Director*
10 *regarding the effectiveness of such curriculum, such mate-*
11 *rials, and such programs and their costs.*

12 ***Subtitle B—Consumer Bankruptcy***
13 ***Protections***

14 ***SEC. 105. DEFINITIONS.***

15 *(a) DEFINITIONS.—Section 101 of title 11, United*
16 *States Code, is amended—*

17 *(1) by inserting after paragraph (2) the fol-*
18 *lowing:*

19 *“(3) ‘assisted person’ means any person whose*
20 *debts consist primarily of consumer debts and whose*
21 *non-exempt assets are less than \$150,000;”;*

22 *(2) by inserting after paragraph (4) the fol-*
23 *lowing:*

24 *“(4A) ‘bankruptcy assistance’ means any goods*
25 *or services sold or otherwise provided to an assisted*

1 *person with the express or implied purpose of pro-*
2 *viding information, advice, counsel, document prepa-*
3 *ration or filing, or attendance at a creditors' meeting*
4 *or appearing in a proceeding on behalf of another or*
5 *providing legal representation with respect to a pro-*
6 *ceeding under this title;”;* and

7 *(3) by inserting after paragraph (12A) the fol-*
8 *lowing:*

9 *“(12B) ‘debt relief agency’ means any person*
10 *who provides any bankruptcy assistance to an as-*
11 *sisted person in return for the payment of money or*
12 *other valuable consideration, or who is a bankruptcy*
13 *petition preparer pursuant to section 110 of this title,*
14 *but does not include any person that is any of the fol-*
15 *lowing or an officer, director, employee or agent*
16 *thereof—*

17 *“(A) any nonprofit organization which is*
18 *exempt from taxation under section 501(c)(3) of*
19 *the Internal Revenue Code of 1986;*

20 *“(B) any creditor of the person to the extent*
21 *the creditor is assisting the person to restructure*
22 *any debt owed by the person to the creditor; or*

23 *“(C) any depository institution (as defined*
24 *in section 3 of the Federal Deposit Insurance*
25 *Act) or any Federal credit union or State credit*

1 union (as those terms are defined in section 101
2 of the Federal Credit Union Act), or any affiliate
3 or subsidiary of such a depository institution or
4 credit union;”.

5 (b) *CONFORMING AMENDMENT.*—In section 104(b)(1)
6 by inserting “101(3),” after “sections”.

7 **SEC. 106. ENFORCEMENT.**

8 (a) *ENFORCEMENT.*—Subchapter II of chapter 5 of
9 title 11, United States Code, is amended by adding at the
10 end the following:

11 **“§ 526. Debt relief agency enforcement**

12 “(a) A debt relief agency shall not—

13 “(1) fail to perform any service which the debt
14 relief agency has told the assisted person or prospec-
15 tive assisted person the agency would provide that
16 person in connection with the preparation for or ac-
17 tivities during a proceeding under this title;

18 “(2) make any statement, or counsel or advise
19 any assisted person to make any statement in any
20 document filed in a proceeding under this title, which
21 is untrue and misleading or which upon the exercise
22 of reasonable care, should be known by the debt relief
23 agency to be untrue or misleading;

24 “(3) misrepresent to any assisted person or pro-
25 spective assisted person, directly or indirectly, affirm-

1 *actively or by material omission, what services the*
2 *debt relief agency can reasonably expect to provide*
3 *that person, or the benefits an assisted person may*
4 *obtain or the difficulties the person may experience if*
5 *the person seeks relief in a proceeding pursuant to*
6 *this title; or*

7 *“(4) advise an assisted person or prospective as-*
8 *sisted person to incur more debt in contemplation of*
9 *that person filing a proceeding under this title or in*
10 *order to pay an attorney or bankruptcy petition pre-*
11 *parer fee or charge for services performed as part of*
12 *preparing for or representing a debtor in a pro-*
13 *ceeding under this title.”.*

14 *“(b) ASSISTED PERSON WAIVERS INVALID.—Any*
15 *waiver by any assisted person of any protection or right*
16 *provided by or under this section shall not be enforceable*
17 *against the debtor by any Federal or State court or any*
18 *other person, but may be enforced against a debt relief agen-*
19 *cy.*

20 *“(c) NONCOMPLIANCE.—*

21 *“(1) Any contract between a debt relief agency*
22 *and an assisted person for bankruptcy assistance*
23 *which does not comply with the material requirements*
24 *of this section shall be treated as void and may not*

1 *be enforced by any Federal or State court or by any*
2 *other person.*

3 *“(2) Any debt relief agency shall be liable to an*
4 *assisted person in the amount of any fees or charges*
5 *in connection with providing bankruptcy assistance*
6 *to such person which the debt relief agency has re-*
7 *ceived, for actual damages, and for reasonable attor-*
8 *neys’ fees and costs if the debt relief agency is found,*
9 *after notice and hearing, to have—*

10 *“(A) intentionally or negligently failed to*
11 *comply with any provision of this section with*
12 *respect to a bankruptcy case or related pro-*
13 *ceeding of the assisted person;*

14 *“(B) provided bankruptcy assistance to an*
15 *assisted person in a case or related proceeding*
16 *which is dismissed or converted because of the*
17 *debt relief agency’s intentional or negligent fail-*
18 *ure to file bankruptcy papers, including papers*
19 *specified in section 521 of this title; or*

20 *“(C) intentionally or negligently dis-*
21 *regarded the material requirements of this title*
22 *or the Federal Rules of Bankruptcy Procedure*
23 *applicable to such debt relief agency.*

24 *“(3) In addition to such other remedies as are*
25 *provided under State law, whenever the chief law en-*

1 *forcement officer of a State, or an official or agency*
2 *designated by a State, has reason to believe that any*
3 *person has violated or is violating this section, the*
4 *State—*

5 “(A) *may bring an action to enjoin such*
6 *violation;*

7 “(B) *may bring an action on behalf of its*
8 *residents to recover the actual damages of as-*
9 *sisted persons arising from such violation, in-*
10 *cluding any liability under paragraph (2); and*

11 “(C) *in the case of any successful action*
12 *under subparagraph (A) or (B), shall be award-*
13 *ed the costs of the action and reasonable attorney*
14 *fees as determined by the court.*

15 “(4) *The United States District Court for any*
16 *district located in the State shall have concurrent ju-*
17 *risdiction of any action under subparagraph (A) or*
18 *(B) of paragraph (3).*

19 “(5) *Notwithstanding any other provision of*
20 *Federal law and in addition to any other remedy*
21 *provided under Federal or State law, if the court, on*
22 *its own motion or on the motion of the United States*
23 *trustee or the debtor, finds that a person intentionally*
24 *violated this section, or engaged in a clear and con-*

1 (i) in subparagraph (A) by striking
2 “and” at the end;

3 (ii) in subparagraph (B) by adding
4 “and” at the end; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(C) if the consideration for such agreement is
8 based on a wholly unsecured consumer debt (except
9 for debts owed to creditors defined in section
10 461(b)(1)(A)(iv) of title 12, United States Code), such
11 agreement contains a clear and conspicuous statement
12 which advises the debtor—

13 “(i) that the debtor is entitled to a hearing
14 before the court at which the debtor shall appear
15 in person and at which the court will decide
16 whether the agreement is an undue hardship, not
17 in the debtor’s best interest, and not the result of
18 a threat by the creditor to take any action that
19 cannot be legally taken or that is not intended
20 to be taken; and

21 “(ii) that if the debtor is represented by
22 counsel, the debtor may waive the debtor’s right
23 to such a hearing by signing a statement
24 waiving the hearing, stating that the debtor is

1 *represented by counsel, and identifying such*
2 *counsel;”;* and

3 *(B) in paragraph (6)(A)—*

4 *(i) by striking “and” at the end of*
5 *clause (i);*

6 *(ii) by striking the period at the end of*
7 *clause (ii) and inserting “; and”; and*

8 *(iii) by adding at the end thereof the*
9 *following:*

10 *“(iii) not entered into by the debtor as the*
11 *result of a threat by the creditor to take any ac-*
12 *tion that cannot be legally taken or that is not*
13 *intended to be taken.”;* and

14 *(2) in the 3d sentence of subsection (d)—*

15 *(A) by striking “of this section” and insert-*
16 *ing a comma; and*

17 *(B) by inserting after “such agreement” the*
18 *following:*

19 *“or if the consideration for such agreement is based on a*
20 *wholly unsecured consumer debt (except for debts owed to*
21 *creditors defined in section 461(b)(1)(A)(iv) of title 12,*
22 *United States Code) and the debtor has not waived the debt-*
23 *or’s right to a hearing on the agreement in accordance with*
24 *subsection (c)(2)(C) of this section”.*

1 **SEC. 109. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**
2 **TION.**

3 (a) *REDUCTION OF CLAIM.*—Section 502 of title 11,
4 *United States Code*, is amended by adding at the end the
5 following:

6 “(k)(1) *The court, on the motion of the debtor and after*
7 *a hearing, may reduce a claim filed under this section based*
8 *wholly on unsecured consumer debts by not more than 20*
9 *percent, if the debtor can prove by clear and convincing*
10 *evidence that the claim was filed by a creditor who unrea-*
11 *sonably refused to negotiate a reasonable alternative repay-*
12 *ment schedule proposed by an approved credit counseling*
13 *agency acting on behalf of the debtor, and if—*

14 “(A) *such offer was made within the period be-*
15 *ginning 60 days before the filing of the petition;*

16 “(B) *such offer provided for payment of at least*
17 *60 percent of the amount of the debt over a period not*
18 *to exceed the repayment period of the loan, or a rea-*
19 *sonable extension thereof; and*

20 “(C) *no part of the debt under the alternative re-*
21 *payment schedule is nondischargeable, is entitled to*
22 *priority under section 507 of this title, or would be*
23 *paid a greater percentage in a chapter 13 proceeding*
24 *than offered by the debtor.*

25 “(2) *The debtor shall have the burden of proving that*
26 *the proposed alternative repayment schedule was made in*

1 *the 60-day period specified in subparagraph (A) and that*
2 *the creditor unreasonably refused to consider the debtor's*
3 *proposal.”.*

4 (b) *LIMITATION ON AVOIDABILITY.*—Section 547 of
5 *title 11, United States Code, is amended by adding at the*
6 *end the following:*

7 “(h) *The trustee may not avoid a transfer if such*
8 *transfer was made as a part of an alternative repayment*
9 *plan between the debtor and any creditor of the debtor cre-*
10 *ated by an approved credit counseling agency.”.*

11 **SEC. 110. ENHANCED DISCLOSURE FOR CREDIT EXTEN-**
12 **SIONS SECURED BY A DWELLING.**

13 (a) *STUDY REQUIRED.*—During the period beginning
14 *180 days after the date of enactment of this Act and ending*
15 *18 months after the date of the enactment, the Board of*
16 *Governors of the Federal Reserve System (in this section*
17 *referred to as the “Board”)* shall conduct a study and sub-
18 *mit to Congress a report (including recommendations for*
19 *any appropriate legislation) regarding—*

20 (1) *whether a consumer engaging in an open-end*
21 *credit transaction (as defined pursuant to section 103*
22 *of the Truth in lending Act) secured by the con-*
23 *sumer's principal dwelling is provided adequate in-*
24 *formation under Federal law, including under section*

1 *127A of the Truth in Lending Act, regarding the tax*
2 *deductibility of interest paid on such transaction; and*

3 *(2) whether a consumer engaging in a closed-end*
4 *credit transaction (as defined pursuant to section 103*
5 *of the Truth in Lending Act) secured by the con-*
6 *sumer's principal dwelling is provided adequate in-*
7 *formation regarding the tax deductibility of interest*
8 *paid on such transaction.*

9 *In conducting such study, the Board shall specifically con-*
10 *sider whether additional disclosures are necessary with re-*
11 *spect to such open-end or closed-end credit transactions in*
12 *which the amount of the credit extended exceeds the fair*
13 *market value of the dwelling.*

14 *(b) REGULATIONS.—If the Board determines that ad-*
15 *ditional disclosures are necessary in connection with trans-*
16 *actions described in subsection (a), the Board, pursuant to*
17 *its authority under the Truth in Lending Act, may promul-*
18 *gate regulations that would require such additional disclo-*
19 *tures. Any such regulations promulgated by the Board*
20 *under this section shall not take effect before the end of the*
21 *36-month period after the date of the enactment of this Act.*

22 **SEC. 111. DUAL USE DEBIT CARD.**

23 *(a) STUDY REQUIRED.—The Board of Governors of the*
24 *Federal Reserve System (in this section referred to as the*
25 *“Board”) shall conduct a study of existing protections pro-*

1 *vided to consumers to limit their liability for unauthorized*
2 *use of a debit card or similar access device.*

3 (b) *SPECIFIC CONSIDERATIONS.*—*In conducting the*
4 *study required by subsection (a), the Board shall specifi-*
5 *cally consider the following—*

6 (1) *the extent to which existing provisions of sec-*
7 *tion 909 of the Electronic Fund Transfer Act and the*
8 *Board’s implementing regulations provide adequate*
9 *unauthorized use liability protection for consumers;*

10 (2) *the extent to which any voluntary industry*
11 *rules have enhanced the level of protection afforded*
12 *consumers in connection with such unauthorized use*
13 *liability; and*

14 (3) *whether amendments to the Electronic Funds*
15 *Transfer Act or the Board’s implementing regulations*
16 *thereto are necessary to provide adequate protection*
17 *for consumers in this area.*

18 (c) *REPORT AND REGULATIONS.*—*Not later than 2*
19 *years after the date of the enactment of this Act, the Board*
20 *shall make public a report on its findings with respect to*
21 *the adequacy of existing protections afforded consumers*
22 *with respect to unauthorized-use liability for debit cards*
23 *and similar access devices. If the Board determines that*
24 *such protections are inadequate, the Board, pursuant to its*
25 *authority under the Electronic Funds Transfer Act, may*

1 *issue regulations to address such inadequacy. Any regula-*
2 *tions issued by the Board shall not be effective before 36*
3 *months after the date of the enactment of this Act.*

4 **SEC. 112. ENHANCED DISCLOSURES UNDER AN OPEN-END**
5 **CREDIT PLAN.**

6 (a) *INITIAL AND ANNUAL MINIMUM PAYMENT DISCLO-*
7 *SURE.—Section 127(a) of the Truth in Lending Act (15*
8 *U.S.C. 1637(a)) is amended by adding at the end the fol-*
9 *lowing:*

10 “(9) *In the case of any credit or charge card ac-*
11 *count under an open-end consumer credit plan on*
12 *which a minimum monthly or periodic payment will*
13 *be required, other than an account described in para-*
14 *graph (8)—*

15 “(A) *the following statement: ‘The min-*
16 *imum payment amount shown on your billing*
17 *statement is the smallest payment which you can*
18 *make in order to keep the account in good stand-*
19 *ing. This payment option is offered as a conven-*
20 *ience and you may make larger payments at*
21 *any time. Making only the minimum payment*
22 *each month will increase the amount of interest*
23 *you pay and the length of time it takes to repay*
24 *your outstanding balance.’;*

1 “(B) if the plan provides that the consumer
2 will be permitted to forgo making a minimum
3 payment during a specified billing cycle, a state-
4 ment, if applicable, that if the consumer chooses
5 to forgo making the minimum payment, finance
6 charges will continue to accrue; and

7 “(C) an example, based on an annual per-
8 centage rate and method for determining min-
9 imum periodic payments recently in effect for
10 that creditor, and a \$500 outstanding balance,
11 showing the estimated minimum periodic pay-
12 ment, and the estimated period of time it would
13 take to repay the \$500 outstanding balance if the
14 consumer paid only the minimum periodic pay-
15 ment on each monthly or periodic statement and
16 obtained no additional extensions of credit.

17 “(10) With respect to one billing cycle per cal-
18 endar year, the creditor shall transmit the informa-
19 tion required under paragraph (9) to each consumer
20 to whom the creditor is required to transmit a state-
21 ment pursuant to subsection (b) for such billing cycle.
22 The creditor shall also transmit to such consumer for
23 such cycle a worksheet prescribed by the Board to as-
24 sist the consumer in determining the consumer’s
25 household income and debt obligations.”.

1 (b) *PERIODIC MINIMUM PAYMENT DISCLOSURES.*—
2 Section 127(b) of the Truth in Lending Act (15 U.S.C.
3 1637(b)) is amended by adding at the end the following:

4 “(11) The following statement: ‘The minimum
5 payment amount shown on your billing statement is
6 the smallest payment which you can make in order
7 to keep the account in good standing. This payment
8 option is offered as a convenience and you may make
9 larger payments at any time. Making only the min-
10 imum payment each month will increase the amount
11 of interest you pay and the length of time it takes to
12 repay your outstanding balance.’”.

13 (c) *ENFORCEMENT.*—Section 127 of the Truth in
14 Lending Act (15 U.S.C. 1637) is amended by adding at
15 the end the following:

16 “(h) In promulgating regulations to implement the
17 disclosure of an example required under subsection
18 (a)(9)(C) and (a)(10), the Board shall set forth a model dis-
19 closure to accompany the example stating that the credit
20 features shown are only an example which does not obligate
21 the creditor, but is intended to illustrate the approximate
22 length of time it could take to repay using the assumptions
23 set forth in subsection (a)(9)(C) without regard to any other
24 factors that could impact an approximate repayment pe-
25 riod, including other credit features or the consumer’s pay-

1 *ment or other behavior with respect to the account. Compli-*
2 *ance with the disclosures required under subsection*
3 *(a)(9)(C) and (a)(10) shall be enforced exclusively by the*
4 *Federal agencies set forth in section 108.”.*

5 *(d) REGULATORY IMPLEMENTATION.—The Board of*
6 *Governors of the Federal Reserve System (in this section*
7 *referred to as the “Board”) shall promulgate regulations*
8 *implementing the amendments made by subsections (a) and*
9 *(b). Such regulations shall take effect no earlier than the*
10 *end of the 36-month period beginning on the date of the*
11 *enactment of this Act.*

12 *(e) STUDY REQUIRED.—The Board shall conduct a*
13 *study to determine whether consumers have adequate infor-*
14 *mation about borrowing activities which may result in fi-*
15 *nancial problems. In studying this issue, the Board shall*
16 *consider the extent to which—*

17 *(1) consumers, in establishing new credit ar-*
18 *rangements, are aware of their existing payment obli-*
19 *gations, the need to consider those obligations in de-*
20 *termining to take on new credit, and how taking on ex-*
21 *cessive credit can result in financial difficulty;*

22 *(2) minimum periodic payment features offered*
23 *in connection with open-end credit plans impact con-*
24 *sumer default rates;*

1 (1) *in subsection (b)(2)—*

2 (A) *in subparagraph (A) by striking “and”*
3 *at the end;*

4 (B) *in subparagraph (B) by striking the pe-*
5 *riod at the end and inserting “; and”; and*

6 (C) *by adding at the end the following:*

7 “(C) *except as provided in paragraph (n), funds*
8 *placed in an education individual retirement account*
9 *(as defined in section 530(b)(1) of the Internal Rev-*
10 *enue Code of 1986) not less than 365 days before the*
11 *date of entry of the order of relief but only to the ex-*
12 *tent such funds—*

13 “(i) *are not pledged or promised to any en-*
14 *tity in connection with any extension of credit;*
15 *and*

16 “(ii) *are not excess contributions (as de-*
17 *scribed in section 4973(e) of the Internal Rev-*
18 *enue Code of 1986).”;* and

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

20 “(n) *For purposes of subsection (b)(3)(C), funds placed*
21 *in an education individual retirement account shall not be*
22 *exempt under this subsection—*

23 “(1) *unless the designated beneficiary of such ac-*
24 *count was a dependent child of the debtor for the tax-*

1 *able year for which the funds were placed in such ac-*
2 *count; and*

3 *“(2) to the extent such funds exceed—*

4 *“(A) \$50,000 in the aggregate in all such*
5 *accounts having the same designated beneficiary;*
6 *or*

7 *“(B) \$100,000 in the aggregate in all such*
8 *accounts attributable to all such dependent chil-*
9 *dren of the debtor.”.*

10 **SEC. 114. EFFECT OF DISCHARGE.**

11 *Section 524 of title 11, United States Code, is amended*
12 *by adding at the end the following:*

13 *“(i) The willful failure of a creditor to credit payments*
14 *received under a plan confirmed under this title (including*
15 *a plan of reorganization confirmed under chapter 11 of this*
16 *title) in the manner required by the plan (including cred-*
17 *iting the amounts required under the plan) shall constitute*
18 *a violation of any injunction under subsection (a)(2) which*
19 *has arisen at the time of the failure.*

20 *“(j)(1) An individual who is injured by the willful*
21 *failure of a creditor to comply with the requirements for*
22 *a reaffirmation agreement under subsections (c) and (d),*
23 *or by any willful violation of the injunction under sub-*
24 *section (a)(2), shall be entitled to recover—*

25 *“(A) the greater of—*

1 “(i) the amount of actual damages; or

2 “(ii) \$1,000; and

3 “(B) costs and attorneys’ fees.

4 “(2) An action to recover for a violation specified in
5 paragraph (1) may not be brought as a class action.”.

6 **SEC. 115. LIMITING TRUSTEE LIABILITY.**

7 (a) *QUALIFICATION OF TRUSTEE.*—Section 322 of title
8 11, United States Code, is amended—

9 (1) in subsection (a) by adding at the end the
10 following:

11 “The trustee in a case under this title is not liable
12 personally or on such trustee’s bond for acts taken
13 within the scope of the trustee’s duties or authority as
14 delineated by other sections of this title or by order
15 of the court, except to the extent that the trustee acted
16 with gross negligence. Gross negligence shall be de-
17 fined as reckless indifference or deliberate disregard of
18 the trustee’s fiduciary duty.”; and

19 (2) in subsection (c) by inserting “for any acts
20 within the scope of the trustee’s authority defined in
21 subsection (a)” before the period at the end.

22 (b) *ROLE AND CAPACITY OF TRUSTEE.*—Section 323
23 of title 11, United States Code, is amended—

24 (1) in subsection (b) by inserting at the end the
25 following: “in the trustee’s official capacity as rep-

1 *representative of the estate” before the period at the end;*
2 *and*

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

4 *“(c) The trustee in a case under this title may not be*
5 *sued, either personally, in a representative capacity, or*
6 *against the trustee’s bond in favor of the United States—*

7 *“(1) for acts taken in furtherance of the trustee’s*
8 *duties or authority in a case in which the debtor is*
9 *subsequently determined to be ineligible for relief*
10 *under the chapter in which the trustee was appointed;*
11 *or*

12 *“(2) for the dissemination of statistics and other*
13 *information regarding a case or cases, unless the*
14 *trustee has actual knowledge that the information is*
15 *false.*

16 *“(d) The trustee in a case under this title may not*
17 *be sued in a personal capacity without leave of the bank-*
18 *ruptcy court in which the case is pending.”.*

19 **SEC. 116. REINFORCE THE FRESH START.**

20 *(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—*
21 *Section 523(a)(17) of title 11, United States Code, is*
22 *amended—*

23 *(1) by striking “by a court” and inserting “by*
24 *any court”,*

1 (2) *by striking “section 1915(b) or (f)” and in-*
2 *serting “subsection (b) or (f)(2) of section 1915”, and*
3 (3) *by inserting “(or a similar non-Federal*
4 *law)” after “title 28” each place it appears.*

5 **SEC. 117. DISCOURAGING BAD FAITH REPEAT FILINGS.**

6 Section 362(c) of title 11, United States Code, is
7 *amended—*

8 (1) *in paragraph (1) by striking “and” at the*
9 *end;*

10 (2) *in paragraph (2) by striking the period at*
11 *the end and inserting a semicolon; and*

12 (3) *by adding at the end the following new para-*
13 *graphs:*

14 “(3) *If a single or joint case is filed by or*
15 *against an individual debtor under chapter 7, 11, or*
16 *13 (other than a case refiled under a chapter other*
17 *than chapter 7 after dismissal under section 707(b)*
18 *of this title), and if a single or joint case of the debtor*
19 *was pending within the previous 1-year period but*
20 *was dismissed, the stay under subsection (a) with re-*
21 *spect to any action taken with respect to a debt or*
22 *property securing such debt or with respect to any*
23 *lease will terminate with respect to the debtor on the*
24 *30th day after the filing of the later case. Upon mo-*
25 *tion by a party in interest for continuation of the*

1 *automatic stay and upon notice and a hearing, the*
2 *court may extend the stay in particular cases as to*
3 *any or all creditors (subject to such conditions or lim-*
4 *itations as the court may then impose) after notice*
5 *and a hearing completed before the expiration of the*
6 *30-day period only if the party in interest dem-*
7 *onstrates that the filing of the later case is in good*
8 *faith as to the creditors to be stayed. A case is pre-*
9 *sumptively filed not in good faith (but such presump-*
10 *tion may be rebutted by clear and convincing evi-*
11 *dence to the contrary)—*

12 “(A) as to all creditors if—

13 “(i) more than 1 previous case under
14 any of chapter 7, 11, or 13 in which the in-
15 dividual was a debtor was pending within
16 such 1-year period;

17 “(ii) a previous case under any of
18 chapters 7, 11, or 13 in which the indi-
19 vidual was a debtor was dismissed within
20 such 1-year period, after the debtor failed to
21 file or amend the petition or other docu-
22 ments as required by this title or the court
23 without substantial excuse (but mere inad-
24 vertence or negligence shall not be substan-
25 tial excuse unless the dismissal was caused

1 by the negligence of the debtor's attorney),
2 failed to provide adequate protection as or-
3 dered by the court, or failed to perform the
4 terms of a plan confirmed by the court; or

5 “(iii) there has not been a substantial
6 change in the financial or personal affairs
7 of the debtor since the dismissal of the next
8 most previous case under any of chapters 7,
9 11, or 13 of this title, or there is not any
10 other reason to conclude that the later case
11 will be concluded, if a case under chapter 7
12 of this title, with a discharge, and if a
13 chapter 11 or 13 case, a confirmed plan
14 which will be fully performed;

15 “(B) as to any creditor that commenced an
16 action under subsection (d) in a previous case in
17 which the individual was a debtor if, as of the
18 date of dismissal of such case, that action was
19 still pending or had been resolved by termi-
20 nating, conditioning, or limiting the stay as to
21 actions of such creditor.

22 “(4) If a single or joint case is filed by or
23 against an individual debtor under this title (other
24 than a case refiled under a chapter other than chapter
25 7 after a dismissal under section 707(b) of this title),

1 *and if 2 or more single or joint cases of the debtor*
2 *were pending within the previous year but were dis-*
3 *missed, the stay under subsection (a) will not go into*
4 *effect upon the filing of the later case. On request of*
5 *a party in interest, the court shall promptly enter an*
6 *order confirming that no stay is in effect. If a party*
7 *in interest requests within 30 days of the filing of the*
8 *later case, the court may order the stay to take effect*
9 *in the case as to any or all creditors (subject to such*
10 *conditions or limitations as the court may impose),*
11 *after notice and hearing, only if the party in interest*
12 *demonstrates that the filing of the later case is in*
13 *good faith as to the creditors to be stayed. A stay im-*
14 *posed pursuant to the preceding sentence will be effec-*
15 *tive on the date of entry of the order allowing the*
16 *stay to go into effect. A case is presumptively not filed*
17 *in good faith (but such presumption may be rebutted*
18 *by clear and convincing evidence to the contrary)—*

19 *“(A) as to all creditors if—*

20 *“(i) 2 or more previous cases under*
21 *this title in which the individual was a*
22 *debtor were pending within the 1-year pe-*
23 *riod;*

24 *“(ii) a previous case under this title in*
25 *which the individual was a debtor was dis-*

1 missed within the time period stated in this
2 paragraph after the debtor failed to file or
3 amend the petition or other documents as
4 required by this title or the court without
5 substantial excuse (but mere inadvertence or
6 negligence shall not be substantial excuse
7 unless the dismissal was caused by the neg-
8 ligence of the debtor’s attorney), failed to
9 provide adequate protection as ordered by
10 the court, or failed to perform the terms of
11 a plan confirmed by the court; or

12 “(iii) there has not been a substantial
13 change in the financial or personal affairs
14 of the debtor since the dismissal of the next
15 most previous case under this title, or there
16 is not any other reason to conclude that the
17 later case will be concluded, if a case under
18 chapter 7, with a discharge, and if a case
19 under chapter 11 or 13, with a confirmed
20 plan that will be fully performed; or

21 “(B) as to any creditor that commenced an
22 action under subsection (d) in a previous case in
23 which the individual was a debtor if, as of the
24 date of dismissal of such case, such action was
25 still pending or had been resolved by termi-

1 nating, conditioning, or limiting the stay as to
2 action of such creditor.”.

3 **SEC. 118. CURBING ABUSIVE FILINGS.**

4 (a) *IN GENERAL.*—Section 362(d) of title 11, United
5 States Code, is amended—

6 (1) in paragraph (2), by striking “or” at the
7 end;

8 (2) in paragraph (3), by striking the period at
9 the end and inserting “; or”; and

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

11 “(4) with respect to a stay of an act against real
12 property under subsection (a), by a creditor whose
13 claim is secured by an interest in such real estate, if
14 the court finds that the filing of the bankruptcy peti-
15 tion was part of a scheme to delay, hinder, and de-
16 fraud creditors that involved either—

17 “(A) transfer of all or part ownership of, or
18 other interest in, the real property without the
19 consent of the secured creditor or court approval;
20 or

21 “(B) multiple bankruptcy filings affecting
22 the real property.

23 *If recorded in compliance with applicable State laws gov-*
24 *erning notices of interests or liens in real property, an order*
25 *entered pursuant to this subsection shall be binding in any*

1 *other case under this title purporting to affect the real prop-*
2 *erty filed not later than 2 years after that recording, except*
3 *that a debtor in a subsequent case may move for relief from*
4 *such order based upon changed circumstances or for good*
5 *cause shown, after notice and a hearing. Any Federal,*
6 *State, or local governmental unit which accepts notices of*
7 *interests or liens in real property shall accept any certified*
8 *copy of an order described in this subsection for indexing*
9 *and recording.”.*

10 (b) *AUTOMATIC STAY.*—Section 362(b) of title 11,
11 *United States Code, is amended—*

12 (1) *in paragraph (17), by striking “or” at the*
13 *end;*

14 (2) *in paragraph (18) by striking the period at*
15 *the end and inserting a semicolon; and*

16 (3) *by inserting after paragraph (18) the fol-*
17 *lowing:*

18 “(19) *under subsection (a), of any act to enforce*
19 *any lien against or security interest in real property*
20 *following the entry of an order under section*
21 *362(d)(4) of this title as to that property in any prior*
22 *bankruptcy case for a period of 2 years after entry of*
23 *such an order. The debtor in a subsequent case, how-*
24 *ever, may move the court for relief from such order*
25 *based upon changed circumstances or for other good*

1 *cause shown (consistent with the standards for good*
 2 *faith in subsection (c)), after notice and a hearing; or*

3 *“(20) under subsection (a), of any act to enforce*
 4 *any lien against or security interest in real*
 5 *property—*

6 *“(A) if the debtor is ineligible under section*
 7 *109(g) of this title to be a debtor in a bank-*
 8 *ruptcy case; or*

9 *“(B) if the bankruptcy case was filed in*
 10 *violation of a bankruptcy court order in a prior*
 11 *bankruptcy case prohibiting the debtor from*
 12 *being a debtor in another bankruptcy case.”.*

13 **SEC. 119. DEBTOR RETENTION OF PERSONAL PROPERTY**
 14 **SECURITY.**

15 *Title 11, United States Code, is amended—*

16 *(1) in section 521—*

17 *(A) in paragraph (4) by striking “, and” at*
 18 *the end and inserting a semicolon;*

19 *(B) in paragraph (5) by striking the period*
 20 *at the end and inserting “; and”; and*

21 *(C) by adding at the end the following:*

22 *“(6) in an individual case under chapter 7 of*
 23 *this title, not retain possession of personal property*
 24 *as to which a creditor has an allowed claim for the*
 25 *purchase price secured in whole or in part by an in-*

1 *terest in that personal property unless, in the case of*
2 *an individual debtor, the debtor takes 1 of the fol-*
3 *lowing actions within 45 days after the first meeting*
4 *of creditors under section 341(a)—*

5 *“(A) enters into an agreement with the*
6 *creditor pursuant to section 524(c) of this title*
7 *with respect to the claim secured by such prop-*
8 *erty; or*

9 *“(B) redeems such property from the secu-*
10 *rity interest pursuant to section 722 of this title.*

11 *“If the debtor fails to so act within the 45-day period,*
12 *the stay under section 362(a) of this title is termi-*
13 *nated with respect to the personal property of the es-*
14 *tate or of the debtor which is affected, such property*
15 *shall no longer be property of the estate, and the cred-*
16 *itor may take whatever action as to such property as*
17 *is permitted by applicable nonbankruptcy law, unless*
18 *the court determines on the motion of the trustee*
19 *brought before the expiration of such 45-day period,*
20 *and after notice and a hearing, that such property is*
21 *of consequential value or benefit to the estate, orders*
22 *appropriate adequate protection of the creditor’s in-*
23 *terest, and orders the debtor to deliver any collateral*
24 *in the debtor’s possession to the trustee.”; and*

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

3 **SEC. 120. RELIEF FROM THE AUTOMATIC STAY WHEN THE**
4 **DEBTOR DOES NOT COMPLETE INTENDED**
5 **SURRENDER OF CONSUMER DEBT COLLAT-**
6 **ERAL.**

7 *Title 11, United States Code, is amended as follows—*

8 (1) in section 362—

9 (A) by striking “(e), and (f)” in subsection
10 (c) and inserting in lieu thereof “(e), (f), and
11 (h)”; and

12 (B) by redesignating subsection (h) as sub-
13 section (i) and by inserting after subsection (g)
14 the following:

15 “(h) In an individual case pursuant to chapter 7, 11,
16 or 13 the stay provided by subsection (a) is terminated with
17 respect to personal property of the estate or of the debtor
18 securing in whole or in part a claim, or subject to an unex-
19 pired lease, and such personal property shall no longer be
20 property of the estate if the debtor fails within the applica-
21 ble time set by section 521(a)(2) of this title—

22 “(1) to file timely any statement of intention re-
23 quired under section 521(a)(2) of this title with re-
24 spect to that property or to indicate therein that the
25 debtor will either surrender the property or retain it

1 *and, if retaining it, either redeem the property pursu-*
2 *ant to section 722 of this title, reaffirm the debt it se-*
3 *cures pursuant to section 524(c) of this title, or as-*
4 *sume the unexpired lease pursuant to section 365(p)*
5 *of this title if the trustee does not do so, as applicable;*
6 *or*

7 *“(2) to take timely the action specified in that*
8 *statement of intention, as it may be amended before*
9 *expiration of the period for taking action, unless the*
10 *statement of intention specifies reaffirmation and the*
11 *creditor refuses to reaffirm on the original contract*
12 *terms;*

13 *unless the court determines on the motion of the trustee filed*
14 *before the expiration of the applicable time set by section*
15 *521(a)(2), and after notice and a hearing, that such prop-*
16 *erty is of consequential value or benefit to the estate, orders*
17 *appropriate adequate protection of the creditor’s interest,*
18 *and orders the debtor to deliver any collateral in the debtor’s*
19 *possession to the trustee. If the court does not so determine*
20 *an order, the stay shall terminate upon the conclusion of*
21 *the proceeding on the motion.”; and*

22 *(2) in section 521, as amended by sections 603*
23 *and 604—*

24 *(A) in paragraph (2) by striking “con-*
25 *sumer”;*

1 (B) in paragraph (2)(B)—

2 (i) by striking “forty-five days after
3 the filing of a notice of intent under this
4 section” and inserting “30 days after the
5 first date set for the meeting of creditors
6 under section 341(a) of this title”; and

7 (ii) by striking “forty-five day” the
8 second place it appears and inserting “30-
9 day”;

10 (C) in paragraph (2)(C) by inserting “ex-
11 cept as provided in section 362(h) of this title”
12 before the semicolon; and

13 (D) by inserting after subsection (b) the fol-
14 lowing:

15 “(c) If the debtor fails timely to take the action speci-
16 fied in subsection (a)(6) of this section, or in paragraphs
17 (1) and (2) of section 362(h) of this title, with respect to
18 property which a lessor or bailor owns and has leased,
19 rented, or bailed to the debtor or as to which a creditor
20 holds a security interest not otherwise voidable under sec-
21 tion 522(f), 544, 545, 547, 548, or 549 of this title, nothing
22 in this title shall prevent or limit the operation of a provi-
23 sion in the underlying lease or agreement which has the
24 effect of placing the debtor in default under such lease or
25 agreement by reason of the occurrence, pendency, or exist-

1 *ence of a proceeding under this title or the insolvency of*
2 *the debtor. Nothing in this subsection shall be deemed to*
3 *justify limiting such a provision in any other cir-*
4 *cumstance.”.*

5 **SEC. 121. GIVING SECURED CREDITORS FAIR TREATMENT**
6 **IN CHAPTER 13.**

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

9 *“(i) the plan provides that the holder of*
10 *such claim retain the lien securing such claim*
11 *until the earlier of payment of the underlying*
12 *debt determined under nonbankruptcy law or*
13 *discharge under section 1328 of this title, and*
14 *that if the case under this chapter is dismissed*
15 *or converted without completion of the plan, such*
16 *lien shall also be retained by such holder to the*
17 *extent recognized by applicable nonbankruptcy*
18 *law; and”.*

19 **SEC. 122. RESTRAINING ABUSIVE PURCHASES ON SECURED**
20 **CREDIT.**

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

23 *“(e) In an individual case under chapter 7, 11, 12,*
24 *or 13—*

1 “(1) subsection (a) shall not apply to an allowed
2 claim to the extent attributable in whole or in part
3 to the purchase price of personal property acquired by
4 the debtor within 5 years of the filing of the petition,
5 except for the purpose of applying paragraph (3) of
6 this subsection;

7 “(2) if such allowed claim attributable to the
8 purchase price is secured only by the personal prop-
9 erty so acquired, the value of the personal property
10 and the amount of the allowed secured claim shall be
11 the sum of the unpaid principal balance of the pur-
12 chase price and accrued and unpaid interest and
13 charges at the contract rate;

14 “(3) if such allowed claim attributable to the
15 purchase price is secured by the personal property so
16 acquired and other property, the value of the security
17 may be determined under subsection (a), but the value
18 of the security and the amount of the allowed secured
19 claim shall be not less than the unpaid principal bal-
20 ance of the purchase price of the personal property
21 acquired and unpaid interest and charges at the con-
22 tract rate; and

23 “(4) in any subsequent case under this title that
24 is filed by or against the debtor in the 2-year period
25 beginning on the date the petition is filed in the

1 *original case, the value of the personal property and*
2 *the amount of the allowed secured claim shall be*
3 *deemed to be not less than the amount provided under*
4 *paragraphs (2) and (3) less any payments actually*
5 *received.”.*

6 **SEC. 123. FAIR VALUATION OF COLLATERAL.**

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

9 *“In the case of an individual debtor under chapters 7 and*
10 *13, such value with respect to personal property securing*
11 *an allowed claim shall be determined based on the replace-*
12 *ment value of such property as of the date of filing the peti-*
13 *tion without deduction for costs of sale or marketing. With*
14 *respect to property acquired for personal, family, or house-*
15 *hold purpose, replacement value shall mean the price a re-*
16 *tail merchant would charge for property of that kind con-*
17 *sidering the age and condition of the property at the time*
18 *value is determined.”.*

19 **SEC. 124. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.**

20 *Section 522(b)(2)(A) of title 11, United States Code,*
21 *is amended—*

- 22 (1) *by striking “180” and inserting “730”; and*
23 (2) *by striking “, or for a longer portion of such*
24 *180-day period than in any other place” and insert-*
25 *ing “or if the debtor’s domicile has not been located*

1 at a single State for such 730-day period, the place
2 in which the debtor's domicile was located for 180
3 days immediately preceding the 730-day period or for
4 a longer portion of such 180-day period than in any
5 other place”.

6 **SEC. 125. RESTRICTIONS ON CERTAIN EXEMPT PROPERTY**
7 **OBTAINED THROUGH FRAUD.**

8 Section 522 of title 11, United States Code, as amend-
9 ed by section 113, is amended—

10 (1) in subsection (b)(2)(A) by inserting “subject
11 to subsection (o),” before “any property”; and

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

13 “(o) For purposes of subsection (b)(3)(A) and notwith-
14 standing subsection (a), the value of an interest in—

15 “(1) real or personal property that the debtor or
16 a dependent of the debtor uses as a residence;

17 “(2) a cooperative that owns property that the
18 debtor or a dependent of the debtor uses as a resi-
19 dence; or

20 “(3) a burial plot for the debtor or a dependent
21 of the debtor;

22 shall be reduced to the extent such value is attributable to
23 any portion of any property that the debtor disposed of in
24 the 730-day period ending of the date of the filing of the
25 petition, with the intent to hinder, delay, or defraud a cred-

1 itor and that the debtor could not exempt, or that portion
2 that the debtor could not exempt, under subsection (b) if
3 on such date the debtor had held the property so disposed
4 of.”.

5 **SEC. 126. ROLLING STOCK EQUIPMENT.**

6 (a) *IN GENERAL.*—Section 1168 of title 11, United
7 States Code, is amended to read as follows:

8 **“§ 1168. Rolling stock equipment**

9 “(a)(1) *The right of a secured party with a security*
10 *interest in or of a lessor or conditional vendor of equipment*
11 *described in paragraph (2) to take possession of such equip-*
12 *ment in compliance with an equipment security agreement,*
13 *lease, or conditional sale contract, and to enforce any of*
14 *its other rights or remedies under such security agreement,*
15 *lease, or conditional sale contract, to sell, lease, or otherwise*
16 *retain or dispose of such equipment, is not limited or other-*
17 *wise affected by any other provision of this title or by any*
18 *power of the court, except that the right to take possession*
19 *and enforce those other rights and remedies shall be subject*
20 *to section 362 of this title, if—*

21 “(A) *before the date that is 60 days after the*
22 *date of commencement of a case under this chapter,*
23 *the trustee, subject to the court’s approval, agrees to*
24 *perform all obligations of the debtor under such secu-*

1 *urity agreement, lease, or conditional sale contract;*
2 *and*

3 *“(B) any default, other than a default of a kind*
4 *described in section 365(b)(2) of this title, under such*
5 *security agreement, lease, or conditional sale*
6 *contract—*

7 *“(i) that occurs before the date of com-*
8 *mencement of the case and is an event of default*
9 *therewith is cured before the expiration of such*
10 *60-day period;*

11 *“(ii) that occurs or becomes an event of de-*
12 *fault after the date of commencement of the case*
13 *and before the expiration of such 60-day period*
14 *is cured before the later of—*

15 *“(I) the date that is 30 days after the*
16 *date of the default or event of the default; or*

17 *“(II) the expiration of such 60-day pe-*
18 *riod; and*

19 *“(iii) that occurs on or after the expiration*
20 *of such 60-day period is cured in accordance*
21 *with the terms of such security agreement, lease,*
22 *or conditional sale contract, if cure is permitted*
23 *under that agreement, lease, or conditional sale*
24 *contract.*

25 *“(2) The equipment described in this paragraph—*

1 “(A) is rolling stock equipment or accessories
2 used on rolling stock equipment, including super-
3 structures or racks, that is subject to a security inter-
4 est granted by, leased to, or conditionally sold to a
5 debtor; and

6 “(B) includes all records and documents relating
7 to such equipment that are required, under the terms
8 of the security agreement, lease, or conditional sale
9 contract, that is to be surrendered or returned by the
10 debtor in connection with the surrender or return of
11 such equipment.

12 “(3) Paragraph (1) applies to a secured party, lessor,
13 or conditional vendor acting in its own behalf or acting
14 as trustee or otherwise in behalf of another party.

15 “(b) The trustee and the secured party, lessor, or condi-
16 tional vendor whose right to take possession is protected
17 under subsection (a) may agree, subject to the court’s ap-
18 proval, to extend the 60-day period specified in subsection
19 (a)(1).

20 “(c)(1) In any case under this chapter, the trustee shall
21 immediately surrender and return to a secured party, les-
22 sor, or conditional vendor, described in subsection (a)(1),
23 equipment described in subsection (a)(2), if at any time
24 after the date of commencement of the case under this chap-
25 ter such secured party, lessor, or conditional vendor is enti-

1 *tled pursuant to subsection (a)(1) to take possession of such*
2 *equipment and makes a written demand for such possession*
3 *of the trustee.*

4 “(2) *At such time as the trustee is required under*
5 *paragraph (1) to surrender and return equipment described*
6 *in subsection (a)(2), any lease of such equipment, and any*
7 *security agreement or conditional sale contract relating to*
8 *such equipment, if such security agreement or conditional*
9 *sale contract is an executory contract, shall be deemed re-*
10 *jected.*

11 “(d) *With respect to equipment first placed in service*
12 *on or prior to October 22, 1994, for purposes of this*
13 *section—*

14 “(1) *the term ‘lease’ includes any written agree-*
15 *ment with respect to which the lessor and the debtor,*
16 *as lessee, have expressed in the agreement or in a sub-*
17 *stantially contemporaneous writing that the agree-*
18 *ment is to be treated as a lease for Federal income*
19 *tax purposes; and*

20 “(2) *the term ‘security interest’ means a pur-*
21 *chase-money equipment security interest.*

22 “(e) *With respect to equipment first placed in service*
23 *after October 22, 1994, for purposes of this section, the term*
24 *‘rolling stock equipment’ includes rolling stock equipment*

1 *that is substantially rebuilt and accessories used on such*
2 *equipment.”.*

3 (b) *AIRCRAFT EQUIPMENT AND VESSELS.*—Section
4 1110 of title 11, United States Code, is amended to read
5 as follows:

6 **“§ 1110. Aircraft equipment and vessels**

7 “(a)(1) *Except as provided in paragraph (2) and sub-*
8 *ject to subsection (b), the right of a secured party with a*
9 *security interest in equipment described in paragraph (3),*
10 *or of a lessor or conditional vendor of such equipment, to*
11 *take possession of such equipment in compliance with a se-*
12 *curity agreement, lease, or conditional sale contract, and*
13 *to enforce any of its other rights or remedies, under such*
14 *security agreement, lease, or conditional sale contract, to*
15 *sell, lease, or otherwise retain or dispose of such equipment,*
16 *is not limited or otherwise affected by any other provision*
17 *of this title or by any power of the court.*

18 “(2) *The right to take possession and to enforce the*
19 *other rights and remedies described in paragraph (1) shall*
20 *be subject to section 362 of this title if—*

21 “(A) *before the date that is 60 days after the*
22 *date of the order for relief under this chapter, the*
23 *trustee, subject to the approval of the court, agrees to*
24 *perform all obligations of the debtor under such secu-*

1 *urity agreement, lease, or conditional sale contract;*
2 *and*

3 “(B) *any default, other than a default of a kind*
4 *specified in section 365(b)(2) of this title, under such*
5 *security agreement, lease, or conditional sale*
6 *contract—*

7 “(i) *that occurs before the date of the order*
8 *is cured before the expiration of such 60-day pe-*
9 *riod;*

10 “(ii) *that occurs after the date of the order*
11 *and before the expiration of such 60-day period*
12 *is cured before the later of—*

13 “(I) *the date that is 30 days after the*
14 *date of the default; or*

15 “(II) *the expiration of such 60-day pe-*
16 *riod; and*

17 “(iii) *that occurs on or after the expiration*
18 *of such 60-day period is cured in compliance*
19 *with the terms of such security agreement, lease,*
20 *or conditional sale contract, if a cure is per-*
21 *mitted under that agreement, lease, or contract.*

22 “(3) *The equipment described in this paragraph—*

23 “(A) *is—*

24 “(i) *an aircraft, aircraft engine, propeller,*
25 *appliance, or spare part (as defined in section*

1 40102 of title 49) that is subject to a security in-
2 terest granted by, leased to, or conditionally sold
3 to a debtor that, at the time such transaction is
4 entered into, holds an air carrier operating cer-
5 tificate issued pursuant to chapter 447 of title 49
6 for aircraft capable of carrying 10 or more indi-
7 viduals or 6,000 pounds or more of cargo; or

8 “(i) a documented vessel (as defined in sec-
9 tion 30101(1) of title 46) that is subject to a se-
10 curity interest granted by, leased to, or condi-
11 tionally sold to a debtor that is a water carrier
12 that, at the time such transaction is entered into,
13 holds a certificate of public convenience and ne-
14 cessity or permit issued by the Department of
15 Transportation; and

16 “(B) includes all records and documents relating
17 to such equipment that are required, under the terms
18 of the security agreement, lease, or conditional sale
19 contract, to be surrendered or returned by the debtor
20 in connection with the surrender or return of such
21 equipment.

22 “(4) Paragraph (1) applies to a secured party, lessor,
23 or conditional vendor acting in its own behalf or acting
24 as trustee or otherwise in behalf of another party.

1 “(b) *The trustee and the secured party, lessor, or condi-*
2 *tional vendor whose right to take possession is protected*
3 *under subsection (a) may agree, subject to the approval of*
4 *the court, to extend the 60-day period specified in subsection*
5 *(a)(1).*

6 “(c)(1) *In any case under this chapter, the trustee shall*
7 *immediately surrender and return to a secured party, les-*
8 *sor, or conditional vendor, described in subsection (a)(1),*
9 *equipment described in subsection (a)(3), if at any time*
10 *after the date of the order for relief under this chapter such*
11 *secured party, lessor, or conditional vendor is entitled pur-*
12 *suant to subsection (a)(1) to take possession of such equip-*
13 *ment and makes a written demand for such possession to*
14 *the trustee.*

15 “(2) *At such time as the trustee is required under*
16 *paragraph (1) to surrender and return equipment described*
17 *in subsection (a)(3), any lease of such equipment, and any*
18 *security agreement or conditional sale contract relating to*
19 *such equipment, if such security agreement or conditional*
20 *sale contract is an executory contract, shall be deemed re-*
21 *jected.*

22 “(d) *With respect to equipment first placed in service*
23 *on or before October 22, 1994, for purposes of this section—*

24 “(1) *the term ‘lease’ includes any written agree-*
25 *ment with respect to which the lessor and the debtor,*

1 *as lessee, have expressed in the agreement or in a sub-*
 2 *stantially contemporaneous writing that the agree-*
 3 *ment is to be treated as a lease for Federal income*
 4 *tax purposes; and*

5 “(2) the term ‘security interest’ means a pur-
 6 *chase-money equipment security interest.”.*

7 **SEC. 127. DISCHARGE UNDER CHAPTER 13.**

8 *Section 1328(a) of title 11, United States Code, is*
 9 *amended by striking paragraphs (1) through (3) and insert-*
 10 *ing the following:*

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

13 “(2) of the kind specified in paragraph (2), (4),
 14 (3)(B), (5), (8), or (9) of section 523(a) of this title;

15 “(3) for restitution, or a criminal fine, included
 16 *in a sentence on the debtor’s conviction of a crime; or*

17 “(4) for restitution, or damages, awarded in a
 18 *civil action against the debtor as a result of willful*
 19 *or malicious injury by the debtor that caused per-*
 20 *sonal injury to an individual or the death of an indi-*
 21 *vidual.”.*

22 **SEC. 128. BANKRUPTCY JUDGESHIPS.**

23 (a) *SHORT TITLE.*—*This section may be cited as the*
 24 *“Bankruptcy Judgeship Act of 1999”.*

25 (b) *TEMPORARY JUDGESHIPS.*—

1 (1) *APPOINTMENTS.*—*The following judgeship*
2 *positions shall be filled in the manner prescribed in*
3 *section 152(a)(1) of title 28, United States Code, for*
4 *the appointment of bankruptcy judges provided for in*
5 *section 152(a)(2) of such title:*

6 (A) *One additional bankruptcy judgeship*
7 *for the eastern district of California.*

8 (B) *Four additional bankruptcy judgeships*
9 *for the central district of California.*

10 (C) *One additional bankruptcy judgeship*
11 *for the southern district of Florida.*

12 (D) *Two additional bankruptcy judgeships*
13 *for the district of Maryland.*

14 (E) *One additional bankruptcy judgeship*
15 *for the eastern district of Michigan.*

16 (F) *One additional bankruptcy judgeship*
17 *for the southern district of Mississippi.*

18 (G) *One additional bankruptcy judgeship*
19 *for the district of New Jersey.*

20 (H) *One additional bankruptcy judgeship*
21 *for the eastern district of New York.*

22 (I) *One additional bankruptcy judgeship for*
23 *the northern district of New York.*

24 (J) *One additional bankruptcy judgeship*
25 *for the southern district of New York.*

1 (K) *One additional bankruptcy judgeship*
2 *for the eastern district of Pennsylvania.*

3 (L) *One additional bankruptcy judgeship*
4 *for the middle district of Pennsylvania.*

5 (M) *One additional bankruptcy judgeship*
6 *for the western district of Tennessee.*

7 (N) *One additional bankruptcy judgeship*
8 *for the eastern district of Virginia.*

9 (2) *VACANCIES.—The first vacancy occurring in*
10 *the office of a bankruptcy judge in each of the judicial*
11 *districts set forth in paragraph (1) that—*

12 (A) *results from the death, retirement, res-*
13 *ignation, or removal of a bankruptcy judge; and*

14 (B) *occurs 5 years or more after the ap-*
15 *pointment date of a bankruptcy judge appointed*
16 *under paragraph (1);*

17 *shall not be filled.*

18 (c) *EXTENSIONS.—*

19 (1) *IN GENERAL.—The temporary bankruptcy*
20 *judgeship positions authorized for the northern dis-*
21 *trict of Alabama, the district of Delaware, the district*
22 *of Puerto Rico, the district of South Carolina, and the*
23 *eastern district of Tennessee under section 3(a) (1),*
24 *(3), (7), (8), and (9) of the Bankruptcy Judgeship Act*
25 *of 1992 (28 U.S.C. 152 note) are extended until the*

1 *first vacancy occurring in the office of a bankruptcy*
2 *judge in the applicable district resulting from the*
3 *death, retirement, resignation, or removal of a bank-*
4 *ruptcy judge and occurring—*

5 *(A) 8 years or more after November 8, 1993,*
6 *with respect to the northern district of Alabama;*

7 *(B) 10 years or more after October 28,*
8 *1993, with respect to the district of Delaware;*

9 *(C) 8 years or more after August 29, 1994,*
10 *with respect to the district of Puerto Rico;*

11 *(D) 8 years or more after June 27, 1994,*
12 *with respect to the district of South Carolina;*
13 *and*

14 *(E) 8 years or more after November 23,*
15 *1993, with respect to the eastern district of Ten-*
16 *nessee.*

17 *(2) APPLICABILITY OF OTHER PROVISIONS.—All*
18 *other provisions of section 3 of the Bankruptcy Judge-*
19 *ship Act of 1992 remain applicable to such temporary*
20 *judgeship position.*

21 *(d) TECHNICAL AMENDMENT.—The first sentence of*
22 *section 152(a)(1) of title 28, United States Code, is amend-*
23 *ed to read as follows: “Each bankruptcy judge to be ap-*
24 *pointed for a judicial district as provided in paragraph (2)*

1 *shall be appointed by the United States court of appeals*
2 *for the circuit in which such district is located.”*

3 *(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—*

4 *Section 156 of title 28, United States Code, is amended by*
5 *adding at the end the following new subsection:*

6 *“(g)(1) In this subsection, the term ‘travel expenses’—*

7 *“(A) means the expenses incurred by a bank-*
8 *ruptcy judge for travel that is not directly related to*
9 *any case assigned to such bankruptcy judge; and*

10 *“(B) shall not include the travel expenses of a*
11 *bankruptcy judge if—*

12 *“(i) the payment for the travel expenses is*
13 *paid by such bankruptcy judge from the personal*
14 *funds of such bankruptcy judge; and*

15 *“(ii) such bankruptcy judge does not receive*
16 *funds (including reimbursement) from the*
17 *United States or any other person or entity for*
18 *the payment of such travel expenses.*

19 *“(2) Each bankruptcy judge shall annually submit the*
20 *information required under paragraph (3) to the chief*
21 *bankruptcy judge for the district in which the bankruptcy*
22 *judge is assigned.*

23 *“(3)(A) Each chief bankruptcy judge shall submit an*
24 *annual report to the Director of the Administrative Office*
25 *of the United States Courts on the travel expenses of each*

1 *bankruptcy judge assigned to the applicable district (in-*
2 *cluding the travel expenses of the chief bankruptcy judge*
3 *of such district).*

4 “(B) *The annual report under this paragraph shall*
5 *include—*

6 “(i) *the travel expenses of each bankruptcy judge,*
7 *with the name of the bankruptcy judge to whom the*
8 *travel expenses apply;*

9 “(ii) *a description of the subject matter and pur-*
10 *pose of the travel relating to each travel expense iden-*
11 *tified under clause (i), with the name of the bank-*
12 *ruptcy judge to whom the travel applies; and*

13 “(iii) *the number of days of each travel described*
14 *under clause (ii), with the name of the bankruptcy*
15 *judge to whom the travel applies.*

16 “(4)(A) *The Director of the Administrative Office of*
17 *the United States Courts shall—*

18 “(i) *consolidate the reports submitted under*
19 *paragraph (3) into a single report; and*

20 “(ii) *annually submit such consolidated report to*
21 *Congress.*

22 “(B) *The consolidated report submitted under this*
23 *paragraph shall include the specific information required*
24 *under paragraph (3)(B), including the name of each bank-*

1 *ruptcy judge with respect to clauses (i), (ii), and (iii) of*
2 *paragraph (3)(B).”.*

3 **SEC. 129. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED**
4 **STATES CODE.**

5 *Section 507(a) of title 11, United States Code, is*
6 *amended by inserting after paragraph (9) the following:*

7 *“(10) Tenth, allowed claims for death or per-*
8 *sonal injuries resulting from the operation of a motor*
9 *vehicle or vessel if such operation was unlawful be-*
10 *cause the debtor was intoxicated from using alcohol,*
11 *a drug or another substance.”.*

12 **SEC. 130. AMENDMENT TO SECTION 1325 OF TITLE 11,**
13 **UNITED STATES CODE.**

14 *Section 1325(b) of title 11, United States Code, is*
15 *amended—*

16 *(1) in paragraph (1), by inserting “to unsecured*
17 *creditors” after “to make payments”;*

18 *(2) in paragraph (2)—*

19 *(A) by inserting “current monthly” before*
20 *“income”;*

21 *(B) by striking “and which is not” and in-*
22 *serting “less amounts”;*

23 *(C) by inserting after “received by the debt-*
24 *or”, “(other than child support payments, foster*
25 *care payments, or disability payments for a de-*

1 *pendent child made in accordance with applica-*
 2 *ble nonbankruptcy law and which is reasonably*
 3 *necessary to be expended)”; and*

4 *(D) in subparagraph (A) by inserting after*
 5 *“dependent of the debtor” the following: “, as de-*
 6 *termined in accordance with section*
 7 *707(b)(2)(A) and if applicable 707(b)(2)(B)”.*

8 **SEC. 131. APPLICATION OF THE CODEBTOR STAY ONLY**
 9 **WHEN THE STAY PROTECTS THE DEBTOR.**

10 *Section 1301(b) of title 11, United States Code, is*
 11 *amended—*

12 *(1) by inserting “(1)” after “(b)”;* and

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

14 *“(2)(A) Notwithstanding subsection (c) and except as*
 15 *provided in subparagraph (B), in any case in which the*
 16 *debtor did not receive the consideration for the claim held*
 17 *by a creditor, the stay provided by subsection (a) shall*
 18 *apply to that creditor for a period not to exceed 30 days*
 19 *beginning on the date of the order for relief, to the extent*
 20 *the creditor proceeds against—*

21 *“(i) the individual that received that consider-*
 22 *ation; or*

23 *“(ii) property not in the possession of the debtor*
 24 *that secures that claim.*

1 “(B) Notwithstanding subparagraph (A), the stay pro-
2 vided by subsection (a) shall apply in any case in which
3 the debtor is primarily obligated to pay the creditor in
4 whole or in part with respect to a claim described in sub-
5 paragraph (A) under a legally binding separation or prop-
6 erty settlement agreement or divorce or dissolution decree
7 with respect to—

8 “(i) an individual described in subparagraph
9 (A)(i); or

10 “(ii) property described in subparagraph (A)(ii).

11 “(3) Notwithstanding subsection (c), the stay provided
12 by subsection (a) shall terminate as of the date of confirma-
13 tion of the plan, in any case in which the plan of the debtor
14 provides that the debtor’s interest in personal property sub-
15 ject to a lease with respect to which the debtor is the lessee
16 will be surrendered or abandoned or no payments will be
17 made under the plan on account of the debtor’s obligations
18 under the lease.”.

19 **SEC. 132. ADEQUATE PROTECTION FOR INVESTORS.**

20 (a) *DEFINITION.*—Section 101 of title 11, United
21 States Code, is amended by inserting after paragraph (48)
22 the following:

23 “(48A) ‘securities self regulatory organization’
24 means either a securities association registered with
25 the Securities and Exchange Commission pursuant to

1 *section 15A of the Securities Exchange Act of 1934 or*
2 *a national securities exchange registered with the Se-*
3 *curities and Exchange Commission pursuant to sec-*
4 *tion 6 of the Securities Exchange Act of 1934;”.*

5 *(b) AUTOMATIC STAY.—Section 362(b) of title 11,*
6 *United States Code, as amended by section 118, is*
7 *amended—*

8 *(1) in paragraph (19) by striking “or” at the*
9 *end;*

10 *(2) in paragraph (20) by striking the period at*
11 *the end and a inserting “; or”; and*

12 *(3) by inserting after paragraph (20) the fol-*
13 *lowing:*

14 *“(21) under subsection (a), of the commencement*
15 *or continuation of an investigation or action by a se-*
16 *curities self regulatory organization to enforce such*
17 *organization’s regulatory power; of the enforcement of*
18 *an order or decision, other than for monetary sanc-*
19 *tions, obtained in an action by the securities self reg-*
20 *ulatory organization to enforce such organization’s*
21 *regulatory power; or of any act taken by the securities*
22 *self regulatory organization to delist, delete, or refuse*
23 *to permit quotation of any stock that does not meet*
24 *applicable regulatory requirements.”.*

1 **SEC. 133. LIMITATION ON LUXURY GOODS.**

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

4 *“(C)(i) for purposes of subparagraph (A),*
5 *consumer debts owed to a single creditor and ag-*
6 *gregating more than \$250 for ‘luxury goods or*
7 *services’ incurred by an individual debtor on or*
8 *within 90 days before the order for relief under*
9 *this title, or cash advances aggregating more*
10 *than \$250 that are extensions of consumer credit*
11 *under an open end credit plan obtained by an*
12 *individual debtor on or within 90 days before the*
13 *order for relief under this title, are presumed to*
14 *be nondischargeable; and*

15 *“(ii) for purposes of this subparagraph—*
16 *“(I) the term ‘luxury goods or services’*
17 *does not include goods or services reason-*
18 *ably necessary for the support or mainte-*
19 *nance of the debtor or a dependent of the*
20 *debtor; and*

21 *“(II) the term ‘an extension of con-*
22 *sumer credit under an open end credit plan’*
23 *has the same meaning such term has for*
24 *purposes of the Consumer Credit Protection*
25 *Act;”.*

1 **SEC. 134. GIVING DEBTORS THE ABILITY TO KEEP LEASED**
2 **PERSONAL PROPERTY BY ASSUMPTION.**

3 *Section 365 of title 11, United States Code, is amended*
4 *by adding at the end the following:*

5 *“(p)(1) If a lease of personal property is rejected or*
6 *not timely assumed by the trustee under subsection (d), the*
7 *leased property is no longer property of the estate and the*
8 *stay under section 362(a) of this title is automatically ter-*
9 *minated.*

10 *“(2) In the case of an individual under chapter 7, the*
11 *debtor may notify the creditor in writing that the debtor*
12 *desires to assume the lease. Upon being so notified, the cred-*
13 *itor may, at its option, notify the debtor that it is willing*
14 *to have the lease assumed by the debtor and may, at its*
15 *option, condition such assumption on cure of any out-*
16 *standing default on terms set by the contract. If within 30*
17 *days of the notice from the creditor the debtor notifies the*
18 *lessor in writing that the lease is assumed, the liability*
19 *under the lease will be assumed by the debtor and not by*
20 *the estate. The stay under section 362 of this title and the*
21 *injunction under section 524(a) of this title shall not be*
22 *violated by notification of the debtor and negotiation of cure*
23 *under this subsection. Nothing in this paragraph shall re-*
24 *quire a debtor to assume a lease, or a creditor to permit*
25 *assumption.*

1 “(3) *In a case under chapter 11 of this title in which*
 2 *the debtor is an individual and in a case under chapter*
 3 *13 of this title, if the debtor is the lessee with respect to*
 4 *personal property and the lease is not assumed in the plan*
 5 *confirmed by the court, the lease is deemed rejected as of*
 6 *the conclusion of the hearing on confirmation. If the lease*
 7 *is rejected, the stay under section 362 of this title and any*
 8 *stay under section 1301 is automatically terminated with*
 9 *respect to the property subject to the lease.”.*

10 **SEC. 135. ADEQUATE PROTECTION OF LESSORS AND PUR-**
 11 **CHASE MONEY SECURED CREDITORS.**

12 (a) *IN GENERAL.*—Chapter 13 of title 11, United
 13 States Code, is amended by adding after section 1307 the
 14 following:

15 **“§ 1307A. Adequate protection in chapter 13 cases**

16 “(a)(1)(A) *On or before the date that is 30 days after*
 17 *the filing of a case under this chapter, the debtor shall make*
 18 *cash payments in an amount determined under paragraph*
 19 *(2), to—*

20 “(i) *any lessor of personal property; and*

21 “(ii) *any creditor holding a claim secured by*
 22 *personal property to the extent that the claim is at-*
 23 *tributable to the purchase of that property by the*
 24 *debtor.*

1 “(B) *The debtor or the plan shall continue making the*
2 *adequate protection payments required under subparagraph*
3 *(A) until the earlier of the date on which—*

4 “(i) *the creditor begins to receive actual pay-*
5 *ments under the plan; or*

6 “(ii) *the debtor relinquishes possession of the*
7 *property referred to in subparagraph (A) to—*

8 “(I) *the lessor or creditor; or*

9 “(II) *any third party acting under claim of*
10 *right, as applicable.*

11 “(2) *The payments referred to in paragraph (1)(A)*
12 *shall be the contract amount and shall reduce any amount*
13 *payable under section 1326(a) of the title.*

14 “(b)(1) *Subject to the limitations under paragraph (2),*
15 *the court may, after notice and hearing, change the amount*
16 *and timing of the dates of payment of payments made*
17 *under subsection (a).*

18 “(2)(A) *The payments referred to in paragraph (1)*
19 *shall be payable not less frequently than monthly.*

20 “(B) *The amount of payments referred to in para-*
21 *graph (1) shall not be less than the amount of any weekly,*
22 *biweekly, monthly, or other periodic payment scheduled as*
23 *payable under the contract between the debtor and creditor.*

24 “(c) *Notwithstanding section 1326(b), the payments*
25 *referred to in subsection (a)(1)(A) shall be continued in ad-*

1 *dition to plan payments under a confirmed plan until ac-*
2 *tual payments to the creditor begin under that plan, if the*
3 *confirmed plan provides—*

4 “(1) *for payments to a creditor or lessor de-*
5 *scribed in subsection (a)(1); and*

6 “(2) *for the deferral of payments to such creditor*
7 *or lessor under the plan until the payment of*
8 *amounts described in section 1326(b).*

9 “(d) *Notwithstanding sections 362, 542, and 543, a les-*
10 *sor or creditor described in subsection (a) may retain pos-*
11 *session of property described in that subsection that was*
12 *obtained in accordance with applicable law before the date*
13 *of filing of the petition until the first payment under sub-*
14 *section (a)(1)(A) is received by the lessor or creditor.*

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

24 (b) *CLERICAL AMENDMENT.—The table of sections at*
25 *the beginning of chapter 13 of title 11, United States Code,*

1 *is amended by inserting after the item relating to section*
2 *1307 the following:*

“1307A. Adequate protection in chapter 13 cases.”.

3 **SEC. 136. AUTOMATIC STAY.**

4 *Section 362(b) of title 11, United States Code, as*
5 *amended by sections 118 and 132, is amended—*

6 *(1) in paragraph (20), by striking “or” at the*
7 *end;*

8 *(2) in paragraph (21), by striking the period at*
9 *the end and inserting a semicolon; and*

10 *(3) by inserting after paragraph (21) the fol-*
11 *lowing:*

12 *“(22) under subsection (a) of any transfer that*
13 *is not avoidable under section 544 of this title and*
14 *that is not avoidable under section 549 of this title;*

15 *“(23) under subsection (a)(3), of the continu-*
16 *ation of any eviction, unlawful detainer action, or*
17 *similar proceeding by a lessor against a debtor in-*
18 *volving residential real property in which the debtor*
19 *resides as a tenant under a rental agreement and the*
20 *debtor has not paid rent to the lessor pursuant to the*
21 *terms of the lease agreement or applicable State law*
22 *after the commencement and during the course of the*
23 *case;*

24 *“(24) under subsection (a)(3), of the commence-*
25 *ment or continuation of any eviction, unlawful de-*

1 *tainer action, or similar proceeding by a lessor*
2 *against a debtor involving residential real property*
3 *in which the debtor resides as a tenant under a rental*
4 *agreement that has terminated pursuant to the lease*
5 *agreement or applicable State law;*

6 *“(25) under subsection (a)(3), of any eviction,*
7 *unlawful detainer action, or similar proceeding, if the*
8 *debtor has previously filed within the last year and*
9 *failed to pay post-petition rent during the course of*
10 *that case; or*

11 *“(26) under subsection (a)(3), of eviction actions*
12 *based on endangerment to property or person or the*
13 *use of illegal drugs.”.*

14 **SEC. 137. EXTEND PERIOD BETWEEN BANKRUPTCY DIS-**
15 **CHARGES.**

16 *Title 11, United States Code, is amended—*

17 *(1) in section 727(a)(8) by striking “six” and*
18 *inserting “8”; and*

19 *(2) in section 1328 by adding at the end the fol-*
20 *lowing:*

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

1 **SEC. 138. DEFINITION OF DOMESTIC SUPPORT OBLIGA-**
2 **TION.**

3 *Section 101 of title 11, United States Code, is*
4 *amended—*

5 *(1) by striking paragraph (12A); and*

6 *(2) by inserting after paragraph (14) the fol-*
7 *lowing:*

8 *“(14A) ‘domestic support obligation’ means a*
9 *debt that accrues before or after the entry of an order*
10 *for relief under this title that is—*

11 *“(A) owed to or recoverable by—*

12 *“(i) a spouse, former spouse, or child of*
13 *the debtor or that child’s legal guardian; or*

14 *“(ii) a governmental unit;*

15 *“(B) in the nature of alimony, mainte-*
16 *nance, or support (including assistance provided*
17 *by a governmental unit) of such spouse, former*
18 *spouse, or child, without regard to whether such*
19 *debt is expressly so designated;*

20 *“(C) established or subject to establishment*
21 *before or after entry of an order for relief under*
22 *this title, by reason of applicable provisions of—*

23 *“(i) a separation agreement, divorce*
24 *decree, or property settlement agreement;*

25 *“(ii) an order of a court of record; or*

1 “(iii) a determination made in accord-
2 ance with applicable nonbankruptcy law by
3 a governmental unit; and

4 “(D) not assigned to a nongovernmental en-
5 tity, unless that obligation is assigned volun-
6 tarily by the spouse, former spouse, child, or par-
7 ent solely for the purpose of collecting the debt.”.

8 **SEC. 139. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP-**
9 **PORT OBLIGATIONS.**

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

12 (1) by striking paragraph (7);

13 (2) by redesignating paragraphs (1) through (6)
14 as paragraphs (2) through (7), respectively;

15 (3) in paragraph (2), as redesignated, by strik-
16 ing “First” and inserting “Second”;

17 (4) in paragraph (3), as redesignated, by strik-
18 ing “Second” and inserting “Third”;

19 (5) in paragraph (4), as redesignated, by strik-
20 ing “Third” and inserting “Fourth”;

21 (6) in paragraph (5), as redesignated, by strik-
22 ing “Fourth” and inserting “Fifth”;

23 (7) in paragraph (6), as redesignated, by strik-
24 ing “Fifth” and inserting “Sixth”;

1 (8) in paragraph (7), as redesignated, by strik-
2 ing “Sixth” and inserting “Seventh”; and

3 (9) by inserting before paragraph (2), as redesign-
4 ated, the following:

5 “(1) First, allowed claims for domestic support
6 obligations to be paid in the following order on the
7 condition that funds received under this paragraph by
8 a governmental unit in a case under this title be ap-
9 plied:

10 “(A) Claims that, as of the date of entry of
11 the order for relief, are owed directly to a spouse,
12 former spouse, or child of the debtor, or the par-
13 ent of such child, without regard to whether the
14 claim is filed by the spouse, former spouse, child,
15 or parent, or is filed by a governmental unit on
16 behalf of that person.

17 “(B) Claims that, as of the date of entry of
18 the order for relief, are assigned by a spouse,
19 former spouse, child of the debtor, or the parent
20 of that child to a governmental unit or are owed
21 directly to a governmental unit under applicable
22 nonbankruptcy law.”.

1 **SEC. 140. REQUIREMENTS TO OBTAIN CONFIRMATION AND**
2 **DISCHARGE IN CASES INVOLVING DOMESTIC**
3 **SUPPORT OBLIGATIONS.**

4 *Title 11, United States Code, is amended—*

5 *(1) in section 1129(a), by adding at the end the*
6 *following:*

7 *“(14) If the debtor is required by a judicial or*
8 *administrative order or statute to pay a domestic*
9 *support obligation, the debtor has paid all amounts*
10 *payable under such order or statute for such obliga-*
11 *tion that become payable after the date on which the*
12 *petition is filed.”;*

13 *(2) in section 1325(a)—*

14 *(A) in paragraph (5), by striking “and” at*
15 *the end;*

16 *(B) in paragraph (6), by striking the period*
17 *at the end and inserting “; and”; and*

18 *(C) by adding at the end the following:*

19 *“(7) if the debtor is required by a judicial or ad-*
20 *ministrative order or statute to pay a domestic sup-*
21 *port obligation, the debtor has paid all amounts pay-*
22 *able under such order for such obligation that become*
23 *payable after the date on which the petition is filed.”;*
24 *and*

25 *(3) in section 1328(a), as amended by section*
26 *127, in the matter preceding paragraph (1), by in-*

1 serting “, and with respect to a debtor who is re-
2 quired by a judicial or administrative order to pay
3 a domestic support obligation, certifies that all
4 amounts payable under such order or statute that are
5 due on or before the date of the certification (includ-
6 ing amounts due before or after the petition was filed)
7 have been paid” after “completion by the debtor of all
8 payments under the plan”.

9 **SEC. 141. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
10 **SUPPORT OBLIGATION PROCEEDINGS.**

11 Section 362(b) of title 11, United States Code, as
12 amended by sections 118, 132, and 136, is amended—

13 (1) by striking paragraph (2) and inserting the
14 following:

15 “(2) under subsection (a)—

16 “(A) of the commencement or continuation
17 of an action or proceeding for—

18 “(i) the establishment of paternity; or

19 “(ii) the establishment or modification
20 of an order for domestic support obligations;

21 or

22 “(B) the collection of a domestic support ob-
23 ligation from property that is not property of the
24 estate;”;

1 (2) *in paragraph (25), by striking “or” at the*
2 *end;*

3 (3) *in paragraph (26), by striking the period at*
4 *the end and inserting a semicolon; and*

5 (4) *by inserting after paragraph (26) the fol-*
6 *lowing:*

7 “(27) *under subsection (a) with respect to the*
8 *withholding of income pursuant to an order as speci-*
9 *fied in section 466(b) of the Social Security Act (42*
10 *U.S.C. 666(b)); or*

11 “(28) *under subsection (a) with respect to—*

12 “(A) *the withholding, suspension, or restric-*
13 *tion of drivers’ licenses, professional and occupa-*
14 *tional licenses, and recreational licenses pursu-*
15 *ant to State law, as specified in section*
16 *466(a)(16) of the Social Security Act (42 U.S.C.*
17 *666(a)(16)) or with respect to the reporting of*
18 *overdue support owed by an absent parent to*
19 *any consumer reporting agency as specified in*
20 *section 466(a)(7) of the Social Security Act (42*
21 *U.S.C. 666(a)(7));*

22 “(B) *the interception of tax refunds, as*
23 *specified in sections 464 and 466(a)(3) of the So-*
24 *cial Security Act (42 U.S.C. 664 and 666(a)(3));*
25 *or*

1 “(C) the enforcement of medical obligations
2 as specified under title IV of the Social Security
3 Act (42 U.S.C. 601 et seq.).”

4 **SEC. 142. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
5 **ALIMONY, MAINTENANCE, AND SUPPORT.**

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

8 (1) in subsection (a), by striking paragraph (5)
9 and inserting the following:

10 “(5) for a domestic support obligation;”;

11 (2) in subsection (a)(15)—

12 (A) by inserting “or” after “court of
13 record,”;

14 (B) by striking “unless—” and all that fol-
15 lows through “debtor” the last place it appears;
16 and

17 (3) in subsection (c), by striking “(6), or (15)”
18 each place it appears and inserting “or (6)”.

19 **SEC. 143. CONTINUED LIABILITY OF PROPERTY.**

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

22 (1) in subsection (c), by striking paragraph (1)
23 and inserting the following:

24 “(1) a debt of a kind specified in paragraph (1)
25 or (5) of section 523(a) (in which case, notwith-

1 *standing any provision of applicable nonbankruptcy*
2 *law to the contrary, such property shall be liable for*
3 *a debt of a kind specified in section 523(a)(5);”;* and
4 *(2) in subsection (f)(1)(A), by striking the dash*
5 *and all that follows through the end of the subpara-*
6 *graph and inserting “of a kind that is specified in*
7 *section 523(a)(5); or”.*

8 **SEC. 144. PROTECTION OF DOMESTIC SUPPORT CLAIMS**
9 **AGAINST PREFERENTIAL TRANSFER MO-**
10 **TIONS.**

11 *Section 547(c)(7) of title 11, United States Code, is*
12 *amended to read as follows:*

13 *“(7) to the extent such transfer was a bona fide*
14 *payment of a debt for a domestic support obligation;*
15 *or”.*

16 **SEC. 145. CLARIFICATION OF MEANING OF HOUSEHOLD**
17 **GOODS.**

18 *Section 101 of title 11, United States Code, is amended*
19 *by inserting after paragraph (27) the following:*

20 *“(27A) ‘household goods’ includes tangible per-*
21 *sonal property normally found in or around a resi-*
22 *dence, but does not include motorized vehicles used for*
23 *transportation purposes;”.*

1 **SEC. 146. NONDISCHARGEABLE DEBTS.**

2 *Section 523(a) of title 11, United States Code, is*
3 *amended by inserting after paragraph (14) the following:*

4 *“(14A) incurred to pay a debt that is non-*
5 *dischargeable by reason of section 727, 1141, 1228(a),*
6 *1228(b), or 1328(c), or any other provision of this*
7 *subsection, if the debtor incurred the debt to pay such*
8 *a nondischargeable debt with the intent to discharge*
9 *in bankruptcy the newly-created debt, except that all*
10 *debts incurred to pay nondischargeable debts, without*
11 *regard to intent, are nondischargeable if incurred*
12 *within 90 days of the filing of the petition;”.*

13 **SEC. 147. MONETARY LIMITATION ON CERTAIN EXEMPT**
14 **PROPERTY.**

15 *Section 522 of title 11, United States Code, as amend-*
16 *ed by section 125, is amended—*

17 *(1) in subsection (b)(2)(A) by striking “sub-*
18 *section (o)” and inserting “subsections (o) and (p)”*
19 *before “any property”; and*

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

21 *“(p)(1) Except as provided in paragraphs (2) and (3),*
22 *as a result of electing under subsection (b)(3)(A) to exempt*
23 *property under State or local law, a debtor may not exempt*
24 *any interest that exceeds \$250,000 in value, in the aggre-*
25 *gate, in—*

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

3 “(B) a cooperative that owns property that the
4 debtor or a dependent of the debtor uses as a resi-
5 dence; or

6 “(C) a burial plot for the debtor or a dependent
7 of the debtor.

8 “(2) The limitation under paragraph (1) shall not
9 apply to an exemption claimed under subsection (b)(3)(A)
10 by a family farmer for the principal residence of that farm-
11 er.

12 “(3) Paragraph (1) shall not apply to debtors if appli-
13 cable State law expressly provides by a statute enacted after
14 the effective date of this paragraph that such paragraph
15 shall not apply to debtors.”.

16 **SEC. 148. BANKRUPTCY FEES.**

17 Section 1930 of title 28, United States Code, is
18 amended—

19 (1) in subsection (a) by striking “Notwith-
20 standing section 1915 of this title, the” and inserting
21 “The”; and

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

23 “(f)(1) Pursuant to procedures prescribed by the Judi-
24 cial Conference of the United States, the district court or
25 the bankruptcy court may waive the filing fee in a case

1 *under chapter 7 of title 11 for an individual debtor who*
2 *is unable to pay such fee in installments. For purposes of*
3 *this paragraph, the term ‘filing fee’ means the filing fee re-*
4 *quired by subsection (a), or any other fee prescribed by the*
5 *Judicial Conference under subsections (b) and (c) that is*
6 *payable to the clerk upon the commencement of a case under*
7 *chapter 7 of title 11.*

8 “(2) *The district court or the bankruptcy court may*
9 *also waive for such debtors other fees prescribed pursuant*
10 *to subsections (b) and (c).*

11 “(3) *This subsection does not restrict the district court*
12 *or the bankruptcy court from waiving, in accordance with*
13 *Judicial Conference policy, fees prescribed pursuant to such*
14 *subsections for other debtors and creditors.”.*

15 **SEC. 149. COLLECTION OF CHILD SUPPORT.**

16 (a) *DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-*
17 *tion 704 of title 11, United States Code, as amended by*
18 *section 102, is amended—*

19 (1) *by inserting “(a)” before “The trustee”,*

20 (2) *in paragraph (9) by striking “and” at the*
21 *end,*

22 (3) *in paragraph (10) by striking the period and*
23 *inserting “; and”, and*

24 (4) *by adding at the end the following:*

1 “(11) if, with respect to an individual debtor,
2 there is a claim for support of a child of the debtor
3 or a custodial parent of such child entitled to receive
4 priority under section 507(a)(1) of this title, provide
5 the applicable notification specified in subsection (b).

6 “(b)(1) In any case described in subsection (a)(11), the
7 trustee shall—

8 “(A)(i) notify in writing the holder of the claim
9 of the right of such holder to use the services of a
10 State child support enforcement agency established
11 under sections 464 and 466 of the Social Security Act
12 for the State in which the holder resides; and

13 “(ii) include in the notice under this paragraph
14 the address and telephone number of the child support
15 enforcement agency; and

16 “(B)(i) notify in writing the State child support
17 agency of the State in which the holder of the claim
18 resides of the claim;

19 “(ii) include in the notice under this paragraph
20 the name, address, and telephone number of the holder
21 of the claim; and

22 “(iii) at such time as the debtor is granted a dis-
23 charge under section 727 of this title, notify the holder
24 of such claim and the State child support agency of
25 the State in which such holder resides of—

1 “(I) the granting of the discharge;

2 “(II) the last recent known address of the
3 debtor; and

4 “(III) with respect to the debtor’s case, the
5 name of each creditor that holds a claim that is
6 not discharged under paragraph (2), (4), or
7 (14A) of section 523(a) of this title or that was
8 reaffirmed by the debtor under section 524(c) of
9 this title.

10 “(2)(A) If, after receiving a notice under paragraph
11 (1)(B)(iii), a holder of a claim or a State child support
12 agency is unable to locate the debtor that is the subject of
13 the notice, such holder or such agency may request from
14 a creditor described in paragraph (1)(B)(iii)(III) the last
15 known address of the debtor.

16 “(B) Notwithstanding any other provision of law, a
17 creditor that makes a disclosure of a last known address
18 of a debtor in connection with a request made under sub-
19 paragraph (A) shall not be liable to the debtor or any other
20 person by reason of making such disclosure.”.

21 (b) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Sec-
22 tion 1302 of title 11, United States Code, is amended—

23 (1) in subsection (b)—

24 (A) in paragraph (4) by striking “and” at
25 the end,

1 (B) in paragraph (5) by striking the period
2 and inserting “; and”, and

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

4 “(6) if, with respect to an individual debtor,
5 there is a claim for support of a child of the debtor
6 or a custodial parent of such child entitled to receive
7 priority under section 507(a)(1) of this title, provide
8 the applicable notification specified in subsection
9 (d).”, and

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

11 “(d)(1) In any case described in subsection (b)(6), the
12 trustee shall—

13 “(A)(i) notify in writing the holder of the claim
14 of the right of such holder to use the services of a
15 State child support enforcement agency established
16 under sections 464 and 466 of the Social Security Act
17 for the State in which the holder resides; and

18 “(ii) include in the notice under this paragraph
19 the address and telephone number of the child support
20 enforcement agency; and

21 “(B)(i) notify in writing the State child support
22 agency of the State in which the holder of the claim
23 resides of the claim; and

1 “(ii) include in the notice under this paragraph
2 the name, address, and telephone number of the holder
3 of the claim;

4 “(iii) at such time as the debtor is granted a dis-
5 charge under section 1328 of this title, notify the
6 holder of the claim and the State child support agen-
7 cy of the State in which such holder resides of—

8 “(I) the granting of the discharge;

9 “(II) the last recent known address of the
10 debtor; and

11 “(III) with respect to the debtor’s case, the
12 name of each creditor that holds a claim that is
13 not discharged under paragraph (2), (4), or
14 (14A) of section 523(a) of this title or that was
15 reaffirmed by the debtor under section 524(c) of
16 this title.

17 “(2)(A) If, after receiving a notice under paragraph
18 (1)(B)(iii), a holder of a claim or a State child support
19 agency is unable to locate the debtor that is the subject of
20 the notice, such holder or such agency may request from
21 a creditor described in paragraph (1)(B)(iii) the last known
22 address of the debtor.

23 “(B) Notwithstanding any other provision of law, a
24 creditor that makes a disclosure of a last known address
25 of a debtor in connection with a request made under sub-

1 paragraph (A) shall not be liable to the debtor or any other
2 person by reason of making such disclosure.”.

3 **SEC. 150. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICI-**
4 **PANT CONTRIBUTIONS AND OTHER PROP-**
5 **ERTY FROM THE ESTATE.**

6 (a) *IN GENERAL.*—Section 541(b) of title 11 of the
7 United States Code is amended—

8 (1) by striking “or” at the end of paragraph
9 (4)(B)(ii);

10 (2) by striking the period at the end of para-
11 graph (5) and inserting “; or”; and

12 (3) by inserting after paragraph (5) the fol-
13 lowing:

14 “(7) any amount or interest in property to the
15 extent that an employer has withheld amounts from
16 the wages of employees for contribution to an em-
17 ployee benefit plan subject to title I of the Employee
18 Retirement Income Security Act of 1974, or to the ex-
19 tent that the employer has received amounts as a re-
20 sult of payments by participants or beneficiaries to
21 an employer for contribution to an employee benefit
22 plan subject to title I of the Employee Retirement In-
23 come Security Act of 1974.”.

24 (b) *APPLICATION OF AMENDMENT.*—The amendment
25 made by this section shall not apply to cases commenced

1 *under title 11 of the United States Code before the expira-*
2 *tion of the 180-day period beginning on the date of the en-*
3 *actment of this Act.*

4 **SEC. 151. CLARIFICATION OF POSTPETITION WAGES AND**
5 **BENEFITS.**

6 *Section 503(b)(1)(A) of title 11, United States Code,*
7 *is amended to read as follows:*

8 *“(A) the actual, necessary costs and expenses of*
9 *preserving the estate, including wages, salaries, or*
10 *commissions for services rendered after the commence-*
11 *ment of the case, and wages and benefits attributable*
12 *to any period of time after commencement of the case*
13 *as a result of the debtor’s violation of Federal law,*
14 *without regard to when the original unlawful act oc-*
15 *curred or to whether any services were rendered;”.*

16 **SEC. 152. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
17 **SUPPORT OBLIGATION PROCEEDINGS.**

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

20 *(1) in subparagraph (A) by striking “or” at the*
21 *end;*

22 *(2) in subparagraph (B) by adding “or” at the*
23 *end; and*

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

25 *“(C) under subsection (a) of—*

1 “(i) the withholding of income for pay-
2 ment of a domestic support obligation pur-
3 suant to a judicial or administrative order
4 or statute for such obligation that first be-
5 comes payable after the date on which the
6 petition is filed; or

7 “(ii) the withholding of income for
8 payment of a domestic support obligation
9 owed directly to the spouse, former spouse
10 or child of the debtor or the parent of such
11 child, pursuant to a judicial or administra-
12 tive order or statute for such obligation that
13 becomes payable before the date on which
14 the petition is filed unless the court finds,
15 after notice and hearing, that such with-
16 holding would render the plan infeasible;”.

17 **SEC. 153. AUTOMATIC STAY INAPPLICABLE TO CERTAIN**
18 **PROCEEDINGS AGAINST THE DEBTOR.**

19 Section 362(b)(2) of title 11, United States Code, as
20 amended by section 153, is amended—

21 (1) in subparagraph (B) by striking “or” at the
22 end;

23 (2) by inserting after subparagraph (C) the fol-
24 lowing:

1 “(D) the commencement or continuation of
2 a proceeding concerning a child custody or visi-
3 tation;

4 “(E) the commencement or continuation of
5 a proceeding alleging domestic violence; or

6 “(F) the commencement or continuation of
7 a proceeding seeking a dissolution of marriage,
8 except to the extent the proceeding concerns prop-
9 erty of the estate;”.

10 **TITLE II—DISCOURAGING**
11 **BANKRUPTCY ABUSE**

12 **SEC. 201. REENACTMENT OF CHAPTER 12.**

13 (a) *REENACTMENT.*—Chapter 12 of title 11 of the
14 United States Code, as in effect on March 31, 1999, is here-
15 by reenacted.

16 (b) *EFFECTIVE DATE.*—The amendment made by sub-
17 section (a) shall take effect on March 31, 1999.

18 **SEC. 202. MEETINGS OF CREDITORS AND EQUITY SECURITY**

19 **HOLDERS.**

20 Section 341 of title 11, United States Code, is amended
21 by adding at the end the following:

22 “(e) Notwithstanding subsections (a) and (b), the
23 court, on the request of a party in interest and after notice
24 and a hearing, for cause may order that the United States
25 trustee not convene a meeting of creditors or equity security

1 holders if the debtor has filed a plan as to which the debtor
 2 solicited acceptances prior to the commencement of the
 3 case.”.

4 **SEC. 203. PROTECTION OF RETIREMENT SAVINGS IN BANK-**
 5 **RUPTCY.**

6 (a) *IN GENERAL.*—Section 522 of title 11, United
 7 States Code, as amended by sections 113, 125, and 147 is
 8 amended—

9 (1) in subsection (b)—

10 (A) in paragraph (2)—

11 (i) by striking “(2)(A)” and inserting:

12 “(3) Property listed in this paragraph is—

13 “(A) subject to subsections (o) and (p),”;

14 (ii) in subparagraph (B), by striking

15 “and” at the end;

16 (iii) in subparagraph (C), by striking

17 the period at the end and inserting “; and”;

18 and

19 (iv) by adding at the end the following:

20 “(D) retirement funds to the extent that those

21 funds are in a fund or account that is exempt from

22 taxation under section 401, 403, 408, 408A, 414, 457,

23 or 501(a) of the Internal Revenue Code of 1986.”;

24 (B) by striking paragraph (1) and insert-

25 ing:

1 “(2) Property listed in this paragraph is property that
2 is specified under subsection (d), unless the State law that
3 is applicable to the debtor under paragraph (3)(A) specifi-
4 cally does not so authorize.”;

5 (C) in the matter preceding paragraph
6 (2)—

7 (i) by striking “(b)” and inserting
8 “(b)(1)”;

9 (ii) by striking “paragraph (2)” both
10 places it appears and inserting “paragraph
11 (3)”;

12 (iii) by striking “paragraph (1)” each
13 place it appears and inserting “paragraph
14 (2)”;

15 (iv) by striking “Such property is—”;

16 and

17 (D) by adding at the end of the subsection
18 the following:

19 “(4) For purposes of paragraph (3)(D) and subsection
20 (d)(12), the following shall apply:

21 (A) If the retirement funds are in a retirement
22 fund that has received a favorable determination pur-
23 suant to section 7805 of the Internal Revenue Code of
24 1986, and that determination is in effect as of the
25 date of the commencement of the case under section

1 301, 302, or 303 of this title, those funds shall be pre-
2 sumed to be exempt from the estate.

3 “(B) If the retirement funds are in a retirement
4 fund that has not received a favorable determination
5 pursuant to such section 7805, those funds are exempt
6 from the estate if the debtor demonstrates that—

7 “(i) no prior determination to the contrary
8 has been made by a court or the Internal Rev-
9 enue Service; and

10 “(ii) the retirement fund is in substantial
11 compliance with the applicable requirements of
12 the Internal Revenue Code of 1986.

13 “(C) A direct transfer of retirement funds from
14 1 fund or account that is exempt from taxation under
15 section 401, 403, 408, 408A, 414, 457, or 501(a) of
16 the Internal Revenue Code of 1986, pursuant to sec-
17 tion 401(a)(31) of the Internal Revenue Code of 1986,
18 or otherwise, shall not cease to qualify for exemption
19 under paragraph (3)(D) or subsection (d)(12) by rea-
20 son of that direct transfer.

21 “(D)(i) Any distribution that qualifies as an eli-
22 gible rollover distribution within the meaning of sec-
23 tion 402(c) of the Internal Revenue Code of 1986 or
24 that is described in clause (ii) shall not cease to qual-

1 *ify for exemption under paragraph (3)(D) or sub-*
2 *section (d)(12) by reason of that distribution.*

3 *“(ii) A distribution described in this clause is an*
4 *amount that—*

5 *“(I) has been distributed from a fund or ac-*
6 *count that is exempt from taxation under section*
7 *401, 403, 408, 408A, 414, 457, or 501(a) of the*
8 *Internal Revenue Code of 1986; and*

9 *“(II) to the extent allowed by law, is depos-*
10 *ited in such a fund or account not later than*
11 *60 days after the distribution of that amount.”;*
12 *and*

13 *(2) in subsection (d)—*

14 *(A) in the matter preceding paragraph (1),*
15 *by striking “subsection (b)(1)” and inserting*
16 *“subsection (b)(2)”;* and

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

18 *“(12) Retirement funds to the extent that those*
19 *funds are in a fund or account that is exempt from*
20 *taxation under section 401, 403, 408, 408A, 414, 457,*
21 *or 501(a) of the Internal Revenue Code of 1986.”.*

22 *(b) AUTOMATIC STAY.—Section 362(b) of title 11,*
23 *United States Code, as amended by sections 118, 132, 136,*
24 *and 141 is amended—*

1 (1) *in paragraph (27), by striking “or” at the*
2 *end;*

3 (2) *in paragraph (28), by striking the period*
4 *and inserting “; or”;*

5 (3) *by inserting after paragraph (28) the fol-*
6 *lowing:*

7 “(29) *under subsection (a), of withholding of in-*
8 *come from a debtor’s wages and collection of amounts*
9 *withheld, pursuant to the debtor’s agreement author-*
10 *izing that withholding and collection for the benefit of*
11 *a pension, profit-sharing, stock bonus, or other plan*
12 *established under section 401, 403, 408, 408A, 414,*
13 *457, or 501(a) of the Internal Revenue Code of 1986*
14 *that is sponsored by the employer of the debtor, or an*
15 *affiliate, successor, or predecessor of such employer—*

16 “(A) *to the extent that the amounts withheld*
17 *and collected are used solely for payments relat-*
18 *ing to a loan from a plan that satisfies the re-*
19 *quirements of section 408(b)(1) of the Employee*
20 *Retirement Income Security Act of 1974 or is*
21 *subject to section 72(p) of the Internal Revenue*
22 *Code of 1986; or*

23 “(B) *in the case of a loan from a thrift sav-*
24 *ings plan described in subchapter III of title 5,*

1 that satisfies the requirements of section 8433(g)
2 of such title.”; and

3 (4) by adding at the end of the flush material
4 following paragraph (29) the following: “Paragraph
5 (29) does not apply to any amount owed to a plan
6 referred to in that paragraph that is incurred under
7 a loan made during the 1-year period preceding the
8 filing of a petition. Nothing in paragraph (29) may
9 be construed to provide that any loan made under
10 a governmental plan under section 414(d), or a con-
11 tract or account under section 403(b), of the Internal
12 Revenue Code of 1986 constitutes a claim or a debt
13 under this title.”.

14 (c) *EXCEPTIONS TO DISCHARGE*.—Section 523(a) of
15 title 11, United States Code, is amended—

16 (1) by striking “or” at the end of paragraph
17 (17);

18 (2) by striking the period at the end of para-
19 graph (18) and inserting “; or”; and

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

21 “(19) owed to a pension, profit-sharing, stock
22 bonus, or other plan established under section 401,
23 403, 408, 408A, 414, 457, or 501(c) of the Internal
24 Revenue Code of 1986, pursuant to—

1 **SEC. 205. EXECUTORY CONTRACTS AND UNEXPIRED**
2 **LEASES.**

3 *Section 365(d)(4) of title 11, United States Code, is*
4 *amended to read as follows:*

5 “(4)(A) *Subject to subparagraph (B), in any case*
6 *under any chapter in this title, an unexpired lease of non-*
7 *residential real property under which the debtor is the lessee*
8 *shall be deemed rejected, and the trustee shall immediately*
9 *surrender such property to the lessor, if the trustee does not*
10 *assume or reject the unexpired lease by the earlier of—*

11 *“(i) the date that is 120 days after the date of*
12 *the order for relief; or*

13 *“(ii) the date of the entry of an order confirming*
14 *a plan.*

15 *“(B)(i) The court may extend the period determined*
16 *under subparagraph (A) for 120 days upon motion of the*
17 *trustee or the lessor for cause.*

18 *“(ii) If the court grants an extension under clause (i),*
19 *the court may grant a subsequent extension only upon prior*
20 *written consent of the lessor.”.*

21 **SEC. 206. CREDITORS AND EQUITY SECURITY HOLDERS**
22 **COMMITTEES.**

23 *Section 1102(a)(2) of title 11, United States Code, is*
24 *amended by inserting before the first sentence the following:*

25 *“On its own motion or on request of a party in interest,*
26 *and after notice and hearing, the court may order a change*

1 *in the membership of a committee appointed under this sub-*
 2 *section, if the court determines that the change is necessary*
 3 *to ensure adequate representation of creditors or equity se-*
 4 *curity holders.”.*

5 **SEC. 207. AMENDMENT TO SECTION 546 OF TITLE 11,**
 6 **UNITED STATES CODE.**

7 *Section 546 of title 11, United States Code, is amended*
 8 *by inserting at the end thereof:*

9 *“(i) Notwithstanding section 545 (2) and (3) of this*
 10 *title, the trustee may not avoid a warehouseman’s lien for*
 11 *storage, transportation or other costs incidental to the stor-*
 12 *age and handling of goods, as provided by section 7–209*
 13 *of the Uniform Commercial Code.”.*

14 **SEC. 208. LIMITATION.**

15 *Section 546(c)(1)(B) of title 11, United States Code,*
 16 *is amended by striking “20” and inserting “45”.*

17 **SEC. 209. AMENDMENT TO SECTION 330(a) OF TITLE 11,**
 18 **UNITED STATES CODE.**

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

21 *(1) in paragraph (3)—*

22 *(A) in subparagraph (A) after “awarded”,*
 23 *by inserting “to an examiner, chapter 11 trustee,*
 24 *or professional person”; and*

1 (B) by redesignating subdivisions (A)
2 through (E) as clauses (i) through (iv), respec-
3 tively; and

4 (2) by adding at the the following:

5 “(B) In determining the amount of reasonable
6 compensation to be awarded a trustee, the court shall
7 treat such compensation as a commission based on the
8 results achieved.”.

9 **SEC. 210. POSTPETITION DISCLOSURE AND SOLICITATION.**

10 Section 1125 of title 11, United States Code, is amend-
11 ed by adding at the end the following:

12 “(g) Notwithstanding subsection (b), an acceptance or
13 rejection of the plan may be solicited from a holder of a
14 claim or interest if such solicitation complies with applica-
15 ble nonbankruptcy law and if such holder was solicited be-
16 fore the commencement of the case in a manner complying
17 with applicable nonbankruptcy law.”.

18 **SEC. 211. PREFERENCES.**

19 Section 547(c) of title 11, United States Code, is
20 amended—

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

23 “(2) to the extent that such transfer was in pay-
24 ment of a debt incurred by the debtor in the ordinary

1 *course of business or financial affairs of the debtor*
2 *and the transferee, and such transfer was—*

3 *“(A) made in the ordinary course of busi-*
4 *ness or financial affairs of the debtor and the*
5 *transferee; or*

6 *“(B) made according to ordinary business*
7 *terms;”;*

8 *(2) in paragraph (7) by striking “or” at the end;*

9 *(3) in paragraph (8) by striking the period at*
10 *the end and inserting “; or”; and*

11 *(4) by adding at the end the following:*

12 *“(9) if, in a case filed by a debtor whose debts*
13 *are not primarily consumer debts, the aggregate value*
14 *of all property that constitutes or is affected by such*
15 *transfer is less than \$5,000.”.*

16 **SEC. 212. VENUE OF CERTAIN PROCEEDINGS.**

17 *Section 1409(b) of title 28, United States Code, is*
18 *amended by inserting “, or a nonconsumer debt against a*
19 *noninsider of less than \$10,000,” after “\$5,000”.*

20 **SEC. 213. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

21 *Section 1121(d) of title 11, United States Code, is*
22 *amended—*

23 *(1) by striking “On” and inserting “(1) Subject*
24 *to paragraph (1), on”; and*

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

1 **SEC. 215. CLAIMS RELATING TO INSURANCE DEPOSITS IN**
2 **CASES ANCILLARY TO FOREIGN PRO-**
3 **CEEDINGS.**

4 *Section 304 of title 11, United States Code, is amended*
5 *to read as follows:*

6 **“§ 304. Cases ancillary to foreign proceedings**

7 *“(a) For purposes of this section—*

8 *“(1) the term ‘domestic insurance company’*
9 *means a domestic insurance company, as such term*
10 *is used in section 109(b)(2);*

11 *“(2) the term ‘foreign insurance company’ means*
12 *a foreign insurance company, as such term is used in*
13 *section 109(b)(3);*

14 *“(3) the term ‘United States claimant’ means a*
15 *beneficiary of any deposit referred to in subsection (b)*
16 *or any multibeneficiary trust referred to in subsection*
17 *(b);*

18 *“(4) the term ‘United States creditor’ means,*
19 *with respect to a foreign insurance company—*

20 *“(A) a United States claimant; or*

21 *“(B) any business entity that operates in*
22 *the United States and that is a creditor; and*

23 *“(5) the term ‘United States policyholder’ means*
24 *a holder of an insurance policy issued in the United*
25 *States.*

1 “(b) The court may not grant relief under chapter 15
2 of this title with respect to any deposit, escrow, trust fund,
3 or other security required or permitted under any applica-
4 ble State insurance law or regulation for the benefit of
5 claim holders in the United States.”.

6 **SEC. 216. DEFAULTS BASED ON NONMONETARY OBLIGA-**
7 **TIONS.**

8 (a) *EXECUTORY CONTRACTS AND UNEXPIRED*
9 *LEASES.*—Section 365 of title 11, United States Code, is
10 amended—

11 (1) in subsection (b)—

12 (A) in paragraph (1)(A) by striking the
13 semicolon at the end and inserting the following:

14 “other than a default that is a breach of a provision
15 relating to—

16 “(i) the satisfaction of any provision (other
17 than a penalty rate or penalty provision) relat-
18 ing to a default arising from any failure to per-
19 form nonmonetary obligations under an unex-
20 pired lease of real property (excluding executory
21 contracts that transfer a right or interest under
22 a filed or issued patent, copyright, trademark,
23 trade dress, or trade secret), if it is impossible
24 for the trustee to cure such default by performing

1 *nonmonetary acts at and after the time of as-*
2 *sumption; or*

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

13 (B) *by amending paragraph (2)(D) to read*
14 *as follows:*

15 “(D) *the satisfaction of any penalty rate or pen-*
16 *alty provision relating to a default arising from a*
17 *failure to perform nonmonetary obligations under an*
18 *executory contract (excluding executory contracts that*
19 *transfer a right or interest under a filed or issued*
20 *patent, copyright, trademark, trade dress, or trade se-*
21 *cret) or under an unexpired lease of real or personal*
22 *property.”*;

23 (2) *in subsection (c)—*

24 (A) *in paragraph (2) by adding “or” at the*
25 *end;*

1 (B) in paragraph (3) by striking “; or” at
2 the end and inserting a period; and

3 (C) by striking paragraph (4);

4 (3) in subsection (d)—

5 (A) by striking paragraphs (5) through (9);

6 and

7 (B) by redesignating paragraph (10) as
8 paragraph (5); and

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

12 (b) *IMPAIRMENT OF CLAIMS OR INTERESTS.*—Section
13 1124(2) of title 11, United States Code, is amended—

14 (1) in subparagraph (A) by inserting “or of a
15 kind that section 365(b)(1)(A) of this title expressly
16 does not require to be cured” before the semicolon at
17 the end;

18 (2) in subparagraph (C) by striking “and” at
19 the end;

20 (3) by redesignating subparagraph (D) as sub-
21 paragraph (E); and

22 (4) by inserting after subparagraph (C) the fol-
23 lowing:

24 “(D) if such claim or such interest arises
25 from any failure to perform a nonmonetary obli-

1 *gation, compensates the holder of such claim or*
2 *such interest (other than the debtor or an in-*
3 *sider) for any actual pecuniary loss incurred by*
4 *such holder as a result of such failure; and”.*

5 **SEC. 217. SHARING OF COMPENSATION.**

6 *Section 504 of title 11, United States Code, is amended*
7 *by adding at the end the following:*

8 *“(c) This section shall not apply with respect to shar-*
9 *ing, or agreeing to share, compensation with a bona fide*
10 *public service attorney referral program that operates in*
11 *accordance with non-Federal law regulating attorney refer-*
12 *ral services and with rules of professional responsibility ap-*
13 *plicable to attorney acceptance of referrals.”.*

14 **SEC. 218. PRIORITY FOR ADMINISTRATIVE EXPENSES.**

15 *Section 503(b) of title 11, United States Code, is*
16 *amended—*

17 *(1) by deleting “and” at the end of paragraph*
18 *(5);*

19 *(2) by striking the period at the end of para-*
20 *graph (6) and inserting “; and”;*

21 *(3) by inserting the following after paragraph*
22 *(6):*

23 *“(7) with respect to a nonresidential real prop-*
24 *erty lease previously assumed under section 365, and*
25 *subsequently rejected, a sum equal to all monetary ob-*

1 *ligations due, excluding those arising from or relating*
2 *to a failure to operate or penalty provisions, for the*
3 *period of one year following the later of the rejection*
4 *date or date of actual turnover of the premises, with-*
5 *out reduction or setoff for any reason whatsoever ex-*
6 *cept for sums actually received or to be received from*
7 *a nondebtor; and the claim for remaining sums due*
8 *for the balance of the term of the lease shall be a*
9 *claim under section 502(b)(6).”.*

10 **TITLE III—GENERAL BUSINESS**
11 **BANKRUPTCY PROVISIONS**

12 **SEC. 301. DEFINITION OF DISINTERESTED PERSON.**

13 *Section 101(14) of title 11, United States Code, is*
14 *amended to read as follows:*

15 *“(14) ‘disinterested person’ means a person*
16 *that—*

17 *“(A) is not a creditor, an equity security*
18 *holder, or an insider;*

19 *“(B) is not and was not, within 2 years be-*
20 *fore the date of the filing of the petition, a direc-*
21 *tor, officer, or employee of the debtor; and*

22 *“(C) does not have an interest materially*
23 *adverse to the interest of the estate or of any*
24 *class of creditors or equity security holders, by*
25 *reason of any direct or indirect relationship to,*

1 *connection with, or interest in, the debtor, or for*
2 *any other reason;”.*

3 **SEC. 302. MISCELLANEOUS IMPROVEMENTS.**

4 *(a) WHO MAY BE A DEBTOR.—Section 109 of title 11,*
5 *United States Code, is amended by adding at the end the*
6 *following:*

7 *“(h)(1) Subject to paragraphs (2) and (3) and not-*
8 *withstanding any other provision of this section, an indi-*
9 *vidual may not be a debtor under this title unless that indi-*
10 *vidual has, during the 90-day period preceding the date of*
11 *filing of the petition of that individual, received credit*
12 *counseling, including, at a minimum, participation in an*
13 *individual or group briefing that outlined the opportunities*
14 *for available credit counseling and assisted that individual*
15 *in performing an initial budget analysis, through a credit*
16 *counseling program (offered through an approved credit*
17 *counseling service described in section 111(a)).*

18 *“(2)(A) Paragraph (1) shall not apply with respect to*
19 *a debtor who resides in a district for which the United*
20 *States trustee or bankruptcy administrator of the bank-*
21 *ruptcy court of that district determines that the approved*
22 *credit counseling services for that district are not reason-*
23 *ably able to provide adequate services to the additional in-*
24 *dividuals who would otherwise seek credit counseling from*

1 *those programs by reason of the requirements of paragraph*
2 *(1).*

3 *“(B) Each United States trustee or bankruptcy admin-*
4 *istrator that makes a determination described in subpara-*
5 *graph (A) shall review that determination not later than*
6 *one year after the date of that determination, and not less*
7 *frequently than every year thereafter.*

8 *“(3)(A) Subject to subparagraph (B), the requirements*
9 *of paragraph (1) shall not apply with respect to a debtor*
10 *who submits to the court a certification that—*

11 *“(i) describes exigent circumstances that merit a*
12 *waiver of the requirements of paragraph (1);*

13 *“(ii) states that the debtor requested credit coun-*
14 *seling services from an approved credit counseling*
15 *service, but was unable to obtain the services referred*
16 *to in paragraph (1) during the 5-day period begin-*
17 *ning on the date on which the debtor made that re-*
18 *quest or that the exigent circumstances require filing*
19 *before such 5-day period expires; and*

20 *“(iii) is satisfactory to the court.*

21 *“(B) With respect to a debtor, an exemption under sub-*
22 *paragraph (A) shall cease to apply to that debtor on the*
23 *date on which the debtor meets the requirements of para-*
24 *graph (1), but in no case may the exemption apply to that*

1 debtor after the date that is 30 days after the debtor files
2 a petition.”.

3 (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title
4 11, United States Code, is amended—

5 (1) in paragraph (9), by striking “or” at the
6 end;

7 (2) in paragraph (10), by striking the period
8 and inserting “; or”; and

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

10 “(11) after the filing of the petition, the debtor
11 failed to complete an instructional course concerning
12 personal financial management described in section
13 111 unless the debtor resides in a district for which
14 the United States trustee or bankruptcy adminis-
15 trator of the bankruptcy court of that district deter-
16 mines that the approved instructional courses are not
17 adequate to provide service to the additional individ-
18 uals who would be required to complete the instruc-
19 tional course by reason of the requirements of this sec-
20 tion. Each United States trustee or bankruptcy ad-
21 ministrator that makes such a determination shall re-
22 view that determination not later than 1 year after
23 the date of that determination, and not less frequently
24 than every year thereafter.”.

1 (c) *CHAPTER 13 DISCHARGE.*—Section 1328 of title
2 11, United States Code, as amended by section 137, is
3 amended by adding at the end the following:

4 “(g) The court shall not grant a discharge under this
5 section to a debtor, unless after filing a petition the debtor
6 has completed an instructional course concerning personal
7 financial management described in section 111.

8 “(h) Subsection (g) shall not apply with respect to a
9 debtor who resides in a district for which the United States
10 trustee or bankruptcy administrator of the bankruptcy
11 court of that district determines that the approved instruc-
12 tional courses are not adequate to provide service to the ad-
13 ditional individuals who would be required to complete the
14 instructional course by reason of the requirements of this
15 section.

16 “(i) Each United States trustee or bankruptcy admin-
17 istrator that makes a determination described in subsection
18 (h) shall review that determination not later than 1 year
19 after the date of that determination, and not less frequently
20 than every year thereafter.”.

21 (d) *DEBTOR’S DUTIES.*—Section 521 of title 11,
22 United States Code, as amended by sections 604 and 120,
23 is amended by adding at the end the following:

24 “(d) In addition to the requirements under subsection
25 (a), an individual debtor shall file with the court—

1 (e) *DEFINITIONS.*—Section 101 of title 11, United
2 States Code, is amended—

3 (1) by inserting after paragraph (13) the fol-
4 lowing:

5 “(13A) ‘debtor’s principal residence’ means a
6 residential structure including incidental property
7 when the structure contains 1 to 4 units, whether or
8 not that structure is attached to real property, and
9 includes, without limitation, an individual condo-
10 minium or cooperative unit or mobile or manufac-
11 tured home or trailer;”;

12 (2) by inserting after paragraph (27A), as added
13 by section 318 of this Act, the following:

14 “(27B) ‘incidental property’ means property in-
15 cidental to such residence including, without limita-
16 tion, property commonly conveyed with a principal
17 residence where the real estate is located, window
18 treatments, carpets, appliances and equipment located
19 in the residence, and easements, appurtenances, fix-
20 tures, rents, royalties, mineral rights, oil and gas
21 rights, escrow funds and insurance proceeds;”;

22 (3) in section 362(b), as amended by sections
23 117, 118, 132, 136, 141 203, 818, and 1007,—

24 (A) in paragraph (28) by striking “or” at
25 the end thereof;

1 (B) in paragraph (29) by striking the pe-
2 riod at the end and inserting “; or”; and

3 (C) by inserting after paragraph (29) the
4 following:

5 “(30) under subsection (a), until a prepetition
6 default is cured fully in a case under chapter 13 of
7 this title by actual payment of all arrears as required
8 by the plan, of the postponement, continuation or
9 other similar delay of a prepetition foreclosure pro-
10 ceeding or sale in accordance with applicable non-
11 bankruptcy law, but nothing herein shall imply that
12 such postponement, continuation or other similar
13 delay is a violation of the stay under subsection (a).”;
14 and

15 (4) by amending section 1322(b)(2) to read as
16 follows:

17 “(2) modify the rights of holders of secured
18 claims, other than a claim secured primarily by a se-
19 curity interest in property used as the debtor’s prin-
20 cipal residence at any time during 180 days prior to
21 the filing of the petition, or of holders of unsecured
22 claims, or leave unaffected the rights of holders of any
23 class of claims;”.

24 (f) *LIMITATION*.—Section 362 of title 11, United States
25 Code, is amended by adding at the end the following:

1 “(j) *If one case commenced under chapter 7, 11, or*
2 *13 of this title is dismissed due to the creation of a debt*
3 *repayment plan administered by a credit counseling agency*
4 *approved pursuant to section 111 of this title, then for pur-*
5 *poses of section 362(c)(3) of this title the subsequent case*
6 *commenced under any such chapter shall not be presumed*
7 *to be filed not in good faith.*”.

8 (g) *RETURN OF GOODS SHIPPED.*—Section 546(g) of
9 *title 11, United States Code, as added by section 222(a)*
10 *of Public Law 103–394, is amended to read as follows:*

11 “(h) *Notwithstanding the rights and powers of a trust-*
12 *ee under sections 544(a), 545, 547, 549, and 553 of this*
13 *title, if the court determines on a motion by the trustee*
14 *made not later than 120 days after the date of the order*
15 *for relief in a case under chapter 11 of this title and after*
16 *notice and hearing, that a return is in the best interests*
17 *of the estate, the debtor, with the consent of the creditor,*
18 *and subject to the prior rights, if any, of third parties in*
19 *such goods, may return goods shipped to the debtor by the*
20 *creditor before the commencement of the case, and the cred-*
21 *itor may offset the purchase price of such goods against any*
22 *claim of the creditor against the debtor that arose before*
23 *the commencement of the case.*”.

1 **SEC. 303. EXTENSIONS.**

2 *Section 302(d)(3) of the Bankruptcy, Judges, United*
3 *States Trustees, and Family Farmer Bankruptcy Act of*
4 *1986 (28 U.S.C. 581 note) is amended—*

5 *(1) in subparagraph (A), in the matter following*
6 *clause (ii), by striking “or October 1, 2002, whichever*
7 *occurs first”; and*

8 *(2) in subparagraph (F)—*

9 *(A) in clause (i)—*

10 *(i) in subclause (II), by striking “or*
11 *October 1, 2002, whichever occurs first”;*
12 *and*

13 *(ii) in the matter following subclause*
14 *(II), by striking “October 1, 2003, or”; and*

15 *(B) in clause (ii), in the matter following*
16 *subclause (II)—*

17 *(i) by striking “before October 1, 2003,*
18 *or”; and*

19 *(ii) by striking “, whichever occurs*
20 *first”.*

21 **SEC. 304. LOCAL FILING OF BANKRUPTCY CASES.**

22 *Section 1408 of title 28, United States Code, is*
23 *amended—*

24 *(1) by striking “Except” and inserting “(a) Ex-*
25 *cept”; and*

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

1 “(b) For the purposes of subsection (a), if the debtor
2 is a corporation, the domicile and residence of the debtor
3 are conclusively presumed to be where the debtor’s principal
4 place of business in the United States is located.”.

5 **SEC. 305. PERMITTING ASSUMPTION OF CONTRACTS.**

6 (a) Section 365(c) of title 11, United States Code, is
7 amended to read as follows:

8 “(c)(1) The trustee may not assume or assign an execu-
9 tory contract or unexpired lease of the debtor, whether or
10 not the contract or lease prohibits or restricts assignment
11 of rights or delegation of duties, if—

12 “(A)(i) applicable law excuses a party to the
13 contract or lease from accepting performance from or
14 rendering performance to an assignee of the contract
15 or lease, whether or not the contract or lease prohibits
16 or restricts assignment of rights or delegation of du-
17 ties; and

18 “(ii) the party does not consent to the assump-
19 tion or assignment; or

20 “(B) the contract is a contract to make a loan,
21 or extend other debt financing or financial accom-
22 modations, to or for the benefit of the debtor, or to
23 issue a security of the debtor.

24 “(2) Notwithstanding paragraph (1)(A) and applica-
25 ble nonbankruptcy law, in a case under chapter 11 of this

1 *title, a trustee in a case in which a debtor is a corporation,*
2 *or a debtor in possession, may assume an executory contract*
3 *or unexpired lease of the debtor, whether or not the contract*
4 *or lease prohibits or restricts assignment of rights or delega-*
5 *tion of duties.*

6 “(3) *The trustee may not assume or assign an unex-*
7 *pired lease of the debtor of nonresidential real property,*
8 *whether or not the contract or lease prohibits or restricts*
9 *assignment of rights or delegation of duties, if the lease has*
10 *been terminated under applicable nonbankruptcy law before*
11 *the order for relief.”*

12 (b) *Section 365(d) of title 11, United States Code, is*
13 *amended by striking paragraphs (5), (6), (7), (8), and (9),*
14 *and redesignating paragraph (10) as paragraph (5).*

15 (c) *Section 365(e) of title 11, United States Code, is*
16 *amended to read as follows:*

17 “(e)(1) *Notwithstanding a provision in an executory*
18 *contract or unexpired lease, or in applicable law, an execu-*
19 *tory contract or unexpired lease of the debtor may not be*
20 *terminated or modified, and any right or obligation under*
21 *such contract or lease may not be terminated or modified,*
22 *at any time after the commencement of the case solely be-*
23 *cause of a provision in such contract or lease that is condi-*
24 *tioned on—*

1 “(A) *the insolvency or financial condition of the*
2 *debtor at any time before the closing of the case;*

3 “(B) *the commencement of a case under this*
4 *title; or*

5 “(C) *the appointment of or taking possession by*
6 *a trustee in a case under this title or a custodian be-*
7 *fore such commencement.*

8 “(2) *Paragraph (1) does not apply to an executory*
9 *contract or unexpired lease of the debtor if the trustee may*
10 *not assume or assign, and the debtor in possession may not*
11 *assume, the contract or lease by reason of the provisions*
12 *of subsection (c) of this section.”.*

13 *(d) Section 365(f)(1) of title 11, United States Code,*
14 *is amended by striking the semicolon and all that follows*
15 *through “event”.*

16 **TITLE IV SMALL BUSINESS**
17 **BANKRUPTCY PROVISIONS**

18 **SEC. 401. FLEXIBLE RULES FOR DISCLOSURE STATEMENT**

19 **AND PLAN.**

20 *(a) Section 1125(a)(1) of title 11, United States Code,*
21 *is amended by inserting before the semicolon following:*

22 *“and in determining whether a disclosure statement pro-*
23 *vides adequate information, the court shall consider the*
24 *complexity of the case, the benefit of additional information*

1 *to creditors and other parties in interest, and the cost of*
2 *providing additional information”.*

3 *(b) Section 1125(f) of title 11, United States Code, is*
4 *amended to read as follows:*

5 *“(f) Notwithstanding subsection (b)—*

6 *“(1) the court may determine that the plan itself*
7 *provides adequate information and that a separate*
8 *disclosure statement is not necessary;*

9 *“(2) the court may approve a disclosure state-*
10 *ment submitted on standard forms approved by the*
11 *court or adopted pursuant to section 2075 of title 28;*
12 *and*

13 *“(3)(A) the court may conditionally approve a*
14 *disclosure statement subject to final approval after*
15 *notice and a hearing;*

16 *“(B) acceptances and rejections of a plan may be*
17 *solicited based on a conditionally approved disclosure*
18 *statement if the debtor provides adequate information*
19 *to each holder of a claim or interest that is solicited,*
20 *but a conditionally approved disclosure statement*
21 *shall be mailed not less than 20 days before the date*
22 *of the hearing on confirmation of the plan; and*

23 *“(C) the hearing on the disclosure statement may be*
24 *combined with the hearing on confirmation of a plan.”.*

1 **SEC. 402. DEFINITIONS.**

2 (a) *DEFINITIONS.* Section 101 of title 11, United States
3 Code, is amended by striking paragraph (51C) and insert-
4 ing the following:

5 “(51C) ‘small business case’ means a case filed
6 under chapter 11 of this title in which the debtor is
7 a small business debtor; and

8 “(51D) ‘small business debtor’ means (A) a per-
9 son (including affiliates of such person that are also
10 debtors under this title) that has aggregate noncontin-
11 gent, liquidated secured and unsecured debts as of the
12 date of the petition or the order for relief in an
13 amount not more than \$4,000,000 (excluding debts
14 owed to 1 or more affiliates or insiders), except that
15 if a group of affiliated debtors has aggregate non-
16 contingent liquidated secured and unsecured debts
17 greater than \$4,000,000 (excluding debt owed to 1 or
18 more affiliates or insiders), then no member of such
19 group is a small business debtor;”.

20 (b) *CONFORMING AMENDMENT.*—Section 1102(a)(3) of
21 title 11, United States Code, is amended by inserting “debt-
22 or” after “small business” .

23 **SEC. 403. STANDARD FORM DISCLOSURE STATEMENT AND**
24 **PLAN.**

25 *The Advisory Committee on Bankruptcy Rules of the*
26 *Judicial Conference of the United States shall, within a rea-*

1 *sonable period of time after the date of the enactment of*
2 *this Act, propose for adoption standard form disclosure*
3 *statements and plans of reorganization for small business*
4 *debtors (as defined in section 101 of title 11, United States*
5 *Code, as amended by this Act), designed to achieve a prac-*
6 *tical balance between—*

7 (1) *the reasonable needs of the courts, the United*
8 *States trustee, creditors, and other parties in interest*
9 *for reasonably complete information; and*

10 (2) *economy and simplicity for debtors.*

11 **SEC. 404. UNIFORM NATIONAL REPORTING REQUIREMENTS.**

12 (a) *REPORTING REQUIRED.—*

13 (1) *Title 11 of the United States Code is amend-*
14 *ed by inserting after section 307 the following:*

15 **“§ 308. Debtor reporting requirements**

16 *“A small business debtor shall file periodic financial*
17 *and other reports containing information including—*

18 *“(1) the debtor’s profitability, that is, approxi-*
19 *mately how much money the debtor has been earning*
20 *or losing during current and recent fiscal periods;*

21 *“(2) reasonable approximations of the debtor’s*
22 *projected cash receipts and cash disbursements over a*
23 *reasonable period;*

24 *“(3) comparisons of actual cash receipts and dis-*
25 *bursements with projections in prior reports; and*

1 “(4) whether the debtor is—

2 “(A) in compliance in all material respects
3 with postpetition requirements imposed by this
4 title and the Federal Rules of Bankruptcy Proce-
5 dure; and

6 “(B) timely filing tax returns and paying
7 taxes and other administrative claims when due,
8 and, if not, what the failures are and how, at
9 what cost, and when the debtor intends to rem-
10 edy such failures; and

11 “(5) such other matters as are in the best inter-
12 ests of the debtor and creditors, and in the public in-
13 terest in fair and efficient procedures under chapter
14 11 of this title.”.

15 (2) The table of sections of chapter 3 of title 11,
16 United States Code, is amended by inserting after the
17 item relating to section 307 the following:

 “308. Debtor reporting requirements.”.

18 (b) *EFFECTIVE DATE.*—The amendments made by sub-
19 section (a) shall take effect 60 days after the date on which
20 rules are prescribed pursuant to section 2075, title 28,
21 United States Code to establish forms to be used to comply
22 with section 308 of title 11, United States Code, as added
23 by subsection (a).

1 **SEC. 405. UNIFORM REPORTING RULES AND FORMS FOR**
2 **SMALL BUSINESS CASES.**

3 (a) *PROPOSAL OF RULES AND FORMS.*—*The Advisory*
4 *Committee on Bankruptcy Rules of the Judicial Conference*
5 *of the United States shall propose for adoption amended*
6 *Federal Rules of Bankruptcy Procedure and Official Bank-*
7 *ruptcy Forms to be used by small business debtors to file*
8 *periodic financial and other reports containing informa-*
9 *tion, including information relating to—*

10 (1) *the debtor’s profitability;*

11 (2) *the debtor’s cash receipts and disbursements;*

12 *and*

13 (3) *whether the debtor is timely filing tax re-*
14 *turns and paying taxes and other administrative*
15 *claims when due.*

16 (b) *PURPOSE.*—*The rules and forms proposed under*
17 *subsection (a) shall be designed to achieve a practical bal-*
18 *ance between—*

19 (1) *the reasonable needs of the bankruptcy court,*
20 *the United States trustee, creditors, and other parties*
21 *in interest for reasonably complete information;*

22 (2) *the small business debtor’s interest that re-*
23 *quired reports be easy and inexpensive to complete;*

24 *and*

1 *ings of creditors convened under section 341 of this*
2 *title;*

3 *“(3) timely file all schedules and statements of*
4 *financial affairs, unless the court, after notice and a*
5 *hearing, grants an extension, which shall not extend*
6 *such time period to a date later than 30 days after*
7 *the date of the order for relief, absent extraordinary*
8 *and compelling circumstances;*

9 *“(4) file all postpetition financial and other re-*
10 *ports required by the Federal Rules of Bankruptcy*
11 *Procedure or by local rule of the district court;*

12 *“(5) subject to section 363(c)(2) of this title,*
13 *maintain insurance customary and appropriate to*
14 *the industry;*

15 *“(6)(A) timely file tax returns;*

16 *“(B) subject to section 363(c)(2) of this title,*
17 *timely pay all administrative expense tax claims, ex-*
18 *cept those being contested by appropriate proceedings*
19 *being diligently prosecuted; and*

20 *“(C) subject to section 363(c)(2) of this title, es-*
21 *tablish 1 or more separate deposit accounts not later*
22 *than 10 business days after the date of order for relief*
23 *(or as soon thereafter as possible if all banks con-*
24 *tacted decline the business) and deposit therein, not*
25 *later than 1 business day after receipt thereof or a re-*

1 *sponsible time set by the court, all taxes payable for*
 2 *periods beginning after the date the case is com-*
 3 *menced that are collected or withheld by the debtor for*
 4 *governmental units unless the court waives this re-*
 5 *quirement after notice and hearing; and*

6 *“(7) allow the United States trustee, or its des-*
 7 *ignated representative, to inspect the debtor’s business*
 8 *premises, books, and records at reasonable times, after*
 9 *reasonable prior written notice, unless notice is*
 10 *waived by the debtor.”.*

11 *(b) TECHNICAL AMENDMENT.—The table of sections of*
 12 *chapter 11, United States Code, is amended by inserting*
 13 *after the item relating to section 1114 the following:*

“1115. Duties of trustee or debtor in possession in small business cases.”.

14 **SEC. 407. PLAN FILING AND CONFIRMATION DEADLINES.**

15 *Section 1121(e) of title 11, United States Code, is*
 16 *amended to read as follows:*

17 *“(e) In a small business case—*

18 *“(1) only the debtor may file a plan until after*
 19 *90 days after the date of the order for relief, unless*
 20 *a trustee has been appointed under this chapter, or*
 21 *unless the court, on request of a party in interest and*
 22 *after notice and hearing, shortens such time;*

23 *“(2) the debtor shall file a plan, and any nec-*
 24 *essary disclosure statement, not later than 90 days*
 25 *after the date of the order for relief, unless the United*

1 *States Trustee has appointed under section*
2 *1102(a)(1) of this title a committee of unsecured*
3 *creditors that the court has determined, before the 90*
4 *days has expired, is sufficiently active and represent-*
5 *ative to provide effective oversight of the debtor; and*
6 *“(3) the time periods specified in paragraphs (1)*
7 *and (2) of this subsection and the time fixed in sec-*
8 *tion 1129(e) of this title for confirmation of a plan,*
9 *may be extended only as follows:*

10 *“(A) On request of a party in interest made*
11 *within the respective periods, and after notice*
12 *and hearing, the court may for cause grant one*
13 *or more extensions, cumulatively not to exceed 60*
14 *days, if the movant establishes—*

15 *“(i) that no cause exists to dismiss or*
16 *convert the case or appoint a trustee or ex-*
17 *aminer under subparagraphs (A) (I) of sec-*
18 *tion 1112(b) of this title; and*

19 *“(ii) that there is a reasonable possi-*
20 *bility the court will confirm a plan within*
21 *a reasonable time;*

22 *“(B) On request of a party in interest made*
23 *within the respective periods, and after notice*
24 *and hearing, the court may for cause grant one*
25 *or more extensions in excess of those authorized*

1 under subparagraph (A) of this paragraph, if the
2 movant establishes:

3 “(i) that no cause exists to dismiss or
4 convert the case or appoint a trustee or ex-
5 aminer under subparagraphs (A) (I) of sec-
6 tion 1112(b)(3) of this title; and

7 “(ii) that it is more likely than not
8 that the court will confirm a plan within a
9 reasonable time; and

10 “(C) a new deadline shall be imposed when-
11 ever an extension is granted.”.

12 **SEC. 408. PLAN CONFIRMATION DEADLINE.**

13 Section 1129 of title 11, United States Code, is amend-
14 ed by adding at the end the following:

15 “(e) In a small business case, the debtor shall confirm
16 a plan not later than 150 days after the date of the order
17 for relief unless—

18 “(1) the United States Trustee has appointed,
19 under section 1102(a)(1) of this title, a committee of
20 unsecured creditors that the court has determined, be-
21 fore the 150 days has expired, is sufficiently active
22 and representative to provide effective oversight of the
23 debtor; or

24 “(2) such 150-day period is extended as provided
25 in section 1121(e)(3) of this title.”.

1 **SEC. 409. PROHIBITION AGAINST EXTENSION OF TIME.**

2 *Section 105(d) of title 11, United States Code, is*
3 *amended—*

4 *(1) in paragraph (2)(B)(vi) by striking the pe-*
5 *riod at the end and inserting “; and”; and*

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

7 *“(3) in a small business case, not extend the time*
8 *periods specified in sections 1121(e) and 1129(e) of*
9 *this title except as provided in section 1121(e)(3) of*
10 *this title.”.*

11 **SEC. 410. DUTIES OF THE UNITED STATES TRUSTEE.**

12 *(a) DUTIES OF THE UNITED STATES TRUSTEE.—*

13 *Section 586(a) of title 28, United States Code, is*
14 *amended—*

15 *(1) in paragraph (3)—*

16 *(A) in subparagraph (G) by striking “and*
17 *at the end”;*

18 *(B) by redesignating subparagraph (H) as*
19 *subparagraph (I); and*

20 *(C) by inserting after subparagraph (G) the*
21 *following:*

22 *“(H) in small business cases (as defined in*
23 *section 101 of title 11), performing the addi-*
24 *tional duties specified in title 11 pertaining to*
25 *such cases”;*

1 (2) *in paragraph (5) by striking “and at the*
2 *end”;*

3 (3) *in paragraph (6) by striking the period at*
4 *the end and inserting “; and”; and*

5 (4) *by inserting after paragraph (7) the fol-*
6 *lowing:*

7 “(7) *in each of such small business cases—*

8 “(A) *conduct an initial debtor interview as*
9 *soon as practicable after the entry of order for*
10 *relief but before the first meeting scheduled under*
11 *section 341(a) of title 11 at which time the*
12 *United States trustee shall begin to investigate*
13 *the debtor’s viability, inquire about the debtor’s*
14 *business plan, explain the debtor’s obligations to*
15 *file monthly operating reports and other required*
16 *reports, attempt to develop an agreed scheduling*
17 *order, and inform the debtor of other obligations;*

18 “(B) *when determined to be appropriate*
19 *and advisable, visit the appropriate business*
20 *premises of the debtor and ascertain the state of*
21 *the debtor’s books and records and verify that the*
22 *debtor has filed its tax returns; and*

23 “(C) *review and monitor diligently the*
24 *debtor’s activities, to identify as promptly as*

1 *possible whether the debtor will be unable to con-*
2 *firm a plan; and*

3 “(8) *in cases in which the United States trustee*
4 *finds material grounds for any relief under section*
5 *1112 of title 11, the United States trustee shall apply*
6 *promptly to the court for relief.”.*

7 **SEC. 411. SCHEDULING CONFERENCES.**

8 *Section 105(d) of title 11, United States Code, is*
9 *amended—*

10 (1) *in the matter preceding paragraph (1) by*
11 *striking “; may”;*

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

14 “(1) *shall hold such status conferences as are*
15 *necessary to further the expeditious and economical*
16 *resolution of the case; and”;* and

17 (3) *in paragraph (2) by striking “unless incon-*
18 *sistent with another provision of this title or with ap-*
19 *plicable Federal Rules of Bankruptcy Procedure”, and*
20 *inserting “may”.*

21 **SEC. 412. SERIAL FILER PROVISIONS.**

22 *Section 362 of title 11, United States Code, as amend-*
23 *ed by section 302, is amended—*

24 (1) *in subsection (i) as so redesignated by section*
25 *122—*

1 (A) by striking “An” and inserting “(1)
2 Except as provided in paragraph (2), an”; and

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

4 “(2) If such violation is based on an action taken by
5 an entity in the good-faith belief that subsection (h) applies
6 to the debtor, then recovery under paragraph (1) against
7 such entity shall be limited to actual damages.”; and

8 (2) by inserting after subsection (j), as added by
9 section 302, the following:

10 “(k)(1) Except as provided in paragraph (2) of this
11 subsection, the provisions of subsection (a) of this section
12 shall not apply in a case in which the debtor—

13 “(A) is a debtor in a case under this title pend-
14 ing at the time the petition is filed;

15 “(B) was a debtor in a case under this title
16 which was dismissed for any reason by an order that
17 became final in the 2-year period ending on the date
18 of the order for relief entered with respect to the peti-
19 tion;

20 “(C) was a debtor in a case under this title in
21 which a chapter 11, 12, or 13 plan was confirmed in
22 the 2-year period ending on the date of the order for
23 relief entered with respect to the petition; or

1 “(D) is an entity that has succeeded to substan-
2 tially all of the assets or business of a debtor described
3 in subparagraph (A), (B), or (C).

4 “(2) This subsection shall not apply—

5 “(A) to a case initiated by an involuntary peti-
6 tion filed by a creditor that is not an insider or affil-
7 iate of the debtor; or

8 “(B) after such time as the debtor, after notice
9 and a hearing, demonstrates by a preponderance of
10 the evidence, that the filing of such petition resulted
11 from circumstances beyond the control of the debtor
12 and not foreseeable at the time the earlier case was
13 filed; and that it is more likely than not that the
14 court will confirm a plan, other than a liquidating
15 plan, within a reasonable time.”.

16 **SEC. 413. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
17 **VERSION AND APPOINTMENT OF TRUSTEE OR**
18 **EXAMINER.**

19 (a) *EXPANDED GROUNDS FOR DISMISSAL OR CONVER-*
20 *SION.*—Section 1112(b) of title 11, United States Code, is
21 *amended to read as follows:*

22 “(b)(1) *Except as provided in paragraphs (2) and (4)*
23 *of this subsection, and in subsection (c) of this section, on*
24 *request of a party in interest, and after notice and a hear-*
25 *ing, the court shall convert a case under this chapter to*

1 *a case under chapter 7 of this title or dismiss a case under*
2 *this chapter, or appoint a trustee or examiner under section*
3 *1104(e) of this title, whichever is in the best interest of*
4 *creditors and the estate, if the movant establishes cause.*

5 “(2) *The court may decline to grant the relief specified*
6 *in paragraph (1) of this subsection if the debtor or another*
7 *party in interest objects and establishes by a preponderance*
8 *of the evidence that—*

9 “(A) *it is more likely than not that a plan will*
10 *be confirmed within a time as fixed by this title or*
11 *by order of the court entered pursuant to section*
12 *1121(e)(3), or within a reasonable time if no time has*
13 *been fixed; and*

14 “(B) *if the cause is an act or omission of the*
15 *debtor that—*

16 “(i) *there exists a reasonable justification*
17 *for the act or omission; and*

18 “(ii) *the act or omission will be cured with-*
19 *in a reasonable time fixed by the court not to ex-*
20 *ceed 30 days after the court decides the motion,*
21 *unless the movant expressly consents to a con-*
22 *tinuance for a specific period of time, or compel-*
23 *ling circumstances beyond the control of the debt-*
24 *or justify an extension.*

25 “(3) *For purposes of this subsection, cause includes—*

1 “(A) *substantial or continuing loss to or diminution of the estate;*

2 “(B) *gross mismanagement of the estate;*

3 “(C) *failure to maintain insurance that poses a material risk to the estate or the public;*

4 “(D) *unauthorized use of cash collateral harmful to 1 or more creditors;*

5 “(E) *failure to comply with an order of the court;*

6 “(F) *failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;*

7 “(G) *failure to attend the meeting of creditors convened under section 341(a) of this title;*

8 “(H) *failure timely to provide information or attend meetings reasonably requested by the United States trustee or bankruptcy administrator;*

9 “(I) *failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;*

10 “(J) *failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;*

11 “(K) *failure to pay any fees or charges required under chapter 123 of title 28;*

1 “(L) revocation of an order of confirmation
2 under section 1144 of this title;

3 “(M) inability to effectuate substantial con-
4 summation of a confirmed plan;

5 “(N) material default by the debtor with respect
6 to a confirmed plan; and

7 “(O) termination of a plan by reason of the oc-
8 currence of a condition specified in the plan.

9 “(4) The court may grant relief under this subsection
10 for cause as defined in subparagraphs C, F, G, H, or K
11 of paragraph 3 of this subsection only upon motion of the
12 United States trustee or bankruptcy administrator or upon
13 the court s own motion.

14 “(5) The court shall commence the hearing on any mo-
15 tion under this subsection not later than 30 days after filing
16 of the motion, and shall decide the motion within 15 days
17 after commencement of the hearing, unless the movant ex-
18 pressly consents to a continuance for a specific period of
19 time or compelling circumstances prevent the court from
20 meeting the time limits established by this paragraph.”.

21 (b) *ADDITIONAL GROUNDS FOR APPOINTMENT OF*
22 *TRUSTEE OR EXAMINER.*—Section 1104 of title 11, United
23 States Code, is amended by adding at the end the following:

24 “(e) If grounds exist to convert or dismiss the case
25 under section 1112 of this title, the court may instead ap-

1 *point a trustee or examiner, if it determines that such ap-*
2 *pointment is in the best interests of creditors and the es-*
3 *tate.”.*

4 **SEC. 414. STUDY OF OPERATION OF TITLE 11 OF THE**
5 **UNITED STATES CODE WITH RESPECT TO**
6 **SMALL BUSINESSES.**

7 *Not later than 2 years after the date of the enactment*
8 *of this Act, the Administrator of the Small Business Admin-*
9 *istration, in consultation with the Attorney General, the*
10 *Director of the Administrative Office of United States*
11 *Trustees, and the Director of the Administrative Office of*
12 *the United States Courts, shall—*

13 *(1) conduct a study to determine—*

14 *(A) the internal and external factors that*
15 *cause small businesses, especially sole proprietor-*
16 *ships, to become debtors in cases under title 11*
17 *of the United States Code and that cause certain*
18 *small businesses to successfully complete cases*
19 *under chapter 11 of such title; and*

20 *(B) how Federal laws relating to bank-*
21 *ruptcy may be made more effective and efficient*
22 *in assisting small businesses to remain viable;*
23 *and*

1 (2) *submit to the President pro tempore of the*
2 *Senate and the Speaker of the House of Representa-*
3 *tives a report summarizing that study.*

4 **SEC. 415. PAYMENT OF INTEREST.**

5 *Section 362(d)(3) of title 11, United States Code, is*
6 *amended—*

7 (1) *by inserting “or 30 days after the court de-*
8 *termines that the debtor is subject to this paragraph,*
9 *whichever is later” after “90-day period”;* and

10 (2) *by amending subparagraph (B) to read as*
11 *follows:*

12 *“(B) the debtor has commenced monthly*
13 *payments (which payments may, in the debtor’s*
14 *sole discretion, notwithstanding section 363(c)(2)*
15 *of this title, be made from rents or other income*
16 *generated before or after the commencement of*
17 *the case by or from the property) to each creditor*
18 *whose claim is secured by such real estate (other*
19 *than a claim secured by a judgment lien or by*
20 *an unmatured statutory lien), which payments*
21 *are in an amount equal to interest at the then-*
22 *applicable nondefault contract rate of interest on*
23 *the value of the creditor’s interest in the real es-*
24 *tate; or”.*

1 **TITLE V—MUNICIPAL**
2 **BANKRUPTCY PROVISIONS**

3 **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**
4 **TION.**

5 (a) *TECHNICAL AMENDMENT RELATING TO MUNICI-*
6 *PALITIES.*—Section 921(d) of title 11, United States Code,
7 *is amended by inserting “notwithstanding section 301(b)”*
8 *before the period at the end.*

9 (b) *CONFORMING AMENDMENT.*—Section 301 of title
10 11, United States Code, is amended—

11 (1) *by inserting “(a)” before “A voluntary”;* and

12 (2) *by amending the last sentence to read as fol-*
13 *lows:*

14 “(b) *The commencement of a voluntary case under a*
15 *chapter of this title constitutes an order for relief under such*
16 *chapter.”.*

17 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER**
18 **9.**

19 Section 901(a) of title 11, United States Code, is
20 *amended—*

21 (1) *by inserting “555, 556,” after “553,”;* and

22 (2) *by inserting “559, 560, 561, 562” after*
23 *“557,”.*

1 **TITLE VI—STREAMLINING THE**
2 **BANKRUPTCY SYSTEM**

3 **SEC. 601. CREDITOR REPRESENTATION AT FIRST MEETING**
4 **OF CREDITORS.**

5 Section 341(c) of title 11, United States Code, is
6 amended by inserting after the first sentence the following:
7 “Notwithstanding any local court rule, provision of a State
8 constitution, any other Federal or State law that is not a
9 bankruptcy law, or other requirement that representation
10 at the meeting of creditors under subsection (a) be by an
11 attorney, a creditor holding a consumer debt or any rep-
12 resentative of the creditor (which may include an entity or
13 an employee of an entity and may be a representative for
14 more than one creditor) shall be permitted to appear at and
15 participate in the meeting of creditors and activities related
16 thereto in a case under chapter 7 or 13, either alone or
17 in conjunction with an attorney for the creditor. Nothing
18 in this subsection shall be construed to require any creditor
19 to be represented by an attorney at any meeting of credi-
20 tors.”.

21 **SEC. 602. AUDIT PROCEDURES.**

22 (a) *AMENDMENTS.*—Section 586 of title 28, United
23 States Code, is amended—

24 (1) in subsection (a) by amending striking para-
25 graph (6) to read as follows:

1 “(6) make such reports as the Attorney General
2 directs, including the results of audits performed
3 under subsection (f); and”;

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

5 “(f)(1)(A) The Attorney General shall establish proce-
6 dures to determine the accuracy, veracity, and completeness
7 of petitions, schedules, and other information which the
8 debtor is required to provide under sections 521 and 1322
9 of title 11, and, if applicable, section 111 of title 11, in
10 individual cases filed under chapter 7 or 13 of such title.
11 Such audits shall be in accordance with generally accepted
12 auditing standards and performed by independent certified
13 public accountants or independent licensed public account-
14 ants.

15 “(B) Those procedures shall—

16 “(i) establish a method of selecting appropriate
17 qualified persons to contract to perform those audits;

18 “(ii) establish a method of randomly selecting
19 cases to be audited, except that not less than 1 out of
20 every 250 cases in each Federal judicial district shall
21 be selected for audit;

22 “(iii) require audits for schedules of income and
23 expenses which reflect greater than average variances
24 from the statistical norm of the district in which the
25 schedules were filed; and

1 “(iv) establish procedures for providing, not less
2 frequently than annually, public information con-
3 cerning the aggregate results of such audits including
4 the percentage of cases, by district, in which a mate-
5 rial misstatement of income or expenditures is re-
6 ported.

7 “(2) The United States trustee for each district is au-
8 thorized to contract with auditors to perform audits in cases
9 designated by the United States trustee according to the
10 procedures established under paragraph (1).

11 “(3)(A) The report of each audit conducted under this
12 subsection shall be filed with the court and transmitted to
13 the United States trustee. Each report shall clearly and con-
14 spicuously specify any material misstatement of income or
15 expenditures or of assets identified by the person performing
16 the audit. In any case where a material misstatement of
17 income or expenditures or of assets has been reported, the
18 clerk of the bankruptcy court shall give notice of the
19 misstatement to the creditors in the case.

20 “(B) If a material misstatement of income or expendi-
21 tures or of assets is reported, the United States trustee
22 shall—

23 “(i) report the material misstatement, if appro-
24 priate, to the United States Attorney pursuant to sec-
25 tion 3057 of title 18, United States Code; and

1 “(ii) if advisable, take appropriate action, in-
2 cluding but not limited to commencing an adversary
3 proceeding to revoke the debtor’s discharge pursuant
4 to section 727(d) of title 11, United States Code.”.

5 (b) AMENDMENTS TO SECTION 521 OF TITLE 11,
6 U.S.C.—Section 521(a) of title 11, United States Code, as
7 amended by section 603, is amended in paragraphs (3) and
8 (4) by adding “or an auditor appointed pursuant to section
9 586 of title 28, United States Code” after “serving in the
10 case”.

11 (c) AMENDMENTS TO SECTION 727 OF TITLE 11,
12 U.S.C.—Section 727(d) of title 11, United States Code, is
13 amended—

14 (1) by deleting “or” at the end of paragraph (2);

15 (2) by substituting “; or” for the period at the
16 end of paragraph (3); and

17 (3) by adding the following at the end the fol-
18 lowing:

19 “(4) the debtor has failed to explain
20 satisfactorily—

21 “(A) a material misstatement in an audit
22 performed pursuant to section 586(f) of title 28,
23 United States Code; or

24 “(B) a failure to make available for inspec-
25 tion all necessary accounts, papers, documents,

1 *financial records, files, and all other papers,*
2 *things, or property belonging to the debtor that*
3 *are requested for an audit conducted pursuant*
4 *to section 586(f) of title 28, United States*
5 *Code.”.*

6 *(d) EFFECTIVE DATE.—The amendments made by this*
7 *section shall take effect 18 months after the date of enact-*
8 *ment of this Act.*

9 **SEC. 603. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7**
10 **AND 13 CASES.**

11 *(a) NOTICE.—Section 342 of title 11, United States*
12 *Code, is amended—*

13 *(1) in subsection (c)—*

14 *(A) by striking “, but the failure of such no-*
15 *tice to contain such information shall not invali-*
16 *date 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 creditor*
19 *or the last communication before the filing of the petition*
20 *in a voluntary case from the creditor to a debtor who is*
21 *an individual states an account number of the debtor which*
22 *is the current account number of the debtor with respect*
23 *to any debt held by the creditor against the debtor, the debt-*
24 *or shall include such account number in any notice to the*
25 *creditor required to be given under this title. If the creditor*

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

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

13 *“(d) At any time, a creditor in a case of an individual*
14 *debtor under chapter 7 or 13 may file with the court and*
15 *serve on the debtor a notice of the address to be used to*
16 *notify the creditor in that case. After 5 days following re-*
17 *ceipt of such notice, any notice the court or the debtor is*
18 *required to give the creditor shall be given at that address.*

19 *“(e) An entity may file with the court a notice stating*
20 *its address for notice in cases under chapters 7 and 13.*
21 *After 30 days following the filing of such notice, any notice*
22 *in any case filed under chapter 7 or 13 given by the court*
23 *shall be to that address unless specific notice is given under*
24 *subsection (d) with respect to a particular case.*

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

17 (b) *DEBTOR’S DUTIES*.—Section 521 of title 11,
18 *United States Code*, as amended by sections 604, 120, and
19 302, is amended—

20 (1) by inserting “(a)” before “The debtor shall—
21 ”;

22 (2) by striking paragraph (1) and inserting the
23 following:

24 “(1) file—

25 “(A) a list of creditors; and

1 “(B) unless the court orders otherwise—

2 “(i) a schedule of assets and liabilities;

3 “(ii) a schedule of current monthly in-
4 come and current expenditures prepared in
5 accordance with section 707(b)(2);

6 “(iii) a statement of the debtor’s finan-
7 cial affairs and, if applicable, a
8 certificate—

9 “(I) of an attorney whose name is
10 on the petition as the attorney for the
11 debtor or any bankruptcy petition pre-
12 parer signing the petition pursuant to
13 section 110(b)(1) of this title indi-
14 cating that such attorney or bank-
15 ruptcy petition preparer delivered to
16 the debtor any notice required by sec-
17 tion 342(b) of this title; or

18 “(II) if no attorney for the debtor
19 is indicated and no bankruptcy peti-
20 tion preparer signed the petition, of the
21 debtor that such notice was obtained
22 and read by the debtor;

23 “(iv) copies of any Federal tax returns,
24 including any schedules or attachments,

1 *filed by the debtor for the 3-year period pre-*
2 *ceding the order for relief;*

3 *“(v) copies of all payment advices or*
4 *other evidence of payment, if any, received*
5 *by the debtor from any employer of the*
6 *debtor in the period 60 days prior to the fil-*
7 *ing of the petition; and*

8 *“(vi) a statement disclosing any rea-*
9 *sonably anticipated increase in income or*
10 *expenditures over the 12-month period fol-*
11 *lowing the date of filing;”;*

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

13 *“(e)(1) At any time, a creditor, in the case of an indi-*
14 *vidual under chapter 7 or 13, may file with the court notice*
15 *that the creditor requests the petition, schedules, and a*
16 *statement of affairs filed by the debtor in the case and the*
17 *court shall make those documents available to the creditor*
18 *who requests those documents at a reasonable cost within*
19 *5 business days after such request.*

20 *“(2) At any time, a creditor in a case under chapter*
21 *13 may file with the court notice that the creditor requests*
22 *the plan filed by the debtor in the case, and the court shall*
23 *make such plan available to the creditor who requests such*
24 *plan at a reasonable cost and not later than 5 days after*
25 *such request.*

1 “(f) *An individual debtor in a case under chapter 7*
2 *or 13 shall file with the court—*

3 “(1) *at the time filed with the taxing authority,*
4 *all tax returns, including any schedules or attach-*
5 *ments, with respect to the period from the commence-*
6 *ment of the case until such time as the case is closed;*

7 “(2) *at the time filed with the taxing authority,*
8 *all tax returns, including any schedules or attach-*
9 *ments, that were not filed with the taxing authority*
10 *when the schedules under subsection (a)(1) were filed*
11 *with respect to the period that is 3 years before the*
12 *order for relief;*

13 “(3) *any amendments to any of the tax returns,*
14 *including schedules or attachments, described in para-*
15 *graph (1) or (2); and*

16 “(4) *in a case under chapter 13, a statement*
17 *subject to the penalties of perjury by the debtor of the*
18 *debtor’s current monthly income and expenditures in*
19 *the preceding tax year and current monthly income*
20 *less expenditures for the month preceding the state-*
21 *ment prepared in accordance with section 707(b)(2)*
22 *that shows how the amounts are calculated—*

23 “(A) *beginning on the date that is the later*
24 *of 90 days after the close of the debtor’s tax year*

1 *or 1 year after the order for relief, unless a plan*
2 *has been confirmed; and*

3 “(B) thereafter, on or before the date that is
4 45 days before each anniversary of the confirma-
5 tion of the plan until the case is closed.

6 “(g)(1) A statement referred to in subsection (f)(4)
7 shall disclose—

8 “(A) the amount and sources of income of the
9 debtor;

10 “(B) the identity of any persons responsible with
11 the debtor for the support of any dependents of the
12 debtor; and

13 “(C) the identity of any persons who contributed,
14 and the amount contributed, to the household in
15 which the debtor resides.

16 “(2) The tax returns, amendments, and statement of
17 income and expenditures described in paragraph (1) shall
18 be available to the United States trustee, any bankruptcy
19 administrator, any trustee, and any party in interest for
20 inspection and copying, subject to the requirements of sub-
21 section (h).

22 “(h)(1) Not later than 30 days after the date of enact-
23 ment of the Consumer Bankruptcy Reform Act of 1999, the
24 Director of the Administrative Office of the United States
25 Courts shall establish procedures for safeguarding the con-

1 *fidentiality of any tax information required to be provided*
2 *under this section.*

3 “(2) *The procedures under paragraph (1) shall include*
4 *reasonable restrictions on creditor access to tax information*
5 *that is required to be provided under this section to verify*
6 *creditor identity and to restrict use of the information ex-*
7 *cept with respect to the case.*

8 “(3) *Not later than 1 year after the date of enactment*
9 *of the Consumer Bankruptcy Reform Act of 1999, the Direc-*
10 *tor of the Administrative Office of the United States Courts*
11 *shall prepare, and submit to Congress a report that—*

12 “(A) *assesses the effectiveness of the procedures*
13 *under paragraph (1) to provide timely and sufficient*
14 *information to creditors concerning the case; and*

15 “(B) *if appropriate, includes proposed*
16 *legislation—*

17 “(i) *to further protect the confidentiality of*
18 *tax information or to make it better available to*
19 *creditors; and*

20 “(ii) *to provide penalties for the improper*
21 *use by any person of the tax information re-*
22 *quired to be provided under this section.*

23 “(i) *If requested by the United States trustee or a*
24 *trustee serving in the case, the debtor provide a document*
25 *that establishes the identity of the debtor, including a driv-*

1 *er's license, passport, or other document that contains a*
2 *photograph of the debtor and such other personal identi-*
3 *fying information relating to the debtor that establishes the*
4 *identity of the debtor.”.*

5 *(c) Section 1324 of title 11, United States Code, is*
6 *amended—*

7 *(1) by inserting “(a)” before “After”; and*

8 *(2) by inserting at the end thereof—*

9 *“(c) Whenever a party in interest is given notice of*
10 *a hearing on the confirmation or modification of a plan*
11 *under this chapter, such notice shall include the informa-*
12 *tion provided by the debtor on the most recent statement*
13 *filed with the court pursuant to section 521(a)(1)(B)(ii) or*
14 *(f)(4) of this title.”.*

15 **SEC. 604. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**
16 **ULES OR PROVIDE REQUIRED INFORMATION.**

17 *Section 521 of title 11, United States Code, as amend-*
18 *ed by section 603 is amended by inserting after subsection*
19 *(a) the following:*

20 *“(b)(1) Notwithstanding section 707(a) of this title,*
21 *and subject to paragraph (2), if an individual debtor in*
22 *a voluntary case under chapter 7 or 13 fails to file all of*
23 *the information required under subsection (a)(1) within 45*
24 *days after the filing of the petition commencing the case,*

1 *the case shall be automatically dismissed effective on the*
2 *46th day after the filing of the petition.*

3 “(2) *With respect to a case described in paragraph (1),*
4 *any party in interest may request the court to enter an*
5 *order dismissing the case. The court shall, if so requested,*
6 *enter an order of dismissal not later than 5 days after such*
7 *request.*

8 “(3) *Upon request of the debtor made within 45 days*
9 *after the filing of the petition commencing a case described*
10 *in paragraph (1), the court may allow the debtor an addi-*
11 *tional period not to exceed 45 days to file the information*
12 *required under subsection (a)(1) if the court finds justifica-*
13 *tion for extending the period for the filing.”*

14 **SEC. 605. ADEQUATE TIME TO PREPARE FOR HEARING ON**
15 **CONFIRMATION OF THE PLAN.**

16 (a) *HEARING.*—*Section 1324 of title 11, United States*
17 *Code, is amended—*

18 (1) *by striking “After” and inserting the fol-*
19 *lowing:*

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

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

23 “(b) *The hearing on confirmation of the plan may be*
24 *held not earlier than 20 days, and not later than 45 days,*

1 *after the meeting of creditors under section 341(a) of this*
2 *title.”.*

3 **SEC. 606. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**

4 **IN CERTAIN CASES.**

5 *Title 11, United States Code, is amended—*

6 *(1) by amending section 1322(d) to read as fol-*
7 *lows:*

8 *“(d) If the current monthly income of the debtor and*
9 *the debtor’s spouse combined, when multiplied by 12, is not*
10 *less than the highest national median family income last*
11 *reported by the Bureau of the Census for a family of equal*
12 *or lesser size or, in the case of a household of 1 person, not*
13 *less than the national median household income for 1 earn-*
14 *er, the plan may not provide for payments over a period*
15 *that is longer than 5 years. If the current monthly income*
16 *of the debtor and the debtor’s spouse combined, when multi-*
17 *plied by 12, is less than the highest national median family*
18 *income for a family of equal or lesser size, or in the case*
19 *of a household of 1 person, the national median household*
20 *income for 1 earner, the plan may not provide for payments*
21 *over a period that is longer than 3 years, unless the court,*
22 *for cause, approves a longer period, but the court may not*
23 *approve a period that is longer than 5 years. Notwith-*
24 *standing the foregoing, the national median family income*
25 *for a family of more than 4 individuals shall be the na-*

1 *tional median family income last reported by the Bureau*
2 *of the Census for a family of 4 individuals plus \$583 for*
3 *each additional member of the family.”;*

4 (2) *in section 1325(b)(1)(B) as amended by sec-*
5 *tion 130—*

6 (A) *by striking “three year period” and in-*
7 *serting “applicable commitment period”; and*

8 (B) *by inserting at the end of subparagraph*
9 *(B) the following: “The ‘applicable commitment*
10 *period’ shall be not less than 5 years if the cur-*
11 *rent monthly income of the debtor and the debt-*
12 *or’s spouse combined, when multiplied by 12, is*
13 *not less than the highest national median family*
14 *income last reported by the Bureau of the Census*
15 *for a family of equal or lesser size, or in the case*
16 *of a household of 1 person, the national median*
17 *household income for 1 earner. Notwithstanding*
18 *the foregoing, the national median family in-*
19 *come for a family of more than 4 individuals*
20 *shall be the national median family income last*
21 *reported by the Bureau of the Census for a fam-*
22 *ily of 4 individuals plus \$583 for each addi-*
23 *tional member of the family.”; and*

24 (3) *in section 1329—*

1 (A) by striking in subsection (c) “three
2 years” and inserting “the applicable commit-
3 ment period under section 1325(b)(1)(B)”; and

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

6 *“The duration period shall be 5 years if the current monthly*
7 *income of the debtor and the debtor’s spouse combined, when*
8 *multiplied by 12, is not less than the highest national me-*
9 *dian family income last reported by the Bureau of the Cen-*
10 *sus for a family of equal or lesser size or, in the case of*
11 *a household of 1 person, the national median household in-*
12 *come for 1 earner, as of the date of the modification and*
13 *shall be 3 years if the current monthly total income of the*
14 *debtor and the debtor’s spouse combined, when multiplied*
15 *by 12, is less than the highest national median family in-*
16 *come last reported by the Bureau of the Census for a family*
17 *of equal or lesser size or, in the case of a household of 1*
18 *person, less than the national median household income for*
19 *1 earner as of the date of the modification. Notwithstanding*
20 *the foregoing, the national median family income for a fam-*
21 *ily of more than 4 individuals shall be the national median*
22 *family income last reported by the Bureau of the Census*
23 *for a family of 4 individuals plus \$583 for each additional*
24 *member of the family.”.*

1 **SEC. 607. SENSE OF THE CONGRESS REGARDING EXPAN-**
2 **SION OF RULE 9011 OF THE FEDERAL RULES**
3 **OF BANKRUPTCY PROCEDURE.**

4 *It is the sense of the Congress that rule 9011 of the*
5 *Federal Rules of Bankruptcy Procedure (11 U.S.C. App)*
6 *should be modified to include a requirement that all docu-*
7 *ments (including schedules), signed and unsigned, sub-*
8 *mitted to the court or to a trustee by debtors who represent*
9 *themselves and debtors who are represented by an attorney*
10 *be submitted only after the debtor or the debtor's attorney*
11 *has made reasonable inquiry to verify that the information*
12 *contained in such documents is well grounded in fact, and*
13 *is warranted by existing law or a good-faith argument for*
14 *the extension, modification, or reversal of existing law.*

15 **SEC. 608. ELIMINATION OF CERTAIN FEES PAYABLE IN**
16 **CHAPTER 11 BANKRUPTCY CASES.**

17 (a) *AMENDMENTS.*—Section 1930(a)(6) of title 28,
18 *United States Code, is amended—*

19 (1) *in the 1st sentence by striking “until the case*
20 *is converted or dismissed, whichever occurs first”;* and

21 (2) *in the 2d sentence—*

22 (A) *by striking “The” and inserting “Until*
23 *the plan is confirmed or the case is converted*
24 *(whichever occurs first) the”;* and

25 (B) *by striking “less than \$300,000;” and*
26 *inserting “less than \$300,000. Until the case is*

1 *converted, dismissed, or closed (whichever occurs*
 2 *first and without regard to confirmation of the*
 3 *plan) the fee shall be”.*

4 **(b) DELAYED EFFECTIVE DATE.**—*The amendments*
 5 *made by subsection (a) shall take effect on October 1, 1999.*

6 **SEC. 609. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**
 7 **TENDED TO DEPENDENT STUDENTS.**

8 *Not later than 1 year after the date of the enactment*
 9 *of this Act, the Comptroller General of the United States*
 10 *shall—*

11 (1) *conduct a study regarding the impact that*
 12 *the extension of credit to individuals who are—*

13 (A) *claimed as dependents for purposes of*
 14 *the Internal Revenue Code of 1986; and*

15 (B) *enrolled in post-secondary educational*
 16 *institutions,*

17 *has on the rate of cases filed under title 11 of the*
 18 *United States Code; and*

19 (2) *submit to the Speaker of the House of Rep-*
 20 *resentatives and the President pro tempore of the Sen-*
 21 *ate a report summarizing such study.*

22 **SEC. 610. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
 23 **CASES.**

24 *Section 362(e) of title 11, United States Code, is*
 25 *amended—*

1 (1) by inserting “(1)” after “(e)”; and

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

3 “(2) Notwithstanding paragraph (1), in the case of an
4 individual filing under chapter 7, 11, or 13, the stay under
5 subsection (a) shall terminate on the date that is 60 days
6 after a request is made by a party in interest under sub-
7 section (d), unless—

8 “(A) a final decision is rendered by the court
9 during the 60-day period beginning on the date of the
10 request; or

11 “(B) that 60-day period is extended—

12 “(i) by agreement of all parties in interest;

13 or

14 “(ii) by the court for such specific period of
15 time as the court finds is required by for good
16 cause as described in findings made by the
17 court.”.

18 **SEC. 611. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**

19 **TER 13.**

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

22 (1) in subparagraph (A), by striking “and” at
23 the end;

24 (2) in subparagraph (B)—

1 (A) by striking “in the converted case, with
2 allowed secured claims” and inserting “only in
3 a case converted to chapter 11 or 12 but not in
4 a case converted to chapter 7, with allowed se-
5 cured claims in cases under chapters 11 and
6 12”; and

7 (B) by striking the period and inserting “;
8 and”; and

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

10 “(C) with respect to cases converted from chapter

11 13—

12 “(i) the claim of any creditor holding secu-
13 rity as of the date of the petition shall continue
14 to be secured by that security unless the full
15 amount of such claim determined under applica-
16 ble nonbankruptcy law has been paid in full as
17 of the date of conversion, notwithstanding any
18 valuation or determination of the amount of an
19 allowed secured claim made for the purposes of
20 the chapter 13 proceeding; and

21 “(ii) unless a prebankruptcy default has
22 been fully cured pursuant to the plan at the time
23 of conversion, in any proceeding under this title
24 or otherwise, the default shall have the effect
25 given under applicable nonbankruptcy law.”.

1 **SEC. 612. BANKRUPTCY APPEALS.**

2 *Title 28 of the United States Code is amended by in-*
3 *serting after section 1292 the following:*

4 **“§ 1293. Bankruptcy appeals**

5 *“(a) The courts of appeals (other than the United*
6 *States Court of Appeals for the Federal Circuit) shall have*
7 *jurisdiction of appeals from the following:*

8 *“(1) Final orders and judgments entered by*
9 *bankruptcy courts and district courts in cases under*
10 *title 11, in proceedings arising under title 11, and in*
11 *proceedings arising in or related to a case under title*
12 *11, including final orders in proceedings regarding*
13 *the automatic stay of section 362 of title 11.*

14 *“(2) Interlocutory orders entered by bankruptcy*
15 *courts and district courts granting, continuing, modi-*
16 *fying, refusing or dissolving injunctions, or refusing*
17 *to dissolve or modify injunctions in cases under title*
18 *11, in proceedings arising under title 11, and in pro-*
19 *ceedings arising in or related to a case under title 11,*
20 *other than interlocutory orders in proceedings regard-*
21 *ing the automatic stay of section 362 of title 11.*

22 *“(3) Interlocutory orders of bankruptcy courts*
23 *and district courts entered under section 1104(a) or*
24 *1121(d) of title 11, or the refusal to enter an order*
25 *under such section.*

1 “(4) *An interlocutory order of a bankruptcy*
2 *court or district court entered in a case under title*
3 *11, in a proceeding arising under title 11, or in a*
4 *proceeding arising in or related to a case under title*
5 *11, if the court of appeals that would have jurisdic-*
6 *tion of an appeal of a final order entered in such case*
7 *or such proceeding permits, in its discretion, appeal*
8 *to be taken from such interlocutory order.*

9 “(b) *Final decisions, judgments, orders, and decrees*
10 *entered by a bankruptcy appellate panel under subsection*
11 *(b) of this section.*

12 “(c)(1) *The judicial council of a circuit may establish*
13 *a bankruptcy appellate panel composed of bankruptcy*
14 *judges in the circuit who are appointed by the judicial*
15 *council, which panel shall exercise the jurisdiction to review*
16 *orders and judgments of bankruptcy courts described in*
17 *paragraphs (1)–(4) of subsection (a) of this section unless—*

18 “(A) *the appellant elects at the time of filing the*
19 *appeal; or*

20 “(B) *any other party elects, not later than 10*
21 *days after service of the notice of the appeal;*

22 *to have such jurisdiction exercised by the court of appeals.*

23 “(2) *An appeal to be heard by a bankruptcy appellate*
24 *panel under this subsection (b) shall be heard by 3 members*
25 *of the bankruptcy appellate panel, provided that a member*

1 of such panel may not hear an appeal originating in the
2 district for which such member is appointed or designated
3 under section 152 of this title.

4 “(3) If authorized by the Judicial Conference of the
5 United States, the judicial councils of 2 or more circuits
6 may establish a joint bankruptcy appellate panel.”.

7 **SEC. 613. GAO STUDY.**

8 (a) *STUDY.*—Not later than 270 days after the date
9 of the enactment of this Act, the Comptroller General of the
10 United States shall conduct a study of the feasibility, effec-
11 tiveness, and cost of requiring trustees appointed under title
12 11 of the United States Code, or the bankruptcy courts, to
13 provide to the Office of Child Support Enforcement prompt-
14 ly after the commencement of cases by individual debtors
15 under such title, the names and social security numbers of
16 such debtors for the purposes of allowing such Office to de-
17 termine whether such debtors have outstanding obligations
18 for child support (as determined on the basis of information
19 in the Federal Case Registry or other national database).

20 (b) *REPORT.*—Not later than 300 days after the date
21 of the enactment of this Act, the Comptroller General shall
22 submit to the Speaker of the House of Representatives and
23 the President pro tempore of the Senate, a report containing
24 the results of the study required by subsection (a).

1 **TITLE VII—BANKRUPTCY DATA**

2 **SEC. 701. IMPROVED BANKRUPTCY STATISTICS.**

3 (a) *AMENDMENT.*—Chapter 6 of part I of title 28,
4 *United States Code*, is amended by adding at the end the
5 *following*:

6 **“§ 159. Bankruptcy statistics**

7 “(a) *The clerk of each district shall compile statistics*
8 *regarding individual debtors with primarily consumer*
9 *debts seeking relief under chapters 7, 11, and 13 of title*
10 *11. Those statistics shall be in a form prescribed by the Di-*
11 *rector of the Administrative Office of the United States*
12 *Courts (referred to in this section as the ‘Office’).*

13 “(b) *The Director shall—*

14 “(1) *compile the statistics referred to in sub-*
15 *section (a);*

16 “(2) *make the statistics available to the public;*
17 *and*

18 “(3) *not later than October 31, 2000, and annu-*
19 *ally thereafter, prepare, and submit to Congress a re-*
20 *port concerning the information collected under sub-*
21 *section (a) that contains an analysis of the informa-*
22 *tion.*

23 “(c) *The compilation required under subsection (b)*
24 *shall—*

1 “(1) be itemized, by chapter, with respect to title
2 11;

3 “(2) be presented in the aggregate and for each
4 district; and

5 “(3) include information concerning—

6 “(A) the total assets and total liabilities of
7 the debtors described in subsection (a), and in
8 each category of assets and liabilities, as re-
9 ported in the schedules prescribed pursuant to
10 section 2075 of this title and filed by those debt-
11 ors;

12 “(B) the current monthly income, and aver-
13 age income and average expenses of those debtors
14 as reported on the schedules and statements that
15 each such debtor files under sections 521 and
16 1322 of title 11;

17 “(C) the aggregate amount of debt dis-
18 charged in the reporting period, determined as
19 the difference between the total amount of debt
20 and obligations of a debtor reported on the sched-
21 ules and the amount of such debt reported in cat-
22 egories which are predominantly nondischarge-
23 able;

24 “(D) the average period of time between the
25 filing of the petition and the closing of the case;

1 “(E) for the reporting period—

2 “(i) the number of cases in which a re-
3 affirmation was filed; and

4 “(ii)(I) the total number of reaffirma-
5 tions filed;

6 “(II) of those cases in which a reaffir-
7 mation was filed, the number in which the
8 debtor was not represented by an attorney;
9 and

10 “(III) of those cases, the number of
11 cases in which the reaffirmation was ap-
12 proved by the court;

13 “(F) with respect to cases filed under chap-
14 ter 13 of title 11, for the reporting period—

15 “(i)(I) the number of cases in which a
16 final order was entered determining the
17 value of property securing a claim in an
18 amount less than the amount of the claim;
19 and

20 “(II) the number of final orders deter-
21 mining the value of property securing a
22 claim issued;

23 “(ii) the number of cases dismissed, the
24 number of cases dismissed for failure to
25 make payments under the plan, the number

1 *of cases refiled after dismissal, and the*
2 *number of cases in which the plan was com-*
3 *pleted, separately itemized with respect to*
4 *the number of modifications made before*
5 *completion of the plan, if any; and*

6 *“(iii) the number of cases in which the*
7 *debtor filed another case within the 6 years*
8 *previous to the filing;*

9 *“(G) the number of cases in which creditors*
10 *were fined for misconduct and any amount of*
11 *punitive damages awarded by the court for cred-*
12 *itor misconduct; and*

13 *“(H) the number of cases in which sanc-*
14 *tions under rule 9011 of the Federal Rules of*
15 *Bankruptcy Procedure were imposed against*
16 *debtor’s counsel and damages awarded under*
17 *such Rule.”.*

18 ***(b) CLERICAL AMENDMENT.***—*The table of sections at*
19 *the beginning of chapter 6 of title 28, United States Code,*
20 *is amended by adding at the end the following:*

“159. Bankruptcy statistics.”.

21 ***(c) EFFECTIVE DATE.***—*The amendments made by this*
22 *section shall take effect 18 months after the date of enact-*
23 *ment of this Act.*

1 **SEC. 702. UNIFORM RULES FOR THE COLLECTION OF BANK-**
2 **RUPTCY DATA.**

3 (a) *AMENDMENT.*—Title 28 of the United States Code
4 is amended by inserting after section 589a the following:

5 **“§ 589b. Bankruptcy data**

6 “(a) *RULES.*—The Attorney General shall, within a
7 reasonable time after the effective date of this section, issue
8 rules requiring uniform forms for (and from time to time
9 thereafter to appropriately modify and approve)—

10 “(1) *final reports by trustees in cases under*
11 *chapters 7, 12, and 13 of title 11; and*

12 “(2) *periodic reports by debtors in possession or*
13 *trustees, as the case may be, in cases under chapter*
14 *11 of title 11.*

15 “(b) *REPORTS.*—All reports referred to in subsection
16 (a) shall be designed (and the requirements as to place and
17 manner of filing shall be established) so as to facilitate com-
18 pilation of data and maximum possible access of the public,
19 both by physical inspection at 1 or more central filing loca-
20 tions, and by electronic access through the Internet or other
21 appropriate media.

22 “(c) *REQUIRED INFORMATION.*—The information re-
23 quired to be filed in the reports referred to in subsection
24 (b) shall be that which is in the best interests of debtors
25 and creditors, and in the public interest in reasonable and
26 adequate information to evaluate the efficiency and practi-

1 *cality of the Federal bankruptcy system. In issuing rules*
2 *proposing the forms referred to in subsection (a), the Attor-*
3 *ney General shall strike the best achievable practical bal-*
4 *ance between—*

5 “(1) *the reasonable needs of the public for infor-*
6 *mation about the operational results of the Federal*
7 *bankruptcy system; and*

8 “(2) *economy, simplicity, and lack of undue bur-*
9 *den on persons with a duty to file reports.*

10 “(d) *FINAL REPORTS.—Final reports proposed for*
11 *adoption by trustees under chapters 7, 12, and 13 of title*
12 *11 shall, in addition to such other matters as are required*
13 *by law or as the Attorney General in the discretion of the*
14 *Attorney General, shall propose, include with respect to a*
15 *case under such title—*

16 “(1) *information about the length of time the*
17 *case was pending;*

18 “(2) *assets abandoned;*

19 “(3) *assets exempted;*

20 “(4) *receipts and disbursements of the estate;*

21 “(5) *expenses of administration;*

22 “(6) *claims asserted;*

23 “(7) *claims allowed; and*

24 “(8) *distributions to claimants and claims dis-*
25 *charged without payment,*

1 *in each case by appropriate category and, in cases under*
2 *chapters 12 and 13 of title 11, date of confirmation of the*
3 *plan, each modification thereto, and defaults by the debtor*
4 *in performance under the plan.*

5 “(e) *PERIODIC REPORTS.*—*Periodic reports proposed*
6 *for adoption by trustees or debtors in possession under*
7 *chapter 11 of title 11 shall, in addition to such other mat-*
8 *ters as are required by law or as the Attorney General, in*
9 *the discretion of the Attorney General, shall propose,*
10 *include—*

11 “(1) *information about the standard industry*
12 *classification, published by the Department of Com-*
13 *merce, for the businesses conducted by the debtor;*

14 “(2) *length of time the case has been pending;*

15 “(3) *number of full-time employees as at the date*
16 *of the order for relief and at end of each reporting pe-*
17 *riod since the case was filed;*

18 “(4) *cash receipts, cash disbursements and prof-*
19 *itability of the debtor for the most recent period and*
20 *cumulatively since the date of the order for relief;*

21 “(5) *compliance with title 11, whether or not tax*
22 *returns and tax payments since the date of the order*
23 *for relief have been timely filed and made;*

24 “(6) *all professional fees approved by the court*
25 *in the case for the most recent period and cumula-*

1 *tively since the date of the order for relief (separately*
2 *reported, in for the professional fees incurred by or on*
3 *behalf of the debtor, between those that would have*
4 *been incurred absent a bankruptcy case and those*
5 *not); and*

6 *“(7) plans of reorganization filed and confirmed*
7 *and, with respect thereto, by class, the recoveries of*
8 *the holders, expressed in aggregate dollar values and,*
9 *in the case of claims, as a percentage of total claims*
10 *of the class allowed.”.*

11 *(b) TECHNICAL AMENDMENT.—The table of sections of*
12 *chapter 39 of title 28, United States Code, is amended by*
13 *adding at the end the following:*

“589b. Bankruptcy data.”.

14 **SEC. 703. SENSE OF THE CONGRESS REGARDING AVAIL-**
15 **ABILITY OF BANKRUPTCY DATA.**

16 *It is the sense of the Congress that—*

17 *(1) the national policy of the United States*
18 *should be that all data held by bankruptcy clerks in*
19 *electronic form, to the extent such data reflects only*
20 *public records (as defined in section 107 of title 11*
21 *of the United States Code), should be released in a us-*
22 *able electronic form in bulk to the public subject to*
23 *such appropriate privacy concerns and safeguards as*
24 *the Judicial Conference of the United States may de-*
25 *termine; and*

1 (2) *there should be established a bankruptcy data*
2 *system in which—*

3 (A) *a single set of data definitions and*
4 *forms are used to collect data nationwide; and*

5 (B) *data for any particular bankruptcy*
6 *case are aggregated in the same electronic record.*

7 **TITLE VIII—BANKRUPTCY TAX**
8 **PROVISIONS**

9 **SEC. 801. TREATMENT OF CERTAIN LIENS.**

10 (a) *TREATMENT OF CERTAIN LIENS.—Section 724 of*
11 *title 11, United States Code, is amended—*

12 (1) *in subsection (b), in the matter preceding*
13 *paragraph (1), by inserting “(other than to the extent*
14 *that there is a properly perfected unavoidable tax lien*
15 *arising in connection with an ad valorem tax on real*
16 *or personal property of the estate)” after “under this*
17 *title”;*

18 (2) *in subsection (b)(2), after “507(a)(1)”, insert*
19 *“(except that such expenses, other than claims for*
20 *wages, salaries, or commissions which arise after the*
21 *filing of a petition, shall be limited to expenses in-*
22 *curring under chapter 7 of this title and shall not in-*
23 *clude expenses incurred under chapter 11 of this*
24 *title)”;* and

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

1 “(e) Before subordinating a tax lien on real or per-
2 sonal property of the estate, the trustee shall—

3 “(1) exhaust the unencumbered assets of the es-
4 tate; and

5 “(2) in a manner consistent with section 506(c)
6 of this title, recover from property securing an al-
7 lowed secured claim the reasonable, necessary costs
8 and expenses of preserving or disposing of that prop-
9 erty.

10 “(f) Notwithstanding the exclusion of ad valorem tax
11 liens set forth in this section and subject to the requirements
12 of subsection (e)—

13 “(1) claims for wages, salaries, and commissions
14 that are entitled to priority under section 507(a)(3)
15 of this title; or

16 “(2) claims for contributions to an employee ben-
17 efit plan entitled to priority under section 507(a)(4)
18 of this title,

19 may be paid from property of the estate which secures a
20 tax lien, or the proceeds of such property.”.

21 (b) *DETERMINATION OF TAX LIABILITY.*—Section
22 505(a)(2) of title 11, United States Code, is amended—

23 (1) in subparagraph (A), by striking “or” at the
24 end;

1 (2) *in subparagraph (B), by striking the period*
2 *at the end and inserting “; or”; and*

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

4 “(C) *the amount or legality of any amount arising*
5 *in connection with an ad valorem tax on real or*
6 *personal property of the estate, if the applicable pe-*
7 *riod for contesting or redetermining that amount*
8 *under any law (other than a bankruptcy law) has*
9 *expired.”.*

10 **SEC. 802. EFFECTIVE NOTICE TO GOVERNMENT.**

11 (a) *EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—*
12 *Section 342 of title 11, United States Code, as amended*
13 *by section 603, is amended by adding at the end the fol-*
14 *lowing:*

15 “(g) *If a debtor lists a governmental unit as a creditor*
16 *in a list or schedule, any notice required to be given by*
17 *the debtor under this title, any rule, any applicable law,*
18 *or any order of the court, shall identify the department,*
19 *agency, or instrumentality through which the debtor is in-*
20 *debted. The debtor shall identify (with information such as*
21 *a taxpayer identification number, loan, account or contract*
22 *number, or real estate parcel number, where applicable),*
23 *and describe the underlying basis for the governmental*
24 *unit’s claim. If the debtor’s liability to a governmental unit*
25 *arises from a debt or obligation owed or incurred by another*

1 *individual, entity, or organization, or under a different*
2 *name, the debtor shall identify such individual, entity, or-*
3 *ganization, or name.*

4 “(h) *The clerk shall keep and update quarterly, in the*
5 *form and manner as the Director of the Administrative Of-*
6 *fice of the United States Courts prescribes, and make avail-*
7 *able to debtors, a register in which a governmental unit*
8 *may designate a safe harbor mailing address for service of*
9 *notice in cases pending in the district. A governmental unit*
10 *may file a statement with the clerk designating a safe har-*
11 *bor address to which notices are to be sent, unless such gov-*
12 *ernmental unit files a notice of change of address.”.*

13 (b) *ADOPTION OF RULES PROVIDING NOTICE.—The*
14 *Advisory Committee on Bankruptcy Rules of the Judicial*
15 *Conference shall, within a reasonable period of time after*
16 *the date of the enactment of this Act, propose for adoption*
17 *enhanced rules for providing notice to State, Federal, and*
18 *local government units that have regulatory authority over*
19 *the debtor or which may be creditors in the debtor’s case.*
20 *Such rules shall be reasonably calculated to ensure that no-*
21 *tice will reach the representatives of the governmental unit,*
22 *or subdivision thereof, who will be the proper persons au-*
23 *thorized to act upon the notice. At a minimum, the rules*
24 *should require that the debtor—*

1 (1) *identify in the schedules and the notice, the*
2 *subdivision, agency, or entity in respect of which such*
3 *notice should be received;*

4 (2) *provide sufficient information (such as case*
5 *captions, permit numbers, taxpayer identification*
6 *numbers, or similar identifying information) to per-*
7 *mit the governmental unit or subdivision thereof, en-*
8 *titled to receive such notice, to identify the debtor or*
9 *the person or entity on behalf of which the debtor is*
10 *providing notice where the debtor may be a successor*
11 *in interest or may not be the same as the person or*
12 *entity which incurred the debt or obligation; and*

13 (3) *identify, in appropriate schedules, served to-*
14 *gether with the notice, the property in respect of*
15 *which the claim or regulatory obligation may have*
16 *arisen, if any, the nature of such claim or regulatory*
17 *obligation and the purpose for which notice is being*
18 *given.*

19 (c) *EFFECT OF FAILURE OF NOTICE.—Section 342 of*
20 *title 11, United States Code, as amended by section 603*
21 *and subsection (a), is amended by adding at the end the*
22 *following:*

23 “(i) *A notice that does not comply with subsections (d)*
24 *and (e) shall not be effective unless the debtor demonstrates,*
25 *by clear and convincing evidence, that timely notice was*

1 *given in a manner reasonably calculated to satisfy the re-*
2 *quirements of this section was given, and that—*

3 “(1) *either the notice was timely sent to the safe*
4 *harbor address provided in the register maintained by*
5 *the clerk of the district in which the case was pending*
6 *for such purposes; or*

7 “(2) *no safe harbor address was provided in such*
8 *list for the governmental unit and that an officer of*
9 *the governmental unit who is responsible for the mat-*
10 *ter or claim had actual knowledge of the case in suffi-*
11 *cient time to act.”.*

12 **SEC. 803. NOTICE OF REQUEST FOR A DETERMINATION OF**
13 **TAXES.**

14 *Section 505(b) of title 11, United States Code, is*
15 *amended by striking “Unless” at the beginning of the second*
16 *sentence thereof and inserting “If the request is made sub-*
17 *stantially in the manner designated by the governmental*
18 *unit and unless”.*

19 **SEC. 804. RATE OF INTEREST ON TAX CLAIMS.**

20 *(a) AMENDMENT.—Chapter 5 of title 11, United States*
21 *Code, is amended by adding at the end the following:*

22 **“§511. Rate of interest on tax claims**

23 *“If any provision of this title requires the payment*
24 *of interest on a tax claim or requires the payment of inter-*
25 *est to enable a creditor to receive the present value of the*

1 *allowed amount of a tax claim, the rate of interest shall*
2 *be as follows:*

3 “(1) *In the case of ad valorem tax claims, wheth-*
4 *er secured or unsecured, other unsecured tax claims*
5 *where interest is required to be paid under section*
6 *726(a)(5) of this title, secured tax claims, and admin-*
7 *istrative tax claims paid under section 503(b)(1) of*
8 *this title, the rate shall be determined under applica-*
9 *ble nonbankruptcy law.*

10 “(2) *In the case of all other tax claims, the min-*
11 *imum rate of interest shall be the Federal short-term*
12 *rate rounded to the nearest full percent, determined*
13 *under section 1274(d) of the Internal Revenue Code of*
14 *1986, plus 3 percentage points.*

15 “(A) *In the case of claims for Federal in-*
16 *come taxes, such rate shall be subject to any ad-*
17 *justment that may be required under section*
18 *6621(d) of the Internal Revenue Code of 1986.*

19 “(B) *In the case of taxes paid under a con-*
20 *firmed plan or reorganization, such rate shall be*
21 *determined as of the calendar month in which*
22 *the plan is confirmed.”.*

23 **(b) CONFORMING AMENDMENT.**—*The table of sections*
24 *of chapter 5 of title 11, United States Code, is amended*

1 *by inserting after the item relating to section 510 the fol-*
 2 *lowing:*

“511. Rate of interest on tax claims.”.

3 **SEC. 805. TOLLING OF PRIORITY OF TAX CLAIM TIME PERI-**
 4 **ODS.**

5 *Section 507(a)(8)(A) of title 11, United States Code,*
 6 *as so redesignated, is amended—*

7 *(1) in clause (i) by inserting after “petition”*
 8 *and before the semicolon “, plus any time, plus 6*
 9 *months, during which the stay of proceedings was in*
 10 *effect in a prior case under this title”; and*

11 *(2) amend clause (ii) to read as follows:*

12 *“(i) assessed within 240 days before*
 13 *the date of the filing of the petition, exclu-*
 14 *sive of—*

15 *“(I) any time plus 30 days dur-*
 16 *ing which an offer in compromise with*
 17 *respect of such tax, was pending or in*
 18 *effect during such 240-day period;*

19 *“(II) any time plus 30 days dur-*
 20 *ing which an installment agreement*
 21 *with respect of such tax was pending*
 22 *or in effect during such 240-day pe-*
 23 *riod, up to 1 year; and*

1 “(III) any time plus 6 months
2 during which a stay of proceedings
3 against collections was in effect in a
4 prior case under this title during such
5 240-day period.”.

6 **SEC. 806. PRIORITY PROPERTY TAXES INCURRED.**

7 Section 507(a)(8)(B) of title 11, United States Code,
8 is amended by striking “assessed” and inserting “in-
9 curred”.

10 **SEC. 807. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**
11 **OTHER TAXES.**

12 Section 1328(a)(2) of title 11, United States Code, is
13 amended by inserting “(1),” after “paragraph”.

14 **SEC. 808. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

15 Section 1141(d) of title 11, United States Code, is
16 amended by adding at the end the following:

17 “(6) Notwithstanding the provisions of paragraph (1),
18 the confirmation of a plan does not discharge a debtor
19 which is a corporation from any debt for a tax or customs
20 duty with respect to which the debtor made a fraudulent
21 return or willfully attempted in any manner to evade or
22 defeat such tax.”.

23 **SEC. 809. STAY OF TAX PROCEEDINGS.**

24 (a) SECTION 362 STAY LIMITED TO PREPETITION
25 TAXES.—Section 362(a)(8) of title 11, United States Code,

1 *is amended by striking the period at the end and inserting*
2 *“, in respect of a tax liability for a taxable period ending*
3 *before the order for relief.”.*

4 *(b) APPEAL OF TAX COURT DECISIONS PERMITTED.—*
5 *Section 362(b)(9) of title 11, United States Code, is*
6 *amended—*

7 *(1) in subparagraph (C) by striking “or” at the*
8 *end;*

9 *(2) in subparagraph (D) by striking the period*
10 *at the end and inserting “; or”; and*

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

12 *“(E) the appeal of a decision by a court or*
13 *administrative tribunal which determines a tax*
14 *liability of the debtor without regard to whether*
15 *such determination was made prepetition or*
16 *postpetition.”.*

17 **SEC. 810. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**
18 **CASES.**

19 *Section 1129(a)(9) of title 11, United States Code, is*
20 *amended—*

21 *(1) in subparagraph (B) by striking “and” at*
22 *the end; and*

23 *(2) in subparagraph (C)—*

24 *(A) by striking “deferred cash payments,*
25 *over a period not exceeding six years after the*

1 *date of assessment of such claim,” and inserting*
2 *“regular installment payments in cash, but in*
3 *no case with a balloon provision, and no more*
4 *than three months apart, beginning no later*
5 *than the effective date of the plan and ending on*
6 *the earlier of five years after the petition date or*
7 *the last date payments are to be made under the*
8 *plan to unsecured creditors,”;*

9 *(B) by striking the period at the end and*
10 *inserting “; and”; and*

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

12 *“(D) with respect to a secured claim which*
13 *would be described in section 507(a)(8) of this*
14 *title but for its secured status, the holder of such*
15 *claim will receive on account of such claim cash*
16 *payments of not less than is required in sub-*
17 *paragraph (C) and over a period no greater than*
18 *is required in such subparagraph.”.*

19 **SEC. 811. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**
20 **ITED.**

21 *Section 545(2) of title 11, United States Code, is*
22 *amended by striking the semicolon at the end and inserting*
23 *“, except where such purchaser is a purchaser described in*
24 *section 6323 of the Internal Revenue Code of 1986 or simi-*
25 *lar provision of State or local law;”.*

1 **SEC. 812. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
2 **NESS.**

3 (a) *PAYMENT OF TAXES REQUIRED.*—Section 960 of
4 *title 28, United States Code, is amended—*

5 (1) *by inserting “(a)” before “Any”; and*

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

7 “(b) *Such taxes shall be paid when due in the conduct*
8 *of such business unless—*

9 (1) *the tax is a property tax secured by a lien*
10 *against property that is abandoned within a reason-*
11 *able time after the lien attaches, by the trustee of a*
12 *bankruptcy estate, pursuant to section 554 of title 11;*
13 *or*

14 (2) *payment of the tax is excused under a spe-*
15 *cific provision of title 11.*

16 (c) *In a case pending under chapter 7 of title 11,*
17 *payment of a tax may be deferred until final distribution*
18 *is made under section 726 of title 11 if—*

19 (1) *the tax was not incurred by a trustee duly*
20 *appointed under chapter 7 of title 11; or*

21 (2) *before the due date of the tax, the court has*
22 *made a finding of probable insufficiency of funds of*
23 *the estate to pay in full the administrative expenses*
24 *allowed under section 503(b) of title 11 that have the*
25 *same priority in distribution under section 726(b) of*
26 *title 11 as such tax.”.*

1 (b) *PAYMENT OF AD VALOREM TAXES REQUIRED.*—
2 Section 503(b)(1)(B) of title 11, United States Code, is
3 amended in clause (i) by inserting after “estate,” and before
4 “except” the following: “whether secured or unsecured, in-
5 cluding property taxes for which liability is in rem only,
6 in personam or both,”.

7 (c) *REQUEST FOR PAYMENT OF ADMINISTRATIVE EX-*
8 *PENSE TAXES ELIMINATED.*—Section 503(b)(1) of title 11,
9 United States Code, is amended by adding at the end the
10 following:

11 “(D) notwithstanding the requirements of sub-
12 section (a) of this section, a governmental unit shall
13 not be required to file a request for the payment of
14 a claim described in subparagraph (B) or (C);”.

15 (d) *PAYMENT OF TAXES AND FEES AS SECURED*
16 *CLAIMS.*—Section 506 of title 11, United States Code, is
17 amended—

18 (1) in subsection (b) by inserting “or State stat-
19 ute” after “agreement”; and

20 (2) in subsection (c) by inserting “, including
21 the payment of all ad valorem property taxes in re-
22 spect of the property” before the period at the end.

23 **SEC. 813. TARDILY FILED PRIORITY TAX CLAIMS.**

24 Section 726(a)(1) of title 11, United States Code, is
25 amended by striking “before the date on which the trustee

1 *commences distribution under this section” and inserting*
2 *“on or before the earlier of 10 days after the mailing to*
3 *creditors of the summary of the trustee’s final report or the*
4 *date on which the trustee commences final distribution*
5 *under this section”.*

6 **SEC. 814. INCOME TAX RETURNS PREPARED BY TAX AU-**
7 **THORITIES.**

8 *Section 523(a)(1)(B) of title 11, United States Code,*
9 *is amended—*

10 *(1) by inserting “or equivalent report or notice,”*
11 *after “a return,”;*

12 *(2) in clause (i)—*

13 *(A) by inserting “or given” after “filed”;*

14 *and*

15 *(B) by striking “or” at the end;*

16 *(3) in clause (ii)—*

17 *(A) by inserting “or given” after “filed”;*

18 *and*

19 *(B) by inserting “, report, or notice” after*
20 *“return”; and*

21 *(4) by adding at the end the following:*

22 *“(iii) for purposes of this subsection, a*
23 *return—*

24 *“(I) must satisfy the requirements*
25 *of applicable nonbankruptcy law, and*

1 *includes a return prepared pursuant to*
2 *section 6020(a) of the Internal Revenue*
3 *Code of 1986, or similar State or local*
4 *law, or a written stipulation to a judg-*
5 *ment entered by a nonbankruptcy tri-*
6 *bunal, but does not include a return*
7 *made pursuant to section 6020(b) of*
8 *the Internal Revenue Code of 1986, or*
9 *similar State or local law; and*

10 *“(II) must have been filed in a*
11 *manner permitted by applicable non-*
12 *bankruptcy law; or”.*

13 **SEC. 815. DISCHARGE OF THE ESTATE’S LIABILITY FOR UN-**
14 **PAID TAXES.**

15 *Section 505(b) of title 11, United States Code, is*
16 *amended in the second sentence by inserting “the estate,”*
17 *after “misrepresentation,”.*

18 **SEC. 816. REQUIREMENT TO FILE TAX RETURNS TO CON-**
19 **FIRM CHAPTER 13 PLANS.**

20 *(a) FILING OF PREPETITION TAX RETURNS REQUIRED*
21 *FOR PLAN CONFIRMATION.—Section 1325(a) of title 11,*
22 *United States Code, as amended by section 140, is*
23 *amended—*

24 *(1) in paragraph (6) by striking “and” at the*
25 *end;*

1 (2) in paragraph (7) by striking the period at
2 the end and inserting “; and”; and

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

4 “(8) if the debtor has filed all Federal, State,
5 and local tax returns as required by section 1308 of
6 this title.”.

7 (b) *ADDITIONAL TIME PERMITTED FOR FILING TAX*
8 *RETURNS.*—(1) Chapter 13 of title 11, United States Code,
9 as amended by section 135, is amended by adding at the
10 end the following:

11 “**§ 1308. Filing of prepetition tax returns**

12 “(a) On or before the day prior to the day on which
13 the first meeting of the creditors is convened under section
14 341(a) of this title, the debtor shall have filed with appro-
15 priate tax authorities all tax returns for all taxable periods
16 ending in the 3-year period ending on the date of filing
17 of the petition.

18 “(b) If the tax returns required by subsection (a) have
19 not been filed by the date on which the first meeting of
20 creditors is convened under section 341(a) of this title, the
21 trustee may continue such meeting for a reasonable period
22 of time, to allow the debtor additional time to file any
23 unfiled returns, but such additional time shall be no more
24 than—

1 “(1) for returns that are past due as of the date
2 of the filing of the petition, 120 days from such date;

3 “(2) for returns which are not past due as of the
4 date of the filing of the petition, the later of 120 days
5 from such date or the due date for such returns under
6 the last automatic extension of time for filing such re-
7 turns to which the debtor is entitled, and for which
8 request has been timely made, according to applicable
9 nonbankruptcy law; and

10 “(3) upon notice and hearing, and order entered
11 before the lapse of any deadline fixed according to
12 this subsection, where the debtor demonstrates, by
13 clear and convincing evidence, that the failure to file
14 the returns as required is because of circumstances be-
15 yond the control of the debtor, the court may extend
16 the deadlines set by the trustee as provided in this
17 subsection for—

18 “(A) a period of no more than 30 days for
19 returns described in paragraph (1) of this sub-
20 section; and

21 “(B) for no more than the period of time
22 ending on the applicable extended due date for
23 the returns described in paragraph (2).

24 “(c) For purposes of this section only, a return in-
25 cludes a return prepared pursuant to section 6020 (a) or

1 *(b) of the Internal Revenue Code of 1986 or similar State*
2 *or local law, or a written stipulation to a judgment entered*
3 *by a nonbankruptcy tribunal.”.*

4 *(2) The table of sections of chapter 13 of title 11,*
5 *United States Code, is amended by inserting after the item*
6 *relating to section 1307 the following:*

“1308. Filing of prepetition tax returns.”.

7 *(c) DISMISSAL OR CONVERSION ON FAILURE TO COM-*
8 *PLY.—Section 1307 of title 11, United States Code, is*
9 *amended—*

10 *(1) by redesignating subsections (e) and (f) as*
11 *subsections (f) and (g), respectively; and*

12 *(2) by inserting after subsection (d) the fol-*
13 *lowing:*

14 *“(e) Upon the failure of the debtor to file tax returns*
15 *under section 1308 of this title, on request of a party in*
16 *interest or the United States trustee and after notice and*
17 *a hearing, the court shall dismiss a case or convert a case*
18 *under this chapter to a case under chapter 7 of this title,*
19 *whichever is in the best interests of creditors and the es-*
20 *tate.”.*

21 *(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title*
22 *11, United States Code, is amended by striking the period*
23 *at the end and inserting “, and except that in a case under*
24 *chapter 13 of this title, a claim of a governmental unit for*
25 *a tax in respect of a return filed under section 1308 of this*

1 *title shall be timely if it is filed on or before 60 days after*
2 *such return or returns were filed as required.”.*

3 *(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CON-*
4 *FIRMATION.—It is the sense of the Congress that the Advi-*
5 *sory Committee on Bankruptcy Rules of the Judicial Con-*
6 *ference should, within a reasonable period of time after the*
7 *date of the enactment of this Act, propose for adoption*
8 *amended Federal Rules of Bankruptcy Procedure which*
9 *provide that—*

10 *(1) notwithstanding the provisions of Rule*
11 *3015(f), in cases under chapter 13 of title 11, United*
12 *States Code, a governmental unit may object to the*
13 *confirmation of a plan on or before 60 days after the*
14 *debtor files all tax returns required under sections*
15 *1308 and 1325(a)(7) of title 11, United States Code;*
16 *and*

17 *(2) in addition to the provisions of Rule 3007,*
18 *in a case under chapter 13 of title 11, United States*
19 *Code, no objection to a tax in respect of a return re-*
20 *quired to be filed under such section 1308 shall be*
21 *filed until such return has been filed as required.*

22 **SEC. 817. STANDARDS FOR TAX DISCLOSURE.**

23 *Section 1125(a) of title 11, United States Code, is*
24 *amended in paragraph (1)—*

1 (1) by inserting after “records,” the following:
2 “including a full discussion of the potential material
3 Federal, State, and local tax consequences of the plan
4 to the debtor, any successor to the debtor, and a hypo-
5 thetical investor domiciled in the State in which the
6 debtor resides or has its principal place of business
7 typical of the holders of claims or interests in the
8 case,”;

9 (2) by inserting “such” after “enable”; and

10 (3) by striking “reasonable” where it appears
11 after “hypothetical” and by striking “typical of hold-
12 ers of claims or interests” after “investor”.

13 **SEC. 818. SETOFF OF TAX REFUNDS.**

14 Section 362(b) of title 11, United States Code, as
15 amended by sections 118, 132, 136, and 203, is amended—

16 (1) in paragraph (29) by striking “or”;

17 (2) in paragraph (30) by striking the period at
18 the end and inserting “; or”; and

19 (3) by inserting after paragraph (30) the fol-
20 lowing:

21 “(31) under subsection (a) of the setoff of an in-
22 come tax refund, by a governmental unit, in respect
23 of a taxable period which ended before the order for
24 relief against an income tax liability for a taxable pe-

1 *riod which also ended before the order for relief,*
 2 *unless—*

3 *“(A) prior to such setoff, an action to deter-*
 4 *mine the amount or legality of such tax liability*
 5 *under section 505(a) was commenced; or*

6 *“(B) where the setoff of an income tax re-*
 7 *fund is not permitted because of a pending ac-*
 8 *tion to determine the amount or legality of a tax*
 9 *liability, the governmental unit may hold the re-*
 10 *fund pending the resolution of the action.”.*

11 **TITLE IX—ANCILLARY AND**
 12 **OTHER CROSS-BORDER CASES**

13 **SEC. 901. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**
 14 **UNITED STATES CODE.**

15 *(a) IN GENERAL.—Title 11, United States Code, is*
 16 *amended by inserting after chapter 13 the following:*

17 **“CHAPTER 15—ANCILLARY AND OTHER**
 18 **CROSS-BORDER CASES**

“Sec.

“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.

“1503. International obligations of the United States.

“1504. Commencement of ancillary case.

“1505. Authorization to act in a foreign country.

“1506. Public policy exception.

“1507. Additional assistance.

“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND
CREDITORS TO THE COURT

“1509. Right of direct access.

“1510. *Limited jurisdiction.*

“1511. *Commencement of case under section 301 or 303.*

“1512. *Participation of a foreign representative in a case under this title.*

“1513. *Access of foreign creditors to a case under this title.*

“1514. *Notification to foreign creditors concerning a case under this title.*

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND
RELIEF

“1515. *Application for recognition of a foreign proceeding.*

“1516. *Presumptions concerning recognition.*

“1517. *Order recognizing a foreign proceeding.*

“1518. *Subsequent information.*

“1519. *Relief that may be granted upon petition for recognition of a foreign proceeding.*

“1520. *Effects of recognition of a foreign main proceeding.*

“1521. *Relief that may be granted upon recognition of a foreign proceeding.*

“1522. *Protection of creditors and other interested persons.*

“1523. *Actions to avoid acts detrimental to creditors.*

“1524. *Intervention by a foreign representative.*

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND
FOREIGN REPRESENTATIVES

“1525. *Cooperation and direct communication between the court and foreign courts or foreign representatives.*

“1526. *Cooperation and direct communication between the trustee and foreign courts or foreign representatives.*

“1527. *Forms of cooperation.*

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. *Commencement of a case under this title after recognition of a foreign main proceeding.*

“1529. *Coordination of a case under this title and a foreign proceeding.*

“1530. *Coordination of more than 1 foreign proceeding.*

“1531. *Presumption of insolvency based on recognition of a foreign main proceeding.*

“1532. *Rule of payment in concurrent proceedings.*

1 **“§ 1501. Purpose and scope of application**

2 “(a) *The purpose of this chapter is to incorporate the*
3 *Model Law on Cross-Border Insolvency so as to provide ef-*
4 *fective mechanisms for dealing with cases of cross-border in-*
5 *solventy with the objectives of—*

6 “(1) *cooperation between—*

1 “(A) *United States courts, United States*
2 *trustees, trustees, examiners, debtors, and debtors*
3 *in possession; and*

4 “(B) *the courts and other competent au-*
5 *thorities of foreign countries involved in cross-*
6 *border insolvency cases;*

7 “(2) *greater legal certainty for trade and invest-*
8 *ment;*

9 “(3) *fair and efficient administration of cross-*
10 *border insolvencies that protects the interests of all*
11 *creditors, and other interested entities, including the*
12 *debtor;*

13 “(4) *protection and maximization of the value of*
14 *the debtor’s assets; and*

15 “(5) *facilitation of the rescue of financially trou-*
16 *bled businesses, thereby protecting investment and*
17 *preserving employment.*

18 “(b) *This chapter applies where—*

19 “(1) *assistance is sought in the United States by*
20 *a foreign court or a foreign representative in connec-*
21 *tion with a foreign proceeding;*

22 “(2) *assistance is sought in a foreign country in*
23 *connection with a case under this title;*

1 “(3) a foreign proceeding and a case under this
2 title with respect to the same debtor are taking place
3 concurrently; or

4 “(4) creditors or other interested persons in a
5 foreign country have an interest in requesting the
6 commencement of, or participating in, a case or pro-
7 ceeding under this title.

8 “(c) This chapter does not apply to—

9 “(1) a proceeding concerning an entity identified
10 by exclusion in subsection 109(b);

11 “(2) an individual, or to an individual and such
12 individual’s spouse, who have debts within the limits
13 specified in section 109(e) and who are citizens of the
14 United States or aliens lawfully admitted for perma-
15 nent residence in the United States; or

16 “(3) an entity subject to a proceeding under the
17 Securities Investor Protection Act, a stockbroker sub-
18 ject to subchapter III of chapter 7 of this title, or a
19 commodity broker subject to subchapter IV of chapter
20 7 of this title.

21 “SUBCHAPTER I—GENERAL PROVISIONS

22 “§ 1502. **Definitions**

23 “For the purposes of this chapter, the term—

24 “(1) ‘debtor’ means an entity that is the subject
25 of a foreign proceeding;

1 “(2) ‘establishment’ means any place of oper-
2 ations where the debtor carries out a nontransitory
3 economic activity;

4 “(3) ‘foreign court’ means a judicial or other au-
5 thority competent to control or supervise a foreign
6 proceeding;

7 “(4) ‘foreign main proceeding’ means a foreign
8 proceeding taking place in the country where the debt-
9 or has the center of its main interests;

10 “(5) ‘foreign nonmain proceeding’ means a for-
11 eign proceeding, other than a foreign main pro-
12 ceeding, taking place in a country where the debtor
13 has an establishment;

14 “(6) ‘trustee’ includes a trustee, a debtor in pos-
15 session in a case under any chapter of this title, or
16 a debtor under chapter 9 of this title; and

17 “(7) ‘within the territorial jurisdiction of the
18 United States’ when used with reference to property
19 of a debtor refers to tangible property located within
20 the territory of the United States and intangible
21 property deemed under applicable nonbankruptcy law
22 to be located within that territory, including any
23 property subject to attachment or garnishment that
24 may properly be seized or garnished by an action in
25 a Federal or State court in the United States.

1 **“§ 1503. International obligations of the United States**

2 *“To the extent that this chapter conflicts with an obli-*
3 *gation of the United States arising out of any treaty or*
4 *other form of agreement to which it is a party with 1 or*
5 *more other countries, the requirements of the treaty or*
6 *agreement prevail.*

7 **“§ 1504. Commencement of ancillary case**

8 *“A case under this chapter is commenced by the filing*
9 *of a petition for recognition of a foreign proceeding under*
10 *section 1515.*

11 **“§ 1505. Authorization to act in a foreign country**

12 *“A trustee or another entity (including an examiner)*
13 *may be authorized by the court to act in a foreign country*
14 *on behalf of an estate created under section 541. An entity*
15 *authorized to act under this section may act in any way*
16 *permitted by the applicable foreign law.*

17 **“§ 1506. Public policy exception**

18 *“Nothing in this chapter prevents the court from refus-*
19 *ing to take an action governed by this chapter if the action*
20 *would be manifestly contrary to the public policy of the*
21 *United States.*

22 **“§ 1507. Additional assistance**

23 *“(a) Subject to the specific limitations stated elsewhere*
24 *in this chapter the court, upon recognition of a foreign pro-*
25 *ceeding, the court may provide additional assistance to a*

1 *foreign representative under this title or under other laws*
2 *of the United States.*

3 “(b) *In determining whether to provide additional as-*
4 *sistance under this title or under other laws of the United*
5 *States, the court shall consider whether such additional as-*
6 *sistance, consistent with the principles of comity, will rea-*
7 *sonably assure—*

8 “(1) *just treatment of all holders of claims*
9 *against or interests in the debtor’s property;*

10 “(2) *protection of claim holders in the United*
11 *States against prejudice and inconvenience in the*
12 *processing of claims in such foreign proceeding;*

13 “(3) *prevention of preferential or fraudulent dis-*
14 *positions of property of the debtor;*

15 “(4) *distribution of proceeds of the debtor’s prop-*
16 *erty substantially in accordance with the order pre-*
17 *scribed by this title; and*

18 “(5) *if appropriate, the provision of an oppor-*
19 *tunity for a fresh start for the individual that such*
20 *foreign proceeding concerns.*

21 **“§ 1508. Interpretation**

22 *“In interpreting this chapter, the court shall consider*
23 *its international origin, and the need to promote an appli-*
24 *cation of this chapter that is consistent with the application*
25 *of similar statutes adopted by foreign jurisdictions.*

1 “SUBCHAPTER II—ACCESS OF FOREIGN REP-
2 RESENTATIVES AND CREDITORS TO THE
3 COURT

4 “§ 1509. *Right of direct access*

5 “(a) *A foreign representative may commence a case*
6 *under section 1504 of this title by filing with the court a*
7 *petition for recognition of a foreign proceeding under sec-*
8 *tion 1515 of this title.*

9 “(b) *If the court grants recognition under section 1515*
10 *of this title, and subject to any limitations that the court*
11 *may impose consistent with the policy of this chapter—*

12 “(1) *the foreign representative has the capacity*
13 *to sue and be sued in a court in the United States;*

14 “(2) *the foreign representative may apply di-*
15 *rectly to a court in the United States for appropriate*
16 *relief in that court; and*

17 “(3) *a court in the United States shall grant*
18 *comity or cooperation to the foreign representative.*

19 “(c) *A request for comity or cooperation by a foreign*
20 *representative in a court in the United States shall be ac-*
21 *companied by a certified copy of an order granting recogni-*
22 *tion under section 1517 of this title.*

23 “(d) *If the court denies recognition under this chapter,*
24 *the court may issue any appropriate order necessary to pre-*

1 *vent the foreign representative from obtaining comity or co-*
2 *operation from courts in the United States.*

3 “(e) *Whether or not the court grants recognition, and*
4 *subject to sections 306 and 1510 of this title, a foreign rep-*
5 *resentative is subject to applicable nonbankruptcy law.*

6 “(f) *Notwithstanding any other provision of this sec-*
7 *tion, the failure of a foreign representative to commence a*
8 *case or to obtain recognition under this chapter does not*
9 *affect any right the foreign representative may have to sue*
10 *in a court in the United State to collect or recover a claim*
11 *which is the property of the debtor.”.*

12 **“§ 1510. Limited jurisdiction**

13 “*The sole fact that a foreign representative files a peti-*
14 *tion under section 1515 does not subject the foreign rep-*
15 *resentative to the jurisdiction of any court in the United*
16 *States for any other purpose.*

17 **“§ 1511. Commencement of case under section 301 or**
18 **303**

19 “(a) *Upon recognition, a foreign representative may*
20 *commence—*

21 “(1) *an involuntary case under section 303; or*

22 “(2) *a voluntary case under section 301 or 302,*
23 *if the foreign proceeding is a foreign main proceeding.*

24 “(b) *The petition commencing a case under subsection*
25 *(a) must be accompanied by certified copy of an order*

1 *granting recognition. The court where the petition for rec-*
2 *ognition has been filed must be advised of the foreign rep-*
3 *resentative's intent to commence a case under subsection (a)*
4 *prior to such commencement.*

5 **“§ 1512. Participation of a foreign representative in a**
6 **case under this title**

7 *“Upon recognition of a foreign proceeding, the foreign*
8 *representative in that proceeding is entitled to participate*
9 *as a party in interest in a case regarding the debtor under*
10 *this title.*

11 **“§ 1513. Access of foreign creditors to a case under**
12 **this title**

13 *“(a) Foreign creditors have the same rights regarding*
14 *the commencement of, and participation in, a case under*
15 *this title as domestic creditors.*

16 *“(b)(1) Subsection (a) does not change or codify*
17 *present law as to the priority of claims under section 507*
18 *or 726 of this title, except that the claim of a foreign cred-*
19 *itor under those sections shall not be given a lower priority*
20 *than that of general unsecured claims without priority sole-*
21 *ly because the holder of such claim is a foreign creditor.*

22 *“(2)(A) Subsection (a) and paragraph (1) do not*
23 *change or codify present law as to the allowability of foreign*
24 *revenue claims or other foreign public law claims in a pro-*
25 *ceeding under this title.*

1 “(3) *in the absence of evidence referred to in*
2 *paragraphs (1) and (2), any other evidence acceptable*
3 *to the court of the existence of the foreign proceeding*
4 *and of the appointment of the foreign representative.*

5 “(c) *A petition for recognition shall also be accom-*
6 *panied by a statement identifying all foreign proceedings*
7 *with respect to the debtor that are known to the foreign rep-*
8 *resentative.*

9 “(d) *The documents referred to in paragraphs (1) and*
10 *(2) of subsection (b) must be translated into English. The*
11 *court may require a translation into English of additional*
12 *documents.*

13 **“§ 1516. Presumptions concerning recognition**

14 “(a) *If the decision or certificate referred to in section*
15 *1515(b) indicates that the foreign proceeding is a foreign*
16 *proceeding as defined in section 101 and that the person*
17 *or body is a foreign representative as defined in section 101,*
18 *the court is entitled to so presume.*

19 “(b) *The court is entitled to presume that documents*
20 *submitted in support of the petition for recognition are au-*
21 *thentic, whether or not they have been legalized.*

22 “(c) *In the absence of evidence to the contrary, the*
23 *debtor’s registered office, or habitual residence in the case*
24 *of an individual, is presumed to be the center of the debtor’s*
25 *main interests.*

1 **“§ 1517. Order recognizing a foreign proceeding**

2 “(a) Subject to section 1506, after notice and a hearing
3 an order recognizing a foreign proceeding shall be entered
4 if—

5 “(1) the foreign proceeding is a foreign main
6 proceeding or foreign nonmain proceeding within the
7 meaning of section 1502;

8 “(2) the foreign representative applying for rec-
9 ognition is a person or body as defined in section
10 101; and

11 “(3) the petition meets the requirements of sec-
12 tion 1515.

13 “(b) The foreign proceeding shall be recognized—

14 “(1) as a foreign main proceeding if it is taking
15 place in the country where the debtor has the center
16 of its main interests; or

17 “(2) as a foreign nonmain proceeding if the debt-
18 or has an establishment within the meaning of section
19 1502 in the foreign country where the proceeding is
20 pending.

21 “(c) A petition for recognition of a foreign proceeding
22 shall be decided upon at the earliest possible time. Entry
23 of an order recognizing a foreign proceeding constitutes rec-
24 ognition under this chapter.

25 “(d) The provisions of this subchapter do not prevent
26 modification or termination of recognition if it is shown

1 *that the grounds for granting it were fully or partially lack-*
2 *ing or have ceased to exist, but in considering such action*
3 *the court shall give due weight to possible prejudice to par-*
4 *ties that have relied upon the granting of recognition. The*
5 *case under this chapter may be closed in the manner pre-*
6 *scribed under section 350.*

7 **“§ 1518. Subsequent information**

8 *“From the time of filing the petition for recognition*
9 *of the foreign proceeding, the foreign representative shall file*
10 *with the court promptly a notice of change of status*
11 *concerning—*

12 *“(1) any substantial change in the status of the*
13 *foreign proceeding or the status of the foreign rep-*
14 *resentative’s appointment; and*

15 *“(2) any other foreign proceeding regarding the*
16 *debtor that becomes known to the foreign representa-*
17 *tive.*

18 **“§ 1519. Relief that may be granted upon petition for**
19 ***recognition of a foreign proceeding***

20 *“(a) From the time of filing a petition for recognition*
21 *until the court rules on the petition, the court may, at the*
22 *request of the foreign representative, where relief is urgently*
23 *needed to protect the assets of the debtor or the interests*
24 *of the creditors, grant relief of a provisional nature,*
25 *including—*

1 “(1) staying execution against the debtor’s assets;

2 “(2) entrusting the administration or realization
3 of all or part of the debtor’s assets located in the
4 United States to the foreign representative or another
5 person authorized by the court, including an exam-
6 iner, in order to protect and preserve the value of as-
7 sets that, by their nature or because of other cir-
8 cumstances, are perishable, susceptible to devaluation
9 or otherwise in jeopardy; and

10 “(3) any relief referred to in paragraph (3), (4),
11 or (7) of section 1521(a).

12 “(b) Unless extended under section 1521(a)(6), the re-
13 lief granted under this section terminates when the petition
14 for recognition is decided upon.

15 “(c) It is a ground for denial of relief under this sec-
16 tion that such relief would interfere with the administration
17 of a foreign main proceeding.

18 “(d) The court may not enjoin a police or regulatory
19 act of a governmental unit, including a criminal action or
20 proceeding, under this section.

21 “(e) The standards, procedures, and limitations appli-
22 cable to an injunction shall apply to relief under this sec-
23 tion.

1 **“§ 1520. Effects of recognition of a foreign main pro-**
2 **ceeding**

3 “(a) Upon recognition of a foreign proceeding that is
4 a foreign main proceeding—

5 “(1) sections 361 and 362 with respect to the
6 debtor and that property of the debtor that is within
7 the territorial jurisdiction of the United States;

8 “(2) sections 363, 549, and 552 of this title
9 apply to a transfer of an interest of the debtor in
10 property that is within the territorial jurisdiction of
11 the United States to the same extent that the sections
12 would apply to property of an estate;

13 “(3) unless the court orders otherwise, the foreign
14 representative may operate the debtor’s business and
15 may exercise the rights and powers of a trustee under
16 and to the extent provided by sections 363 and 552;
17 and

18 “(4) section 552 applies to property of the debtor
19 that is within the territorial jurisdiction of the
20 United States.”.

21 “(b) Subsection (a) does not affect the right to com-
22 mence an individual action or proceeding in a foreign
23 country to the extent necessary to preserve a claim against
24 the debtor.

25 “(c) Subsection (a) does not affect the right of a foreign
26 representative or an entity to file a petition commencing

1 a case under this title or the right of any party to file
2 claims or take other proper actions in such a case.

3 **“§ 1521. Relief that may be granted upon recognition**
4 **of a foreign proceeding**

5 “(a) Upon recognition of a foreign proceeding, whether
6 main or nonmain, where necessary to effectuate the purpose
7 of this chapter and to protect the assets of the debtor or
8 the interests of the creditors, the court may, at the request
9 of the foreign representative, grant any appropriate relief,
10 including—

11 “(1) staying the commencement or continuation
12 of an individual action or proceeding concerning the
13 debtor’s assets, rights, obligations or liabilities to the
14 extent they have not been stayed under section
15 1520(a);

16 “(2) staying execution against the debtor’s assets
17 to the extent it has not been stayed under section
18 1520(a);

19 “(3) suspending the right to transfer, encumber
20 or otherwise dispose of any assets of the debtor to the
21 extent this right has not been suspended under section
22 1520(a);

23 “(4) providing for the examination of witnesses,
24 the taking of evidence or the delivery of information

1 *concerning the debtor’s assets, affairs, rights, obliga-*
2 *tions or liabilities;*

3 *“(5) entrusting the administration or realization*
4 *of all or part of the debtor’s assets within the terri-*
5 *torial jurisdiction of the United States to the foreign*
6 *representative or another person, including an exam-*
7 *iner, authorized by the court;*

8 *“(6) extending relief granted under section*
9 *1519(a); and*

10 *“(7) granting any additional relief that may be*
11 *available to a trustee, except for relief available under*
12 *sections 522, 544, 545, 547, 548, 550, and 724(a).*

13 *“(b) Upon recognition of a foreign proceeding, whether*
14 *main or nonmain, the court may, at the request of the for-*
15 *ign representative, entrust the distribution of all or part*
16 *of the debtor’s assets located in the United States to the for-*
17 *ign representative or another person, including an exam-*
18 *iner, authorized by the court, provided that the court is sat-*
19 *isfied that the interests of creditors in the United States*
20 *are sufficiently protected.*

21 *“(c) In granting relief under this section to a rep-*
22 *resentative of a foreign nonmain proceeding, the court must*
23 *be satisfied that the relief relates to assets that, under the*
24 *law of the United States, should be administered in the for-*

1 *eign nonmain proceeding or concerns information required*
2 *in that proceeding.*

3 “(d) *The court may not enjoin a police or regulatory*
4 *act of a governmental unit, including a criminal action or*
5 *proceeding, under this section.*

6 “(e) *The standards, procedures, and limitations appli-*
7 *cable to an injunction shall apply to relief under para-*
8 *graphs (1), (2), (3), and (6) of subsection (a).*

9 “§ 1522. ***Protection of creditors and other interested***
10 ***persons***

11 “(a) *The court may grant relief under section 1519*
12 *or 1521, or may modify or terminate relief under subsection*
13 *(c), only if the interests of the creditors and other interested*
14 *entities, including the debtor, are sufficiently protected.*

15 “(b) *The court may subject relief granted under section*
16 *1519 or 1521, or the operation of the debtor’s business under*
17 *section 1520(a)(3) of this title, to conditions it considers*
18 *appropriate, including the giving of security or the filing*
19 *of a bond.*

20 “(c) *The court may, at the request of the foreign rep-*
21 *resentative or an entity affected by relief granted under sec-*
22 *tion 1519 or 1521, or at its own motion, modify or termi-*
23 *nate such relief.*

24 “(d) *Section 1104(d) shall apply to the appointment*
25 *of an examiner under this chapter. Any examiner shall*

1 *comply with the qualification requirements imposed on a*
2 *trustee by section 322.*

3 **“§ 1523. Actions to avoid acts detrimental to creditors**

4 “(a) *Upon recognition of a foreign proceeding, the for-*
5 *ign representative has standing in a case concerning the*
6 *debtor pending under another chapter of this title to initiate*
7 *actions under sections 522, 544, 545, 547, 548, 550, and*
8 *724(a).*

9 “(b) *When the foreign proceeding is a foreign nonmain*
10 *proceeding, the court must be satisfied that an action under*
11 *subsection (a) relates to assets that, under United States*
12 *law, should be administered in the foreign nonmain pro-*
13 *ceeding.*

14 **“§ 1524. Intervention by a foreign representative**

15 “*Upon recognition of a foreign proceeding, the foreign*
16 *representative may intervene in any proceedings in a State*
17 *or Federal court in the United States in which the debtor*
18 *is a party.*

1 “SUBCHAPTER IV—COOPERATION WITH FOR-
2 EIGN COURTS AND FOREIGN REPRESENTA-
3 TIVES

4 “§1525. *Cooperation and direct communication be-*
5 *tween the court and foreign courts or for-*
6 *eign representatives*

7 “(a) *Consistent with section 1501, the court shall co-*
8 *operate to the maximum extent possible with foreign courts*
9 *or foreign representatives, either directly or through the*
10 *trustee.*

11 “(b) *The court is entitled to communicate directly*
12 *with, or to request information or assistance directly from,*
13 *foreign courts or foreign representatives, subject to the rights*
14 *of parties in interest to notice and participation.*

15 “§1526. *Cooperation and direct communication be-*
16 *tween the trustee and foreign courts or*
17 *foreign representatives*

18 “(a) *Consistent with section 1501, the trustee or other*
19 *person, including an examiner, authorized by the court,*
20 *shall, subject to the supervision of the court, cooperate to*
21 *the maximum extent possible with foreign courts or foreign*
22 *representatives.*

23 “(b) *The trustee or other person, including an exam-*
24 *iner, authorized by the court is entitled, subject to the super-*

1 *vision of the court, to communicate directly with foreign*
2 *courts or foreign representatives.*

3 **“§ 1527. Forms of cooperation**

4 *“Cooperation referred to in sections 1525 and 1526*
5 *may be implemented by any appropriate means,*
6 *including—*

7 *“(1) appointment of a person or body, including*
8 *an examiner, to act at the direction of the court;*

9 *“(2) communication of information by any*
10 *means considered appropriate by the court;*

11 *“(3) coordination of the administration and su-*
12 *per vision of the debtor’s assets and affairs;*

13 *“(4) approval or implementation of agreements*
14 *concerning the coordination of proceedings; and*

15 *“(5) coordination of concurrent proceedings re-*
16 *garding the same debtor.*

17 **“SUBCHAPTER V—CONCURRENT PROCEEDINGS**

18 **“§ 1528. Commencement of a case under this title after**
19 ***recognition of a foreign main proceeding***

20 *“After recognition of a foreign main proceeding, a case*
21 *under another chapter of this title may be commenced only*
22 *if the debtor has assets in the United States. The effects of*
23 *such case shall be restricted to the assets of the debtor that*
24 *are within the territorial jurisdiction of the United States*
25 *and, to the extent necessary to implement cooperation and*

1 coordination under sections 1525, 1526, and 1527, to other
2 assets of the debtor that are within the jurisdiction of the
3 court under sections 541(a) of this title, and 1334(e) of title
4 28, to the extent that such other assets are not subject to
5 the jurisdiction and control of a foreign proceeding that has
6 been recognized under this chapter.

7 **“§ 1529. Coordination of a case under this title and a**
8 **foreign proceeding**

9 “Where a foreign proceeding and a case under another
10 chapter of this title are taking place concurrently regarding
11 the same debtor, the court shall seek cooperation and coordi-
12 nation under sections 1525, 1526, and 1527, and the fol-
13 lowing shall apply:

14 “(1) When the case in the United States is tak-
15 ing place at the time the petition for recognition of
16 the foreign proceeding is filed—

17 “(A) any relief granted under sections 1519
18 or 1521 must be consistent with the relief grant-
19 ed in the case in the United States; and

20 “(B) even if the foreign proceeding is recog-
21 nized as a foreign main proceeding, section 1520
22 does not apply.

23 “(2) When a case in the United States under this
24 title commences after recognition, or after the filing of

1 *the petition for recognition, of the foreign*
2 *proceeding—*

3 “(A) *any relief in effect under sections 1519*
4 *or 1521 shall be reviewed by the court and shall*
5 *be modified or terminated if inconsistent with*
6 *the case in the United States; and*

7 “(B) *if the foreign proceeding is a foreign*
8 *main proceeding, the stay and suspension re-*
9 *ferred to in section 1520(a) shall be modified or*
10 *terminated if inconsistent with the relief granted*
11 *in the case in the United States.*

12 “(3) *In granting, extending, or modifying relief*
13 *granted to a representative of a foreign nonmain pro-*
14 *ceeding, the court must be satisfied that the relief re-*
15 *lates to assets that, under the law of the United*
16 *States, should be administered in the foreign nonmain*
17 *proceeding or concerns information required in that*
18 *proceeding.*

19 “(4) *In achieving cooperation and coordination*
20 *under sections 1528 and 1529, the court may grant*
21 *any of the relief authorized under section 305.*

22 **“§ 1530. Coordination of more than 1 foreign pro-**
23 **ceeding**

24 *“In matters referred to in section 1501, with respect*
25 *to more than 1 foreign proceeding regarding the debtor, the*

1 *court shall seek cooperation and coordination under sections*
2 *1525, 1526, and 1527, and the following shall apply:*

3 “(1) *Any relief granted under section 1519 or*
4 *1521 to a representative of a foreign nonmain pro-*
5 *ceeding after recognition of a foreign main proceeding*
6 *must be consistent with the foreign main proceeding.*

7 “(2) *If a foreign main proceeding is recognized*
8 *after recognition, or after the filing of a petition for*
9 *recognition, of a foreign nonmain proceeding, any re-*
10 *lief in effect under section 1519 or 1521 shall be re-*
11 *viewed by the court and shall be modified or termi-*
12 *nated if inconsistent with the foreign main pro-*
13 *ceeding.*

14 “(3) *If, after recognition of a foreign nonmain*
15 *proceeding, another foreign nonmain proceeding is*
16 *recognized, the court shall grant, modify, or terminate*
17 *relief for the purpose of facilitating coordination of*
18 *the proceedings.*

19 **“§ 1531. *Presumption of insolvency based on recogni-***
20 ***tion of a foreign main proceeding***

21 “*In the absence of evidence to the contrary, recognition*
22 *of a foreign main proceeding is for the purpose of com-*
23 *mencing a proceeding under section 303, proof that the*
24 *debtor is generally not paying its debts as such debts become*
25 *due.*

1 **“§ 1532. Rule of payment in concurrent proceedings**

2 *“Without prejudice to secured claims or rights in rem,*
 3 *a creditor who has received payment with respect to its*
 4 *claim in a foreign proceeding pursuant to a law relating*
 5 *to insolvency may not receive a payment for the same claim*
 6 *in a case under any other chapter of this title regarding*
 7 *the debtor, so long as the payment to other creditors of the*
 8 *same class is proportionately less than the payment the*
 9 *creditor has already received.”.*

10 **(b) CLERICAL AMENDMENT.**—*The table of chapters for*
 11 *title 11, United States Code, is amended by inserting after*
 12 *the item relating to chapter 13 the following:*

“15. Ancillary and Other Cross-Border Cases 1501”.

13 **SEC. 902. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**
 14 **UNITED STATES CODE.**

15 **(a) APPLICABILITY OF CHAPTERS.**—*Section 103 of*
 16 *title 11, United States Code, is amended—*

17 **(1)** *in subsection (a), by inserting before the pe-*
 18 *riod the following: “, and this chapter, sections 307,*
 19 *304, 555 through 557, 559, and 560 apply in a case*
 20 *under chapter 15”;* and

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

22 **(j)** *Chapter 15 applies only in a case under such*
 23 *chapter, except that—*

24 **(1)** *sections 1505, 1513, and 1514 apply in all*
 25 *cases under this title; and*

1 “(2) section 1509 applies whether or not a case
2 under this title is pending.”.

3 (b) *DEFINITIONS.*—Paragraphs (23) and (24) of title
4 11, *United States Code*, are amended to read as follows:

5 “(23) ‘foreign proceeding’ means a collective ju-
6 dicial or administrative proceeding in a foreign coun-
7 try, including an interim proceeding, under a law re-
8 lating to insolvency or adjustment of debt in which
9 proceeding the assets and affairs of the debtor are sub-
10 ject to control or supervision by a foreign court, for
11 the purpose of reorganization or liquidation;

12 “(24) ‘foreign representative’ means a person or
13 body, including a person or body appointed on an in-
14 terim basis, authorized in a foreign proceeding to ad-
15 minister the reorganization or the liquidation of the
16 debtor’s assets or affairs or to act as a representative
17 of the foreign proceeding;”.

18 (c) *AMENDMENTS TO TITLE 28, UNITED STATES*
19 *CODE.*—

20 (1) *PROCEDURES.*—Section 157(b)(2) of title 28,
21 *United States Code*, is amended—

22 (A) in subparagraph (N), by striking “and”
23 at the end;

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

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

2 “(P) recognition of foreign proceedings and other
3 matters under chapter 15 of title 11.”.

4 (2) *BANKRUPTCY CASES AND PROCEEDINGS.*—
5 Section 1334(c) of title 28, United States Code, is
6 amended by striking “Nothing in” and inserting “Ex-
7 cept with respect to a case under chapter 15 of title
8 11, nothing in”.

9 (3) *DUTIES OF TRUSTEES.*—Section 586(a)(3) of
10 title 28, United States Code, is amended by striking
11 “or 13” and inserting “13, or 15,” after “chapter”.

12 (4) Section 305(a)(2) of title 11, United States
13 Code, is amended to read:

14 “(2)(A) a petition under section 1515 of this title
15 for recognition of a foreign proceeding has been grant-
16 ed; and

17 “(B) the purposes of chapter 15 of this title
18 would be best served by such dismissal or suspen-
19 sion.”.

20 (5) Section 508 of title 11, United States Code,
21 is amended by striking subsection (a) and by striking
22 out the letter “(b)” at the beginning of the second
23 paragraph.

1 **TITLE X—FINANCIAL CONTRACT**
 2 **PROVISIONS**

3 **SEC. 1001. TREATMENT OF CERTAIN AGREEMENTS BY CON-**
 4 **SERVATORS OR —RECEIVERS OF INSURED**
 5 **DEPOSITORY INSTITUTIONS.**

6 (a) *DEFINITION OF QUALIFIED FINANCIAL CON-*
 7 *TRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit In-*
 8 *surance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by in-*
 9 *serting “, resolution or order” after “any similar agreement*
 10 *that the Corporation determines by regulation”.*

11 (b) *DEFINITION OF SECURITIES CONTRACT.—Section*
 12 *11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12*
 13 *U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:*

14 “(i) *SECURITIES CONTRACT.—The*
 15 *term ‘securities contract’—*

16 *“(I) means a contract for the pur-*
 17 *chase, sale, or loan of a security, a cer-*
 18 *tificate of deposit, a mortgage loan, or*
 19 *any interest in a mortgage loan, a*
 20 *group or index of securities, certificates*
 21 *of deposit, or mortgage loans or inter-*
 22 *ests therein (including any interest*
 23 *therein or based on the value thereof)*
 24 *or any option on any of the foregoing,*
 25 *including any option to purchase or*

1 *sell any such security, certificate of de-*
2 *posit, loan, interest, group or index, or*
3 *option;*

4 “(II) *does not include any pur-*
5 *chase, sale, or repurchase obligation*
6 *under a participation in a commercial*
7 *mortgage loan unless the Corporation*
8 *determines by regulation, resolution, or*
9 *order to include any such agreement*
10 *within the meaning of such term;*

11 “(III) *means any option entered*
12 *into on a national securities exchange*
13 *relating to foreign currencies;*

14 “(IV) *means the guarantee by or*
15 *to any securities clearing agency of*
16 *any settlement of cash, securities, cer-*
17 *tificates of deposit, mortgage loans or*
18 *interests therein, group or index of se-*
19 *curities, certificates of deposit, or mort-*
20 *gage loans or interests therein (includ-*
21 *ing any interest therein or based on*
22 *the value thereof) or option on any of*
23 *the foregoing, including any option to*
24 *purchase or sell any such security, cer-*

1 *tificate of deposit, loan, interest, group*
2 *or index or option;*

3 “(V) means any margin loan;

4 “(VI) means any other agreement
5 *or transaction that is similar to any*
6 *agreement or transaction referred to in*
7 *this clause;*

8 “(VII) means any combination of
9 *the agreements or transactions referred*
10 *to in this clause;*

11 “(VIII) means any option to enter
12 *into any agreement or transaction re-*
13 *ferred to in this clause;*

14 “(IX) means a master agreement
15 *that provides for an agreement or*
16 *transaction referred to in subclause (I),*
17 *(III), (IV), (V), (VI), (VII), or (VIII),*
18 *together with all supplements to any*
19 *such master agreement, without regard*
20 *to whether the master agreement pro-*
21 *vides for an agreement or transaction*
22 *that is not a securities contract under*
23 *this clause, except that the master*
24 *agreement shall be considered to be a*
25 *securities contract under this clause*

1 *only with respect to each agreement or*
2 *transaction under the master agree-*
3 *ment that is referred to in subclause*
4 *(I), (III), (IV), (V), (VI), (VII), or*
5 *(VIII); and*

6 “*(X) means any security agree-*
7 *ment or arrangement or other credit*
8 *enhancement related to any agreement*
9 *or transaction referred to in this*
10 *clause.*”.

11 *(c) DEFINITION OF COMMODITY CONTRACT.—Section*
12 *11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12*
13 *U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:*

14 “*(iii) COMMODITY CONTRACT.—The*
15 *term ‘commodity contract’ means—*

16 “*(I) with respect to a futures com-*
17 *mission merchant, a contract for the*
18 *purchase or sale of a commodity for fu-*
19 *ture delivery on, or subject to the rules*
20 *of, a contract market or board of trade;*

21 “*(II) with respect to a foreign fu-*
22 *tures commission merchant, a foreign*
23 *future;*

1 “(III) with respect to a leverage
2 transaction merchant, a leverage trans-
3 action;

4 “(IV) with respect to a clearing
5 organization, a contract for the pur-
6 chase or sale of a commodity for future
7 delivery on, or subject to the rules of,
8 a contract market or board of trade
9 that is cleared by such clearing organi-
10 zation, or commodity option traded on,
11 or subject to the rules of, a contract
12 market or board of trade that is
13 cleared by such clearing organization;

14 “(V) with respect to a commodity
15 options dealer, a commodity option;

16 “(VI) any other agreement or
17 transaction that is similar to any
18 agreement or transaction referred to in
19 this clause;

20 “(VII) any combination of the
21 agreements or transactions referred to
22 in this clause;

23 “(VIII) any option to enter into
24 any agreement or transaction referred
25 to in this clause;

1 “(IX) a master agreement that
2 provides for an agreement or trans-
3 action referred to in subclause (I), (II),
4 (III), (IV), (V), (VI), (VII), or (VIII),
5 together with all supplements to any
6 such master agreement, without regard
7 to whether the master agreement pro-
8 vides for an agreement or transaction
9 that is not a commodity contract
10 under this clause, except that the mas-
11 ter agreement shall be considered to be
12 a commodity contract under this clause
13 only with respect to each agreement or
14 transaction under the master agree-
15 ment that is referred to in subclause
16 (I), (II), (III), (IV), (V), (VI), (VII), or
17 (VIII); or

18 “(X) a security agreement or ar-
19 rangement or other credit enhancement
20 related to any agreement or trans-
21 action referred to in this clause.”.

22 (d) *DEFINITION OF FORWARD CONTRACT.*—Section
23 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
24 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

1 “(iv) *FORWARD CONTRACT*.—*The term*
2 *‘forward contract’ means—*

3 “(I) *a contract (other than a com-*
4 *modity contract) for the purchase, sale,*
5 *or transfer of a commodity or any*
6 *similar good, article, service, right, or*
7 *interest which is presently or in the fu-*
8 *ture becomes the subject of dealing in*
9 *the forward contract trade, or product*
10 *or byproduct thereof, with a maturity*
11 *date more than 2 days after the date*
12 *the contract is entered into, including,*
13 *but not limited to, a repurchase agree-*
14 *ment, reverse repurchase agreement,*
15 *consignment, lease, swap, hedge trans-*
16 *action, deposit, loan, option, allocated*
17 *transaction, unallocated transaction,*
18 *or any other similar agreement;*

19 “(II) *any combination of agree-*
20 *ments or transactions referred to in*
21 *subclauses (I) and (III);*

22 “(III) *any option to enter into*
23 *any agreement or transaction referred*
24 *to in subclause (I) or (II);*

1 “(IV) a master agreement that
2 provides for an agreement or trans-
3 action referred to in subclauses (I),
4 (II), or (III), together with all supple-
5 ments to any such master agreement,
6 without regard to whether the master
7 agreement provides for an agreement
8 or transaction that is not a forward
9 contract under this clause, except that
10 the master agreement shall be consid-
11 ered to be a forward contract under
12 this clause only with respect to each
13 agreement or transaction under the
14 master agreement that is referred to in
15 subclause (I), (II), or (III); or

16 “(V) a security agreement or ar-
17 rangement or other credit enhancement
18 related to any agreement or trans-
19 action referred to in subclause (I), (II),
20 (III), or (IV).”.

21 (e) *DEFINITION OF REPURCHASE AGREEMENT.*—Sec-
22 tion 11(e)(8)(D)(v) of the Federal Deposit Insurance Act
23 (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

24 “(v) *REPURCHASE AGREEMENT.*—The
25 term ‘repurchase agreement’ (which defini-

1 *tion also applies to a reverse repurchase*
2 *agreement)—*

3 *“(I) mean an agreement, includ-*
4 *ing related terms, which provides for*
5 *the transfer of 1 or more certificates of*
6 *deposit, mortgage-related securities (as*
7 *such term is defined in the Securities*
8 *Exchange Act of 1934), mortgage loans,*
9 *interests in mortgage-related securities*
10 *or mortgage loans, eligible bankers’ ac-*
11 *ceptances, qualified foreign government*
12 *securities or securities that are direct*
13 *obligations of, or that are fully guaran-*
14 *teed by, the United States or any agen-*
15 *cy of the United States against the*
16 *transfer of funds by the transferee of*
17 *such certificates of deposit, eligible*
18 *bankers’ acceptances, securities, loans,*
19 *or interests with a simultaneous agree-*
20 *ment by such transferee to transfer to*
21 *the transferor thereof certificates of de-*
22 *posit, eligible bankers’ acceptances, se-*
23 *curities, loans, or interests as described*
24 *above, at a date certain not later than*
25 *1 year after such transfers or on de-*

1 *mand, against the transfer of funds, or*
2 *any other similar agreement;*

3 *“(II) does not include any repur-*
4 *chase obligation under a participation*
5 *in a commercial mortgage loan unless*
6 *the Corporation determines by regula-*
7 *tion, resolution, or order to include*
8 *any such participation within the*
9 *meaning of such term;*

10 *“(III) means any combination of*
11 *agreements or transactions referred to*
12 *in subclauses (I) and (IV);*

13 *“(IV) means any option to enter*
14 *into any agreement or transaction re-*
15 *ferred to in subclause (I) or (III);*

16 *“(V) means a master agreement*
17 *that provides for an agreement or*
18 *transaction referred to in subclause (I),*
19 *(III), or (IV), together with all supple-*
20 *ments to any such master agreement,*
21 *without regard to whether the master*
22 *agreement provides for an agreement*
23 *or transaction that is not a repurchase*
24 *agreement under this clause, except*
25 *that the master agreement shall be con-*

1 sidered to be a repurchase agreement
2 under this subclause only with respect
3 to each agreement or transaction under
4 the master agreement that is referred to
5 in subclause (I), (III), or (IV); and

6 “(VI) means a security agreement
7 or arrangement or other credit en-
8 hancement related to any agreement or
9 transaction referred to in subclause (I),
10 (III), (IV), or (V).

11 For purposes of this clause, the term ‘quali-
12 fied foreign government security’ means a
13 security that is a direct obligation of, or
14 that is fully guaranteed by, the central gov-
15 ernment of a member of the Organization
16 for Economic Cooperation and Development
17 (as determined by regulation or order
18 adopted by the appropriate Federal banking
19 authority).”.

20 (f) *DEFINITION OF SWAP AGREEMENT.*—Section
21 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
22 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

23 “(vi) *SWAP AGREEMENT.*—The term
24 ‘swap agreement’ means—

1 “(I) any agreement, including the
2 terms and conditions incorporated by
3 reference in any such agreement, which
4 is an interest rate swap, option, future,
5 or forward agreement, including a rate
6 floor, rate cap, rate collar, cross-cur-
7 rency rate swap, and basis swap; a
8 spot, same day-tomorrow, tomorrow-
9 next, forward, or other foreign ex-
10 change or precious metals agreement; a
11 currency swap, option, future, or for-
12 ward agreement; an equity index or eq-
13 uity swap, option, future, or forward
14 agreement; a debt index or debt swap,
15 option, future, or forward agreement; a
16 credit spread or credit swap, option,
17 future, or forward agreement; a com-
18 modity index or commodity swap, op-
19 tion, future, or forward agreement;

20 “(II) any agreement or trans-
21 action similar to any other agreement
22 or transaction referred to in this clause
23 that is presently, or in the future be-
24 comes, regularly entered into in the
25 swap market (including terms and

1 *conditions incorporated by reference in*
2 *such agreement) and that is a forward,*
3 *swap, future, or option on 1 or more*
4 *rates, currencies, commodities, equity*
5 *securities or other equity instruments,*
6 *debt securities or other debt instru-*
7 *ments, or economic indices or measures*
8 *of economic risk or value;*

9 *“(III) any combination of agree-*
10 *ments or transactions referred to in*
11 *this clause;*

12 *“(IV) any option to enter into*
13 *any agreement or transaction referred*
14 *to in this clause;*

15 *“(V) a master agreement that pro-*
16 *vides for an agreement or transaction*
17 *referred to in subclause (I), (II), (III),*
18 *or (IV), together with all supplements*
19 *to any such master agreement, without*
20 *regard to whether the master agreement*
21 *contains an agreement or transaction*
22 *that is not a swap agreement under*
23 *this clause, except that the master*
24 *agreement shall be considered to be a*
25 *swap agreement under this clause only*

1 *with respect to each agreement or*
2 *transaction under the master agree-*
3 *ment that is referred to in subclause*
4 *(I), (II), (III), or (IV); and*

5 *“(VI) any security agreement or*
6 *arrangement or other credit enhance-*
7 *ment related to any agreements or*
8 *transactions referred to in subpara-*
9 *graph (I), (II), (III), or (IV).*

10 *Such term is applicable for purposes of this*
11 *title only and shall not be construed or ap-*
12 *plied so as to challenge or affect the charac-*
13 *terization, definition, or treatment of any*
14 *swap agreement under any other statute,*
15 *regulation, or rule, including the Securities*
16 *Act of 1933, the Securities Exchange Act of*
17 *1934, the Public Utility Holding Company*
18 *Act of 1935, the Trust Indenture Act of*
19 *1939, the Investment Company Act of 1940,*
20 *the Investment Advisers Act of 1940, the Se-*
21 *curities Investor Protection Act of 1970, the*
22 *Commodity Exchange Act, and the regula-*
23 *tions promulgated by the Securities and Ex-*
24 *change Commission or the Commodity Fu-*
25 *tures Trading Commission.”.*

1 (g) *DEFINITION OF TRANSFER.*—Section
2 *11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12*
3 *U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:*

4 “(viii) *TRANSFER.*—The term ‘trans-
5 fer’ means every mode, direct or indirect,
6 absolute or conditional, voluntary or invol-
7 untary, of disposing of or parting with
8 property or with an interest in property,
9 including retention of title as a security in-
10 terest and foreclosure of the depository
11 institutions’s equity of redemption.”.

12 (h) *TREATMENT OF QUALIFIED FINANCIAL CON-*
13 *TRACTS.*—Section 11(e)(8) of the Federal Deposit Insurance
14 *Act (12 U.S.C. 1821(e)(8)) is amended—*

15 (1) *in subparagraph (A), by striking “paragraph*
16 *(10)” and inserting “paragraphs (9) and (10)”;*

17 (2) *in subparagraph (A)(i), by striking “to cause*
18 *the termination or liquidation” and inserting “such*
19 *person has to cause the termination, liquidation, or*
20 *acceleration”;*

21 (3) *by amending subparagraph (A)(ii) to read as*
22 *follows:*

23 “(ii) *any right under any security*
24 *agreement or arrangement or other credit*
25 *enhancement related to 1 or more qualified*

1 *financial contracts described in clause (i);*”;

2 *and*

3 (4) *by amending subparagraph (E)(ii) to read*

4 *as follows:*

5 *“(ii) any right under any security*

6 *agreement or arrangement or other credit*

7 *enhancement related to 1 or more qualified*

8 *financial contracts described in clause (i);”.*

9 (i) *AVOIDANCE OF TRANSFERS.—Section*
10 *11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12*
11 *U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section*
12 *5242 of the Revised Statutes of the United States (12 U.S.C.*
13 *91) or any other Federal or State law relating to the avoid-*
14 *ance of preferential or fraudulent transfers,” before “the*
15 *Corporation”.*

16 **SEC. 1002. AUTHORITY OF THE CORPORATION WITH RE-**
17 **SPECT TO FAILED AND FAILING INSTITU-**
18 **TIONS.**

19 (a) *IN GENERAL.—Section 11(e)(8) of the Federal De-*
20 *posit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—*

21 (1) *in subparagraph (E), by striking “other than*
22 *paragraph (12) of this subsection, subsection (d)(9)”*
23 *and inserting “other than subsections (d)(9) and*
24 *(e)(10)”;* *and*

1 (2) *by adding at the end the following new sub-*
2 *paragraphs:*

3 “(F) *CLARIFICATION.—No provision of law*
4 *shall be construed as limiting the right or power*
5 *of the Corporation, or authorizing any court or*
6 *agency to limit or delay, in any manner, the*
7 *right or power of the Corporation to transfer any*
8 *qualified financial contract in accordance with*
9 *paragraphs (9) and (10) of this subsection or to*
10 *disaffirm or repudiate any such contract in ac-*
11 *cordance with subsection (e)(1) of this section.*

12 “(G) *WALKAWAY CLAUSES NOT EFFEC-*
13 *TIVE.—*

14 “(i) *IN GENERAL.—Notwithstanding*
15 *the provisions of subparagraphs (A) and*
16 *(E), and sections 403 and 404 of the Fed-*
17 *eral Deposit Insurance Corporation Im-*
18 *provement Act of 1991, no walkaway clause*
19 *shall be enforceable in a qualified financial*
20 *contract of an insured depository institu-*
21 *tion in default.*

22 “(ii) *WALKAWAY CLAUSE DEFINED.—*
23 *For purposes of this subparagraph, the term*
24 *‘walkaway clause’ means a provision in a*
25 *qualified financial contract that, after cal-*

1 *ulation of a value of a party’s position or*
2 *an amount due to or from 1 of the parties*
3 *in accordance with its terms upon termi-*
4 *nation, liquidation, or acceleration of the*
5 *qualified financial contract, either does not*
6 *create a payment obligation of a party or*
7 *extinguishes a payment obligation of a*
8 *party in whole or in part solely because of*
9 *such party’s status as a nondefaulting*
10 *party.”.*

11 *(b) TECHNICAL AND CONFORMING AMENDMENT.—Sec-*
12 *tion 11(e)(12)(A) of the Federal Deposit Insurance Act (12*
13 *U.S.C. 1821(e)(12)(A)) is amended by inserting “or the ex-*
14 *ercise of rights or powers” after “the appointment”.*

15 **SEC. 1003. AMENDMENTS RELATING TO TRANSFERS OF**
16 **QUALIFIED FINANCIAL CONTRACTS.**

17 *(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS*
18 *TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Fed-*
19 *eral Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is*
20 *amended to read as follows:*

21 *“(9) TRANSFER OF QUALIFIED FINANCIAL CON-*
22 *TRACTS.—*

23 *“(A) IN GENERAL.—In making any transfer*
24 *of assets or liabilities of a depository institution*
25 *in default which includes any qualified financial*

1 *contract, the conservator or receiver for such de-*
2 *pository institution shall either—*

3 “(i) *transfer to 1 financial institution,*
4 *other than a financial institution for which*
5 *a conservator, receiver, trustee in bank-*
6 *ruptcy, or other legal custodian has been*
7 *appointed or which is otherwise the subject*
8 *of a bankruptcy or insolvency proceeding—*

9 “(I) *all qualified financial con-*
10 *tracts between any person or any affil-*
11 *iate of such person and the depository*
12 *institution in default;*

13 “(II) *all claims of such person or*
14 *any affiliate of such person against*
15 *such depository institution under any*
16 *such contract (other than any claim*
17 *which, under the terms of any such*
18 *contract, is subordinated to the claims*
19 *of general unsecured creditors of such*
20 *institution);*

21 “(III) *all claims of such deposi-*
22 *tory institution against such person or*
23 *any affiliate of such person under any*
24 *such contract; and*

1 “(IV) all property securing or any
2 other credit enhancement for any con-
3 tract described in subclause (I) or any
4 claim described in subclause (II) or
5 (III) under any such contract; or

6 “(ii) transfer none of the qualified fi-
7 nancial contracts, claims, property or other
8 credit enhancement referred to in clause (i)
9 (with respect to such person and any affil-
10 iate of such person).

11 “(B) TRANSFER TO FOREIGN BANK, FOR-
12 EIGN FINANCIAL INSTITUTION, OR BRANCH OR
13 AGENCY OF A FOREIGN BANK OR FINANCIAL IN-
14 STITUTION.—In transferring any qualified fi-
15 nancial contracts and related claims and prop-
16 erty pursuant to subparagraph (A)(i), the con-
17 servator or receiver for such depository institu-
18 tion shall not make such transfer to a foreign
19 bank, financial institution organized under the
20 laws of a foreign country, or a branch or agency
21 of a foreign bank or financial institution unless,
22 under the law applicable to such bank, financial
23 institution, branch or agency, to the qualified fi-
24 nancial contracts, and to any netting contract,
25 any security agreement or arrangement or other

1 *credit enhancement related to 1 or more qualified*
2 *financial contracts, the contractual rights of the*
3 *parties to such qualified financial contracts, net-*
4 *ting contracts, security agreements or arrange-*
5 *ments, or other credit enhancements are enforce-*
6 *able substantially to the same extent as per-*
7 *mitted under this section.*

8 “(C) *TRANSFER OF CONTRACTS SUBJECT TO*
9 *THE RULES OF A CLEARING ORGANIZATION.—In*
10 *the event that a conservator or receiver transfers*
11 *any qualified financial contract and related*
12 *claims, property and credit enhancements pursu-*
13 *ant to subparagraph (A)(i) and such contract is*
14 *subject to the rules of a clearing organization,*
15 *the clearing organization shall not be required to*
16 *accept the transferee as a member by virtue of*
17 *the transfer.*

18 “(D) *DEFINITION.—For purposes of this*
19 *section, the term ‘financial institution’ means a*
20 *broker or dealer, a depository institution, a fu-*
21 *tures commission merchant, or any other institu-*
22 *tion as determined by the Corporation by regula-*
23 *tion to be a financial institution.”.*

24 (b) *NOTICE TO QUALIFIED FINANCIAL CONTRACT*
25 *COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal*

1 *Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is*
2 *amended by amending the flush material following clause*
3 *(ii) to read as follows: “the conservator or receiver shall no-*
4 *tify any person who is a party to any such contract of such*
5 *transfer by 5:00 p.m. (eastern time) on the business day*
6 *following the date of the appointment of the receiver, in the*
7 *case of a receivership, or the business day following such*
8 *transfer, in the case of a conservatorship.”.*

9 *(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF*
10 *BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit*
11 *Insurance Act (12 U.S.C. 1821(e)(10)) is further*
12 *amended—*

13 *(1) by redesignating subparagraph (B) as sub-*
14 *paragraph (D); and*

15 *(2) by inserting after subparagraph (A) the fol-*
16 *lowing new subparagraphs:*

17 *“(B) CERTAIN RIGHTS NOT ENFORCE-*
18 *ABLE.—*

19 *“(i) RECEIVERSHIP.—A person who is*
20 *a party to a qualified financial contract*
21 *with an insured depository institution may*
22 *not exercise any right such person has to*
23 *terminate, liquidate, or net such contract*
24 *under paragraph (8)(A) or section 403 or*
25 *404 of the Federal Deposit Insurance Cor-*

1 *poration Improvement Act of 1991 solely by*
2 *reason of or incidental to the appointment*
3 *of a receiver for the depository institution*
4 *(or the insolvency or financial condition of*
5 *the depository institution for which the re-*
6 *ceiver has been appointed)—*

7 *“(I) until 5:00 p.m. (eastern time)*
8 *on the business day following the date*
9 *of the appointment of the receiver; or*

10 *“(II) after the person has received*
11 *notice that the contract has been trans-*
12 *ferred pursuant to paragraph (9)(A).*

13 *“(ii) CONSERVATORSHIP.—A person*
14 *who is a party to a qualified financial con-*
15 *tract with an insured depository institution*
16 *may not exercise any right such person has*
17 *to terminate, liquidate, or net such contract*
18 *under paragraph (8)(E) or sections 403 or*
19 *404 of the Federal Deposit Insurance Cor-*
20 *poration Improvement Act of 1991, solely*
21 *by reason of or incidental to the appoint-*
22 *ment of a conservator for the depository in-*
23 *stitution (or the insolvency or financial*
24 *condition of the depository institution for*
25 *which the conservator has been appointed).*

1 “(iii) NOTICE.—For purposes of this
2 subsection, the Corporation as receiver or
3 conservator of an insured depository insti-
4 tution shall be deemed to have notified a
5 person who is a party to a qualified finan-
6 cial contract with such depository institu-
7 tion if the Corporation has taken steps rea-
8 sonably calculated to provide notice to such
9 person by the time specified in subpara-
10 graph (A) of this subsection.

11 “(C) TREATMENT OF BRIDGE BANKS.—The
12 following institutions shall not be considered a
13 financial institution for which a conservator, re-
14 ceiver, trustee in bankruptcy, or other legal cus-
15 todian has been appointed or which is otherwise
16 the subject of a bankruptcy or insolvency pro-
17 ceeding for purposes of subsection (e)(9)—

18 “(i) a bridge bank; or

19 “(ii) a depository institution organized
20 by the Corporation, for which a conservator
21 is appointed either—

22 “(I) immediately upon the organi-
23 zation of the institution; or

24 “(II) at the time of a purchase
25 and assumption transaction between

1 *such institution and the Corporation*
2 *as receiver for a depository institution*
3 *in default.”.*

4 **SEC. 1004. AMENDMENTS RELATING TO DISAFFIRMANCE OR**
5 **REPUDIATION OF QUALIFIED FINANCIAL**
6 **CONTRACTS.**

7 *Section 11(e) of the Federal Deposit Insurance Act (12*
8 *U.S.C. 1821(e)) is further amended—*

9 *(1) by redesignating paragraphs (11) through*
10 *(15) as paragraphs (12) through (16), respectively;*
11 *and*

12 *(2) by inserting after paragraph (10) the fol-*
13 *lowing new paragraph:*

14 *“(11) DISAFFIRMANCE OR REPUDIATION OF*
15 *QUALIFIED FINANCIAL CONTRACTS.—In exercising the*
16 *rights of disaffirmance or repudiation of a conser-*
17 *vator or receiver with respect to any qualified finan-*
18 *cial contract to which an insured depository institu-*
19 *tion is a party, the conservator or receiver for such*
20 *institution shall either—*

21 *“(A) disaffirm or repudiate all qualified fi-*
22 *nancial contracts between—*

23 *“(i) any person or any affiliate of such*
24 *person; and*

1 “(ii) the depository institution in de-
2 fault; or

3 “(B) disaffirm or repudiate none of the
4 qualified financial contracts referred to in sub-
5 paragraph (A) (with respect to such person or
6 any affiliate of such person).”.

7 **SEC. 1005. CLARIFYING AMENDMENT RELATING TO MASTER**
8 **AGREEMENTS.**

9 Section 11(e)(8)(D)(vii) of the Federal Deposit Insur-
10 ance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read
11 as follows:

12 “(vii) *TREATMENT OF MASTER AGREE-*
13 *MENT AS 1 AGREEMENT.*—Any master
14 agreement for any contract or agreement de-
15 scribed in any preceding clause of this sub-
16 paragraph (or any master agreement for
17 such master agreement or agreements), to-
18 gether with all supplements to such master
19 agreement, shall be treated as a single
20 agreement and a single qualified financial
21 contract. If a master agreement contains
22 provisions relating to agreements or trans-
23 actions that are not themselves qualified fi-
24 nancial contracts, the master agreement
25 shall be deemed to be a qualified financial

1 *contract only with respect to those trans-*
2 *actions that are themselves qualified finan-*
3 *cial contracts.”.*

4 **SEC. 1006. FEDERAL DEPOSIT INSURANCE CORPORATION**
5 **IMPROVEMENT ACT OF 1991.**

6 (a) *DEFINITIONS.*—Section 402 of the Federal Deposit
7 *Insurance Corporation Improvement Act of 1991 (12 U.S.C.*
8 *4402) is amended—*

9 (1) *in paragraph (6)—*

10 (A) *by redesignating subparagraphs (B)*
11 *through (D) as subparagraphs (C) through (E),*
12 *respectively;*

13 (B) *by inserting after subparagraph (A) the*
14 *following new subparagraph:*

15 “(B) *an uninsured national bank or an un-*
16 *insured State bank that is a member of the Fed-*
17 *eral Reserve System if the national bank or*
18 *State member bank is not eligible to make appli-*
19 *cation to become an insured bank under section*
20 *5 of the Federal Deposit Insurance Act;”;* and

21 (C) *by amending subparagraph (C) (as re-*
22 *designated) to read as follows:*

23 “(C) *a branch or agency of a foreign bank,*
24 *a foreign bank and any branch or agency of the*
25 *foreign bank, or the foreign bank that established*

1 *the branch or agency, as those terms are defined*
2 *in section 1(b) of the International Banking Act*
3 *of 1978;”;*

4 *(2) in paragraph (11), by adding before the pe-*
5 *riod “and any other clearing organization with which*
6 *such clearing organization has a netting contract”;*

7 *(3) by amending paragraph (14)(A)(i) to read as*
8 *follows:*

9 *“(i) means a contract or agreement be-*
10 *tween 2 or more financial institutions,*
11 *clearing organizations, or members that*
12 *provides for netting present or future pay-*
13 *ment obligations or payment entitlements*
14 *(including liquidation or closeout values re-*
15 *lating to such obligations or entitlements)*
16 *among the parties to the agreement; and”;*
17 *and*

18 *(4) by adding at the end the following new para-*
19 *graph:*

20 *“(15) PAYMENT.—The term ‘payment’ means a*
21 *payment of United States dollars, another currency,*
22 *or a composite currency, and a noncash delivery, in-*
23 *cluding a payment or delivery to liquidate an*
24 *unmatured obligation.”.*

1 (b) *ENFORCEABILITY OF BILATERAL NETTING CON-*
2 *TRACTS.—Section 403 of the Federal Deposit Insurance*
3 *Corporation Improvement Act of 1991 (12 U.S.C. 4403) is*
4 *amended—*

5 (1) *by amending subsection (a) to read as fol-*
6 *lows:*

7 “(a) *GENERAL RULE.—Notwithstanding any other*
8 *provision of State or Federal law (other than paragraphs*
9 *(8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal*
10 *Deposit Insurance Act or any order authorized under sec-*
11 *tion 5(b)(2) of the Securities Investor Protection Act of*
12 *1970, the covered contractual payment obligations and the*
13 *covered contractual payment entitlements between any 2 fi-*
14 *ancial institutions shall be netted in accordance with, and*
15 *subject to the conditions of, the terms of any applicable net-*
16 *ting contract (except as provided in section 561(b)(2) of*
17 *title 11).”;*

18 (2) *by adding at the end the following new sub-*
19 *section:*

20 “(f) *ENFORCEABILITY OF SECURITY AGREEMENTS.—*
21 *The provisions of any security agreement or arrangement*
22 *or other credit enhancement related to 1 or more netting*
23 *contracts between any 2 financial institutions shall be en-*
24 *forceable in accordance with their terms (except as provided*
25 *in section 561(b)(2) of title 11) and shall not be stayed,*

1 *avoided, or otherwise limited by any State or Federal law*
2 *(other than paragraphs (8)(E), (8)(F), and (10)(B) of sec-*
3 *tion 11(e) of the Federal Deposit Insurance Act and section*
4 *5(b)(2) of the Securities Investor Protection Act of 1970).”.*

5 *(c) ENFORCEABILITY OF CLEARING ORGANIZATION*
6 *NETTING CONTRACTS.—Section 404 of the Federal Deposit*
7 *Insurance Corporation Improvement Act of 1991 (12 U.S.C.*
8 *4404) is amended—*

9 *(1) by amending subsection (a) to read as fol-*
10 *lows:*

11 *“(a) GENERAL RULE.—Notwithstanding any other*
12 *provision of State or Federal law (other than paragraphs*
13 *(8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal*
14 *Deposit Insurance Act and any order authorized under sec-*
15 *tion 5(b)(2) of the Securities Investor Protection Act of*
16 *1970, the covered contractual payment obligations and the*
17 *covered contractual payment entitlements of a member of*
18 *a clearing organization to and from all other members of*
19 *a clearing organization shall be netted in accordance with*
20 *and subject to the conditions of any applicable netting con-*
21 *tract (except as provided in section 561(b)(2) of title 11,*
22 *United States Code).”;* and

23 *(2) by adding at the end the following new sub-*
24 *section:*

1 “(h) *ENFORCEABILITY OF SECURITY AGREEMENTS.*—
2 *The provisions of any security agreement or arrangement*
3 *or other credit enhancement related to 1 or more netting*
4 *contracts between any 2 members of a clearing organization*
5 *shall be enforceable in accordance with their terms (except*
6 *as provided in section 561(b)(2) of title 11, United States*
7 *Code) and shall not be stayed, avoided, or otherwise limited*
8 *by any State or Federal law other than paragraphs (8)(E),*
9 *(8)(F), and (10)(B) of section 11(e) of the Federal Deposit*
10 *Insurance Act and section 5(b)(2) of the Securities Investor*
11 *Protection Act of 1970.”.*

12 (d) *ENFORCEABILITY OF CONTRACTS WITH UNIN-*
13 *SURED NATIONAL BANKS AND UNINSURED FEDERAL*
14 *BRANCHES AND AGENCIES.*—*The Federal Deposit Insur-*
15 *ance Corporation Improvement Act of 1991 (12 U.S.C. 4401*
16 *et seq.) is amended—*

17 (1) *by redesignating section 407 as section 408;*

18 *and*

19 (2) *by adding after section 406 the following new*
20 *section:*

21 **“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED**
22 **NATIONAL BANKS AND UNINSURED FEDERAL**
23 **BRANCHES AND AGENCIES.**

24 “(a) *IN GENERAL.*—*Notwithstanding any other provi-*
25 *sion of law, paragraphs (8), (9), (10), and (11) of section*

1 11(e) of the Federal Deposit Insurance Act shall apply to
2 an uninsured national bank or uninsured Federal branch
3 or Federal agency except—

4 “(1) any reference to the ‘Corporation as re-
5 ceiver’ or ‘the receiver or the Corporation’ shall refer
6 to the receiver of an uninsured national bank or un-
7 insured Federal branch or Federal agency appointed
8 by the Comptroller of the Currency;

9 “(2) any reference to the ‘Corporation’ (other
10 than in section 11(e)(8)(D) of such Act), the ‘Corpora-
11 tion, whether acting as such or as conservator or re-
12 ceiver’, a ‘receiver’, or a ‘conservator’ shall refer to the
13 receiver or conservator of an uninsured national bank
14 or uninsured Federal branch or Federal agency ap-
15 pointed by the Comptroller of the Currency; and

16 “(3) any reference to an ‘insured depository in-
17 stitution’ or ‘depository institution’ shall refer to an
18 uninsured national bank or an uninsured Federal
19 branch or Federal agency.

20 “(b) *LIABILITY.*—The liability of a receiver or conser-
21 vator of an uninsured national bank or uninsured Federal
22 branch or agency shall be determined in the same manner
23 and subject to the same limitations that apply to receivers
24 and conservators of insured depository institutions under
25 section 11(e) of the Federal Deposit Insurance Act.

1 “(c) *REGULATORY AUTHORITY.*—

2 “(1) *IN GENERAL.*—*The Comptroller of the Cur-*
3 *rency, in consultation with the Federal Deposit In-*
4 *surance Corporation, may promulgate regulations to*
5 *implement this section.*

6 “(2) *SPECIFIC REQUIREMENT.*—*In promulgating*
7 *regulations to implement this section, the Comptroller*
8 *of the Currency shall ensure that the regulations gen-*
9 *erally are consistent with the regulations and policies*
10 *of the Federal Deposit Insurance Corporation adopted*
11 *pursuant to the Federal Deposit Insurance Act.*

12 “(d) *DEFINITIONS.*—*For purposes of this section, the*
13 *terms ‘Federal branch’, ‘Federal agency’, and ‘foreign bank’*
14 *have the same meaning as in section 1(b) of the Inter-*
15 *national Banking Act.’’.*

16 **SEC. 1007. BANKRUPTCY CODE AMENDMENTS.**

17 (a) *DEFINITIONS OF FORWARD CONTRACT, REPUR-*
18 *CHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP*
19 *AGREEMENT, COMMODITY CONTRACT, AND SECURITIES*
20 *CONTRACT.*—*Title 11, United States Code, is amended—*

21 (1) *in section 101—*

22 (A) *in paragraph (25)—*

23 (i) *by striking “means a contract” and*
24 *inserting “means—*

25 *“(A) a contract”;*

1 (ii) by striking “, or any combination
2 thereof or option thereon;” and inserting “,
3 or any other similar agreement;”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(B) any combination of agreements or
7 transactions referred to in subparagraphs (A)
8 and (C);

9 “(C) any option to enter into an agreement
10 or transaction referred to in subparagraph (A)
11 or (B);

12 “(D) a master agreement that provides for
13 an agreement or transaction referred to in sub-
14 paragraph (A), (B), or (C), together with all
15 supplements to any such master agreement, with-
16 out regard to whether such master agreement
17 provides for an agreement or transaction that is
18 not a forward contract under this paragraph, ex-
19 cept that such master agreement shall be consid-
20 ered to be a forward contract under this para-
21 graph only with respect to each agreement or
22 transaction under such master agreement that is
23 referred to in subparagraph (A), (B) or (C); or

24 “(E) a security agreement or arrangement,
25 or other credit enhancement related to any agree-

1 *ment or transaction referred to in subparagraph*
2 *(A), (B), (C), or (D), but not to exceed the actual*
3 *value of such contract, option, agreement, or*
4 *transaction on the date of the filing of the peti-*
5 *tion;”;*

6 *(B) in paragraph (46), by striking “on any*
7 *day during the period beginning 90 days before*
8 *the date of” and replacing it with “at any time*
9 *before”;*

10 *(C) by amending paragraph (47) to read as*
11 *follows:*

12 *“(47) ‘repurchase agreement’ (which definition*
13 *also applies to a reverse repurchase agreement)*
14 *means—*

15 *“(i) an agreement, including related*
16 *terms, which provides for the transfer of 1*
17 *or more certificates of deposit, mortgage-re-*
18 *lated securities (as defined in the Securities*
19 *Exchange Act of 1934), mortgage loans, in-*
20 *terests in mortgage-related securities or*
21 *mortgage loans, eligible bankers’ accept-*
22 *ances, qualified foreign government securi-*
23 *ties; or securities that are direct obligations*
24 *of, or that are fully guaranteed by, the*
25 *United States or any agency of the United*

1 *States against the transfer of funds by the*
2 *transferee of such certificates of deposit, eli-*
3 *gible bankers' acceptances, securities, loans,*
4 *or interests; with a simultaneous agreement*
5 *by such transferee to transfer to the trans-*
6 *feror thereof certificates of deposit, eligible*
7 *bankers' acceptance, securities, loans, or in-*
8 *terests of the kind described above, at a date*
9 *certain not later than 1 year after such*
10 *transfer or on demand, against the transfer*
11 *of funds;*

12 “(ii) any combination of agreements or
13 transactions referred to in clauses (i) and
14 (iii);

15 “(iii) an option to enter into an agree-
16 ment or transaction referred to in clause (i)
17 or (ii);

18 “(iv) a master agreement that provides
19 for an agreement or transaction referred to
20 in clause (i), (ii), or (iii), together with all
21 supplements to any such master agreement,
22 without regard to whether such master
23 agreement provides for an agreement or
24 transaction that is not a repurchase agree-
25 ment under this paragraph, except that

1 *such master agreement shall be considered*
2 *to be a repurchase agreement under this*
3 *paragraph only with respect to each agree-*
4 *ment or transaction under the master agree-*
5 *ment that is referred to in clause (i), (ii),*
6 *or (iii); or*

7 *“(v) a security agreement or arrange-*
8 *ment or other credit enhancement related to*
9 *any agreement or transaction referred to in*
10 *clause (i), (ii), (iii), or (iv), but not to ex-*
11 *ceed the actual value of such contract on the*
12 *date of the filing of the petition; and*

13 *“(B) does not include a repurchase obliga-*
14 *tion under a participation in a commercial*
15 *mortgage loan;*

16 *and, for purposes of this paragraph, the term ‘quali-*
17 *fied foreign government security’ means a security*
18 *that is a direct obligation of, or that is fully guaran-*
19 *teed by, the central government of a member of the*
20 *Organization for Economic Cooperation and Develop-*
21 *ment;”;*

22 *(D) in paragraph (48) by inserting “or ex-*
23 *empt from such registration under such section*
24 *pursuant to an order of the Securities and Ex-*
25 *change Commission” after “1934”; and*

1 (E) by amending paragraph (53B) to read
2 as follows:

3 “(53B) ‘swap agreement’

4 “(A) means—

5 “(i) any agreement, including the
6 terms and conditions incorporated by ref-
7 erence in such agreement, which is an inter-
8 est rate swap, option, future, or forward
9 agreement, including a rate floor, rate cap,
10 rate collar, cross-currency rate swap, and
11 basis swap; a spot, same day-tomorrow, to-
12 morrow-next, forward, or other foreign ex-
13 change or precious metals agreement; a cur-
14 rency swap, option, future, or forward
15 agreement; an equity index or an equity
16 swap, option, future, or forward agreement;
17 a debt index or a debt swap, option, future,
18 or forward agreement; a credit spread or a
19 credit swap, option, future, or forward
20 agreement; or a commodity index or a com-
21 modity swap, option, future, or forward
22 agreement;

23 “(ii) any agreement or transaction
24 similar to any other agreement or trans-
25 action referred to in this paragraph that—

1 “(I) is presently, or in the future
2 becomes, regularly entered into in the
3 swap market (including terms and
4 conditions incorporated by reference
5 therein); and

6 “(II) is a forward, swap, future,
7 or option on 1 or more rates, cur-
8 rencies commodities, equity securities,
9 or other equity instruments, debt secu-
10 rities or other debt instruments, or on
11 an economic index or measure of eco-
12 nomic risk or value;

13 “(iii) any combination of agreements
14 or transactions referred to in this para-
15 graph;

16 “(iv) any option to enter into an
17 agreement or transaction referred to in this
18 paragraph;

19 “(v) a master agreement that provides
20 for an agreement or transaction referred to
21 in clause (i), (ii), (iii), or (iv), together
22 with all supplements to any such master
23 agreement, and without regard to whether
24 the master agreement contains an agree-
25 ment or transaction that is not a swap

1 *agreement under this paragraph, except*
2 *that the master agreement shall be consid-*
3 *ered to be a swap agreement under this*
4 *paragraph only with respect to each agree-*
5 *ment or transaction under the master agree-*
6 *ment that is referred to in clause (i), (ii),*
7 *(iii), or (iv); or*

8 *“(B) any security agreement or arrange-*
9 *ment or other credit enhancement related to any*
10 *agreements or transactions referred to in sub-*
11 *paragraph (A); and*

12 *“(C) is applicable for purposes of this title*
13 *only and shall not be construed or applied so as*
14 *to challenge or affect the characterization, defini-*
15 *tion, or treatment of any swap agreement under*
16 *any other statute, regulation, or rule, including*
17 *the Securities Act of 1933, the Securities Ex-*
18 *change Act of 1934, the Public Utility Holding*
19 *Company Act of 1935, the Trust Indenture Act*
20 *of 1939, the Investment Company Act of 1940,*
21 *the Investment Advisers Act of 1940, the Securi-*
22 *ties Investor Protection Act of 1970, the Com-*
23 *modity Exchange Act, and the regulations pre-*
24 *scribed by the Securities and Exchange Commis-*

1 *sion or the Commodity Futures Trading Com-*
2 *mission.”;*

3 *(2) by amending section 741(7) to read as fol-*
4 *lows:*

5 *“(7) ‘securities contract’—*

6 *“(A) means—*

7 *“(i) a contract for the purchase, sale,*
8 *or loan of a security, a certificate of deposit,*
9 *a mortgage loan or any interest in a mort-*
10 *gage loan, a group or index of securities,*
11 *certificates of deposit or mortgage loans or*
12 *interests therein (including an interest*
13 *therein or based on the value thereof), or op-*
14 *tion on any of the foregoing, including an*
15 *option to purchase or sell any such security*
16 *certificate of deposit, loan, interest, group or*
17 *index or option;*

18 *“(ii) any option entered into on a na-*
19 *tional securities exchange relating to foreign*
20 *currencies;*

21 *“(iii) the guarantee by or to any secu-*
22 *rities clearing agency of a settlement of*
23 *cash, securities, certificates of deposit mort-*
24 *gage loans or interests therein, group or*
25 *index of securities, or mortgage loans or in-*

1 *terests therein (including any interest there-*
2 *in or based on the value thereof), or option*
3 *on any of the foregoing, including an option*
4 *to purchase or sell any such security certifi-*
5 *cate of deposit, loan, interest, group or*
6 *index or option;*

7 *“(iv) any margin loan;*

8 *“(v) any other agreement or trans-*
9 *action that is similar to an agreement or*
10 *transaction referred to in this paragraph;*

11 *“(vi) any combination of the agree-*
12 *ments or transactions referred to in this*
13 *paragraph;*

14 *“(vii) any option to enter into any*
15 *agreement or transaction referred to in this*
16 *paragraph;*

17 *“(viii) a master agreement that pro-*
18 *vides for an agreement or transaction re-*
19 *ferred to in clause (i), (ii), (iii), (iv), (v),*
20 *(vi), or (vii), together with all supplements*
21 *to any such master agreement, without re-*
22 *gard to whether the master agreement pro-*
23 *vides for an agreement or transaction that*
24 *is not a securities contract under this para-*
25 *graph, except that such master agreement*

1 *shall be considered to be a securities con-*
2 *tract under this paragraph only with re-*
3 *spect to each agreement or transaction*
4 *under such master agreement that is re-*
5 *ferred to in clause (i), (ii), (iii), (iv), (v),*
6 *(vi), or (vii); or*

7 *“(ix) any security agreement or ar-*
8 *rangement, or other credit enhancement, re-*
9 *lated to any agreement or transaction re-*
10 *ferred to in this paragraph, but not to ex-*
11 *ceed the actual value of such contract on the*
12 *date of the filing of the petition; and*

13 *“(B) does not include any purchase, sale, or*
14 *repurchase obligation under a participation in a*
15 *commercial mortgage loan.”; and*

16 *(3) in section 761(4)—*

17 *(A) by striking “or” at the end of subpara-*
18 *graph (D); and*

19 *(B) by adding at the end the following:*

20 *“(F) any other agreement or transaction*
21 *that is similar to an agreement or transaction*
22 *referred to in this paragraph;*

23 *“(G) any combination of the agreements or*
24 *transactions referred to in this paragraph;*

1 “(H) any option to enter into an agreement
2 or transaction referred to in this paragraph;

3 “(I) a master agreement that provides for
4 an agreement or transaction referred to in sub-
5 paragraph (A), (B), (C), (D), (E), (F), (G), or
6 (H), together with all supplements to such mas-
7 ter netting agreement, without regard to whether
8 the master netting agreement provides for an
9 agreement or transaction that is not a com-
10 modity contract under this paragraph, except
11 that the master agreement shall be considered to
12 be a commodity contract under this paragraph
13 only with respect to each agreement or trans-
14 action under the master agreement that is re-
15 ferred to in subparagraph (A), (B), (C), (D),
16 (E), (F), (G), or (H); or

17 “(J) a security agreement or arrangement,
18 or other credit enhancement related to any agree-
19 ment or transaction referred to in this para-
20 graph, but not to exceed the actual value of such
21 contract on the date of the filing of the peti-
22 tion;”.

23 (b) *DEFINITIONS OF FINANCIAL INSTITUTION, FINAN-*
24 *CIAL PARTICIPANT, AND FORWARD CONTRACT MER-*

1 *CHANT.*—Section 101 of title 11, United States Code, is
2 amended—

3 (1) by amending paragraph (22) to read as fol-
4 lows:

5 “(22) ‘financial institution’ means—

6 “(A) a Federal reserve bank, or an entity
7 (domestic or foreign) that is a commercial or
8 savings bank, industrial savings bank, savings
9 and loan association, trust company, or receiver
10 or conservator for such entity and, when any
11 such Federal reserve bank, receiver, conservator
12 or entity is acting as agent or custodian for a
13 customer in connection with a securities con-
14 tract, as defined in section 741 of this title, such
15 customer; or

16 “(B) in connection with a securities con-
17 tract, as defined in section 741 of this title, an
18 investment company registered under the Invest-
19 ment Company Act of 1940;”;

20 (2) by inserting after paragraph (22) the fol-
21 lowing:

22 “(22A) ‘financial participant’ means an entity
23 that, at the time it enters into a securities contract,
24 commodity contract or forward contract, or at the
25 time of the filing of the petition, has 1 or more agree-

1 *ments or transactions that is described in section*
2 *561(a)(2) with the debtor or any other entity (other*
3 *than an affiliate) of a total gross dollar value of at*
4 *least \$1,000,000,000 in notional or actual principal*
5 *amount outstanding on any day during the previous*
6 *15-month period, or has gross mark-to-market posi-*
7 *tions of at least \$100,000,000 (aggregated across*
8 *counterparties) in 1 or more such agreement or trans-*
9 *action with the debtor or any other entity (other than*
10 *an affiliate) on any day during the previous 15-*
11 *month period;”;* and

12 *(3) by amending paragraph (26) to read as fol-*
13 *lows:*

14 *“(26) ‘forward contract merchant’ means a Fed-*
15 *eral reserve bank, or an entity whose business consists*
16 *in whole or in part of entering into forward contracts*
17 *as or with merchants or in a commodity, as defined*
18 *or in section 761 of this title, or any similar good,*
19 *article, service, right, or interest which is presently or*
20 *in the future becomes the subject of dealing or in the*
21 *forward contract trade;”.*

22 *(c) DEFINITION OF MASTER NETTING AGREEMENT*
23 *AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-*
24 *tion 101 of title 11, United States Code, is amended by in-*
25 *serting after paragraph (38) the following new paragraphs:*

1 “(38A) ‘master netting agreement’ means an
2 agreement providing for the exercise of rights, includ-
3 ing rights of netting, setoff, liquidation, termination,
4 acceleration, or closeout, under or in connection with
5 1 or more contracts that are described in any 1 or
6 more of paragraphs (1) through (5) of section 561(a),
7 or any security agreement or arrangement or other
8 credit enhancement related to 1 or more of the fore-
9 going. If a master netting agreement contains provi-
10 sions relating to agreements or transactions that are
11 not contracts described in paragraphs (1) through (5)
12 of section 561(a), the master netting agreement shall
13 be deemed to be a master netting agreement only with
14 respect to those agreements or transactions that are
15 described in any 1 or more of the paragraphs (1)
16 through (5) of section 561(a);

17 “(38B) ‘master netting agreement participant’
18 means an entity that, at any time before the filing of
19 the petition, is a party to an outstanding master net-
20 ting agreement with the debtor;”.

21 (d) *SWAP AGREEMENTS, SECURITIES CONTRACTS,*
22 *COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-*
23 *CHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS*
24 *UNDER THE AUTOMATIC-STAY.—*

1 (1) *IN GENERAL.*—Section 362(b) of title 11,
2 *United States Code, as amended by sections 118, 132,*
3 *136, 142, 203 and 818, is amended—*

4 (A) *in paragraph (6), by inserting “,*
5 *pledged to, and under the control of,” after “held*
6 *by”;*

7 (B) *in paragraph (7), by inserting “,*
8 *pledged to, and under the control of,” after “held*
9 *by”;*

10 (C) *by amending paragraph (17) to read as*
11 *follows:*

12 “(17) *under subsection (a), of the setoff by a*
13 *swap participant of a mutual debt and claim under*
14 *or in connection with 1 or more swap agreements that*
15 *constitutes the setoff of a claim against the debtor for*
16 *any payment or other transfer of property due from*
17 *the debtor under or in connection with any swap*
18 *agreement against any payment due to the debtor*
19 *from the swap participant under or in connection*
20 *with any swap agreement or against cash, securities,*
21 *or other property held by, pledged to, and under the*
22 *control of, or due from such swap participant to mar-*
23 *gin guarantee, secure, or settle a swap agreement;”;*

24 (D) *in paragraph (30) by striking “or” at*
25 *the end;*

1 (E) in paragraph (31) by striking the pe-
2 riod at the end and inserting “; or”; and

3 (F) by inserting after paragraph (31) the
4 following new paragraph:

5 “(32) under subsection (a), of the setoff by a
6 master netting agreement participant of a mutual
7 debt and claim under or in connection with 1 or more
8 master netting agreements or any contract or agree-
9 ment subject to such agreements that constitutes the
10 setoff of a claim against the debtor for any payment
11 or other transfer of property due from the debtor
12 under or in connection with such agreements or any
13 contract or agreement subject to such agreements
14 against any payment due to the debtor from such
15 master netting agreement participant under or in
16 connection with such agreements or any contract or
17 agreement subject to such agreements or against cash,
18 securities, or other property held by, pledged or and
19 under the control of, or due from such master netting
20 agreement participant to margin, guarantee, secure,
21 or settle such agreements or any contract or agree-
22 ment subject to such agreements, to the extent such
23 participant is eligible to exercise such offset rights
24 under paragraph (6), (7), or (17) for each individual

1 *contract covered by the master netting agreement in*
2 *issue.”.*

3 (2) *LIMITATION.*—*Section 362 of title 11, United*
4 *States Code, as amended by sections 120, 302, and*
5 *412, is amended by adding at the end the following:*

6 “(l) *LIMITATION.*—*The exercise of rights not subject to*
7 *the stay arising under subsection (a) pursuant to para-*
8 *graph (6), (7), or (17), or (31) of subsection (b) shall not*
9 *be stayed by any order of a court or administrative agency*
10 *in any proceeding under this title.”.*

11 (e) *LIMITATION OF AVOIDANCE POWERS UNDER MAS-*
12 *TER NETTING AGREEMENT.*—*Section 546 of title 11, United*
13 *States Code, as amended by sections 207 and 302, is*
14 *amended—*

15 (1) *in subsection (g) (as added by section 103 of*
16 *Public Law 101–311)—*

17 (A) *by striking “under a swap agreement”;*

18 (B) *by striking “in connection with a swap*
19 *agreement” and inserting “under or in connec-*
20 *tion with any swap agreement”;* and

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

22 “(j) *Notwithstanding sections 544, 545, 547,*
23 *548(a)(2)(B), and 548(b) of this title, the trustee may not*
24 *avoid a transfer made by or to a master netting agreement*
25 *participant under or in connection with any master netting*

1 *agreement or any individual contract covered thereby that*
2 *is made before the commencement of the case, except under*
3 *section 548(a)(1)(A) of this title, and except to the extent*
4 *the trustee could otherwise avoid such a transfer made*
5 *under an individual contract covered by such master net-*
6 *ting agreement.”.*

7 (f) *FRAUDULENT TRANSFERS OF MASTER NETTING*
8 *AGREEMENTS.*—Section 548(d)(2) of title 11, United States
9 Code, is amended—

10 (1) *in subparagraph (C), by striking “and”;*

11 (2) *in subparagraph (D), by striking the period*
12 *and inserting “; and”;* and

13 (3) *by adding at the end the following new sub-*
14 *paragraph:*

15 “(E) *a master netting agreement participant*
16 *that receives a transfer in connection with a master*
17 *netting agreement or any individual contract covered*
18 *thereby takes for value to the extent of such transfer,*
19 *except, with respect to a transfer under any indi-*
20 *vidual contract covered thereby, to the extent such*
21 *master netting agreement participant otherwise did*
22 *not take (or is otherwise not deemed to have taken)*
23 *such transfer for value.”.*

1 (g) *TERMINATION OR ACCELERATION OF SECURITIES*
2 *CONTRACTS.*—Section 555 of title 11, United States Code,
3 *is amended—*

4 (1) *by amending the section heading to read as*
5 *follows:*

6 **“§555. Contractual right to liquidate, terminate, or**
7 **accelerate a securities contract”; and**

8 (2) *in the first sentence, by striking “liquida-*
9 *tion” and inserting “liquidation, termination, or ac-*
10 *celeration”.*

11 (h) *TERMINATION OR ACCELERATION OF COMMOD-*
12 *ITIES OR FORWARD CONTRACTS.*—Section 556 of title 11,
13 *United States Code, is amended—*

14 (1) *by amending the section heading to read as*
15 *follows:*

16 **“§556. Contractual right to liquidate, terminate, or**
17 **accelerate a commodities contract or for-**
18 **ward contract”; and**

19 (2) *in the first sentence, by striking “liquida-*
20 *tion” and inserting “liquidation, termination, or ac-*
21 *celeration”.*

22 (i) *TERMINATION OR ACCELERATION OF REPURCHASE*
23 *AGREEMENTS.*—Section 559 of title 11, United States Code,
24 *is amended—*

1 (1) *by amending the section heading to read as*
2 *follows:*

3 **“§559. Contractual right to liquidate, terminate, or**
4 **accelerate a repurchase agreement”;** and

5 (2) *in the first sentence, by striking “liquida-*
6 *tion” and inserting “liquidation, termination, or ac-*
7 *celeration”.*

8 (j) *LIQUIDATION, TERMINATION, OR ACCELERATION OF*
9 *SWAP AGREEMENTS.—Section 560 of title 11, United States*
10 *Code, is amended—*

11 (1) *by amending the section heading to read as*
12 *follows:*

13 **“§560. Contractual right to liquidate, terminate, or**
14 **accelerate a swap agreement”;** and

15 (2) *in the first sentence, by striking “termi-*
16 *nation of a swap agreement” and inserting “liquida-*
17 *tion, termination, or acceleration of 1 or more swap*
18 *agreements”;* and

19 (3) *by striking “in connection with any swap*
20 *agreement” and inserting “in connection with the ter-*
21 *mination, liquidation, or acceleration of 1 or more*
22 *swap agreements”.*

23 (k) *LIQUIDATION, TERMINATION, ACCELERATION, OR*
24 *OFFSET UNDER A MASTER NETTING AGREEMENT AND*

1 *ACROSS CONTRACTS.*—(1) *Title 11, United States Code, is*
2 *amended by inserting after section 560 the following:*

3 **“§561. Contractual right to terminate, liquidate, ac-**
4 **celerate, or offset under a master netting**
5 **agreement and across contracts**

6 “(a) *IN GENERAL.*—*Subject to subsection (b), the exer-*
7 *cise of any contractual right, because of a condition of the*
8 *kind specified in section 365(e)(1), to cause the termination,*
9 *liquidation, or acceleration of or to offset or net termination*
10 *values, payment amounts or other transfer obligations aris-*
11 *ing under or in connection with 1 or more (or the termi-*
12 *nation, liquidation, or acceleration of 1 or more)—*

13 “(1) *securities contracts, as defined in section*
14 *741(7);*

15 “(2) *commodity contracts, as defined in section*
16 *761(4);*

17 “(3) *forward contracts;*

18 “(4) *repurchase agreements;*

19 “(5) *swap agreements; or*

20 “(6) *master netting agreements,*

21 *shall not be stayed, avoided, or otherwise limited by oper-*
22 *ation of any provision of this title or by any order of a*
23 *court or administrative agency in any proceeding under*
24 *this title.*

25 “(b) *EXCEPTION.*—

1 “(1) A party may exercise a contractual right
2 described in subsection (a) to terminate, liquidate, or
3 accelerate only to the extent that such party could ex-
4 ercise such a right under section 555, 556, 559, or
5 560 for each individual contract covered by the mas-
6 ter netting agreement in issue.

7 “(2) If a debtor is a commodity broker subject to
8 subchapter IV of chapter 7 of this title—

9 “(A) a party may not net or offset an obli-
10 gation to the debtor arising under, or in connec-
11 tion with, a commodity contract against any
12 claim arising under, or in connection with, other
13 instruments, contracts, or agreements listed in
14 subsection (a) except to the extent the party has
15 positive net equity in the commodity accounts at
16 the debtor, as calculated under subchapter IV;
17 and

18 “(B) another commodity broker may not net
19 or offset an obligation to the debtor arising
20 under, or in connection with, a commodity con-
21 tract entered into or held on behalf of a customer
22 of the debtor against any claim arising under, or
23 in connection with, other instruments, contracts,
24 or agreements listed in subsection (a).

1 “(c) *DEFINITION.*—As used in this section, the term
2 ‘contractual right’ includes a right set forth in a rule or
3 bylaw of a national securities exchange, a national securi-
4 ties association, or a securities clearing agency, a right set
5 forth in a bylaw of a clearing organization or contract mar-
6 ket or in a resolution of the governing board thereof, and
7 a right, whether or not evidenced in writing, arising under
8 common law, under law merchant, or by reason of normal
9 business practice.”.

10 (2) *CONFORMING AMENDMENT.*—The table of sections
11 of chapter 9 of title 11, United States Code, is amended
12 by inserting after the item relating to section 560 the fol-
13 lowing:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a mas-
ter netting agreement and across contracts.

14 (l) *ANCILLARY PROCEEDINGS.*—Section 304 of title 11,
15 United States Code, as amended by section 215, is amended
16 by adding at the end the following:

17 “(c) Any provisions of this title relating to securities
18 contracts, commodity contracts, forward contracts, repur-
19 chase agreements, swap agreements, or master netting
20 agreements shall apply in a case ancillary to a foreign pro-
21 ceeding under this section or any other section of this title,
22 so that enforcement of contractual provisions of such con-
23 tracts and agreements in accordance with their terms will
24 not be stayed or otherwise limited by operation of any pro-

1 *vision of this title or by order of a court in any case under*
2 *this title, and to limit avoidance powers to the same extent*
3 *as in a proceeding under chapter 7 or 11 of this title (such*
4 *enforcement not to be limited based on the presence or ab-*
5 *sence of assets of the debtor in the United States).”.*

6 (m) *COMMODITY BROKER LIQUIDATIONS.—Title 11,*
7 *United States Code, is amended by inserting after section*
8 *766 the following:*

9 **“§767. Commodity broker liquidation and forward**
10 **contract merchants, commodity brokers,**
11 **stockbrokers, financial institutions, secu-**
12 **rities clearing agencies, swap partici-**
13 **pants, repo participants, and master net-**
14 **ting agreement participants**

15 *“Notwithstanding any other provision of this title, the*
16 *exercise of rights by a forward contract merchant, com-*
17 *modity broker, stockbroker, financial institution, securities*
18 *clearing agency, swap participant, repo participant, or*
19 *master netting agreement participant under this title shall*
20 *not affect the priority of any unsecured claim it may have*
21 *after the exercise of such rights.”.*

22 (n) *STOCKBROKER LIQUIDATIONS.—Title 11, United*
23 *States Code, is amended by inserting after section 752 the*
24 *following:*

1 **“§ 753. Stockbroker liquidation and forward contract**
2 **merchants, commodity brokers, stock-**
3 **brokers, financial institutions, securities**
4 **clearing agencies, swap participants, repo**
5 **participants, and master netting agree-**
6 **ment participants**

7 “Notwithstanding any other provision of this title, the
8 exercise of rights by a forward contract merchant, com-
9 modity broker, stockbroker, financial institution, securities
10 clearing agency, swap participant, repo participant, finan-
11 cial participant, or master netting agreement participant
12 under this title shall not affect the priority of any unsecured
13 claim it may have after the exercise of such rights.”

14 (o) *SETOFF*.—Section 553 of title 11, United States
15 Code, is amended—

16 (1) in subsection (a)(3)(C), by inserting “(except
17 for a setoff of a kind described in section 362(b)(6),
18 362(b)(7), 362(b)(17), 362(b)(19), 555, 556, 559, 560
19 or 561 of this title)” before the period; and

20 (2) in subsection (b)(1), by striking
21 “362(b)(14),” and inserting “362(b)(17), 362(b)(19),
22 555, 556, 559, 560, 561”.

23 (p) *SECURITIES CONTRACTS, COMMODITY CONTRACTS,*
24 *AND FORWARD CONTRACTS*.—Title 11, United States Code,
25 is amended—

1 (1) in section 362(b)(6), by striking “financial
2 institutions,” each place such term appears and in-
3 serting “financial institution, financial participant”;

4 (2) in section 546(e), by inserting “financial
5 participant,” after “financial institution,”;

6 (3) in section 548(d)(2)(B), by inserting “finan-
7 cial participant,” after “financial institution,”;

8 (4) in section 555—

9 (A) by inserting “financial participant,”
10 after “financial institution,”; and

11 (B) by inserting before the period at the end
12 “, a right set forth in a bylaw of a clearing orga-
13 nization or contract market or in a resolution of
14 the governing board thereof, and a right, whether
15 or not in writing, arising under common law,
16 under law merchant, or by reason of normal
17 business practice”; and

18 (5) in section 556, by inserting “, financial par-
19 ticipant” after “commodity broker”.

20 (q) *CONFORMING AMENDMENTS.*—Title 11 of the
21 United States Code is amended—

22 (1) in the table of sections of chapter 5—

23 (A) by amending the items relating to sec-
24 tions 555 and 556 to read as follows:

“555. Contractual right to liquidate, terminate, or accelerate a securities contract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities con-
tract or forward contract.”; and

1 (B) by amending the items relating to sec-
2 tions 559 and 560 to read as follows:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agree-
ment.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;
and

3 (2) in the table of sections of chapter 7—

4 (A) by inserting after the item relating to
5 section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, commodity
brokers, stockbrokers, financial institutions, securities clearing
agencies, swap participants, repo participants, and master net-
ting agreement participants.”; and

6 (B) by inserting after the item relating to
7 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity bro-
kers, stockbrokers, financial institutions, securities clearing agen-
cies, swap participants, repo participants, and master netting
agreement participants.”.

8 **SEC. 1008. RECORDKEEPING REQUIREMENTS.**

9 Section 11(e)(8) of the Federal Deposit Insurance Act
10 (12 U.S.C. 1821(e)(8)) is amended by adding at the end
11 the following new subparagraph:

12 “(H) **RECORDKEEPING REQUIREMENTS.**—
13 The Corporation, in consultation with the appro-
14 priate Federal banking agencies, may prescribe
15 regulations requiring more detailed record-
16 keeping with respect to qualified financial con-
17 tracts (including market valuations) by insured
18 depository institutions.”.

1 **SEC. 1009. EXEMPTIONS FROM CONTEMPORANEOUS EXECU-**
2 **TION —REQUIREMENT.**

3 *Section 13(e)(2) of the Federal Deposit Insurance Act*
4 *(12 U.S.C. 1823(e)(2)) is amended to read as follows:*

5 “(2) *EXEMPTIONS FROM CONTEMPORANEOUS*
6 *EXECUTION REQUIREMENT.—An agreement to provide*
7 *for the lawful collateralization of—*

8 *“(A) deposits of, or other credit extension*
9 *by, a Federal, State, or local governmental enti-*
10 *ty, or of any depositor referred to in section*
11 *11(a)(2), including an agreement to provide col-*
12 *lateral in lieu of a surety bond;*

13 *“(B) bankruptcy estate funds pursuant to*
14 *section 345(b)(2) of title 11, United States Code;*

15 *“(C) extensions of credit, including any*
16 *overdraft, from a Federal reserve bank or Federal*
17 *home loan bank; or*

18 *“(D) 1 or more qualified financial con-*
19 *tracts, as defined in section 11(e)(8)(D),*

20 *shall not be deemed invalid pursuant to paragraph*
21 *(1)(B) solely because such agreement was not executed*
22 *contemporaneously with the acquisition of the collat-*
23 *eral or because of pledges, delivery, or substitution of*
24 *the collateral made in accordance with such agree-*
25 *ment.”.*

1 **SEC. 1010. DAMAGE MEASURE.**

2 (a) *Title 11, United States Code, as amended by sec-*
3 *tion 1007, is amended—*

4 (1) *by inserting after section 561 the following:*

5 **“§562. Damage measure in connection with swap**
6 **agreements, securities contracts, forward**
7 **contracts, commodity contracts, repur-**
8 **chase agreements, or master netting**
9 **agreements**

10 *“If the trustee rejects a swap agreement, securities con-*
11 *tract as defined in section 741 of this title, forward con-*
12 *tract, commodity contract (as defined in section 761 of this*
13 *title) repurchase agreement, or master netting agreement*
14 *pursuant to section 365(a) of this title, or if a forward con-*
15 *tract merchant, stockbroker, financial institution, securities*
16 *clearing agency, repo participant, financial participant,*
17 *master netting agreement participant, or swap participant*
18 *liquidates, terminates, or accelerates such contract or agree-*
19 *ment, damages shall be measured as of the earlier of—*

20 *“(1) the date of such rejection; or*

21 *“(2) the date of such liquidation, termination, or*
22 *acceleration.”; and*

23 (2) *in the table of sections of chapter 5 by insert-*
24 *ing after the item relating to section 561 the fol-*
25 *lowing:*

“562. *Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.*”.

1 **(b) CLAIMS ARISING FROM REJECTION.**—Section
2 *502(g) of title 11, United States Code, is amended—*

3 *(1) by designating the existing text as paragraph*
4 *(1); and*

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

6 “*(2) A claim for damages calculated in accordance*
7 *with section 561 of this title shall be allowed under sub-*
8 *section (a), (b), or (c), or disallowed under subsection (d)*
9 *or (e), as if such claim had arisen before the date of the*
10 *filing of the petition.*”.

11 **SEC. 1011. SIPC STAY.**

12 *Section 5(b)(2) of the Securities Investor Protection*
13 *Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding*
14 *after subparagraph (B) the following new subparagraph:*

15 “(C) **EXCEPTION FROM STAY.**—

16 “(i) *Notwithstanding section 362 of*
17 *title 11, United States Code, neither the fil-*
18 *ing of an application under subsection*
19 *(a)(3) nor any order or decree obtained by*
20 *Securities Investor Protection Corporation*
21 *from the court shall operate as a stay of*
22 *any contractual rights of a creditor to liq-*
23 *uidate, terminate, or accelerate a securities*
24 *contract, commodity contract, forward con-*

1 *tract, repurchase agreement, swap agree-*
2 *ment, or master netting agreement, each as*
3 *defined in title 11, to offset or net termi-*
4 *nation values, payment amounts, or other*
5 *transfer obligations arising under or in con-*
6 *nection with 1 or more of such contracts or*
7 *agreements, or to foreclose on any cash col-*
8 *lateral pledged by the debtor whether or not*
9 *with respect to 1 or more of such contracts*
10 *or agreements.*

11 “(ii) *Notwithstanding clause (i), such*
12 *application, order, or decree may operate as*
13 *a stay of the foreclosure on securities collat-*
14 *eral pledged by the debtor, whether or not*
15 *with respect to 1 or more of such contracts*
16 *or agreements, securities sold by the debtor*
17 *under a repurchase agreement or securities*
18 *lent under a securities lending agreement.*

19 “(iii) *As used in this section, the term*
20 *‘contractual right’ includes a right set forth*
21 *in a rule or bylaw of a national securities*
22 *exchange, a national securities association,*
23 *or a securities clearing agency, a right set*
24 *forth in a bylaw of a clearing organization*
25 *or contract market or in a resolution of the*

1 governing board thereof, and a right, wheth-
2 er or not in writing, arising under common
3 law, under law merchant, or by reason of
4 normal business practice.”.

5 **SEC. 1012. ASSET-BACKED SECURITIZATIONS.**

6 Section 541 of title 11, United States Code, as amend-
7 ed by section 150, is amended—

8 (1) by redesignating paragraph (5) of subsection
9 (b) as paragraph (6);

10 (2) by inserting after paragraph (4) of sub-
11 section (b) the following new paragraph:

12 “(5) any eligible asset (or proceeds thereof), to
13 the extent that such eligible asset was transferred by
14 the debtor, before the date of commencement of the
15 case, to an eligible entity in connection with an asset-
16 backed securitization, except to the extent such asset
17 (or proceeds or value thereof) may be recovered by the
18 trustee under section 550 by virtue of avoidance
19 under section 548(a);”;

20 (3) by adding at the end the following new sub-
21 section:

22 “(e) For purposes of this section, the following defini-
23 tions shall apply:

24 “(1) the term ‘asset-backed securitization’ means
25 a transaction in which eligible assets transferred to

1 *an eligible entity are used as the source of payment*
2 *on securities, the most senior of which are rated in-*
3 *vestment grade by 1 or more nationally recognized se-*
4 *curities rating organizations, issued by an issuer;*

5 *“(2) the term ‘eligible asset’ means—*

6 *“(A) financial assets (including interests*
7 *therein and proceeds thereof), either fixed or re-*
8 *volving, including residential and commercial*
9 *mortgage loans, consumer receivables, trade re-*
10 *ceivables, and lease receivables, that, by their*
11 *terms, convert into cash within a finite time pe-*
12 *riod, plus any residual interest in property sub-*
13 *ject to receivables included in such financial as-*
14 *sets plus any rights or other assets designed to*
15 *assure the servicing or timely distribution of*
16 *proceeds to security holders;*

17 *“(B) cash; and*

18 *“(C) securities.*

19 *“(3) the term ‘eligible entity’ means—*

20 *“(A) an issuer; or*

21 *“(B) a trust, corporation, partnership, or*
22 *other entity engaged exclusively in the business*
23 *of acquiring and transferring eligible assets di-*
24 *rectly or indirectly to an issuer and taking ac-*
25 *tions ancillary thereto;*

1 “(4) the term ‘issuer’ means a trust, corporation,
2 partnership, or other entity engaged exclusively in the
3 business of acquiring and holding eligible assets,
4 issuing securities backed by eligible assets, and taking
5 actions ancillary thereto; and

6 “(5) the term ‘transferred’ means the debtor, pur-
7 suant to a written agreement, represented and war-
8 ranted that eligible assets were sold, contributed, or
9 otherwise conveyed with the intention of removing
10 them from the estate of the debtor pursuant to sub-
11 section (b)(5), irrespective, without limitation of—

12 “(A) whether the debtor directly or indi-
13 rectly obtained or held an interest in the issuer
14 or in any securities issued by the issuer;

15 “(B) whether the debtor had an obligation
16 to repurchase or to service or supervise the serv-
17 icing of all or any portion of such eligible assets;
18 or

19 “(C) the characterization of such sale, con-
20 tribution, or other conveyance for tax, account-
21 ing, regulatory reporting, or other purposes.”.

22 **SEC. 1013. FEDERAL RESERVE COLLATERAL REQUIRE-**
23 **MENTS.**

24 *The 3d sentence of the 3d undesignated paragraph of*
25 *section 16 of the Federal Reserve Act (12 U.S.C. 412) is*

1 *amended by striking “acceptances acquired under the provi-*
2 *sions of section 13 of this Act” and inserting “acceptances*
3 *acquired under section 10A, 10B, 13, or 13A of this Act”.*

4 **SEC. 1014. EFFECTIVE DATE; APPLICATION OF —AMEND-**
5 **MENTS.**

6 (a) *EFFECTIVE DATE.—This title shall take effect on*
7 *the date of the enactment of this Act.*

8 (b) *APPLICATION OF AMENDMENTS.—The amendments*
9 *made by this title shall apply with respect to cases com-*
10 *menced or appointments made under any Federal or State*
11 *law after the date of enactment of this Act, but shall not*
12 *apply with respect to cases commenced or appointments*
13 *made under any Federal or State law before the date of*
14 *enactment of this Act.*

15 **TITLE XI—TECHNICAL**
16 **CORRECTIONS**

17 **SEC. 1101. DEFINITIONS.**

18 *Section 101 of title 11, United States Code, as amend-*
19 *ed by sections 102, 105, 132, 138, 301, 302, 402, 902, and*
20 *1007, is amended—*

21 (1) *by striking “In this title—” and inserting*
22 *“In this title:”;*

23 (2) *in each paragraph, by inserting “The term”*
24 *after the paragraph designation;*

1 (3) in paragraph (35)(B), by striking “para-
2 graphs (21B) and (33)(A)” and inserting “para-
3 graphs (23) and (35)”;

4 (4) in each of paragraphs (35A) and (38), by
5 striking “; and” at the end and inserting a period;

6 (5) in paragraph (51B)—

7 (A) by inserting “who is not a family farm-
8 er” after “debtor” the first place it appears; and

9 (B) by striking “thereto having aggregate”
10 and all that follows through the end of the para-
11 graph;

12 (6) by amending paragraph (54) to read as fol-
13 lows:

14 “(54) The term ‘transfer’ means—

15 “(A) the creation of a lien;

16 “(B) the retention of title as a security in-
17 terest;

18 “(C) the foreclosure of a debtor’s equity of
19 redemption; or

20 “(D) each mode, direct or indirect, absolute
21 or conditional, voluntary or involuntary, of dis-
22 posing of or parting with—

23 “(i) property; or

24 “(ii) an interest in property;”;

1 (7) in each of paragraphs (1) through (35), in
2 each of paragraphs (36) and (37), and in each of
3 paragraphs (40) through (55) (including paragraph
4 (54), as amended by paragraph (6) of this section),
5 by striking the semicolon at the end and inserting a
6 period; and

7 (8) by redesignating paragraphs (4) through
8 (55), including paragraph (54), as amended by para-
9 graph (6) of this section, in entirely numerical se-
10 quence.

11 **SEC. 1102. ADJUSTMENT OF DOLLAR AMOUNTS.**

12 Section 104 of title 11, United States Code, is amended
13 by inserting “522(f)(3), 707(b)(5),” after “522(d),” each
14 place it appears.

15 **SEC. 1103. EXTENSION OF TIME.**

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

19 **SEC. 1104. TECHNICAL AMENDMENTS.**

20 Title 11 of the United States Code is amended—

21 (1) in section 109(b)(2) by striking “subsection
22 (c) or (d) of”; and

23 (2) in section 552(b)(1) by striking “product”
24 each place it appears and inserting “products”.

1 **SEC. 1105. 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. 1106. LIMITATION ON COMPENSATION OF PROFES-**
8 **SIONAL 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. 1107. SPECIAL TAX PROVISIONS.**

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

16 **SEC. 1108. EFFECT OF CONVERSION.**

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

20 **SEC. 1109. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

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

24 **SEC. 1110. PRIORITIES.**

25 *Section 507(a) of title 11, United States Code, as*
26 *amended by section 323, is amended in paragraph (4), as*

1 *so redesignated by section 142, by striking the semicolon*
2 *at the end and inserting a period.*

3 **SEC. 1111. EXEMPTIONS.**

4 *Section 522(g)(2) of title 11, United States Code, is*
5 *amended by striking “subsection (f)(2)” and inserting “sub-*
6 *section (f)(1)(B)”.*

7 **SEC. 1112. EXCEPTIONS TO DISCHARGE.**

8 *Section 523 of title 11, United States Code, as amend-*
9 *ed by section 146, is amended—*

10 *(1) in subsection (a)(3), by striking “or (6)”*
11 *each place it appears and inserting “(6), or (15)”;*

12 *(2) as amended by section 304(e) of Public Law*
13 *103–394 (108 Stat. 4133), in paragraph (15), by*
14 *transferring such paragraph so as to insert it after*
15 *paragraph (14A) of subsection (a);*

16 *(3) in subsection (a)(9), by inserting*
17 *“; watercraft, or aircraft” after “motor vehicle”;*

18 *(4) in subsection (a)(15), as so redesignated by*
19 *paragraph (2) of this subsection, by inserting “to a*
20 *spouse, former spouse, or child of the debtor and”*
21 *after “(15)”;* and

22 *(5) in subsection (e), by striking “a insured”*
23 *and inserting “an insured”.*

1 **SEC. 1113. EFFECT OF DISCHARGE.**

2 *Section 524(a)(3) of title 11, United States Code, is*
3 *amended by striking “section 523” and all that follows*
4 *through “or that” and inserting “section 523, 1228(a)(1),*
5 *or 1328(a)(1) of this title, or that”.*

6 **SEC. 1114. PROTECTION AGAINST DISCRIMINATORY TREAT-**
7 **MENT.**

8 *Section 525(c) of title 11, United States Code, is*
9 *amended—*

10 *(1) in paragraph (1), by inserting “student” be-*
11 *fore “grant” the second place it appears; and*

12 *(2) in paragraph (2), by striking “the program*
13 *operated under part B, D, or E of” and inserting*
14 *“any program operated under”.*

15 **SEC. 1115. PROPERTY OF THE ESTATE.**

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

18 **SEC. 1116. PREFERENCES.**

19 *(a) IN GENERAL.—Section 547 of title 11, United*
20 *States Code, is amended—*

21 *(1) in subsection (b), by striking “subsection (c)”*
22 *and inserting “subsections (c) and (i)”; and*

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

24 *“(i) If the trustee avoids under subsection (b) a trans-*
25 *fer made between 90 days and 1 year before the date of*
26 *the filing of the petition, by the debtor to an entity that*

1 *is not an insider for the benefit of a creditor that is an*
2 *insider, such transfer may be avoided under this section*
3 *only with respect to the creditor that is an insider.”.*

4 (b) *APPLICABILITY.—The amendments made by this*
5 *section shall apply to any case that is pending or com-*
6 *menced on or after the date of enactment of this Act.*

7 **SEC. 1117. POSTPETITION TRANSACTIONS.**

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

10 (1) *by inserting “an interest in” after “transfer*
11 *of”;*

12 (2) *by striking “such property” and inserting*
13 *“such real property”; and*

14 (3) *by striking “the interest” and inserting*
15 *“such interest”.*

16 **SEC. 1118. DISPOSITION OF PROPERTY OF THE ESTATE.**

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

19 **SEC. 1119. GENERAL PROVISIONS.**

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

22 **SEC. 1120. APPOINTMENT OF ELECTED TRUSTEE.**

23 *Section 1104(b) of title 11, United States Code, is*
24 *amended—*

25 (1) *by inserting “(1)” after “(b)”;* and

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

2 “(2)(A) *If an eligible, disinterested trustee is elected*
3 *at a meeting of creditors under paragraph (1), the United*
4 *States trustee shall file a report certifying that election.*
5 *Upon the filing of a report under the preceding sentence—*

6 “*(i) the trustee elected under paragraph (1) shall*
7 *be considered to have been selected and appointed for*
8 *purposes of this section; and*

9 “*(ii) the service of any trustee appointed under*
10 *subsection (d) shall terminate.*

11 “*(B) In the case of any dispute arising out of an elec-*
12 *tion under subparagraph (A), the court shall resolve the dis-*
13 *pute.*”.

14 **SEC. 1121. ABANDONMENT OF RAILROAD LINE.**

15 *Section 1170(e)(1) of title 11, United States Code, is*
16 *amended by striking “section 11347” and inserting “section*
17 *11326(a)”.*

18 **SEC. 1122. CONTENTS OF PLAN.**

19 *Section 1172(c)(1) of title 11, United States Code, is*
20 *amended by striking “section 11347” and inserting “section*
21 *11326(a)”.*

22 **SEC. 1123. DISCHARGE UNDER CHAPTER 12.**

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

1 **SEC. 1124. BANKRUPTCY CASES AND PROCEEDINGS.**

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

4 *(1) by striking “made under this subsection” and*
5 *inserting “made under subsection (c)”;* and

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

8 **SEC. 1125. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
9 **RULE.**

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

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

13 *(A) by inserting “(1) the term” before*
14 *“bankruptcy”;* and

15 *(B) by striking the period at the end and*
16 *inserting “; and”;* and

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

18 *(A) by inserting “(2) the term” before “doc-*
19 *ument”;* and

20 *(B) by striking “this title” and inserting*
21 *“title 11”.*

22 **SEC. 1126. TRANSFERS MADE BY NONPROFIT CHARITABLE**
23 **CORPORATIONS.**

24 *(a) SALE OF PROPERTY OF ESTATE.—Section 363(d)*
25 *of title 11, United States Code, is amended—*

1 (1) *by striking “only” and all that follows*
2 *through the end of the subsection and inserting*
3 *“only—*

4 *“(1) in accordance with applicable nonbank-*
5 *ruptcy law that governs the transfer of property by*
6 *a corporation or trust that is not a moneyed, busi-*
7 *ness, or commercial corporation or trust; and*

8 *“(2) to the extent not inconsistent with any relief*
9 *granted under subsection (c), (d), (e), or (f) of section*
10 *362 of this title.”.*

11 ***(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—***
12 *Section 1129(a) of title 11, United States Code, as amended*
13 *by section 140, is amended by adding at the end the fol-*
14 *lowing:*

15 *“(15) All transfers of property of the plan shall*
16 *be made in accordance with any applicable provisions*
17 *of nonbankruptcy law that govern the transfer of*
18 *property by a corporation or trust that is not a*
19 *moneyed, business, or commercial corporation or*
20 *trust.”.*

21 ***(c) TRANSFER OF PROPERTY.—****Section 541 of title 11,*
22 *United States Code, as amended by section 1102, is amend-*
23 *ed by adding at the end the following:*

24 *“(f) Notwithstanding any other provision of this title,*
25 *property that is held by a debtor that is a corporation de-*

1 scribed in section 501(c)(3) of the Internal Revenue Code
2 of 1986 and exempt from tax under section 501(a) of such
3 Code may be transferred to an entity that is not such a
4 corporation, but only under the same conditions as would
5 apply if the debtor had not filed a case under this title.”.

6 (d) *APPLICABILITY.*—The amendments made by this
7 section shall apply to a case pending under title 11, United
8 States Code, on the date of enactment of this Act, except
9 that the court shall not confirm a plan under chapter 11
10 of this title without considering whether this section would
11 substantially affect the rights of a party in interest who
12 first acquired rights with respect to the debtor after the date
13 of the petition. The parties who may appear and be heard
14 in a proceeding under this section include the attorney gen-
15 eral of the State in which the debtor is incorporated, was
16 formed, or does business.

17 (e) *RULE OF CONSTRUCTION.*—Nothing in this section
18 shall be deemed to require the court in which a case under
19 chapter 11 is pending to remand or refer any proceeding,
20 issue, or controversy to any other court or to require the
21 approval of any other court for the transfer of property.

22 **SEC. 1127. PROHIBITION ON CERTAIN ACTIONS FOR FAIL-**
23 **URE TO INCUR FINANCE CHARGES.**

24 Section 127 of the Truth in Lending Act (15 U.S.C.
25 1637) is amended by adding at the end the following:

1 *United States district court for the district in which the*
2 *trustee is appointed under subsection (b) resides, after first*
3 *exhausting all available administrative remedies, which if*
4 *the trustee so elects, shall also include an administrative*
5 *hearing on the record. Unless the trustee elects to have an*
6 *administrative hearing on the record, the trustee shall be*
7 *deemed to have exhausted all administrative remedies for*
8 *purposes of this paragraph if the agency fails to make a*
9 *final agency decision within 90 days after the trustee re-*
10 *quests administrative remedies. The Attorney General shall*
11 *prescribe procedures to implement this paragraph. The de-*
12 *cision of the agency shall be affirmed by the district court*
13 *unless it is unreasonable and without cause based on the*
14 *administrative record before the agency.”.*

15 **(b) EXPENSES OF STANDING TRUSTEES.**—Section
16 *586(e) of title 28, United States Code, is amended by add-*
17 *ing at the end the following:*

18 “(3) *After first exhausting all available administrative*
19 *remedies, an individual appointed under subsection (b)*
20 *may obtain judicial review of final agency action to deny*
21 *a claim of actual, necessary expenses under this subsection*
22 *by commencing an action in the United States district*
23 *court in the district where the individual resides. The deci-*
24 *sion of the agency shall be affirmed by the district court*

1 *unless it is unreasonable and without cause based upon the*
2 *administrative record before the agency.*

3 “(4) *The Attorney General shall prescribe procedures*
4 *to implement this subsection.*”.

5 ***TITLE XII—GENERAL EFFECTIVE***
6 ***DATE; APPLICATION OF***
7 ***AMENDMENTS***

8 ***SEC. 1201. EFFECTIVE DATE; APPLICATION OF AMEND-***
9 ***MENTS.***

10 (a) *EFFECTIVE DATE.*—*Except as provided otherwise*
11 *in this Act, this Act and the amendments made by this Act*
12 *shall take effect 180 days after the date of the enactment*
13 *of this Act.*

14 (b) *APPLICATION OF AMENDMENTS.*—*Except as other-*
15 *wise provided in this Act, the amendments made by this*
16 *Act shall not apply with respect to cases commenced under*
17 *title 11 of the United States Code before the effective date*
18 *of this Act.*