

Calendar No. 109

106TH CONGRESS
1ST Session

S. 625

[Report No. 106-49]

A BILL

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

MAY 11, 1999

Reported with amendments

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

IN THE SENATE OF THE UNITED STATES

MARCH 16, 1999

Mr. GRASSLEY (for himself, Mr. TORRICELLI, Mr. BIDEN, Mr. SESSIONS, Mr. ROTH, Mr. JOHNSON, Mr. BREAUX, Mr. KERREY, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MAY 11, 1999

Reported by Mr. HATCH, with amendments

[Omit the part struck through and insert the part printed in *italie*]

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

- Sec. 101. Conversion.
 Sec. 102. Dismissal or conversion.
 Sec. 103. Notice of alternatives.
 Sec. 104. Debtor financial management training test program.
 Sec. 105. Credit counseling.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

- Sec. 201. Promotion of alternative dispute resolution.
 Sec. 202. Effect of discharge.
 Sec. 203. Violations of the automatic stay.
 Sec. 204. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

- Sec. 211. Definition of domestic support obligation.*
 Sec. ~~211~~ 212. Priorities for claims for domestic support obligations.
 Sec. ~~212~~ 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
 Sec. ~~213~~ 214. Exceptions to automatic stay in domestic support obligation proceedings.
 Sec. ~~214~~ 215. Nondischargeability of certain debts for alimony, maintenance, and support.
 Sec. ~~215~~ 216. Continued liability of property.
 Sec. ~~216~~ 217. Protection of domestic support claims against preferential transfer motions.
 Sec. ~~217. Amendment to section 1325 of title 11, United States Code.~~
 Sec. ~~218. Definition of domestic support obligation.~~
Sec. 218. Disposable income defined.
 Sec. 219. Collection of child support.

Subtitle C—Other Consumer Protections

- ~~Sec. 221. Definitions.~~
~~Sec. 222. Disclosures.~~
~~Sec. 223. Debtor's bill of rights.~~
~~Sec. 224. Enforcement.~~
Sec. 221. Amendments to discourage abusive bankruptcy filings.
 Sec. ~~225~~ 222. Sense of Congress.
 Sec. ~~226~~ 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 301. Reinforcement of the fresh start.
 Sec. 302. Discouraging bad faith repeat filings.
 Sec. 303. Curbing abusive filings.

- Sec. 304. Debtor retention of personal property security.
- Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 306. Giving secured creditors fair treatment in chapter 13.
- Sec. 307. Exemptions.
- Sec. 308. Residency requirement for homestead exemption.
- Sec. 309. Protecting secured creditors in chapter 13 cases.
- Sec. 310. Limitation on luxury goods.
- Sec. 311. Automatic stay.
- Sec. 312. Extension of period between bankruptcy discharges.
- Sec. 313. Definition of household goods and antiques.
- Sec. 314. Debt incurred to pay nondischargeable debts.
- Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
- Sec. 316. Dismissal for failure to timely file schedules or provide required information.
- Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
- Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
- Sec. 320. Prompt relief from stay in individual cases.
- Sec. 321. *Treatment of certain earnings of an individual debtor who files a voluntary case under chapter 11.*

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

- Sec. 401. Rolling stock equipment.
- Sec. 402. Adequate protection for investors.
- Sec. 403. Meetings of creditors and equity security holders.
- Sec. 404. Protection of refinancing of security interest.
- Sec. 405. Executory contracts and unexpired leases.
- Sec. 406. Creditors and equity security holders committees.
- Sec. 407. Amendment to section 546 of title 11, United States Code.
- Sec. 408. Limitation.
- Sec. 409. Amendment to section 330(a) of title 11, United States Code.
- Sec. 410. Postpetition disclosure and solicitation.
- Sec. 411. Preferences.
- Sec. 412. Venue of certain proceedings.
- Sec. 413. Period for filing plan under chapter 11.
- Sec. 414. Fees arising from certain ownership interests.
- Sec. 415. Creditor representation at first meeting of creditors.
- Sec. ~~416.~~ ~~Elimination of certain fees payable in chapter 11 bankruptcy cases.~~
- Sec. ~~417~~ 416. Definition of disinterested person.
- Sec. ~~418~~ 417. Factors for compensation of professional persons.
- Sec. ~~419~~ 418. Appointment of elected trustee.
- Sec. 419. *Utility service.*

Subtitle B—Small Business Bankruptcy Provisions

- Sec. 421. Flexible rules for disclosure statement and plan.
- Sec. 422. Definitions; effect of discharge.
- Sec. 423. Standard form disclosure Statement and plan.
- Sec. 424. Uniform national reporting requirements.
- Sec. 425. Uniform reporting rules and forms for small business cases.

- Sec. 426. Duties in small business cases.
- Sec. 427. Plan filing and confirmation deadlines.
- Sec. 428. Plan confirmation deadline.
- Sec. 429. Prohibition against extension of time.
- Sec. 430. Duties of the United States trustee.
- Sec. 431. Scheduling conferences.
- Sec. 432. Serial filer provisions.
- Sec. 433. Expanded grounds for dismissal or conversion and appointment of trustee.
- Sec. 434. Study of operation of title 11, United States Code, with respect to small businesses.
- Sec. 435. 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—IMPROVED BANKRUPTCY STATISTICS AND DATA

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

TITLE VII—BANKRUPTCY TAX PROVISIONS

- Sec. 701. Treatment of certain liens.
- Sec. 702. Effective notice to government.
- Sec. 703. Notice of request for a determination of taxes.
- Sec. 704. Rate of interest on tax claims.
- Sec. 705. Tolling of priority of tax claim time periods.
- Sec. 706. Priority property taxes incurred.
- Sec. 707. Chapter 13 discharge of fraudulent and other taxes.
- Sec. 708. Chapter 11 discharge of fraudulent taxes.
- Sec. 709. Stay of tax proceedings.
- Sec. 710. Periodic payment of taxes in chapter 11 cases.
- Sec. 711. Avoidance of statutory tax liens prohibited.
- Sec. 712. Payment of taxes in the conduct of business.
- Sec. 713. Tardily filed priority tax claims.
- Sec. 714. Income tax returns prepared by tax authorities.
- Sec. 715. Discharge of the estate's liability for unpaid taxes.
- Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
- Sec. 717. Standards for tax disclosure.
- Sec. 718. Setoff of tax refunds.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
- Sec. 802. Amendments to other chapters in title 11, United States Code.
- Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Bankruptcy Code amendments.
- Sec. 902. Damage measure.

- Sec. 903. Asset-backed securitizations.
 Sec. 904. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS

- Sec. 1001. Reenactment of chapter 12.
 Sec. 1002. Debt limit increase.
 Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
 Sec. 1004. Certain claims owed to governmental units.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

- ~~Sec. 1101. Definitions.~~
~~Sec. 1102. Disposal of patient records.~~
~~Sec. 1103. Administrative expense claim for costs of closing a health care business.~~
~~Sec. 1104. Appointment of ombudsman to act as patient advocate.~~
~~Sec. 1105. Debtor in possession; duty of trustee to transfer patients.~~

TITLE XII—TECHNICAL AMENDMENTS

- ~~Sec. 1201 1101.~~ Definitions.
~~Sec. 1202 1102.~~ Adjustment of dollar amounts.
~~Sec. 1203 1103.~~ Extension of time.
~~Sec. 1204 1104.~~ Technical amendments.
~~Sec. 1205 1105.~~ Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
~~Sec. 1206 1106.~~ Limitation on compensation of professional persons.
~~Sec. 1207 1107.~~ Special tax provisions.
~~Sec. 1208 1108.~~ Effect of conversion.
~~Sec. 1209 1109.~~ Allowance of administrative expenses.
~~Sec. 1210. Priorities.~~
~~Sec. 1211. Exemptions.~~
~~Sec. 1212 1110.~~ Exceptions to discharge.
~~Sec. 1213 1111.~~ Effect of discharge.
~~Sec. 1214 1112.~~ Protection against discriminatory treatment.
~~Sec. 1215 1113.~~ Property of the estate.
~~Sec. 1216 1114.~~ Preferences.
~~Sec. 1217 1115.~~ Postpetition transactions.
~~Sec. 1218 1116.~~ Disposition of property of the estate.
~~Sec. 1219 1117.~~ General provisions.
~~Sec. 1220 1118.~~ Abandonment of railroad line.
~~Sec. 1221 1119.~~ Contents of plan.
~~Sec. 1222 1120.~~ Discharge under chapter 12.
~~Sec. 1223 1121.~~ Bankruptcy cases and proceedings.
~~Sec. 1224 1122.~~ Knowing disregard of bankruptcy law or rule.
~~Sec. 1225 1123.~~ Transfers made by nonprofit charitable corporations.
~~Sec. 1226 1124.~~ Protection of valid purchase money security interests.
~~Sec. 1227 1125.~~ Extensions.
~~Sec. 1228 1126.~~ Bankruptcy judgeships.

TITLE XIII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- ~~Sec. 1301 1201.~~ Effective date; application of amendments.

1 **TITLE I—NEEDS-BASED**
2 **BANKRUPTCY**

3 **SEC. 101. CONVERSION.**

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

6 **SEC. 102. DISMISSAL OR CONVERSION.**

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

9 (1) by striking the section heading and insert-
10 ing the following:

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

13 and

14 (2) in subsection (b)—

15 (A) by inserting “(1)” after “(b)”;

16 (B) in paragraph (1), as redesignated by
17 subparagraph (A) of this paragraph—

18 (i) in the first sentence—

19 (I) by striking “but not at the re-
20 quest or suggestion” and inserting “,
21 panel trustee or”;

22 (II) by inserting “, or, with the
23 debtor’s consent, convert such a case
24 to a case under chapter 13 of this
25 title,” after “consumer debts”; and

1 (III) by striking “substantial
2 abuse” and inserting “abuse”; and

3 (ii) by striking the next to last sen-
4 tence; and

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

6 “(2)(A)(i) In considering under paragraph (1) wheth-
7 er the granting of relief would be an abuse of the provi-
8 sions of this chapter, the court shall presume abuse exists
9 if the debtor’s current monthly income reduced by the
10 amounts determined under clauses (ii), (iii), and (iv), and
11 multiplied by 60 is not less than the lesser of—

12 “(I) 25 percent of the debtor’s nonpriority un-
13 secured claims in the case; or

14 “(II) \$15,000.

15 “(ii) The debtor’s monthly expenses shall be the ap-
16 plicable monthly (excluding payments for debts) expenses
17 under standards issued by the Internal Revenue Service
18 for the area in which the debtor resides, as in effect on
19 the date of the entry of the order for relief, for the debtor,
20 the dependents of the debtor, and the spouse of the debtor
21 in a joint case, if the spouse is not otherwise a dependent.

22 “(iii) The debtor’s average monthly payments on ac-
23 count of secured debts shall be calculated as—

24 “(I) the total of all amounts scheduled as con-
25 tractually due to secured creditors in each month of

1 the 60 months following the date of the petition; di-
2 vided by

3 “(II) 60.

4 “(iv) The debtor’s expenses for payment of all pri-
5 ority claims (including priority child support and alimony
6 claims) shall be calculated as—

7 “(I) the total amount of debts entitled to pri-
8 ority; divided by

9 “(II) 60.

10 “(B)(i) In any proceeding brought under this sub-
11 section, the presumption of abuse may be rebutted by
12 demonstrating special circumstances that justify addi-
13 tional expenses or adjustments of current monthly total
14 income. In order to establish special circumstances, the
15 debtor shall be required to—

16 “(I) itemize each additional expense or adjust-
17 ment of income; and

18 “(II) provide—

19 “(aa) documentation for such expenses;
20 and

21 “(bb) a detailed explanation of the special
22 circumstances that make such expenses nec-
23 essary and reasonable.

24 “(ii) The debtor, and the attorney for the debtor if
25 the debtor has an attorney, shall attest under oath to the

1 accuracy of any information provided to demonstrate that
2 additional expenses or adjustments to income are required.

3 “(iii) The presumption of abuse may be rebutted if
4 the additional expenses or adjustments to income referred
5 to in clause (i) cause the product of the debtor’s current
6 monthly income reduced by the amounts determined under
7 clauses (ii), (iii), and (iv) of subparagraph (A) multiplied
8 by 60 to be less than the lesser of—

9 “(I) 25 percent of the debtor’s nonpriority un-
10 secured claims; or

11 “(II) \$15,000.

12 “(C)(i) As part of the schedule of current income and
13 expenditures required under section 521, the debtor shall
14 include a statement of the debtor’s current monthly in-
15 come, and the calculations that determine whether a pre-
16 sumption arises under subparagraph (A)(i), that shows
17 how each such amount is calculated.

18 “(ii) The Supreme Court shall promulgate rules
19 under section 2075 of title 28, that prescribe a form for
20 a statement under clause (i) and may provide general rules
21 on the content of the statement.

22 “(3) In considering under paragraph (1) whether the
23 granting of relief would be an abuse of the provisions of
24 this chapter in a case in which the presumption in sub-

1 paragraph (A)(i) of such paragraph does not apply or has
2 been rebutted, the court shall consider—

3 “(A) whether the debtor filed the petition in
4 bad faith; or

5 “(B) the totality of the circumstances (includ-
6 ing whether the debtor seeks to reject a personal
7 services contract and the financial need for such re-
8 jection as sought by the debtor) of the debtor’s fi-
9 nancial situation demonstrates abuse.”.

10 (b) DEFINITION.—Title 11, United States Code, is
11 amended—

12 (1) in section 101, by inserting after paragraph
13 (10) the following:

14 “(10A) ‘current monthly income’—

15 “(A) means the average monthly income
16 from all sources which the debtor, or in a joint
17 case, the debtor and the debtor’s spouse, receive
18 without regard to whether the income is taxable
19 income, derived during the 180-day period pre-
20 ceeding the date of determination; and

21 “(B) includes any amount paid by any en-
22 tity other than the debtor (or, in a joint case,
23 the debtor and the debtor’s spouse), on a reg-
24 ular basis to the household expenses of the
25 debtor or the debtor’s dependents (and, in a

1 joint case, the debtor’s spouse if not otherwise
2 a dependent);” and

3 (2) in section 704—

4 (A) by inserting “(a)” before “The trustee
5 shall—”; and

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

7 “(b)(1) With respect to an individual debtor under
8 this chapter—

9 “(A) the United States trustee or bankruptcy
10 administrator shall review all materials filed by the
11 debtor and, not later than 10 days before the first
12 meeting of creditors, file with the court a statement
13 as to whether the debtor’s case would be presumed
14 to be an abuse under section 707(b); and

15 “(B) not later than 5 days after receiving a
16 statement under subparagraph (A), the court shall
17 provide a copy of the statement to all creditors.

18 “(2) The United States trustee or bankruptcy admin-
19 istrator shall not later than 30 days after receiving a
20 statement filed under paragraph (1) file a motion to dis-
21 miss or convert under section 707(b), or file a statement
22 setting forth the reasons the United States trustee or
23 bankruptcy administrator does not believe that such a mo-
24 tion would be appropriate. ~~If~~, *appropriate, if* based on the
25 filing of such statement with the court, the United States

1 trustee or bankruptcy administrator determines that the
2 debtor's case should be presumed to be an abuse under
3 section 707(b) and the product of the debtor's current
4 monthly income, multiplied by 12 is not less than—

5 “(A) the highest national or applicable State
6 median family income reported for a family of equal
7 or lesser size, whichever is greater; or

8 “(B) in the case of a household of 1 person, the
9 national or applicable State median household in-
10 come for 1 earner, whichever is greater.

11 “(3)(A) The court shall order the counsel for the
12 debtor to reimburse the panel trustee for all reasonable
13 costs in prosecuting a motion brought under section
14 707(b), including reasonable attorneys' fees, if—

15 “(i) a panel trustee appointed under section
16 586(a)(1) of title 28 brings a motion for dismissal
17 or conversion under this subsection; and

18 “(ii) the court—

19 “(I) grants that motion; and

20 “(II) finds that the action of the counsel
21 for the debtor in filing under this chapter was
22 not substantially justified.

23 “(B) If the court finds that the attorney for the debt-
24 or violated Rule 9011, at a minimum, the court shall
25 order—

1 “(i) the assessment of an appropriate civil pen-
2 alty against the counsel for the debtor; and

3 “(ii) the payment of the civil penalty to the
4 panel trustee or the United States trustee.

5 “(C) In the case of a petition referred to in subpara-
6 graph (B), the signature of an attorney shall constitute
7 a certificate that the attorney has—

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

10 “(ii) determined that the petition—

11 “(I) is well grounded in fact; and

12 “(II) is warranted by existing law or a
13 good faith argument for the extension, modi-
14 fication, or reversal of existing law and does not
15 constitute an abuse under paragraph (1).

16 “(4)(A) Except as provided in subparagraph (B) and
17 subject to paragraph (5), the court may award a debtor
18 all reasonable costs in contesting a motion brought by a
19 party in interest (other than a panel trustee or United
20 States trustee) under this subsection (including reasonable
21 attorneys’ fees) if—

22 “(i) the court does not grant the motion; and

23 “(ii) the court finds that—

24 “(I) the position of the party that brought
25 the motion was not substantially justified; or

1 “(II) the party brought the motion solely
2 for the purpose of coercing a debtor into
3 waiving a right guaranteed to the debtor under
4 this title.

5 “(B) A party in interest that has a claim of an aggre-
6 gate amount less than \$1,000 shall not be subject to sub-
7 paragraph (A).

8 “(5) Only the judge, United States trustee, bank-
9 ruptcy administrator, or panel trustee may bring a motion
10 under this section if the debtor and the debtor’s spouse
11 combined, as of the date of the order for relief, have a
12 total current monthly income equal to or less than the na-
13 tional or applicable State median family monthly income
14 calculated on a monthly basis for a family of equal size.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for chapter 7 of title 11, United States Code, is amended
17 by striking the item relating to section 707 and inserting
18 the following:

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

19 **SEC. 103. NOTICE OF ALTERNATIVES.**

20 Section 342(b) of title 11, United States Code, is
21 amended to read as follows:

22 “(b)(1) Before the commencement of a case under
23 this title by an individual whose debts are primarily con-
24 sumer debts, that individual shall be given or obtain (as
25 required in section 521(a)(1), as part of the certification

1 process under subchapter I of chapter 5) a written notice
2 prescribed by the United States trustee for the district in
3 which the petition is filed under section 586 of title 28.

4 “(2) The notice shall contain the following:

5 “(A) A brief description of chapters 7, 11, 12,
6 and 13 and the general purpose, benefits, and costs
7 of proceeding under each of those chapters.

8 “(B) A brief description of services that may be
9 available to that individual from a credit counseling
10 service that is approved by the United States trustee
11 for that district.”.

12 **SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING**
13 **TEST PROGRAM.**

14 (a) DEVELOPMENT OF FINANCIAL MANAGEMENT
15 AND TRAINING CURRICULUM AND MATERIALS.—The Di-
16 rector of the Executive Office for United States Trustees
17 (in this section referred to as the “Director”) shall—

18 (1) consult with a wide range of individuals who
19 are experts in the field of debtor education, includ-
20 ing trustees who are appointed under chapter 13 of
21 title 11, United States Code, and who operate finan-
22 cial management education programs for debtors;
23 and

24 (2) develop a financial management training
25 curriculum and materials that may be used to edu-

1 cate individual debtors concerning how to better
2 manage their finances.

3 (b) TEST.—

4 (1) IN GENERAL.—The Director shall select 3
5 judicial districts of the United States in which to
6 test the effectiveness of the financial management
7 training curriculum and materials developed under
8 subsection (a).

9 (2) AVAILABILITY OF CURRICULUM AND MATE-
10 RIALS.—For a 1-year period beginning not later
11 than 270 days after the date of enactment of this
12 Act, the curriculum and materials referred to in
13 paragraph (1) shall be made available by the Direc-
14 tor, directly or indirectly, on request to individual
15 debtors in cases filed during that 1-year period
16 under chapter 7 or 13 of title 11, United States
17 Code.

18 (c) EVALUATION.—

19 (1) IN GENERAL.—During the 1-year period re-
20 ferred to in subsection (b), the Director shall evalu-
21 ate the effectiveness of—

22 (A) the financial management training cur-
23 riculum and materials developed under sub-
24 section (a); and

1 (B) a sample of existing consumer edu-
2 cation programs such as those described in the
3 report of the National Bankruptcy Review Com-
4 mission issued on October 20, 1997, that are
5 representative of consumer education programs
6 carried out by—

7 (i) the credit industry;

8 (ii) trustees serving under chapter 13
9 of title 11, United States Code; and

10 (iii) consumer counseling groups.

11 (2) REPORT.—Not later than 3 months after
12 concluding the evaluation under paragraph (1), the
13 Director shall submit a report to the Speaker of the
14 House of Representatives and the President pro
15 tempore of the Senate, for referral to the appro-
16 priate committees of Congress, containing the find-
17 ings of the Director regarding the effectiveness of
18 such curriculum, such materials, and such programs.

19 **SEC. 105. CREDIT COUNSELING.**

20 (a) WHO MAY BE A DEBTOR.—Section 109 of title
21 11, United States Code, is amended by adding at the end
22 the following:

23 “(h)(1) Subject to paragraphs (2) and (3), and not-
24 withstanding any other provision of this section, an indi-
25 vidual may not be a debtor under this title unless that

1 individual has, during the ~~90-day period~~ *180-day period*
2 preceding the date of filing of the petition of that indi-
3 vidual, received from an approved nonprofit credit coun-
4 seling service described in section 111(a) an individual or
5 group briefing that outlined the opportunities for available
6 credit counseling and assisted that individual in per-
7 forming a related budget analysis.

8 “(2)(A) Paragraph (1) shall not apply with respect
9 to a debtor who resides in a district for which the United
10 States trustee or bankruptcy administrator of the bank-
11 ruptcy court of that district determines that the approved
12 nonprofit credit counseling services for that district are
13 not reasonably able to provide adequate services to the ad-
14 ditional individuals who would otherwise seek credit coun-
15 seling from those programs by reason of the requirements
16 of paragraph (1).

17 “(B) Each United States trustee or bankruptcy ad-
18 ministrator that makes a determination described in sub-
19 paragraph (A) shall review that determination not later
20 than 1 year after the date of that determination, and not
21 less frequently than every year thereafter.

22 “(3)(A) Subject to subparagraph (B), the require-
23 ments of paragraph (1) shall not apply with respect to
24 a debtor who submits to the court a certification that—

1 “(i) describes exigent circumstances that merit
2 a waiver of the requirements of paragraph (1);

3 “(ii) states that the debtor requested credit
4 counseling services from an approved nonprofit cred-
5 it counseling service, but was unable to obtain the
6 services referred to in paragraph (1) during the 5-
7 day period beginning on the date on which the debt-
8 or made that request; and

9 “(iii) is satisfactory to the court.

10 “(B) With respect to a debtor, an exemption under
11 subparagraph (A) shall cease to apply to that debtor on
12 the date on which the debtor meets the requirements of
13 paragraph (1), but in no case may the exemption apply
14 to that debtor after the date that is 30 days after the debt-
15 or files a petition.”.

16 (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title
17 11, United States Code, is amended—

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

20 (2) in paragraph (10), by striking the period
21 and inserting “; or”; and

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

23 “(11) after the filing of the petition, the debtor
24 failed to complete an instructional course concerning

1 personal financial management described in section
2 111.”.

3 (c) CHAPTER 13 DISCHARGE.—Section 1328 of title
4 11, United States Code, is amended by adding at the end
5 the following:

6 “(g) The court shall not grant a discharge under this
7 section to a debtor, unless after filing a petition the debtor
8 has completed an instructional course concerning personal
9 financial management described in section 111.

10 “(h) Subsection (g) shall not apply with respect to
11 a debtor who resides in a district for which the United
12 States trustee or bankruptcy administrator of the bank-
13 ruptcy court of that district determines that the approved
14 instructional courses are not adequate to service the addi-
15 tional individuals who would be required to complete the
16 instructional course by reason of the requirements of this
17 section.

18 “(i) Each United States trustee or bankruptcy ad-
19 ministrator that makes a determination described in sub-
20 section (h) shall review that determination not later than
21 1 year after the date of that determination, and not less
22 frequently than every year thereafter.”.

23 (d) DEBTOR’S DUTIES.—Section 521 of title 11,
24 United States Code, is amended—

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions for chapter 1 of title 11, United States Code,
 3 is amended by adding at the end the following:

“111. Credit counseling services; financial management instructional courses.”.

4 (f) LIMITATION.—Section 362 of title 11, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 “(i) If a case commenced under chapter 7, 11, or 13
 8 ~~of this title~~ is dismissed due to the creation of a debt re-
 9 payment plan, for purposes of subsection (c)(3), any sub-
 10 sequent case commenced by the debtor under any such
 11 chapter shall not be presumed to be filed not in good
 12 faith.”.

13 **TITLE II—ENHANCED**
 14 **CONSUMER PROTECTION**
 15 **Subtitle A—Penalties for Abusive**
 16 **Creditor Practices**

17 **SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**
 18 **TION.**

19 (a) REDUCTION OF CLAIM.—Section 502 of title 11,
 20 United States Code, is amended by adding at the end the
 21 following:

22 “(k)(1) The court, on the motion of the debtor and
 23 after a hearing, may reduce a claim filed under this sec-

1 tion based in whole on unsecured consumer debts by not
2 more than 20 percent of the claim, if—

3 “(A) the claim was filed by a creditor who un-
4 reasonably refused to negotiate a reasonable alter-
5 native repayment schedule proposed by an approved
6 credit counseling agency acting on behalf of the
7 debtor;

8 “(B) the offer of the debtor under subpara-
9 graph (A)—

10 “(i) was made at least 60 days before the
11 filing of the petition; and

12 “(ii) provided for payment of at least 60
13 percent of the amount of the debt over a period
14 not to exceed the repayment period of the loan,
15 or a reasonable extension thereof; and

16 “(C) no part of the debt under the alternative
17 repayment schedule is nondischargeable.

18 “(2) The debtor shall have the burden of proving, by
19 clear and convincing evidence, that—

20 “(A) the creditor unreasonably refused to con-
21 sider the debtor’s proposal; and

22 “(B) the proposed alternative repayment sched-
23 ule was made in the 60-day period specified in para-
24 graph (1)(B)(i).”.

1 (b) LIMITATION ON AVOIDABILITY.—Section 547 of
 2 title 11, United States Code, is amended by adding at the
 3 end the following:

4 “(h) The trustee may not avoid a transfer if such
 5 transfer was made as a part of an alternative repayment
 6 plan between the debtor and any creditor of the debtor
 7 created by an approved credit counseling agency.”.

8 **SEC. 202. EFFECT OF DISCHARGE.**

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

11 “(i) The willful failure of a creditor to credit pay-
 12 ments received under a plan confirmed under this title (in-
 13 cluding a plan of reorganization confirmed under chapter
 14 11 of this title) in the manner required by the plan (in-
 15 cluding crediting the amounts required under the plan)
 16 shall constitute a violation of an injunction under sub-
 17 section (a)(2).”.

18 **SEC. 203. VIOLATIONS OF THE AUTOMATIC STAY.**

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

21 (1) in paragraph (7), by striking “and” at the
 22 end;

23 (2) in paragraph (8), by striking the period at
 24 the end and inserting “; and”; and

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

1 “(9) any communication (other than a recita-
 2 tion of the creditor’s legal rights) threatening a
 3 debtor (for the purpose of coercing an agreement for
 4 the reaffirmation of debt), at any time after the
 5 commencement and before the granting of a dis-
 6 charge in a case under this title, of an intention to—

7 “(A) file a motion to—

8 “(i) determine the dischargeability of
 9 a debt; or

10 “(ii) under section 707(b), ~~to~~ dismiss
 11 or convert a case; or

12 “(B) repossess collateral from the debtor
 13 to which the stay applies.”.

14 **SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION**
 15 **PRACTICES.**

16 (a) IN GENERAL.—Section 524 of title 11, United
 17 States Code, as amended by section 202 of this Act, is
 18 amended—

19 (1) in subsection (c)—

20 (A) in paragraph (2)—

21 (i) in subparagraph (A), by striking
 22 “and” at the end;

23 (ii) in subparagraph (B), by inserting
 24 “and” at the end; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(C)(i) the consideration for such agree-
4 ment is based on a wholly unsecured consumer
5 debt; and

6 “(ii) such agreement contains a clear and
7 conspicuous statement that advises the debtor
8 that—

9 “(I) the debtor is entitled to a hearing
10 before the court at which—

11 “(aa) the debtor shall appear in
12 person; and

13 “(bb) the court shall decide
14 whether the agreement constitutes an
15 undue hardship, is not in the debtor’s
16 best interest, or is not the result of a
17 threat by the creditor to take an ac-
18 tion that, at the time of the threat,
19 ~~that~~ the creditor may not legally take
20 or does not intend to take; and

21 “(II) if the debtor is represented by
22 counsel, the debtor may waive the debtor’s
23 right to a hearing under subclause (I) by
24 signing a statement—

25 “(aa) waiving the hearing;

1 “(bb) stating that the debtor is
2 represented by counsel; and

3 “(cc) identifying the counsel;”;

4 ~~and~~

5 (B) in paragraph (6)(A)—

6 (i) in clause (i), by striking “and” at
7 the end;

8 (ii) in clause (ii), by striking the pe-
9 riod and inserting “; and”; and

10 (iii) by adding at the end the fol-
11 lowing:

12 “(iii) not an agreement that the debtor entered
13 into as a result of a threat by the creditor to take
14 an action that, at the time of the threat, the creditor
15 could not legally take or did not intend to take; *ex-*
16 *cept that*”; and

17 (C) in paragraph (6)(B), by striking “Sub-
18 paragraph” and inserting “subparagraph”; and

19 (2) in subsection (d), in the third sentence, by
20 inserting after “during the course of negotiating an
21 agreement” the following: “(or if the consideration
22 by such agreement is based on a wholly secured con-
23 sumer debt, and the debtor has not waived the right
24 to a hearing under subsection (c)(2)(C))”.

25 (b) LAW ENFORCEMENT.—

1 (1) IN GENERAL.—Chapter 9 of title 18, United
2 States Code, is amended by adding at the end the
3 following:

4 **“§ 158. Designation of United States attorneys and**
5 **agents of the Federal Bureau of Inves-**
6 **tigation to address abusive reaffirma-**
7 **tions of debt**

8 “(a) IN GENERAL.—The Attorney General of the
9 United States shall designate the individuals described in
10 subsection (b) to have primary responsibility in carrying
11 out enforcement activities in addressing violations of sec-
12 tion 152 or 157 relating to abusive reaffirmations of debt.

13 “(b) UNITED STATES DISTRICT ATTORNEYS AND
14 AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—
15 The individuals referred to in subsection (a) are—

16 “(1) a United States attorney for each judicial
17 district of the United States; and

18 “(2) an agent of the Federal Bureau of Inves-
19 tigation (within the meaning of section 3107) for
20 each field office of the Federal Bureau of Investiga-
21 tion.

22 “(c) BANKRUPTCY INVESTIGATIONS.—Each United
23 States attorney designated under this section shall have
24 primary responsibility for carrying out the duties of a
25 United States attorney under section 3057.”.

1 (2) CLERICAL AMENDMENT.—The analysis for
2 chapter 9 of title 18, United States Code, is amend-
3 ed by adding at the end the following:

 “158. Designation of United States attorneys and agents of the Federal Bureau
 of Investigation to address abusive reaffirmations of debt.”.

4 (c) EXCEPTIONS TO DISCHARGE.—Section 523 of
5 title 11, United States Code, is amended by adding at the
6 end the following:

7 “(f) Nothing in this section or in any other provision
8 of this title shall preempt any State law relating to unfair
9 trade practices that imposes restrictions on creditor con-
10 duct that would give rise to liability—

11 “(1) under this section; or

12 “(2) under section 524, for failure to comply
13 with applicable requirements for seeking a reaffirma-
14 tion of debt.

15 “(g) ACTIONS BY STATES.—The attorney general of
16 a State, or an official or agency designated by a State—

17 “(1) may bring an action on behalf of its resi-
18 dents to recover damages on their behalf under sub-
19 section (d) or section 524(c); and

20 “(2) may bring an action in a State court to
21 enforce a State criminal law that is similar to sec-
22 tion 152 or 157 of title 18.”.

1 **Subtitle B—Priority Child Support**

2 *SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGA-* 3 *TION.*

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

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

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

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

12 *“(A) owed to or recoverable by—*

13 *“(i) a spouse, former spouse, or child of*
 14 *the debtor or such child’s parent or legal*
 15 *guardian; or*

16 *“(ii) a governmental unit;*

17 *“(B) in the nature of alimony, mainte-*
 18 *nance, or support (including assistance provided*
 19 *by a governmental unit) of such spouse, former*
 20 *spouse, or child of the debtor or such child’s par-*
 21 *ent or legal guardian, without regard to whether*
 22 *such debt is expressly so designated;*

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

1 “(i) a separation agreement, divorce
2 decree, or property settlement agreement;

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

4 “(iii) a determination made in accord-
5 ance with applicable nonbankruptcy law by
6 a governmental unit; and

7 “(D) not assigned to a nongovernmental en-
8 tity, unless that obligation is assigned volun-
9 tarily by the spouse, former spouse, child, or par-
10 ent or legal guardian of the child for the purpose
11 of collecting the debt.”.

12 **SEC. 211, 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP-**
13 **PORT OBLIGATIONS.**

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

16 (1) by striking paragraph (7);

17 (2) by redesignating paragraphs (1) through
18 (6) as paragraphs (2) through (7), respectively;

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

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

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

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

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

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

7 (9) by inserting before paragraph (2), as redesi-
8 gnated, the following:

9 “(1) First, allowed *unsecured* claims for domestic
10 support obligations to be paid in the following order on
11 the condition that funds received under this paragraph by
12 a governmental unit in a case under this title be applied
13 *and distributed in accordance with applicable nonbank-*
14 *ruptcy law:*

15 “(A) Claims that, as of the date of entry of the
16 order for relief, are owed directly to a spouse, former
17 spouse, or child of the debtor, or the parent *or legal*
18 *guardian* of such child, without regard to whether
19 the claim is filed by the spouse, former spouse, child,
20 or ~~parent~~ *such child’s parent or legal guardian*, or is
21 filed by a governmental unit on behalf of that per-
22 son.

23 “(B) Claims that, as of the date of entry of the
24 order for relief, are assigned by a spouse, former
25 spouse, child of the debtor, or the parent *or legal*

1 *guardian* of that child to a governmental unit or are
 2 owed directly to a governmental unit under applica-
 3 ble nonbankruptcy law.”.

4 **SEC. ~~212.~~ 213. REQUIREMENTS TO OBTAIN CONFIRMATION**
 5 **AND DISCHARGE IN CASES INVOLVING DO-**
 6 **MESTIC SUPPORT OBLIGATIONS.**

7 Title 11, United States Code, is amended—

8 (1) in section 1129(a), by adding at the end the
 9 following:

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

16 (1) in section 1322(a)—

17 (A) in paragraph (2), by striking “and” at
 18 the end;

19 (B) in paragraph (3), by striking the period
 20 at the end and inserting “; and”; and

21 (C) by adding in the end the following:

22 “~~(4)~~ if the debtor is required by judicial or ad-
 23 ministrative order or statute to pay a domestic sup-
 24 port obligation, unless the holder of such claim agrees

1 to a different treatment of such claim, provide for the
2 full payment of—

3 “(A) all amounts payable under such order
4 or statute for such obligation that first become
5 payable after the date on which the petition is
6 filed; and

7 “(B) all amounts payable under such order
8 before the date on which such petition was filed,
9 if such amounts are owed directly to a spouse,
10 former spouse, child of the debtor, or a parent or
11 legal guardian of such child.”;

12 (2) in section 1225(a)—

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

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

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

18 “(7) if the debtor is required by a judicial or ad-
19 ministrative order or statute to pay a domestic sup-
20 port obligation, the plan provides for the full payment
21 of all amounts payable under such order or statute for
22 such obligation that initially become payable after the
23 date on which the petition is filed.”;

24 (3) in section 1228(a)—

1 (A) by striking “(a) As soon as practicable”
2 and inserting “(a)(1) Subject to paragraph (2),
3 as soon as practicable”;

4 (B) by striking “(1) provided” and insert-
5 ing the following:

6 “(A) provided”;

7 (C) by striking “(2) of the kind” and insert-
8 ing the following:

9 “(B) of the kind”; and

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

11 “(2) With respect to a debtor who is required by a judi-
12 cial or administrative order or statute to pay a domestic
13 support obligation, the court may not grant the debtor a
14 discharge under paragraph (1) until after the debtor cer-
15 tifies that—

16 “(A) all amounts payable under that order or
17 statute that initially became payable after the date on
18 which the petition was filed (through the date of the
19 certification) have been paid; and

20 “(B) all amounts payable under that order that,
21 as of the date of the certification, are owed directly
22 to a spouse, former spouse, or child of the debtor, or
23 the parent or legal guardian of such child, have been
24 paid, unless the holder of such claim agrees to a dif-
25 ferent treatment of such claim.”;

1 ~~(2)~~ (4) in section 1325(a)—

2 (A) in paragraph (5), by striking “and” at
3 the end;

4 (B) in paragraph (6), by striking the pe-
5 riod at the end and inserting “; and”; and

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

7 “(7) 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 the plan pro-~~
10 ~~vides for full payment of~~ all amounts payable under
11 such order for such obligation that become payable
12 after the date on which the petition is filed.”; and

13 ~~(3)~~ (5) in section 1328(a), in the matter pre-
14 ceding paragraph (1), by inserting “, and with re-
15 spect to a debtor who is required by a judicial or ad-
16 ministrative order to pay a domestic support obliga-
17 tion, *and with respect to whom the court certifies*
18 that all amounts payable under such order or ~~statute~~
19 ~~that are due on or before the date statute that ini-~~
20 ~~tially became payable after the date on which the pe-~~
21 ~~tition was filed through the date of the certification~~
22 (including amounts due before or after the petition
23 was filed) have been paid” after “completion by the
24 debtor of all payments under the plan”. *certification*
25 *have been paid, after all amounts payable under that*

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

3 (3) in paragraph (18), by striking the period at
4 the end and inserting a semicolon; and

5 (4) by inserting after paragraph (18) the fol-
6 lowing:

7 “~~(19)~~ under subsection (a) with respect to the
8 withholding of income under an order as specified in
9 section 466(b) of the Social Security Act (~~42~~ U.S.C.
10 ~~666~~(b)); or

11 “~~(20)~~ under subsection (a) with respect to—

12 (2) *by inserting after paragraph (4) the fol-*
13 *lowing:*

14 “(5) *under subsection (a) with respect to the*
15 *withholding of income—*

16 “(A) *for payment of a domestic support ob-*
17 *ligation for amounts that initially become pay-*
18 *able after the date the petition was filed; and*

19 “(B) *for payment of a domestic support ob-*
20 *ligation for amounts payable before the date the*
21 *petition was filed, and owed directly to the*
22 *spouse, former spouse, or child of the debtor, or*
23 *the parent or guardian of such child;”;*

24 (3) in paragraph (17), by striking “or” at the
25 end;

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

3 (5) *by inserting after paragraph (18) the fol-*
 4 *lowing:*

5 “(19) *under subsection (a) with respect to—*

6 “(A) *the withholding, suspension, or re-*
 7 *striction of drivers’ licenses, professional and*
 8 *occupational licenses, and recreational licenses*
 9 *under State law, as specified in section*
 10 *466(a)(16) of the Social Security Act (42*
 11 *U.S.C. 666(a)(16)) ~~or with respect;~~*

12 “(B) ~~to~~ *the reporting of overdue support*
 13 *owed by an absent parent to any consumer re-*
 14 *porting agency as specified in section 466(a)(7)*
 15 *of the Social Security Act (42 U.S.C.*
 16 *666(a)(7));*

17 “~~(B)~~ (C) *the interception of tax refunds, as*
 18 *specified in sections 464 and 466(a)(3) of the*
 19 *Social Security Act (42 U.S.C. 664 and*
 20 *666(a)(3)), if such tax refund is payable directly*
 21 *to a spouse, former spouse, or child of the debtor,*
 22 *or the parent or legal guardian of such child; or*

23 “~~(C)~~ (D) *the enforcement of medical obli-*
 24 *gations as specified under title IV of the Social*
 25 *Security Act (42 U.S.C. 601 et seq.).”.*

1 **SEC. 214. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS**
 2 **FOR ALIMONY, MAINTENANCE, AND SUP-**
 3 **PORT.**

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

6 ~~(1)~~ in subsection (a), by striking paragraph ~~(5)~~
 7 and inserting the following:

8 ~~“(5) for a domestic support obligation;”;~~

9 ~~(1)~~ in subsection (a)—

10 ~~(A)~~ by striking paragraph ~~(5)~~ and inserting
 11 the following:

12 ~~“(5) for a domestic support obligation;”;~~

13 ~~(B)~~ in paragraph ~~(15)~~—

14 ~~(i)~~ by inserting “or” after “court of
 15 record”; and

16 ~~(ii)~~ by striking “unless—” and all that
 17 follows through the end of the paragraph
 18 and inserting a semicolon; and

19 ~~(2)~~ in subsection (c), by striking “(6), or (15)”
 20 and inserting “or (6)”; and

21 ~~(3)~~ in paragraph ~~(15)~~, by striking “govern-
 22 mental unit” and all through the end of the para-
 23 graph and inserting a semicolon.

24 **SEC. 215. 216. CONTINUED LIABILITY OF PROPERTY.**

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

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

3 “(1) a debt of a kind specified in paragraph (1)
4 or (5) of section 523(a) (in which case, notwith-
5 standing any provision of applicable nonbankruptcy
6 law to the contrary, such property shall be liable for
7 a debt of a kind specified in section 523(a)(5));”;
8 and

9 (2) in subsection (f)(1)(A), by striking the dash
10 and all that follows through the end of the subpara-
11 graph and inserting “of a kind that is specified in
12 section 523(a)(5); or”.

13 **SEC. 216. 217. PROTECTION OF DOMESTIC SUPPORT**
14 **CLAIMS AGAINST PREFERENTIAL TRANSFER**
15 **MOTIONS.**

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

18 “(7) to the extent such transfer was a bona fide
19 payment of a debt for a domestic support obligation;
20 or”.

21 **SEC. 217. AMENDMENT TO SECTION 1325 OF TITLE 11,**
22 **UNITED STATES CODE.**

23 Section 1325(b)(2) of title 11, United States Code,
24 is amended by inserting “(other than child support pay-
25 ments, foster care payments, or disability payments for

1 a dependent child made in accordance with applicable non-
 2 bankruptcy law and which is reasonably necessary to be
 3 expended)” after “received by the debtor”.

4 **SEC. 218. DEFINITION OF DOMESTIC SUPPORT OBLIGA-**
 5 **TION.**

6 Section 101 of title 11, United States Code, is
 7 amended—

8 (1) by striking paragraph (12A); and

9 (2) by inserting after paragraph (14) the fol-
 10 lowing:

11 “(14A) ‘domestic support obligation’ means a
 12 debt that accrues before or after the entry of an
 13 order for relief under this title that is—

14 “(A) owed to or recoverable by—

15 “(i) a spouse, former spouse, or child
 16 of the debtor or that child’s legal guardian;
 17 or

18 “(ii) a governmental unit;

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

24 “(C) established or subject to establish-
 25 ment before or after entry of an order for relief

1 under this title, by reason of applicable provi-
 2 sions of—

3 “(i) a separation agreement, divorce
 4 decree, or property settlement agreement;

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

6 “(iii) a determination made in accord-
 7 ance with applicable nonbankruptcy law by
 8 a governmental unit; and

9 “(D) not assigned to a nongovernmental
 10 entity, unless that obligation is assigned volun-
 11 tarily by the spouse, former spouse, child, or
 12 parent solely for the purpose of collecting the
 13 debt.”.

14 **SEC. 218. DISPOSABLE INCOME DEFINED.**

15 (a) *CONFIRMATION OF PLAN UNDER CHAPTER 12.*—
 16 *Section 1225(b)(2)(A) of title 11, United States Code, is*
 17 *amended by inserting “for a child support, foster care, or*
 18 *disability payment for a dependent child made in accord-*
 19 *ance with applicable nonbankruptcy law” after “dependent*
 20 *of the debtor”.*

21 (b) *CONFIRMATION OF PLAN UNDER CHAPTER 13.*—
 22 *Section 1325(b)(2)(A) of title 11, United States Code, is*
 23 *amended by inserting “or for a child support, foster care,*
 24 *or disability payment for a dependent child made in ac-*

1 *cordance with applicable nonbankruptcy law” after “de-*
 2 *pendent of the debtor”.*

3 **SEC. 219. COLLECTION OF CHILD SUPPORT.**

4 (a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-
 5 tion 704 of title 11, United States Code, as amended by
 6 section 102(b) of this Act, is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (8), by striking “and” at
 9 the end;

10 (B) in paragraph (9), by striking the pe-
 11 riod and inserting “; and”; and

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

13 “(10) if, with respect to an individual debtor,
 14 there is a claim for support of a child of the debtor
 15 or a custodial parent *or legal guardian* of such child
 16 entitled to receive priority under section 507(a)(1),
 17 provide the applicable notification specified in sub-
 18 section (c).”; and

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

20 “(c)(1) In any case described in subsection (a)(10),
 21 the trustee shall—

22 “(A)(i) notify in writing the holder of the claim
 23 of the right of that holder to use the services of a
 24 State child support enforcement agency established
 25 under sections 464 and 466 of the Social Security

1 Act (42 U.S.C. ~~654~~ 664 and 666, respectively) for
2 the State in which the holder resides *for assistance*
3 *in collecting child support during and after the bank-*
4 *ruptcy procedures; and*

5 “(ii) include in the notice under this paragraph
6 the address and telephone number of the child sup-
7 port enforcement agency; and

8 “(iii) include in the notice an explanation of the
9 rights of the holder of the claim to payment of the
10 claim under this chapter; and

11 “(B)(i) notify in writing the State child support
12 agency of the State in which the holder of the claim
13 resides of the claim;

14 “(ii) include in the notice under this paragraph
15 the name, address, and telephone number of the
16 holder of the claim; and

17 “(iii) at such time as the debtor is granted a
18 discharge under section 727, notify the holder of
19 that claim and the State child support agency of the
20 State in which that holder resides of—

21 “(I) the granting of the discharge;

22 “(II) the last recent known address of the
23 debtor; and

24 “(III) with respect to the debtor’s case, the
25 name of each creditor that holds a claim *that—*

1 “(aa) ~~that~~ is not discharged under
2 paragraph (2), (4), or (14A) of section
3 523(a); or

4 “(bb) ~~that~~ was reaffirmed by the debt-
5 or under section 524(c).

6 “(2)(A) If, after receiving a notice under paragraph
7 (1)(B)(iii), a holder of a claim or a State child support
8 agency is unable to locate the debtor that is the subject
9 of the notice, that party may request from a creditor de-
10 scribed in paragraph (1)(B)(iii)(III) (aa) or (bb) the last
11 *known address of the debtor.*

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

17 ***(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Sec-***
18 ***tion 1106 of title 11, United States Code, is amended—***

19 ***(1) in subsection (b)—***

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

22 ***(B) in paragraph (6), by striking the period***
23 ***and inserting “; and”; and***

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

1 “(7) 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 or legal guardian of such child
4 entitled to receive priority under section 507(a)(1),
5 provide the applicable notification specified in sub-
6 section (c).”; and

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

8 “(c)(1) In any case described in subsection (b)(7), the
9 trustee shall—

10 “(A)(i) notify in writing the holder of the claim
11 of the right of that holder to use the services of a State
12 child support enforcement agency established under
13 sections 464 and 466 of the Social Security Act (42
14 U.S.C. 664 and 666) for the State in which the holder
15 resides; and

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

19 “(B)(i) notify, in writing, the State child sup-
20 port agency (of the State in which the holder of the
21 claim resides) of the claim;

22 “(ii) include in the notice under this paragraph
23 the name, address, and telephone number of the holder
24 of the claim; and

1 “(iii) at such time as the debtor is granted a dis-
2 charge under section 1141, notify the holder of the
3 claim and the State child support agency of the State
4 in which that holder resides of—

5 “(I) the granting of the discharge;

6 “(II) the last recent known address of the
7 debtor; and

8 “(III) with respect to the debtor’s case, the
9 name of each creditor that holds a claim that—

10 “(aa) is not discharged under para-
11 graph (2), (4), or (14A) of section 523(a);

12 or

13 “(bb) was reaffirmed by the debtor
14 under section 524(c).

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

21 “(B) Notwithstanding any other provision of law, a
22 creditor that makes a disclosure of a last known address
23 of a debtor in connection with a request made under sub-
24 paragraph (A) shall not be liable to the debtor or any other
25 person by reason of making that disclosure.”.

1 (c) *DUTIES OF TRUSTEE UNDER CHAPTER 12.*—Sec-
2 *tion 1202 of title 11, United States Code, is amended—*

3 (1) *in subsection (b)—*

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

6 (B) *in paragraph (5), by striking the period*
7 *and inserting “; and”; and*

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

9 “(6) *if, with respect to an individual debtor,*
10 *there is a claim for support of a child of the debtor*
11 *or a custodial parent or legal guardian of such child*
12 *entitled to receive priority under section 507(a)(1),*
13 *provide the applicable notification specified in sub-*
14 *section (c).”;* and

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

16 “(c)(1) *In any case described in subsection (b)(6), the*
17 *trustee shall—*

18 (A)(i) *notify in writing the holder of the claim*
19 *of the right of that holder to use the services of a State*
20 *child support enforcement agency established under*
21 *sections 464 and 466 of the Social Security Act (42*
22 *U.S.C. 664 and 666) for the State in which the holder*
23 *resides; and*

1 “(ii) include in the notice under this paragraph
2 the address and telephone number of the child support
3 enforcement agency; and

4 “(B)(i) notify, in writing, the State child sup-
5 port agency (of the State in which the holder of the
6 claim resides) of the claim;

7 “(ii) include in the notice under this paragraph
8 the name, address, and telephone number of the holder
9 of the claim; and

10 “(iii) at such time as the debtor is granted a dis-
11 charge under section 1228, notify the holder of the
12 claim and the State child support agency of the State
13 in which that holder resides of—

14 “(I) the granting of the discharge;

15 “(II) the last recent known address of the
16 debtor; and

17 “(III) with respect to the debtor’s case, the
18 name of each creditor that holds a claim that—

19 “(aa) is not discharged under para-
20 graph (2), (4), or (14A) of section 523(a);

21 or

22 “(bb) was reaffirmed by the debtor
23 under section 524(c).

24 “(2)(A) If, after receiving a notice under paragraph
25 (1)(B)(iii), a holder of a claim or a State child support

1 *agency is unable to locate the debtor that is the subject of*
 2 *the notice, that party may request from a creditor described*
 3 *in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known*
 4 *address of the debtor.*

5 “(B) Notwithstanding any other provision of law, a
 6 creditor that makes a disclosure of a last known address
 7 of a debtor in connection with a request made under sub-
 8 paragraph (A) shall not be liable to the debtor or any other
 9 person by reason of making that disclosure.”.

10 ~~(b)~~ (d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—
 11 Section 1302 of title 11, United States Code, ~~as amended~~
 12 ~~by section 102(b) of this Act,~~ is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (4), by striking “and” at
 15 the end;

16 (B) in paragraph (5), by striking the pe-
 17 riod and inserting “; and”; and

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

19 “(6) if, with respect to an individual debtor,
 20 there is a claim for support of a child of the debtor
 21 or a custodial parent *or legal guardian* of such child
 22 entitled to receive priority under section 507(a)(1),
 23 provide the applicable notification specified in sub-
 24 section (d).”; and

25 ~~(s)~~ (2) by adding at the end the following:

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

3 “(A)(i) notify in writing the holder of the claim
4 of the right of that holder to use the services of a
5 State child support enforcement agency established
6 under sections 464 and 466 of the Social Security
7 Act (42 U.S.C. 664 and 666, respectively) for the
8 State in which the holder resides; and

9 “(ii) include in the notice under this paragraph
10 the address and telephone number of the child sup-
11 port enforcement agency; and

12 “(B)(i) notify in writing the State child support
13 agency of the State in which the holder of the claim
14 resides of the claim; ~~and~~

15 “(ii) include in the notice under this paragraph
16 the name, address, and telephone number of the
17 holder of the claim; *and*

18 “(iii) at such time as the debtor is granted a
19 discharge under section 1328, notify the holder of
20 the claim and the State child support agency of the
21 State in which that holder resides of—

22 “(I) the granting of the discharge;

23 “(II) the last recent known address of the
24 debtor; and

1 “(III) with respect to the debtor’s case, the
2 name of each creditor that holds a claim *that*—

3 “(aa) ~~that~~ is not discharged under
4 paragraph (2), (4), or (14A) of section
5 523(a); or

6 “(bb) ~~that~~ was reaffirmed by the debt-
7 or under section 524(c).

8 “(2)(A) If, after receiving a notice under paragraph
9 (1)(B)(iii), a holder of a claim or a State child support
10 agency is unable to locate the debtor that is the subject
11 of the notice, that party may request from a creditor de-
12 scribed in paragraph (1)(B)(iii)(III) (aa) or (bb) the last
13 known address of the debtor.

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

19 **Subtitle C—Other Consumer** 20 **Protections**

21 **SEC. 221. DEFINITIONS.**

22 (a) ~~DEFINITIONS.~~—Section ~~101~~ of title ~~11~~, United
23 States Code, is amended—

24 (1) ~~by inserting~~ after paragraph (3) the fol-
25 lowing:

1 ~~“(3A) ‘assisted person’ means any person whose~~
2 ~~debts consist primarily of consumer debts and whose~~
3 ~~nonexempt assets are less than \$150,000;”;~~

4 ~~(2) by inserting after paragraph (4) the fol-~~
5 ~~lowing:~~

6 ~~“(4A) ‘bankruptcy assistance’ means any goods~~
7 ~~or services sold or otherwise provided to an assisted~~
8 ~~person with the express or implied purpose of pro-~~
9 ~~viding information, advice, counsel, document prepa-~~
10 ~~ration or filing, or attendance at a creditors’ meeting~~
11 ~~or appearing in a proceeding on behalf of another or~~
12 ~~providing legal representation with respect to a pro-~~
13 ~~ceeding under this title;”;~~ and

14 ~~(3) by inserting after paragraph (12A) the fol-~~
15 ~~lowing:~~

16 ~~“(12B) ‘debt relief agency’ means any person~~
17 ~~who provides any bankruptcy assistance to an as-~~
18 ~~sisted person in return for the payment of money or~~
19 ~~other valuable consideration, or who is a bankruptcy~~
20 ~~petition preparer under section 110, but does not in-~~
21 ~~clude any person that is any of the following or an~~
22 ~~officer, director, employee, or agent thereof—~~

23 ~~“(A) any nonprofit organization which is~~
24 ~~exempt from taxation under section 501(c)(3)~~
25 ~~of the Internal Revenue Code of 1986;~~

1 “(B) any creditor of the person to the ex-
2 tent the creditor is assisting the person to re-
3 structure any debt owed by the person to the
4 creditor; or

5 “(C) any depository institution (as defined
6 in section 3 of the Federal Deposit Insurance
7 Act (12 U.S.C. 1813)) or any Federal credit
8 union or State credit union (as those terms are
9 defined in section 101 of the Federal Credit
10 Union Act (12 U.S.C. 1751)); or any affiliate
11 or subsidiary of such a depository institution or
12 credit union;”.

13 (b) CONFORMING AMENDMENT.—Section 104(b)(1)
14 of title 11, United States Code, is amended by inserting
15 “101(3),” after “sections”.

16 **SEC. 222. DISCLOSURES.**

17 (a) DISCLOSURES.—Subchapter II of chapter 5 of
18 title 11, United States Code, is amended by adding at the
19 end the following:

20 **“§ 526. Disclosures**

21 “(a) A debt relief agency providing bankruptcy assist-
22 ance to an assisted person shall provide the following no-
23 tices to the assisted person:

24 “(1) The written notice required under section
25 342(b)(1).

1 ~~“(2)~~ To the extent not covered in the written
2 notice described in paragraph (1) and not later than
3 ~~3~~ business days after the first date on which a debt
4 relief agency first offers to provide any bankruptcy
5 assistance services to an assisted person, a clear and
6 conspicuous written notice advising assisted persons
7 that—

8 ~~“(A)~~ all information the assisted person is
9 required to provide with a petition and there-
10 after during a case under this title shall be
11 complete, accurate, and truthful;

12 ~~“(B)~~ all assets and all liabilities shall be
13 completely and accurately disclosed in the docu-
14 ments filed to commence the case, and the re-
15 placement value of each asset, as defined in sec-
16 tion 506, shall be stated in those documents if
17 requested after reasonable inquiry to establish
18 such value;

19 ~~“(C)~~ total current monthly income, pro-
20 jected monthly net income and, in a case under
21 chapter 13, monthly net income shall be stated
22 after reasonable inquiry; and

23 ~~“(D)~~ information an assisted person pro-
24 vides during the case of that person may be au-
25 dited under this title and the failure to provide

1 such information may result in dismissal of the
2 proceeding under this title or other sanction in-
3 cluding, in some instances, criminal sanctions.

4 “(b) A debt relief agency providing bankruptcy assist-
5 ance to an assisted person shall provide each assisted per-
6 son at the same time as the notices required under sub-
7 section (a)(1) with the following statement, to the extent
8 applicable, or a substantially similar statement. The state-
9 ment shall be clear and conspicuous and shall be in a sin-
10 gle document separate from other documents or notices
11 provided to the assisted person:

12 “~~‘IMPORTANT INFORMATION ABOUT BANK-~~
13 ~~RUPTCY ASSISTANCE SERVICES FROM AN AT-~~
14 ~~TORNEY OR BANKRUPTCY PETITION PREPARER~~

15 “‘If you decide to seek bankruptcy relief, you can
16 represent yourself, you can hire an attorney to represent
17 you, or you can get help in some localities from a bank-
18 ruptcy petition preparer who is not an attorney. ~~THE~~
19 ~~LAW REQUIRES AN ATTORNEY OR BANKRUPTCY~~
20 ~~PETITION PREPARER TO GIVE YOU A WRITTEN~~
21 ~~CONTRACT SPECIFYING WHAT THE ATTORNEY~~
22 ~~OR BANKRUPTCY PETITION PREPARER WILL DO~~
23 ~~FOR YOU AND HOW MUCH IT WILL COST.~~ Ask to
24 see the contract before you hire anyone.

1 ““The following information helps you understand
2 what must be done in a routine bankruptcy case to help
3 you evaluate how much service you need. Although bank-
4 ruptey can be complex, many cases are routine.

5 ““Before filing a bankruptcy case, either you or your
6 attorney should analyze your eligibility for different forms
7 of debt relief made available by the Bankruptcy Code and
8 which form of relief is most likely to be beneficial for you.
9 Be sure you understand the relief you can obtain and its
10 limitations. To file a bankruptcy case, documents called
11 a Petition, Schedules and Statement of Financial Affairs,
12 as well as in some cases a Statement of Intention need
13 to be prepared correctly and filed with the bankruptcy
14 court. You will have to pay a filing fee to the bankruptcy
15 court. Once your case starts, you will have to attend the
16 required first meeting of creditors where you may be ques-
17 tioned by a court official called a “trustee” and by credi-
18 tors.

19 ““If you choose to file a chapter 7 case, you may be
20 asked by a creditor to reaffirm a debt. You may want help
21 deciding whether to do so and a creditor is not permitted
22 to coerce you into reaffirming your debts.

23 ““If you choose to file a chapter 13 case in which
24 you repay your creditors what you can afford over 3 to
25 5 years, you may also want help with preparing your chap-

1 ter 13 plan and with the confirmation hearing on your
2 plan which will be before a bankruptcy judge.

3 “If you select another type of relief under the Bank-
4 ruptcy Code other than chapter 7 or chapter 13, you will
5 want to find out what needs to be done from someone fa-
6 miliar with that type of relief.

7 “Your bankruptcy case may also involve litigation.
8 You are generally permitted to represent yourself in litiga-
9 tion in bankruptcy court, but only attorneys, not bank-
10 ruptcy petition preparers, can give you legal advice.”

11 “(e) Except to the extent the debt relief agency pro-
12 vides the required information itself after reasonably dili-
13 gent inquiry of the assisted person or others so as to ob-
14 tain such information reasonably accurately for inclusion
15 on the petition, schedules or statement of financial affairs,
16 a debt relief agency providing bankruptcy assistance to an
17 assisted person, to the extent permitted by nonbankruptcy
18 law, shall provide each assisted person at the time re-
19 quired for the notice required under subsection (a)(1) rea-
20 sonably sufficient information (which may be provided
21 orally or in a clear and conspicuous writing) to the as-
22 sisted person on how to provide all the information the
23 assisted person is required to provide under this title pur-
24 suant to section 521, including—

1 “(1) how to value assets at replacement value;
2 determine total current monthly income, projected
3 monthly income and, in a case under chapter 13, net
4 monthly income, and related calculations;

5 “(2) how to complete the list of creditors, in-
6 cluding how to determine what amount is owed and
7 what address for the creditor should be shown; and

8 “(3) how to—

9 “(A) determine what property is exempt;
10 and

11 “(B) value exempt property at replacement
12 value, as defined in section 506.

13 “(d) A debt relief agency shall maintain a copy of
14 the notices required under subsection (a) of this section
15 for a period of 2 years after the latest date on which the
16 notice is given the assisted person.”.

17 (b) CONFORMING AMENDMENT.—The table of sec-
18 tions for chapter 5 of title 11, United States Code, is
19 amended by inserting after the item relating to section
20 525 the following:

“526. Disclosures.”.

21 **SEC. 223. DEBTOR’S BILL OF RIGHTS.**

22 (a) DEBTOR’S BILL OF RIGHTS.—Subchapter H of
23 chapter 5 of title 11, United States Code, as amended by
24 section 222 of this Act, is amended by adding at the end
25 the following:

1 **“§ 527. Debtor’s bill of rights**

2 “(a)(1) A debt relief agency shall—

3 “(A) not later than 5 business days after the
4 first date on which a debt relief agency provides any
5 bankruptcy assistance services to an assisted person,
6 but before that assisted person’s petition under this
7 title is filed—

8 “(i) execute a written contract with the as-
9 sisted person specifying clearly and conspicu-
10 ously the services the agency will provide the
11 assisted person and the basis on which fees or
12 charges will be made for such services and the
13 terms of payment; and

14 “(ii) give the assisted person a copy of the
15 fully executed and completed contract in a form
16 the person is able to retain;

17 “(B) disclose in any advertisement of bank-
18 ruptcy assistance services or of the benefits of bank-
19 ruptcy directed to the general public (whether in
20 general media, seminars or specific mailings, tele-
21 phonic or electronic messages, or otherwise) that the
22 services or benefits are with respect to proceedings
23 under this title, clearly and conspicuously using the
24 statement: ‘We are a debt relief agency. We help
25 people file bankruptcy petitions to obtain relief

1 under the Bankruptcy Code.’ or a substantially simi-
2 lar statement; and

3 “(C) if an advertisement directed to the general
4 public indicates that the debt relief agency provides
5 assistance with respect to credit defaults, mortgage
6 foreclosures, lease eviction proceedings, excessive
7 debt, debt collection pressure, or inability to pay any
8 consumer debt, disclose conspicuously in that adver-
9 tisement that the assistance is with respect to or
10 may involve proceedings under this title, using the
11 following statement: ‘We are a debt relief agency.
12 We help people file bankruptcy petitions to obtain
13 relief under the Bankruptcy Code.’ or a substantially
14 similar statement.

15 “(2) For purposes of paragraph (1)(B), an advertise-
16 ment shall be of bankruptcy assistance services if that ad-
17 vertisement describes or offers bankruptcy assistance with
18 a plan under chapter 12, without regard to whether chap-
19 ter 13 is specifically mentioned. A statement such as ‘fed-
20 erally supervised repayment plan’ or ‘Federal debt restruc-
21 turing help’ or any other similar statement that would lead
22 a reasonable consumer to believe that help with debts is
23 being offered when in fact in most cases the help available
24 is bankruptcy assistance with a plan under chapter 13 is
25 a statement covered under the preceding sentence.

1 “(b) A debt relief agency shall not—

2 “(1) fail to perform any service that the debt
3 relief agency has told the assisted person or prospec-
4 tive assisted person the agency would provide that
5 person in connection with the preparation for or ac-
6 tivities during a proceeding under this title;

7 “(2) make any statement, or counsel or advise
8 any assisted person to make any statement in any
9 document filed in a proceeding under this title;
10 that—

11 “(A) is untrue and misleading; or

12 “(B) upon the exercise of reasonable care,
13 should be known by the debt relief agency to be
14 untrue or misleading;

15 “(3) misrepresent to any assisted person or pro-
16 spective assisted person, directly or indirectly, af-
17 firmatively or by material omission, what services
18 the debt relief agency may reasonably expect to pro-
19 vide that person, or the benefits an assisted person
20 may obtain or the difficulties the person may experi-
21 ence if the person seeks relief in a proceeding under
22 this title; or

23 “(4) advise an assisted person or prospective
24 assisted person to incur more debt in contemplation
25 of that person filing a proceeding under this title or

1 in order to pay an attorney or bankruptcy petition
 2 preparer fee or charge for services performed as part
 3 of preparing for or representing a debtor in a pro-
 4 ceeding under this title.”.

5 (b) CONFORMING AMENDMENT.—The table of sec-
 6 tions for chapter 5 of title 11, United States Code, as
 7 amended by section 222 of this Act, is amended by insert-
 8 ing after the item relating to section 526 of title 11,
 9 United States Code, the following:

“527. Debtor’s bill of rights.”.

10 **SEC. 224. ENFORCEMENT.**

11 (a) ENFORCEMENT.—Subchapter H of chapter 5 of
 12 title 11, United States Code, as amended by section 223
 13 of this Act, is amended by adding at the end the following:

14 **“§ 528. Debt relief agency enforcement**

15 “(a) Any waiver by any assisted person of any protec-
 16 tion or right provided by or under section 526 or 527 shall
 17 be void and may not be enforced by any Federal or State
 18 court or any other person.

19 “(b)(1) Any contract between a debt relief agency
 20 and an assisted person for bankruptcy assistance that does
 21 not comply with the material requirements of section 526
 22 or 527 shall be treated as void and may not be enforced
 23 by any Federal or State court or by any other person.

24 “(2) Any debt relief agency that has been found, after
 25 notice and hearing, to have—

1 “(A) negligently failed to comply with any pro-
2 vision of section 526 or 527 with respect to a bank-
3 ruptcy case or related proceeding of an assisted per-
4 son;

5 “(B) provided bankruptcy assistance to an as-
6 sisted person in a case or related proceeding which
7 is dismissed or converted because the debt relief
8 agency’s negligent failure to file bankruptcy papers,
9 including papers specified in section 521; or

10 “(C) negligently or intentionally disregarded the
11 material requirements of this title or the Federal
12 Rules of Bankruptcy Procedure applicable to such
13 debt relief agency shall be liable to the assisted per-
14 son in the amount of any fees and charges in con-
15 nection with providing bankruptcy assistance to such
16 person that the debt relief agency has already been
17 paid on account of that proceeding.

18 “(3) In addition to such other remedies as are pro-
19 vided under State law, whenever the chief law enforcement
20 officer of a State, or an official or agency designated by
21 a State, has reason to believe that any person has violated
22 or is violating section 526 or 527, the State—

23 “(A) may bring an action to enjoin such viola-
24 tion;

1 “(B) may bring an action on behalf of its resi-
2 dents to recover the actual damages of assisted per-
3 sons arising from such violation, including any liabil-
4 ity under paragraph (2); and

5 “(C) in the case of any successful action under
6 subparagraph (A) or (B), shall be awarded the costs
7 of the action and reasonable attorney fees as deter-
8 mined by the court.

9 “(4) The United States District Court for any district
10 located in the State shall have concurrent jurisdiction of
11 any action under subparagraph (A) or (B) of paragraph
12 (3).

13 “(5) Notwithstanding any other provision of Federal
14 law, if the court, on its own motion or on the motion of
15 the United States trustee, finds that a person intentionally
16 violated section 526 or 527, or engaged in a clear and
17 consistent pattern or practice of violating section 526 or
18 527, the court may—

19 “(A) enjoin the violation of such section; or

20 “(B) impose an appropriate civil penalty
21 against such person.

22 “(e) This section and sections 526 and 527 shall not
23 annul, alter, affect, or exempt any person subject to those
24 sections from complying with any law of any State except

1 to the extent that such law is inconsistent with those sec-
 2 tions, and then only to the extent of the inconsistency.”.

3 (b) CONFORMING AMENDMENT.—The table of see-
 4 tions for chapter 5 of title 11, United States Code, as
 5 amended by section 223 of this Act, is amended by insert-
 6 ing after the item relating to section 527 of title 11,
 7 United States Code, the following:

“528. Debt relief agency enforcement.”.

8 **SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANK-**
 9 **RUPTCY FILINGS.**

10 *Section 110 of title 11, United States Code, is*
 11 *amended—*

12 (1) *in subsection (a)(1), by inserting “, under*
 13 *the direct supervision of an attorney,” after “who”;*

14 (2) *in subsection (b)—*

15 (A) *in paragraph (1), by adding at the end*
 16 *the following: “If a bankruptcy petition preparer*
 17 *is not an individual, then an officer, principal,*
 18 *responsible person, or partner of the preparer*
 19 *shall be required to—*

20 *“(A) sign the document for filing; and*

21 *“(B) print on the document the name and ad-*
 22 *dress of that officer, principal, responsible person or*
 23 *partner.”;*

24 (B) *by striking paragraph (2) and inserting*
 25 *the following:*

1 “(2)(A) *Before preparing any document for filing or*
2 *accepting any fees from a debtor, the bankruptcy petition*
3 *preparer shall provide to the debtor a written notice to debt-*
4 *ors concerning bankruptcy petition preparers, which shall*
5 *be on an official form issued by the Judicial Conference*
6 *of the United States.*

7 “(B) *The notice under subparagraph (A)—*

8 “(i) *shall inform the debtor in simple language*
9 *that a bankruptcy petition preparer is not an attor-*
10 *ney and may not practice law or give legal advice;*

11 “(ii) *may contain a description of examples of*
12 *legal advice that a bankruptcy petition preparer is*
13 *not authorized to give, in addition to any advice that*
14 *the preparer may not give by reason of subsection*
15 *(e)(2); and*

16 “(iii) *shall—*

17 “(I) *be signed by—*

18 “(aa) *the debtor; and*

19 “(bb) *the bankruptcy petition preparer,*
20 *under penalty of perjury; and*

21 “(II) *be filed with any document for fil-*
22 *ing.”;*

23 (3) *in subsection (c)—*

24 (A) *in paragraph (2)—*

1 (i) by striking “(2) For purposes” and
2 inserting “(2)(A) Subject to subparagraph
3 (B), for purposes”; and

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

5 “(B) If a bankruptcy petition preparer is not an indi-
6 vidual, the identifying number of the bankruptcy petition
7 preparer shall be the Social Security account number of the
8 officer, principal, responsible person, or partner of the pre-
9 parer.”; and

10 (B) by striking paragraph (3);

11 (4) in subsection (d)—

12 (A) by striking “(d)(1)” and inserting
13 “(d)”; and

14 (B) by striking paragraph (2);

15 (5) in subsection (e)—

16 (A) by striking paragraph (2); and

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

18 “(2)(A) A bankruptcy petition preparer may not offer
19 a potential bankruptcy debtor any legal advice, including
20 any legal advice described in subparagraph (B).

21 “(B) The legal advice referred to in subparagraph (A)
22 includes advising the debtor—

23 “(i) whether—

24 “(I) to file a petition under this title; or

1 “(II) commencing a case under chapter 7,
2 11, 12, or 13 is appropriate;

3 “(ii) whether the debtor’s debts will be eliminated
4 or discharged in a case under this title;

5 “(iii) whether the debtor will be able to retain
6 the debtor’s home, car, or other property after com-
7 mencing a case under this title;

8 “(iv) concerning—

9 “(I) the tax consequences of a case brought
10 under this title; or

11 “(II) the dischargeability of tax claims;

12 “(v) whether the debtor may or should promise
13 to repay debts to a creditor or enter into a reaffirma-
14 tion agreement with a creditor to reaffirm a debt;

15 “(vi) concerning how to characterize the nature
16 of the debtor’s interests in property or the debtor’s
17 debts; or

18 “(vii) concerning bankruptcy procedures and
19 rights.”;

20 (6) in subsection (f)—

21 (A) by striking “(f)(1)” and inserting “(f)”;

22 and

23 (B) by striking paragraph (2);

24 (7) in subsection (g)—

1 (A) by striking “(g)(1)” and inserting
2 “(g)”; and

3 (B) by striking paragraph (2);
4 (8) in subsection (h)—

5 (A) by redesignating paragraphs (1)
6 through (4) as paragraphs (2) through (5), re-
7 spectively;

8 (B) by inserting before paragraph (2), as so
9 redesignated, the following:

10 “(h)(1) The Supreme Court may promulgate rules
11 under section 2075 of title 28, or the Judicial Conference
12 of the United States may prescribe guidelines, for setting
13 a maximum allowable fee chargeable by a bankruptcy peti-
14 tion preparer. A bankruptcy petition preparer shall notify
15 the debtor of any such maximum amount before preparing
16 any document for filing for a debtor or accepting any fee
17 from the debtor.”;

18 (C) in paragraph (2), as redesignated by
19 subparagraph (A) of this paragraph—

20 (i) by striking “Within 10 days after
21 the date of filing a petition, a bankruptcy
22 petition preparer shall file a” and inserting
23 “A”;

1 (ii) by inserting “by the bankruptcy
2 petition preparer shall be filed together with
3 the petition,” after “perjury”; and

4 (iii) by adding at the end the fol-
5 lowing: “If rules or guidelines setting a
6 maximum fee for services have been promul-
7 gated or prescribed under paragraph (1),
8 the declaration under this paragraph shall
9 include a certification that the bankruptcy
10 petition preparer complied with the notifi-
11 cation requirement under paragraph (1).”;

12 (D) by striking paragraph (3), as redesign-
13 ated by subparagraph (A) of this paragraph,
14 and inserting the following:

15 “(3)(A) The court shall disallow and order the
16 immediate turnover to the bankruptcy trustee any fee
17 referred to in paragraph (2) found to be in excess of
18 the value of any services—

19 “(i) rendered by the preparer during the 12-
20 month period immediately preceding the date of
21 filing of the petition; or

22 “(ii) found to be in violation of any rule or
23 guideline promulgated or prescribed under para-
24 graph (1).

1 “(B) All fees charged by a bankruptcy petition
2 preparer may be forfeited in any case in which the
3 bankruptcy petition preparer fails to comply with
4 this subsection or subsection (b), (c), (d), (e), (f), or
5 (g).

6 “(C) An individual may exempt any funds re-
7 covered under this paragraph under section 522(b).”;
8 and

9 (E) in paragraph (4), as redesignated by
10 subparagraph (A) of this paragraph, by striking
11 “or the United States trustee” and inserting “the
12 United States trustee, or the court, on the initia-
13 tive of the court,”;

14 (9) in subsection (i)(1), by striking the matter
15 preceding subparagraph (A) and inserting the fol-
16 lowing:

17 “(i) If a bankruptcy petition preparer violates this sec-
18 tion or commits any act that the court finds to be fraudu-
19 lent, unfair, or deceptive, on motion of the debtor, trustee,
20 or United States trustee, and after the court holds a hearing
21 with respect to that violation or act, the court shall order
22 the bankruptcy petition preparer to pay to the debtor—”;

23 (10) in subsection (j)—

24 (A) in paragraph (2)—

1 (i) in subparagraph (A)(i)(I), by strik-
2 ing “a violation of which subjects a person
3 to criminal penalty”;

4 (ii) in subparagraph (B)—

5 (I) by striking “or has not paid a
6 penalty” and inserting “has not paid
7 a penalty”; and

8 (II) by inserting “or failed to dis-
9 gorge all fees ordered by the court”
10 after “a penalty imposed under this
11 section,”;

12 (B) by redesignating paragraph (3) as
13 paragraph (4); and

14 (C) by inserting after paragraph (2) the fol-
15 lowing:

16 “(3) The court, as part of its contempt power, may
17 enjoin a bankruptcy petition preparer that has failed to
18 comply with a previous order issued under this section. The
19 injunction under this paragraph may be issued upon mo-
20 tion of the court, the trustee, or the United States trustee.”;

21 and

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

23 “(l)(1) A bankruptcy petition preparer who fails to
24 comply with any provision of subsection (b), (c), (d), (e),

1 *(f), (g), or (h) may be fined not more than \$500 for each*
2 *such failure.*

3 “(2) *The court shall triple the amount of a fine as-*
4 *essed under paragraph (1) in any case in which the court*
5 *finds that a bankruptcy petition preparer—*

6 “(A) *advised the debtor to exclude assets or in-*
7 *come that should have been included on applicable*
8 *schedules;*

9 “(B) *advised the debtor to use a false Social Se-*
10 *curity account number;*

11 “(C) *failed to inform the debtor that the debtor*
12 *was filing for relief under this title; or*

13 “(D) *prepared a document for filing in a man-*
14 *ner that failed to disclose the identity of the preparer.*

15 “(3) *The debtor, the trustee, a creditor, or the United*
16 *States trustee may file a motion for an order imposing a*
17 *fine on the bankruptcy petition preparer for each violation*
18 *of this section.*

19 “(4) *All fines imposed under this section shall be paid*
20 *to the United States trustee, who shall deposit an amount*
21 *equal to such fines in a special account of the United States*
22 *Trustee System Fund referred to in section 586(e)(2) of title*
23 *28. Amounts deposited under this paragraph shall be avail-*
24 *able to fund the enforcement of this section on a national*
25 *basis.”.*

1 **SEC. 225. 222. SENSE OF CONGRESS.**

2 It is the sense of Congress that States should develop
3 curricula relating to the subject of personal finance, de-
4 signed for use in elementary and secondary schools.

5 **SEC. 226. 223. ADDITIONAL AMENDMENTS TO TITLE 11,**
6 **UNITED STATES CODE.**

7 (a) *IN GENERAL.*—Section 507(a) of title 11, United
8 States Code, as amended by section ~~211~~ 212 of this Act,
9 is amended by inserting after paragraph (9) the following:

10 “(10) Tenth, allowed claims for death or per-
11 sonal injuries resulting from the operation of a
12 motor vehicle or vessel if such operation was unlaw-
13 ful because the debtor was intoxicated from using al-
14 cohol, a drug, or another substance.”.

15 (b) *VESSELS.*—Section 523(a)(9) of title 11, United
16 States Code, is amended by inserting “or vessel” after
17 “vehicle”.

18 **SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANK-**
19 **RUPTCY.**

20 (a) *IN GENERAL.*—Section 522 of title 11, United
21 States Code, as amended by section 215 of this Act, is
22 amended—

23 (1) *in subsection (b)*—

24 (A) *in paragraph (2)*—

25 (i) *by striking “(2)(A) any property”*
26 *and inserting:*

1 “(3) *Property listed in this paragraph is—*

2 “(A) *any property*”;

3 (ii) *in subparagraph (A), by striking*

4 “*and*” *at the end*;

5 (iii) *in subparagraph (B), by striking*

6 *the period at the end and inserting “; and”;*

7 *and*

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

9 “(C) *retirement funds to the extent that those*

10 *funds are in a fund or account that is exempt from*

11 *taxation under section 401, 403, 408, 408A, 414, 457,*

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

13 (B) *by striking paragraph (1) and insert-*

14 *ing:*

15 “(2) *Property listed in this paragraph is property that*

16 *is specified under subsection (d), unless the State law that*

17 *is applicable to the debtor under paragraph (3)(A) specifi-*

18 *cally does not so authorize.”;*

19 (C) *in the matter preceding paragraph*

20 (2)—

21 (i) *by striking “(b)” and inserting*

22 “*(b)(1)*”;

23 (ii) *by striking “paragraph (2)” both*

24 *places it appears and inserting “paragraph*

25 *(3)”;*

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

4 (iv) by striking “Such property is—”;
5 and

6 (D) by adding at the end of the subsection
7 the following:

8 “(4) For purposes of paragraph (3)(C) and subsection
9 (d)(12), the following shall apply:

10 “(A) If the retirement funds are in a retirement
11 fund that has received a favorable determination pur-
12 suant to section 7805 of the Internal Revenue Code of
13 1986, and that determination is in effect as of the
14 date of the commencement of the case under section
15 301, 302, or 303 of this title, those funds shall be pre-
16 sumed to be exempt from the estate.

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

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

1 “(i)(I) the retirement fund is in substan-
2 tial compliance with the applicable requirements
3 of the Internal Revenue Code of 1986; or

4 “(II) the retirement fund fails to be in sub-
5 stantial compliance with the applicable require-
6 ments of the Internal Revenue Code of 1986 and
7 the debtor is not materially responsible for that
8 failure.

9 “(C) A direct transfer of retirement funds from
10 1 fund or account that is exempt from taxation under
11 section 401, 403, 408, 408A, 414, 457, or 501(a) of
12 the Internal Revenue Code of 1986, pursuant to sec-
13 tion 401(a)(31) of the Internal Revenue Code of 1986,
14 or otherwise, shall not cease to qualify for exemption
15 under paragraph (3)(C) or subsection (d)(12) by rea-
16 son of that direct transfer.

17 “(D)(i) Any distribution that qualifies as an eli-
18 gible rollover distribution within the meaning of sec-
19 tion 402(c) of the Internal Revenue Code of 1986 or
20 that is described in clause (ii) shall not cease to qual-
21 ify for exemption under paragraph (3)(C) or sub-
22 section (d)(12) by reason of that distribution.

23 “(ii) A distribution described in this clause is an
24 amount that—

1 “(I) has been distributed from a fund or ac-
2 count that is exempt from taxation under section
3 401, 403, 408, 408A, 414, 457, or 501(a) of the
4 Internal Revenue Code of 1986; and

5 “(II) to the extent allowed by law, is depos-
6 ited in such a fund or account not later than 60
7 days after the distribution of that amount.”; and
8 (2) in subsection (d)—

9 (A) in the matter preceding paragraph (1),
10 by striking “subsection (b)(1)” and inserting
11 “subsection (b)(2)”; and

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

13 “(12) Retirement funds to the extent that those funds
14 are in a fund or account that is exempt from taxation under
15 section 401, 403, 408, 408A, 414, 457, or 501(a) of the In-
16 ternal Revenue Code of 1986.”.

17 (b) *AUTOMATIC STAY*.—Section 362(b) of title 11,
18 United States Code, as amended by section 214 of this Act,
19 is amended—

20 (1) in paragraph (18), by striking “or” at the
21 end;

22 (2) in paragraph (19), by striking the period
23 and inserting “; or”;

24 (3) by inserting after paragraph (19) the fol-
25 lowing:

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

10 “(A) to the extent that the amounts withheld
11 and collected are used solely for payments relat-
12 ing to a loan from a plan that satisfies the re-
13 quirements of section 408(b)(1) of the Employee
14 Retirement Income Security Act of 1974 or is
15 subject to section 72(p) of the Internal Revenue
16 Code of 1986; or

17 “(B) in the case of a loan from a thrift sav-
18 ings plan described in subchapter III of title 5,
19 that satisfies the requirements of section 8433(g)
20 of such title;” and

21 (4) by adding at the end of the flush material at
22 the end of the subsection, the following: “Nothing in
23 paragraph (20) may be construed to provide that any
24 loan made under a governmental plan under section
25 414(d), or a contract or account under section 403(b),

1 of the Internal Revenue Code of 1986 constitutes a
2 claim or a debt under this title.”

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

5 (1) by striking “or” at the end of paragraph
6 (17);

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

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

10 “(19) owed to a pension, profit-sharing, stock
11 bonus, or other plan established under section 401,
12 403, 408, 408A, 414, 457, or 501(c) of the Internal
13 Revenue Code of 1986, pursuant to—

14 “(A) a loan permitted under section
15 408(b)(1) of the Employee Retirement Income
16 Security Act of 1974, or subject to section 72(p)
17 of the Internal Revenue Code of 1986; or

18 “(B) a loan from the thrift savings plan de-
19 scribed in subchapter III of title 5, that satisfies
20 the requirements of section 8433(g) of such title.

21 Nothing in paragraph (19) may be construed to pro-
22 vide that any loan made under a governmental plan
23 under section 414(d), or a contract or account under
24 section 403(b), of the Internal Revenue Code of 1986
25 constitutes a claim or a debt under this title.”

1 (d) *PLAN CONTENTS*.—Section 1322 of title 11, United
2 States Code, is amended by adding at the end the following:

3 “(f) A plan may not materially alter the terms of a
4 loan described in section 362(b)(20).”.

5 **TITLE III—DISCOURAGING**
6 **BANKRUPTCY ABUSE**

7 **SEC. 301. REINFORCEMENT OF THE FRESH START.**

8 Section 523(a)(17) of title 11, United States Code,
9 is amended—

10 (1) by striking “by a court” and inserting “on
11 a prisoner by any court”,

12 (2) by striking “section 1915(b) or (f)” and in-
13 sserting “subsection (b) or (f)(2) of section 1915”,
14 and

15 (3) by inserting “(or a similar non-Federal
16 law)” after “title 28” each place it appears.

17 **SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.**

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

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

22 (2) in paragraph (2), by striking the period at
23 the end and inserting a semicolon; and

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

1 “(3) if a single or joint case is filed by or
2 against an individual debtor under chapter 7, 11, or
3 13, and if a single or joint case of the debtor was
4 pending within the preceding 1-year period but was
5 dismissed, other than a case refiled under a chapter
6 other than chapter 7 after dismissal under section
7 707(b)—

8 “(A) the stay under subsection (a) with re-
9 spect to any action taken with respect to a debt
10 or property securing such debt or with respect
11 to any lease will terminate with respect to the
12 debtor on the 30th day after the filing of the
13 later case;

14 “(B) upon motion by a party in interest
15 for continuation of the automatic stay and upon
16 notice and a hearing, the court may extend the
17 stay in particular cases as to any or all credi-
18 tors (subject to such conditions or limitations
19 as the court may then impose) after notice and
20 a hearing completed before the expiration of the
21 30-day period only if the party in interest dem-
22 onstrates that the filing of the later case is in
23 good faith as to the creditors to be stayed; and

24 “(C) for purposes of subparagraph (B), a
25 case is presumptively filed not in good faith

1 (but such presumption may be rebutted by clear
2 and convincing evidence to the contrary)—

3 “(i) as to all creditors, if—

4 “(I) more than 1 previous case
5 under any of chapter 7, 11, or 13 in
6 which the individual was a debtor was
7 pending within the preceding 1-year
8 period;

9 “(II) a previous case under any
10 of chapter 7, 11, or 13 in which the
11 individual was a debtor was dismissed
12 within such 1-year period, after the
13 debtor failed to—

14 “(aa) file or amend the peti-
15 tion or other documents as re-
16 quired by this title or the court
17 without substantial excuse (but
18 mere inadvertence or negligence
19 shall not be a substantial excuse
20 unless the dismissal was caused
21 by the negligence of the debtor’s
22 attorney);

23 “(bb) provide adequate pro-
24 tection as ordered by the court;
25 or

1 “(cc) perform the terms of a
2 plan confirmed by the court; or

3 “(III) there has not been a sub-
4 stantial change in the financial or per-
5 sonal affairs of the debtor since the
6 dismissal of the next most previous
7 case under chapter 7, 11, or 13 of
8 this title, or any other reason to con-
9 clude that the later case will be
10 concluded—

11 “(aa) if a case under chap-
12 ter 7 of this title, with a dis-
13 charge; or

14 “(bb) if a case under chap-
15 ter 11 or 13 of this title, with a
16 confirmed plan which will be fully
17 performed; and

18 “(ii) as to any creditor that com-
19 menced an action under subsection (d) in
20 a previous case in which the individual was
21 a debtor if, as of the date of dismissal of
22 such case, that action was still pending or
23 had been resolved by terminating, condi-
24 tioning, or limiting the stay as to actions
25 of such creditor; and

1 “(4)(A)(i) if a single or joint case is filed by or
2 against an individual debtor under this title, and if
3 2 or more single or joint cases of the debtor were
4 pending within the previous year but were dismissed,
5 other than a case refiled under section 707(b), the
6 stay under subsection (a) shall not go into effect
7 upon the filing of the later case; and

8 “(ii) on request of a party in interest, the court
9 shall promptly enter an order confirming that no
10 stay is in effect;

11 “(B) if, within 30 days after the filing of the
12 later case, a party in interest requests the court may
13 order the stay to take effect in the case as to any
14 or all creditors (subject to such conditions or limita-
15 tions as the court may impose), after notice and
16 hearing, only if the party in interest demonstrates
17 that the filing of the later case is in good faith as
18 to the creditors to be stayed;

19 “(C) a stay imposed under subparagraph (B)
20 shall be effective on the date of entry of the order
21 allowing the stay to go into effect; and

22 “(D) for purposes of subparagraph (B), a case
23 is presumptively not filed in good faith (but such
24 presumption may be rebutted by clear and con-
25 vincing evidence to the contrary)—

1 “(i) as to all creditors if—

2 “(I) 2 or more previous cases under
3 this title in which the individual was a
4 debtor were pending within the 1-year pe-
5 riod;

6 “(II) a previous case under this title
7 in which the individual was a debtor was
8 dismissed within the time period stated in
9 this paragraph after the debtor failed to
10 file or amend the petition or other docu-
11 ments as required by this title or the court
12 without substantial excuse (but mere inad-
13 vertence or negligence shall not be sub-
14 stantial excuse unless the dismissal was
15 caused by the negligence of the debtor’s at-
16 torney), failed to pay adequate protection
17 as ordered by the court, or failed to per-
18 form the terms of a plan confirmed by the
19 court; or

20 “(III) there has not been a substan-
21 tial change in the financial or personal af-
22 fairs of the debtor since the dismissal of
23 the next most previous case under this
24 title, or any other reason to conclude that
25 the later case will not be concluded, if a

1 case under chapter 7, with a discharge,
2 and if a case under chapter 11 or 13, with
3 a confirmed plan that will be fully per-
4 formed; or

5 “(ii) as to any creditor that commenced an
6 action under subsection (d) in a previous case
7 in which the individual was a debtor if, as of
8 the date of dismissal of such case, such action
9 was still pending or had been resolved by termi-
10 nating, conditioning, or limiting the stay as to
11 action of such creditor.”.

12 **SEC. 303. CURBING ABUSIVE FILINGS.**

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

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

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

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

20 “(4) with respect to a stay of an act against
21 real property under subsection (a), by a creditor
22 whose claim is secured by an interest in such real
23 estate, if the court finds that the filing of the bank-
24 ruptcy petition was part of a scheme to delay,
25 hinder, and defraud creditors that involved either—

1 “(A) transfer of all or part ownership of,
2 or other interest in, the real property without
3 the consent of the secured creditor or court ap-
4 proval; or

5 “(B) multiple bankruptcy filings affecting
6 the real property.

7 If recorded in compliance with applicable State laws gov-
8 erning notices of interests or liens in real property, an
9 order entered under this subsection shall be binding in any
10 other case under this title purporting to affect the real
11 property filed not later than 2 years after that recording,
12 except that a debtor in a subsequent case may move for
13 relief from such order based upon changed circumstances
14 or for good cause shown, after notice and a hearing.”.

15 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
16 United States Code, as amended by section ~~213~~ 224 of
17 this Act, is amended—

18 (1) in paragraph (19), by striking “or” at the
19 end;

20 (2) in paragraph (20), by striking the period at
21 the end; and

22 (3) by inserting after paragraph (20) the fol-
23 lowing:

24 “(21) under subsection (a), of any act to en-
25 force any lien against or security interest in real

1 property following the entry of an order under sec-
 2 tion 362(d)(4) as to that property in any prior bank-
 3 ruptcy case for a period of 2 years after entry of
 4 such an order, except that the debtor, in a subse-
 5 quent case, may move the court for relief from such
 6 order based upon changed circumstances or for
 7 other good cause shown, after notice and a hearing;
 8 or

9 “(22) under subsection (a), of any act to en-
 10 force any lien against or security interest in real
 11 property—

12 “(A) if the debtor is ineligible under sec-
 13 tion 109(g) to be a debtor in a bankruptcy case;
 14 or

15 “(B) if the bankruptcy case was filed in
 16 violation of a bankruptcy court order in a prior
 17 bankruptcy case prohibiting the debtor from
 18 being a debtor in another bankruptcy case.”.

19 **SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY**
 20 **SECURITY.**

21 Title 11, United States Code, is amended—

22 (1) in section 521(a), as so redesignated *by sec-*
 23 *tion 105(d) of this Act*—

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

1 (B) in paragraph (5), by striking the pe-
 2 riod at the end and inserting “; and”; and

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

4 “(6) in an individual case under chapter 7 ~~of~~
 5 ~~this title~~, not retain possession of personal property
 6 as to which a creditor has an allowed claim for the
 7 purchase price secured in whole or in part by an in-
 8 terest in that personal property unless, in the case
 9 of an individual debtor, the debtor within 45 days
 10 after the first meeting of creditors under section
 11 341(a)—

12 “(A) enters into an agreement with the
 13 creditor under section 524(c) with respect to
 14 the claim secured by such property; or

15 “(B) redeems such property from the secu-
 16 rity interest under section 722.”; and

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

18 “(b) ~~If the debtor~~ *For purposes of subsection (a)(6),*
 19 *if the debtor* fails to so act within the 45-day period speci-
 20 fied in subsection (a)(6), the personal property affected
 21 shall no longer be property of the estate, and the creditor
 22 may take whatever action as to such property as is per-
 23 mitted by applicable nonbankruptcy law, unless the court
 24 determines on the motion of the trustee, and after notice

1 and a hearing, that such property is of consequential value
2 or benefit to the estate.”; and

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

5 **SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE**
6 **DEBTOR DOES NOT COMPLETE INTENDED**
7 **SURRENDER OF CONSUMER DEBT COLLAT-**
8 **ERAL.**

9 Title 11, United States Code, is amended—

10 (1) in section 362—

11 (A) in subsection (e), by striking “(e), and
12 (f)” and inserting “(e), (f), and (h)”;

13 (B) by redesignating subsection (h), as
14 amended by section 227 of this Act, as sub-
15 section (j) and by inserting after subsection (g)
16 the following:

17 “(h)(1) Subject to paragraph (2), in an individual
18 case under chapter 7, 11, or 13 the stay provided by sub-
19 section (a) is terminated with respect to property of the
20 estate securing in whole or in part a claim, or subject to
21 an unexpired lease, if the debtor fails within the applicable
22 period of time set by section 521(a)(2) to—

23 “(A) file timely any statement of intention re-
24 quired under section 521(a)(2) with respect to that
25 property or to indicate therein that the debtor—

1 “(i) will either surrender the property or
2 retain the property; and

3 “(ii) if retaining the property, will, as
4 applicable—

5 “(I) redeem the property under sec-
6 tion 722;

7 “(II) reaffirm the debt the property
8 secures under section 524(c); or

9 “(III) assume the unexpired lease
10 under section 365(p) if the trustee does
11 not do so; or

12 “(B) take timely the action specified in that
13 statement of intention, as the statement may be
14 amended before expiration of the period for taking
15 action, unless the statement of intention specifies re-
16 affirmation and the creditor refuses to reaffirm on
17 the original contract terms.

18 “(2) Paragraph (1) shall not apply if the court deter-
19 mines on the motion of the trustee, and after notice and
20 a hearing, that such property is of consequential value or
21 benefit to the estate.”; and

22 (2) in section 521, as amended by section 304
23 of this Act—

24 (A) in subsection (a)(2), as redesignated
25 *by section 105(d) of this Act—*

1 (i) by striking “consumer”;

2 (ii) in subparagraph (B)—

3 (I) by striking “forty-five days
4 after the filing of a notice of intent
5 under this section” and inserting “30
6 days after the first date set for the
7 meeting of creditors under section
8 341(a)”;

9 (II) by striking “forty-five day
10 period” and inserting “30-day pe-
11 riod”;

12 (iii) in subparagraph (C), by inserting
13 “except as provided in section 362(h)” be-
14 fore the semicolon; and

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

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

1 ency, or existence of a proceeding under this title or the
 2 insolvency of the debtor. Nothing in this subsection shall
 3 be deemed to justify limiting such a provision in any other
 4 circumstance.”.

5 **SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT**
 6 **IN CHAPTER 13.**

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

9 “(i) the plan provides that—

10 “(I) the holder of such claim retain
 11 the lien securing such claim until the ear-
 12 lier of—

13 “(aa) the payment of the under-
 14 lying debt determined under nonbank-
 15 ruptcy law; or

16 “(bb) discharge under section
 17 1328; and

18 “(II) if the case under this chapter is
 19 dismissed or converted without completion
 20 of the plan, such lien shall also be retained
 21 by such holder to the extent recognized by
 22 applicable nonbankruptcy law; and”.

23 (b) RESTORING THE FOUNDATION FOR SECURED
 24 CREDIT.—Section 1325(a) of title 11, United States Code,

1 is amended by adding at the end the following flush sen-
2 tence:

3 “For purposes of paragraph (5), section 506 shall not
4 apply to a claim described in that paragraph if the debt
5 that is the subject of the claim was incurred within the
6 5-year period preceding the filing of the petition and the
7 collateral for that debt consists of a motor vehicle (as de-
8 fined in section 30102 of title 49) acquired for the per-
9 sonal use of the debtor, or if collateral for that debt con-
10 sists of any other thing of value, if the debt was incurred
11 during the 6-month period preceding that filing.”.

12 (c) DEFINITIONS.—Section 101 of title 11, United
13 States Code, as amended by section ~~221~~ 211 of this Act,
14 is amended—

15 (1) by inserting after paragraph (13) the fol-
16 lowing:

17 “(13A) ‘debtor’s principal residence’—

18 “(A) means a residential structure, includ-
19 ing incidental property, without regard to
20 whether that structure is attached to real prop-
21 erty; and

22 “(B) includes an individual condominium
23 or cooperative unit;”; and

24 (2) by inserting after paragraph (27), the fol-
25 lowing:

1 “(27A) ‘incidental property’ means, with re-
2 spect to a debtor’s principal residence—

3 “(A) property commonly conveyed with a
4 principal residence in the area where the real
5 estate is located;

6 “(B) all easements, rights, appurtenances,
7 fixtures, rents, royalties, mineral rights, oil or
8 gas rights or profits, water rights, escrow
9 funds, or insurance proceeds; and

10 “(C) all replacements or additions;”.

11 **SEC. 307. EXEMPTIONS.**

12 Section ~~522(b)(2)(A)~~ 522(b)(3)(A) of title 11, United
13 States Code, *as so designated by section 224 of this Act*,
14 is amended—

15 (1) by striking “180” and inserting “730”; and

16 (2) by striking “, or for a longer portion of
17 such 180-day period than in any other place”.

18 **SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EX-**

19 **EMPTION.**

20 Section 522 of title 11, United States Code, as
21 amended by section 307 of this Act, is amended—

22 (1) in subsection ~~(b)(2)(A)~~ (b)(3)(A), by insert-
23 ing “subject to subsection (n),” before “any prop-
24 erty”; and

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

1 “(n) For purposes of subsection ~~(b)(2)(A)~~ (b)(3)(A),
 2 and notwithstanding subsection (a), the value of an inter-
 3 est in—

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

6 “(2) a cooperative that owns property that the
 7 debtor or a dependent of the debtor uses as a resi-
 8 dence; or

9 “(3) a burial plot for the debtor or a dependent
 10 of the debtor;

11 shall be reduced to the extent such value is attributable
 12 to any portion of any property that the debtor disposed
 13 of in the 730-day period ending on the date of the filing
 14 of the petition, with the intent to hinder, delay, or defraud
 15 a creditor and that the debtor could not exempt, or that
 16 portion that the debtor could not exempt, under subsection
 17 (b) if on such date the debtor had held the property so
 18 disposed of.”.

19 **SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER**
 20 **13 CASES.**

21 (a) STOPPING ABUSIVE CONVERSIONS FROM CHAP-
 22 TER 13.—Section 348(f)(1) of title 11, United States
 23 Code, is amended—

24 (1) in subparagraph (A), by striking “and” at
 25 the end;

1 (2) in subparagraph (B)—

2 (A) by striking “in the converted case,
3 with allowed secured claims” and inserting
4 “only in a case converted to chapter 11 or 12
5 but not in a case converted to chapter 7, with
6 allowed secured claims in cases under chapters
7 11 and 12”; and

8 (B) by striking the period and inserting “;
9 and”; and

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

11 “(C) with respect to cases converted from chap-
12 ter 13—

13 “(i) the claim of any creditor holding secu-
14 rity as of the date of the petition shall continue
15 to be secured by that security unless the full
16 amount of such claim determined under appli-
17 cable nonbankruptcy law has been paid in full
18 as of the date of conversion, notwithstanding
19 any valuation or determination of the amount
20 of an allowed secured claim made for the pur-
21 poses of the chapter 13 proceeding; and

22 “(ii) unless a prebankruptcy default has
23 been fully cured under the plan at the time of
24 conversion, in any proceeding under this title or

1 otherwise, the default shall have the effect given
2 under applicable nonbankruptcy law.”.

3 (b) GIVING DEBTORS THE ABILITY TO KEEP
4 LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section
5 365 of title 11, United States Code, is amended by adding
6 at the end the following:

7 “(p)(1) If a lease of personal property is rejected or
8 not timely assumed by the trustee under subsection (d),
9 the leased property is no longer property of the estate and
10 the stay under section 362(a) is automatically terminated.

11 “(2)(A) In the case of an individual under chapter
12 7, the debtor may notify the creditor in writing that the
13 debtor desires to assume the lease. Upon being so notified,
14 the creditor may, at its option, notify the debtor that it
15 is willing to have the lease assumed by the debtor and
16 may condition such assumption on cure of any outstanding
17 default on terms set by the contract.

18 “(B) If within 30 days after notice is provided under
19 subparagraph (A), the debtor notifies the lessor in writing
20 that the lease is assumed, the liability under the lease will
21 be assumed by the debtor and not by the estate.

22 “(C) The stay under section 362 and the injunction
23 under section 524(a)(2) shall not be violated by notifica-
24 tion of the debtor and negotiation of cure under this sub-
25 section.

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
 4 to personal property and the lease is not assumed in the
 5 plan confirmed by the court, the lease is deemed rejected
 6 as of the conclusion of the hearing on confirmation. If the
 7 lease is rejected, the stay under section 362 and any stay
 8 under section 1301 is automatically terminated with re-
 9 spect to the property subject to the lease.”.

10 (c) ADEQUATE PROTECTION OF LESSORS AND PUR-
 11 CHASE MONEY SECURED CREDITORS.—

12 ~~(1) IN GENERAL.—~~Subchapter I of chapter 13
 13 of title 11, United States Code, is amended by in-
 14 serting after section 1307 the following:

15 **“§ 1308. 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
 18 make cash payments in an amount determined under
 19 paragraph (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
2 the adequate protection payments until the earlier of the
3 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.

11 “(2) The payments referred to in paragraph (1)(A)
12 shall be the contract amount.

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

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

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

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

1 addition to plan payments under a confirmed plan until
 2 actual payments to the creditor begin under that plan, if
 3 the confirmed plan provides for—

4 “(1) payments to a creditor or lessor described
 5 in subsection (a)(1); and

6 “(2) 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
 10 lessor or creditor described in subsection (a) may retain
 11 possession of property described in that subsection that
 12 was obtained in accordance with applicable law before the
 13 date of filing of the petition until the first payment under
 14 subsection (a)(1)(A) is received by the lessor or creditor.

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

24 (2) CLERICAL AMENDMENT.—The table of sec-
 25 tions for chapter 13 of title 11, United States Code,

1 is amended, in the matter relating to subchapter I,
 2 by inserting after the item relating to section 1307
 3 the following:

“1308. Adequate protection in chapter 13 cases.”

4 (1) CONFIRMATION OF PLAN.—Section
 5 1325(a)(5)(B) of title 11, United States Code, is
 6 amended—

7 (A) in clause (i), by striking “and” at the
 8 end;

9 (B) in clause (ii), by striking “or” at the
 10 end and inserting “and”; and

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

12 “(iii) if—

13 “(I) property to be distributed
 14 pursuant to this subsection is in the
 15 form of periodic payments, such pay-
 16 ments shall be in equal monthly
 17 amounts; and

18 “(II) the holder of the claim is se-
 19 cured by personal property the amount
 20 of such payments shall not be less than
 21 an amount sufficient to provide to the
 22 holder of such claim adequate protec-
 23 tion during the period of the plan; or”.

24 (2) PAYMENTS.—Section 1326(a) of title 11,
 25 United States Code, is amended to read as follows:

1 “(a)(1) *Unless the court orders otherwise, the debtor*
2 *shall—*

3 “(A) *commence making the payments proposed*
4 *by a plan within 30 days after the plan is filed; or*

5 “(B) *if no plan is filed then as specified in the*
6 *proof of claim, within 30 days after the order for re-*
7 *lief or within 15 days after the plan is filed, which-*
8 *ever is earlier.*

9 “(2) *A payment made under this section shall be re-*
10 *tained by the trustee until confirmation, denial of con-*
11 *firmation, or paid by the trustee as adequate protection*
12 *payments in accordance with paragraph (3). If a plan is*
13 *confirmed, the trustee shall distribute any such payment in*
14 *accordance with the plan as soon as is practicable. If a plan*
15 *is not confirmed, the trustee shall return any such payments*
16 *not previously paid to creditors pursuant to paragraph (3)*
17 *to the debtor, after deducting any unpaid claim allowed*
18 *under section 503(b).*

19 “(3)(A) *As soon as is practicable, and not later than*
20 *40 days after the filing of the case, the trustee shall—*

21 “(i) *pay from payments made under this section*
22 *the adequate protection payments proposed in the*
23 *plan; or*

24 “(ii) *if no plan is filed then, according to the*
25 *terms of the proof of claim.*

1 “(B) *The court may, upon notice and a hearing, modify, increase, or reduce the payments required under this*
2 *paragraph pending confirmation of a plan.*”.

4 **SEC. 310. LIMITATION ON LUXURY GOODS.**

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

7 “(C)(i) for purposes of subparagraph (A)—

8 “(I) consumer debts owed to a single creditor and aggregating more than \$250 for luxury
9 goods or services incurred by an individual
10 debtor on or within 90 days before the order for
11 relief under this title are presumed to be non-
12 dischargeable; and

13 “(II) cash advances aggregating more than
14 \$750 that are extensions of consumer credit
15 under an open end credit plan obtained by an
16 individual debtor on or within 70 days before
17 the order for relief under this title, are pre-
18 sumed to be nondischargeable; and

19 “(ii) for purposes of this subparagraph—

20 “(I) the term ‘extension of credit under an
21 open end credit plan’ means an extension of
22 credit under an open end credit plan, within the
23 meaning of the Consumer Credit Protection Act
24 (15 U.S.C. 1601 et seq.);
25

1 “(II) the term ‘open end credit plan’ has
2 the meaning given that term under section 103
3 of Consumer Credit Protection Act (15 U.S.C.
4 1602); and

5 “(III) the term ‘luxury goods or services’
6 does not include goods or services reasonably
7 necessary for the support or maintenance of the
8 debtor or a dependent of the debtor.”.

9 **SEC. 311. AUTOMATIC STAY.**

10 Section 362(b) of title 11, United States Code, as
11 amended by section 303(b) of this Act, is amended—

12 (1) in paragraph (21), by striking “or” at the
13 end;

14 (2) in paragraph (22), by striking the period at
15 the end and inserting a semicolon; and

16 (3) by inserting after paragraph (22) the fol-
17 lowing:

18 “(23) under subsection (a)(3), of the continu-
19 ation of any eviction, unlawful detainer action, or
20 similar proceeding by a lessor against a debtor in-
21 volving residential real property in which the debtor
22 resides as a tenant under a rental agreement;

23 “(24) under subsection (a)(3), of the com-
24 mencement of any eviction, unlawful detainer action,
25 or similar proceeding by a lessor against a debtor in-

1 volving residential real property in which the debtor
2 resides as a tenant under a rental agreement that
3 has terminated under the lease agreement or appli-
4 cable State law; or

5 “(25) under subsection (a)(3), of eviction ac-
6 tions based on endangerment to property or person
7 or the use of illegal drugs.”.

8 **SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY**
9 **DISCHARGES.**

10 Title 11, United States Code, is amended—

11 (1) in section 727(a)(8), by striking “six” and
12 inserting “8”; and

13 (2) in section 1328, by adding at the end the
14 following:

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

21 **SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND AN-**
22 **Tiques.**

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

1 “(4)(A) Subject to subparagraph (B), for pur-
2 poses of paragraph (1)(B), the term ‘household
3 goods’ means—

4 “(i) clothing;

5 “(ii) furniture;

6 “(iii) appliances;

7 “(iv) 1 radio;

8 “(v) 1 television;

9 “(vi) 1 VCR;

10 “(vii) linens;

11 “(viii) china;

12 “(ix) crockery;

13 “(x) kitchenware;

14 “(xi) educational materials and educational
15 equipment primarily for the use of minor de-
16 pendent children of the debtor, but only 1 per-
17 sonal computer only if used primarily for the
18 education or entertainment of such minor chil-
19 dren;

20 “(xii) medical equipment and supplies;

21 “(xiii) furniture exclusively for the use of
22 minor children, or elderly or disabled depend-
23 ents of the debtor; and

24 “(xiv) personal effects (including wedding
25 rings and the toys and hobby equipment of

1 minor dependent children) of the debtor and the
2 dependents of the debtor.

3 “(B) The term ‘household goods’ does not
4 include—

5 “(i) works of art (unless by or of the debt-
6 or or the dependents of the debtor);

7 “(ii) electronic entertainment equipment
8 (except 1 television, 1 radio, and 1 VCR);

9 “(iii) items acquired as antiques;

10 “(iv) jewelry (except wedding rings); and

11 “(v) a computer (except as otherwise pro-
12 vided for in this section), motor vehicle (includ-
13 ing a tractor or lawn tractor), boat, or a motor-
14 ized recreational device, conveyance, vehicle,
15 watercraft, or aircraft.”.

16 **SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE**
17 **DEBTS.**

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

20 “(14A)(A) incurred to pay a debt that is non-
21 dischargeable by reason of section 727, 1141,
22 1228(a), 1228(b), or 1328(b), or any other provision
23 of this subsection, if the debtor incurred the debt to
24 pay such a nondischargeable debt with the intent to

1 discharge in bankruptcy the newly created debt; *ex-*
2 *cept that*

3 “(B) ~~except that~~ all debts incurred to pay non-
4 dischargeable debts shall be presumed to be non-
5 dischargeable debts if incurred within 70 days before
6 the filing of the petition (except that, in any case in
7 which there is an allowed claim under section 502
8 for child support or spousal support entitled to pri-
9 ority under section 507(a)(1) and that was filed in
10 a timely manner, debts that would otherwise be pre-
11 sumed to be nondischargeable debts by reason of
12 this subparagraph shall be treated as dischargeable
13 debts);”.

14 (b) DISCHARGE UNDER CHAPTER 13.

15 Section 1328(a) of title 11, United States Code, is
16 amended by striking paragraphs (1) through (3) and in-
17 serting the following:

18 “(1) provided for under section 1322(b)(5);

19 “(2) of the kind specified in paragraph (2), (4),
20 (3)(B), (5), (8), or (9) of section 523(a);

21 “(3) for restitution, or a criminal fine, included
22 in a sentence on the debtor’s conviction of a crime;
23 or

24 “(4) for restitution, or damages, awarded in a
25 civil action against the debtor as a result of willful

1 or malicious injury by the debtor that caused per-
2 sonal injury to an individual or the death of an indi-
3 vidual.”.

4 **SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7**
5 **AND 13 CASES.**

6 (a) NOTICE.—Section 342 of title 11, United States
7 Code, is amended—

8 (1) in subsection (c)—

9 (A) by inserting “(1)” after “(c)”; and

10 (B) by striking “, but the failure of such
11 notice to contain such information shall not in-
12 validate the legal effect of such notice”; and

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

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

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

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

3 “(f)(1) Notice given to a creditor other than as pro-
4 vided in this section shall not be effective notice until that
5 notice has been brought to the attention of the creditor.
6 If the creditor designates a person or department to be
7 responsible for receiving notices concerning bankruptcy
8 cases and establishes reasonable procedures so that bank-
9 ruptcy notices received by the creditor are to be delivered
10 to such department or person, notice shall not be consid-
11 ered to have been brought to the attention of the creditor
12 until received by such person or department.

13 “(2) No sanction under section 362(h) or any other
14 sanction that a court may impose on account of violations
15 of the stay under section 362(a) or failure to comply with
16 section 542 or 543 may be imposed on any action of the
17 creditor unless the action takes place after the creditor
18 has received notice of the commencement of the case effec-
19 tive under this section.”.

20 (b) DEBTOR’S DUTIES.—Section 521 of title 11,
21 United States Code, as amended by section 305 of this
22 Act, is amended—

23 (1) in subsection (a), by striking paragraph (1)
24 and inserting the following:

25 “(1) file—

1 “(A) a list of creditors; and

2 “(B) unless the court orders otherwise—

3 “(i) a schedule of assets and liabil-
4 ities;

5 “(ii) a schedule of current income and
6 current expenditures;

7 “(iii) a statement of the debtor’s fi-
8 nancial affairs and, if applicable, a
9 certificate—

10 “(I) of an attorney whose name
11 is on the petition as the attorney for
12 the debtor or any bankruptcy petition
13 preparer signing the petition under
14 section 110(b)(1) indicating that such
15 attorney or bankruptcy petition pre-
16 parer delivered to the debtor any no-
17 tice required by section 342(b); or

18 “(II) if no attorney for the debt-
19 or is indicated and no bankruptcy pe-
20 tition preparer signed the petition, of
21 the debtor that such notice was ob-
22 tained and read by the debtor;

23 “(iv) copies of any Federal tax re-
24 turns, including any schedules or attach-

1 ments, filed by the debtor for the 3-year
2 period preceding 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 before the fil-
7 ing of the petition;

8 “(vi) a statement of the amount of
9 projected monthly net income, itemized to
10 show how the amount is calculated; and

11 “(vii) a statement disclosing any rea-
12 sonably anticipated increase in income or
13 expenditures over the 12-month period fol-
14 lowing the date of filing;”); and

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

16 “(d)(1) At any time, a creditor, in the case of an indi-
17 vidual under chapter 7 or 13, may file with the court no-
18 tice that the creditor requests the petition, schedules, and
19 a statement of affairs filed by the debtor in the case and
20 the court shall make those documents available to the
21 creditor who requests those documents.

22 “(2)(A) At any time, a creditor in a case under chap-
23 ter 13 may file with the court notice that the creditor re-
24 quests the plan filed by the debtor in the case.

1 “(B) The court shall make such plan available to the
2 creditor who requests such plan—

3 “(i) at a reasonable cost; and

4 “(ii) not later than 5 days after such request.

5 “(e) An individual debtor in a case under chapter 7
6 or 13 shall file with the court—

7 “(1) at the time filed with the taxing authority,
8 all tax returns, including any schedules or attach-
9 ments, with respect to the period from the com-
10 mencement of the case until such time as the case
11 is closed;

12 “(2) at the time filed with the taxing authority,
13 all tax returns, including any schedules or attach-
14 ments, that were not filed with the taxing authority
15 when the schedules under subsection (a)(1) were
16 filed with respect to the period that is 3 years before
17 the order for relief;

18 “(3) any amendments to any of the tax returns,
19 including schedules or attachments, described in
20 paragraph (1) or (2); and

21 “(4) in a case under chapter 13, a statement
22 subject to the penalties of perjury by the debtor of
23 the debtor’s income and expenditures in the pre-
24 ceding tax year and monthly income, that shows how
25 the amounts are calculated—

1 “(A) beginning on the date that is the
2 later of 90 days after the close of the debtor’s
3 tax year or 1 year after the order for relief, un-
4 less a plan has been confirmed; and

5 “(B) thereafter, on or before the date that
6 is 45 days before each anniversary of the con-
7 firmation of the plan until the case is closed.

8 “(f)(1) A statement referred to in subsection (e)(4)
9 shall disclose—

10 “(A) the amount and sources of income of the
11 debtor;

12 “(B) the identity of any person responsible with
13 the debtor for the support of any dependent of the
14 debtor; and

15 “(C) the identity of any person who contrib-
16 uted, and the amount contributed, to the household
17 in which the debtor resides.

18 “(2) The tax returns, amendments, and statement of
19 income and expenditures described in paragraph (1) shall
20 be available to the United States trustee, any bankruptcy
21 administrator, any trustee, and any party in interest for
22 inspection and copying, subject to the requirements of
23 subsection ~~(f)~~ (g).

24 “(g)(1) Not later than 30 days after the date of en-
25 actment of the Bankruptcy Reform Act of 1999, the Di-

1 rector of the Administrative Office of the United States
2 Courts shall establish procedures for safeguarding the con-
3 fidentiality of any tax information required to be provided
4 under this section.

5 “(2) The procedures under paragraph (1) shall in-
6 clude restrictions on creditor access to tax information
7 that is required to be provided under this section.

8 “(3) Not later than 1 year after the date of enact-
9 ment of the Bankruptcy Reform Act of 1999, the Director
10 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 proce-
13 dures under paragraph (1); and

14 “(B) if appropriate, includes proposed legisla-
15 tion to—

16 “(i) further protect the confidentiality of
17 tax information; and

18 “(ii) provide penalties for the improper use
19 by any person of the tax information required
20 to be provided under this section.

21 “(h) If requested by the United States trustee or a
22 trustee serving in the case, the debtor shall provide—

23 “(1) a document that establishes the identity of
24 the debtor, including a driver’s license, passport, or

1 other document that contains a photograph of the
2 debtor; and

3 “(2) such other personal identifying information
4 relating to the debtor that establishes the identity of
5 the debtor.”.

6 **SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**
7 **ULES OR PROVIDE REQUIRED INFORMATION.**

8 Section 521 of title 11, United States Code, as
9 amended by section 315 of this Act, is amended by adding
10 at the end the following:

11 “(i)(1) Notwithstanding section 707(a), and subject
12 to paragraph (2), if an individual debtor in a voluntary
13 case under chapter 7 or 13 fails to file all of the informa-
14 tion required under subsection (a)(1) within 45 days after
15 the filing of the petition commencing the case, the case
16 shall be automatically dismissed effective on the 46th day
17 after the filing of the petition.

18 “(2) With respect to a case described in paragraph
19 (1), any party in interest may request the court to enter
20 an order dismissing the case. If requested, the court shall
21 enter an order of dismissal not later than 5 days after
22 such request.

23 “(3) Upon request of the debtor made within 45 days
24 after the filing of the petition commencing a case de-
25 scribed in paragraph (1), the court may allow the debtor

1 an additional period of not to exceed 45 days to file the
2 information required under subsection (a)(1) if the court
3 finds justification for extending the period for the filing.”.

4 **SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON**
5 **CONFIRMATION OF THE PLAN.**

6 (a) HEARING.—Section 1324 of title 11, United
7 States Code, is amended—

8 (1) by striking “After” and inserting the fol-
9 lowing:

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

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

13 “(b) The hearing on confirmation of the plan may
14 be held not later than 45 days after the meeting of credi-
15 tors under section 341(a).”.

16 (b) FILING OF PLAN.—Section 1321 of title 11,
17 United States Code, is amended to read as follows:

18 **“§ 1321. Filing of plan**

19 “Not later than 90 days after the order for relief
20 under this chapter, the debtor shall file a plan, except that
21 the court may extend such period if the need for an exten-
22 sion is attributable to circumstances for which the debtor
23 should not justly be held accountable.”.

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

3 Section 1322(d) of title 11, United States Code, is
4 amended to read as follows:

5 “(d)(1) Except as provided in paragraph (2), the plan
6 may not provide for payments over a period that is longer
7 than 3 years.

8 “(2) The plan may provide for payments over a pe-
9 riod that is longer than 3 years if—

10 “(A) the plan is for a case that was converted
11 to a case under this chapter from a case under chap-
12 ter 7, *or the plan is for a debtor who has been dis-*
13 *missed from chapter 7 by reason of section 707(b)*, in
14 which case the plan shall provide for payments over
15 a period of 5 years; or

16 “(B) the plan is for a case that is not described
17 in subparagraph (A), and the court, for cause, ap-
18 proves a period longer than 3 years, but not to ex-
19 ceed 5 years.”.

20 **SEC. 319. SENSE OF THE CONGRESS REGARDING EXPAN-**
21 **SION OF RULE 9011 OF THE FEDERAL RULES**
22 **OF BANKRUPTCY PROCEDURE.**

23 It is the sense of Congress that Rule 9011 of the Fed-
24 eral Rules of Bankruptcy Procedure (11 U.S.C. App.)
25 should be modified to include a requirement that all docu-
26 ments (including schedules), signed and unsigned, sub-

1 mitted to the court or to a trustee by debtors who rep-
2 resent themselves and debtors who are represented by an
3 attorney be submitted only after the debtor or the debtor’s
4 attorney has made reasonable inquiry to verify that the
5 information contained in such documents is—

6 (1) well grounded in fact; and

7 (2) warranted by existing law or a good-faith
8 argument for the extension, modification, or reversal
9 of existing law.

10 **SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
11 **CASES.**

12 Section 362(e) of title 11, United States Code, is
13 amended—

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

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

16 “(2) Notwithstanding paragraph (1), in the case of
17 an individual filing under chapter 7, 11, or 13, the stay
18 under subsection (a) shall terminate on the date that is
19 60 days after a request is made by a party in interest
20 under subsection (d), unless—

21 “(A) a final decision is rendered by the court
22 during the 60-day period beginning on the date of
23 the request; or

24 “(B) that 60-day period is extended—

1 “(i) by agreement of all parties in interest;

2 or

3 “(ii) by the court for such specific period

4 of time as the court finds is required for good

5 cause, as described in findings made by the

6 court.”.

7 **SEC. 321. TREATMENT OF CERTAIN EARNINGS OF AN INDI-**

8 **VIDUAL DEBTOR WHO FILES A VOLUNTARY**

9 **CASE UNDER CHAPTER 11.**

10 *Section 541(a)(6) of title 11, United States Code, is*

11 *amended by inserting “(other than an individual debtor*

12 *who, in accordance with section 301, files a petition to com-*

13 *mence a voluntary case under chapter 11)” after “indi-*

14 *vidual debtor”.*

15 **TITLE IV—GENERAL AND SMALL**

16 **BUSINESS BANKRUPTCY PRO-**

17 **VISIONS**

18 **Subtitle A—General Business**

19 **Bankruptcy Provisions**

20 **SEC. 401. ROLLING STOCK EQUIPMENT.**

21 (a) IN GENERAL.—Section 1168 of title 11, United

22 States Code, is amended to read as follows:

23 **“§ 1168. Rolling stock equipment**

24 “(a)(1) The right of a secured party with a security

25 interest in or of a lessor or conditional vendor of equip-

1 ment described in paragraph (2) to take possession of such
2 equipment in compliance with an equipment security
3 agreement, lease, or conditional sale contract, and to en-
4 force any of its other rights or remedies under such secu-
5 rity agreement, lease, or conditional sale contract, to sell,
6 lease, or otherwise retain or dispose of such equipment,
7 is not limited or otherwise affected by any other provision
8 of this title or by any power of the court, except that the
9 right to take possession and enforce those other rights and
10 remedies shall be subject to section 362, if—

11 “(A) before the date that is 60 days after the
12 date of commencement of a case under this chapter,
13 the trustee, subject to the court’s approval, agrees to
14 perform all obligations of the debtor under such se-
15 curity agreement, lease, or conditional sale contract;
16 and

17 “(B) any default, other than a default of a kind
18 described in section 365(b)(2), under such security
19 agreement, lease, or conditional sale contract that—

20 “(i) occurs before the date of commence-
21 ment of the case and is an event of default
22 therewith is cured before the expiration of such
23 60-day period;

24 “(ii) occurs or becomes an event of default
25 after the date of commencement of the case and

1 before the expiration of such 60-day period is
2 cured before the later of—

3 “(I) the date that is 30 days after the
4 date of the default or event of the default;
5 or

6 “(II) the expiration of such 60-day
7 period; and

8 “(iii) occurs on or after the expiration of
9 such 60-day period is cured in accordance with
10 the terms of such security agreement, lease, or
11 conditional sale contract, if cure is permitted
12 under that agreement, lease, or conditional sale
13 contract.

14 “(2) The equipment described in this paragraph—

15 “(A) is rolling stock equipment or accessories
16 used on rolling stock equipment, including super-
17 structures or racks, that is subject to a security in-
18 terest granted by, leased to, or conditionally sold to
19 a debtor; and

20 “(B) includes all records and documents relat-
21 ing to such equipment that are required, under the
22 terms of the security agreement, lease, or conditional
23 sale contract, to be surrendered or returned by the
24 debtor in connection with the surrender or return of
25 such equipment.

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

4 “(b) The trustee and the secured party, lessor, or
5 conditional vendor whose right to take possession is pro-
6 tected under subsection (a) may agree, subject to the
7 court’s approval, to extend the 60-day period specified in
8 subsection (a)(1).

9 “(c)(1) In any case under this chapter, the trustee
10 shall immediately surrender and return to a secured party,
11 lessor, or conditional vendor, described in subsection
12 (a)(1), equipment described in subsection (a)(2), if at any
13 time after the date of commencement of the case under
14 this chapter such secured party, lessor, or conditional ven-
15 dor is entitled under subsection (a)(1) to take possession
16 of such equipment and makes a written demand for such
17 possession of the trustee.

18 “(2) At such time as the trustee is required under
19 paragraph (1) to surrender and return equipment de-
20 scribed in subsection (a)(2), any lease of such equipment,
21 and any security agreement or conditional sale contract
22 relating to such equipment, if such security agreement or
23 conditional sale contract is an executory contract, shall be
24 deemed rejected.

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

4 “(1) the term ‘lease’ includes any written agree-
5 ment with respect to which the lessor and the debt-
6 or, as lessee, have expressed in the agreement or in
7 a substantially contemporaneous writing that the
8 agreement is to be treated as a lease for Federal in-
9 come tax purposes; and

10 “(2) the term ‘security interest’ means a pur-
11 chase-money equipment security interest.

12 “(e) With respect to equipment first placed in service
13 after October 22, 1994, for purposes of this section, the
14 term ‘rolling stock equipment’ includes rolling stock equip-
15 ment that is substantially rebuilt and accessories used on
16 such equipment.”.

17 (b) AIRCRAFT EQUIPMENT AND VESSELS.—Section
18 1110 of title 11, United States Code, is amended to read
19 as follows:

20 **“§ 1110. Aircraft equipment and vessels**

21 “(a)(1) Except as provided in paragraph (2) and sub-
22 ject to subsection (b), the right of a secured party with
23 a security interest in equipment described in paragraph
24 (3), or of a lessor or conditional vendor of such equipment,
25 to take possession of such equipment in compliance with

1 a security agreement, lease, or conditional sale contract,
2 and to enforce any of its other rights or remedies, under
3 such security agreement, lease, or conditional sale con-
4 tract, to sell, lease, or otherwise retain or dispose of such
5 equipment, is not limited or otherwise affected by any
6 other provision of this title or by any power of the court.

7 “(2) The right to take possession and to enforce the
8 other rights and remedies described in paragraph (1) shall
9 be subject to section 362 if—

10 “(A) before the date that is 60 days after the
11 date of the order for relief under this chapter, the
12 trustee, subject to the approval of the court, agrees
13 to perform all obligations of the debtor under such
14 security agreement, lease, or conditional sale con-
15 tract; and

16 “(B) any default, other than a default of a kind
17 specified in section 365(b)(2), under such security
18 agreement, lease, or conditional sale contract that
19 occurs—

20 “(i) before the date of the order is cured
21 before the expiration of such 60-day period;

22 “(ii) after the date of the order and before
23 the expiration of such 60-day period is cured
24 before the later of—

1 “(I) the date that is 30 days after the
2 date of the default; or

3 “(II) the expiration of such 60-day
4 period; and

5 “(iii) on or after the expiration of such 60-
6 day period is cured in compliance with the
7 terms of such security agreement, lease, or con-
8 ditional sale contract, if a cure is permitted
9 under that agreement, lease, or contract.

10 “(3) The equipment described in this paragraph—

11 “(A) is—

12 “(i) an aircraft, aircraft engine, propeller,
13 appliance, or spare part (as defined in section
14 40102 of title 49) that is subject to a security
15 interest granted by, leased to, or conditionally
16 sold to a debtor that, at the time such trans-
17 action is entered into, holds an air carrier oper-
18 ating certificate issued under chapter 447 of
19 title 49 for aircraft capable of carrying 10 or
20 more individuals or 6,000 pounds or more of
21 cargo; or

22 “(ii) a documented vessel (as defined in
23 section 30101(1) of title 46) that is subject to
24 a security interest granted by, leased to, or con-
25 ditionally sold to a debtor that is a water car-

1 rier that, at the time such transaction is en-
2 tered into, holds a certificate of public conven-
3 ience and necessity or permit issued by the De-
4 partment of Transportation; and

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

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

14 “(b) The trustee and the secured party, lessor, or
15 conditional vendor whose right to take possession is pro-
16 tected under subsection (a) may agree, subject to the ap-
17 proval of the court, to extend the 60-day period specified
18 in subsection (a)(1).

19 “(c)(1) In any case under this chapter, the trustee
20 shall immediately surrender and return to a secured party,
21 lessor, or conditional vendor, described in subsection
22 (a)(1), equipment described in subsection (a)(3), if at any
23 time after the date of the order for relief under this chap-
24 ter such secured party, lessor, or conditional vendor is en-
25 titled under subsection (a)(1) to take possession of such

1 equipment and makes a written demand for such posses-
 2 sion to the trustee.

3 “(2) At such time as the trustee is required under
 4 paragraph (1) to surrender and return equipment de-
 5 scribed in subsection (a)(3), any lease of such equipment,
 6 and any security agreement or conditional sale contract
 7 relating to such equipment, if such security agreement or
 8 conditional sale contract is an executory contract, shall be
 9 deemed rejected.

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

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

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

21 **SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.**

22 (a) DEFINITION.—Section 101 of title 11, United
 23 States Code, *as amended by section 306(c) of this Act*, is
 24 amended by inserting after paragraph (48) the following:

1 “(48A) ‘securities self regulatory organization’
2 means either a securities association registered with
3 the Securities and Exchange Commission under sec-
4 tion 15A of the Securities Exchange Act of 1934 (15
5 U.S.C. 78o–3) or a national securities exchange reg-
6 istered with the Securities and Exchange Commis-
7 sion under section 6 of the Securities Exchange Act
8 of 1934 (15 U.S.C. 78f);”.

9 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
10 United States Code, as amended by section 311 of this
11 Act, is amended—

12 (1) in paragraph (24), by striking “or” at the
13 end;

14 (2) in paragraph (25), by striking the period at
15 the end and inserting “; or”; and

16 (3) by inserting after paragraph (25) the fol-
17 lowing:

18 “(26) under subsection (a), of—

19 “(A) the commencement or continuation of
20 an investigation or action by a securities self
21 regulatory organization to enforce such organi-
22 zation’s regulatory power;

23 “(B) the enforcement of an order or deci-
24 sion, other than for monetary sanctions, ob-
25 tained in an action by the securities self regu-

1 latory organization to enforce such organiza-
2 tion's regulatory power; or

3 "(C) any act taken by the securities self
4 regulatory organization to delist, delete, or
5 refuse to permit quotation of any stock that
6 does not meet applicable regulatory require-
7 ments."

8 **SEC. 403. MEETINGS OF CREDITORS AND EQUITY SECURITY**
9 **HOLDERS.**

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

12 "(e) Notwithstanding subsections (a) and (b), the
13 court, on the request of a party in interest and after notice
14 and a hearing, for cause may order that the United States
15 trustee not convene a meeting of creditors or equity secu-
16 rity holders if the debtor has filed a plan as to which the
17 debtor solicited acceptances prior to the commencement
18 of the case."

19 **SEC. 404. PROTECTION OF REFINANCE OF SECURITY IN-**
20 **TEREST.**

21 Subparagraphs (A), (B), and (C) of section 547(e)(2)
22 of title 11, United States Code, are each amended by strik-
23 ing "10" each place it appears and inserting "30".

1 **SEC. 405. 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 of this title, an unexpired lease of non-
7 residential real property under which the debtor is the les-
8 see shall be deemed rejected and the trustee shall imme-
9 diately surrender that nonresidential real property to the
10 lessor if the trustee does not assume or reject the unex-
11 pired lease by the earlier of—

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

14 “(ii) the date of the entry of an order con-
15 firming a plan.

16 “(B) The court may extend the period determined
17 under subparagraph (A) only upon a motion of the les-
18 sor.”.

19 **SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS**
20 **COMMITTEES.**

21 Section 1102(a)(2) of title 11, United States Code,
22 is amended by inserting before the first sentence the fol-
23 lowing: “On its own motion or on request of a party in
24 interest, and after notice and hearing, the court may order
25 a change in the membership of a committee appointed
26 under this subsection, if the court determines that the

1 change is necessary to ensure adequate representation of
2 creditors or equity security holders.”.

3 **SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11,**
4 **UNITED STATES CODE.**

5 Section 546 of title 11, United States Code, is
6 amended—

7 (1) by redesignating the second subsection des-
8 ignated as subsection (g) (as added by section
9 222(a) of Public Law 103–394) as subsection (i);
10 and

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

12 “(j)(1) Notwithstanding section 545 (2) and (3), the
13 trustee may not avoid a warehouseman’s lien for storage,
14 transportation or other costs incidental to the storage and
15 handling of goods.

16 “(2) The prohibition under paragraph (1) shall be ap-
17 plied in a manner consistent with any applicable State
18 statute that is similar to section 7–209 of the Uniform
19 Commercial Code.”.

20 **SEC. 408. LIMITATION.**

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

1 **SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11,**
2 **UNITED STATES CODE.**

3 Section 330(a)(3) of title 11, United States Code, is
4 amended—

5 (1) by striking “(A) the; and inserting “(i)
6 the”;

7 (2) by striking “(B)” and inserting “(ii)”;

8 (3) by striking “(C)” and inserting “(iii)”;

9 (4) by striking “(D)” and inserting “(iv)”;

10 (5) by striking “(E)” and inserting “(v)”;

11 (6) in subparagraph (A), by inserting “to an
12 examiner, trustee under chapter 11, or professional
13 person” after “awarded”; and

14 (7) by adding at the end the following:

15 “(B) In determining the amount of reasonable com-
16 pensation to be awarded a trustee, the court shall treat
17 such compensation as a commission based on the results
18 achieved.”.

19 **SEC. 410. POSTPETITION DISCLOSURE AND SOLICITATION.**

20 Section 1125 of title 11, United States Code, is
21 amended by adding at the end the following:

22 “(g) Notwithstanding subsection (b), an acceptance
23 or rejection of the plan may be solicited from a holder
24 of a claim or interest if such solicitation complies with ap-
25 plicable nonbankruptcy law and if such holder was solie-

1 ited before the commencement of the case in a manner
2 complying with applicable nonbankruptcy law.”.

3 **SEC. 411. PREFERENCES.**

4 Section 547(e) of title 11, United States Code, is
5 amended—

6 (1) by striking paragraph (2) and inserting the
7 following:

8 “(2) to the extent that such transfer was in
9 payment of a debt incurred by the debtor in the or-
10 dinary course of business or financial affairs of the
11 debtor and the transferee, and such transfer was—

12 “(A) made in the ordinary course of busi-
13 ness or financial affairs of the debtor and the
14 transferee; or

15 “(B) made according to ordinary business
16 terms;”;

17 (2) in paragraph (7) by striking “or” at the
18 end;

19 (3) in paragraph (8) by striking the period at
20 the end and inserting “; or”; and

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

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

1 **SEC. 412. VENUE OF CERTAIN PROCEEDINGS.**

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

5 **SEC. 413. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

6 Section 1121(d) of title 11, United States Code, is
7 amended—

8 (1) by striking “On” and inserting “(1) Subject
9 to paragraph (1), on”; and

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

11 “(2)(A) The 120-day period specified in paragraph
12 (1) may not be extended beyond a date that is 18 months
13 after the date of the order for relief under this chapter.

14 “(B) The 180-day period specified in paragraph (1)
15 may not be extended beyond a date that is 20 months after
16 the date of the order for relief under this chapter.”.

17 **SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP IN-**
18 **TERESTS.**

19 Section 523(a)(16) of title 11, United States Code,
20 is amended—

21 (1) by striking “dwelling” the first place it ap-
22 pears;

23 (2) by striking “ownership or” and inserting
24 “ownership,”;

25 (3) by striking “housing” the first place it ap-
26 pears; and

1 ing in this subsection shall be construed to require any
 2 creditor to be represented by an attorney at any meeting
 3 of creditors.”.

4 **SEC. 416. ELIMINATION OF CERTAIN FEES PAYABLE IN**
 5 **CHAPTER 11 BANKRUPTCY CASES.**

6 (a) **AMENDMENTS.**—Section 1930(a)(6) of title 28,
 7 United States Code, is amended—

8 (1) in the first sentence by striking “until the
 9 case is converted or dismissed, whichever occurs
 10 first”; and

11 (2) in the second sentence—

12 (A) by striking “The” and inserting “Until
 13 the plan is confirmed or the case is converted
 14 (whichever occurs first) the”; and

15 (B) by striking “less than \$300,000;” and
 16 inserting “less than \$300,000. Until the case is
 17 converted, dismissed, or closed (whichever oc-
 18 curs first and without regard to confirmation of
 19 the plan) the fee shall be”.

20 (b) **DELAYED EFFECTIVE DATE.**—The amendments
 21 made by subsection (a) shall take effect on October 1,
 22 1999.

23 **SEC. 417. 416. DEFINITION OF DISINTERESTED PERSON.**

24 Section 101(14) of title 11, United States Code, is
 25 amended to read as follows:

1 “(14) ‘disinterested person’ means a person
2 that—

3 “(A) is not a creditor, an equity security
4 holder, or an insider;

5 “(B) is not and was not, within 2 years be-
6 fore the date of the filing of the petition, a di-
7 rector, officer, or employee of the debtor; and

8 “(C) does not have an interest materially
9 adverse to the interest of the estate or of any
10 class of creditors or equity security holders, by
11 reason of any direct or indirect relationship to,
12 connection with, or interest in, the debtor, or
13 for any other reason;”.

14 **SEC. 418. 417. FACTORS FOR COMPENSATION OF PROFES-**
15 **SIONAL PERSONS.**

16 Section 330(a)(3)(A) of title 11, United States Code,
17 *as amended by section 409 of this Act*, is amended—

18 (1) in ~~subparagraph (D)~~ *clause (i)*, by striking
19 “and” at the end;

20 (2) by redesignating ~~subparagraph (E)~~ *clause*
21 *(v)* as ~~subparagraph (F)~~ *clause (vi)*; and

22 (3) by inserting after ~~subparagraph (D)~~ *clause*
23 *(iv)* the following:

24 “~~(E)~~ *(v)* with respect to a professional person,
25 whether the person is board certified or otherwise

1 has demonstrated skill and experience in the bank-
 2 ruptcy field;”.

3 **SEC. 419. 418. APPOINTMENT OF ELECTED TRUSTEE.**

4 Section 1104(b) of title 11, United States Code, is
 5 amended—

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

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

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

11 “(B) Upon the filing of a report under subparagraph
 12 (A)—

13 “(i) the trustee elected under paragraph (1)
 14 shall be considered to have been selected and ap-
 15 pointed for purposes of this section; and

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

18 “(C) In the case of any dispute arising out of an elec-
 19 tion described in subparagraph (A), the court shall resolve
 20 the dispute.”.

21 **SEC. 419. UTILITY SERVICE.**

22 *Section 366 of title 11, United States Code, is*
 23 *amended—*

24 (1) *in subsection (a), by striking “subsection (b)”*
 25 *and inserting “subsections (b) and (c)”;* and

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

2 “(c)(1)(A) *For purposes of this subsection, the term*

3 *‘assurance of payment’ means—*

4 “(i) *a cash deposit;*

5 “(ii) *a letter of credit;*

6 “(iii) *a certificate of deposit;*

7 “(iv) *a surety bond;*

8 “(v) *a prepayment of utility consumption; or*

9 “(vi) *another form of security that is mutually*
10 *agreed on between the utility and the debtor or the*
11 *trustee.*

12 “(B) *For purposes of this subsection an administrative*
13 *expense priority shall not constitute an assurance of pay-*
14 *ment.*

15 “(2) *Subject to paragraphs (3) through (5), with re-*
16 *spect to a case filed under chapter 11, a utility referred*
17 *to in subsection (a) may alter, refuse, or discontinue utility*
18 *service, if during the 20-day period beginning on the date*
19 *of filing of the petition, the utility does not receive from*
20 *the debtor or the trustee adequate assurance of payment for*
21 *utility service that is satisfactory to the utility.*

22 “(3)(A) *On request of a party in interest and after*
23 *notice and a hearing, the court may order modification of*
24 *the amount of an assurance of payment under paragraph*
25 *(2).*

1 “(B) In making a determination under this paragraph
2 whether an assurance of payment is adequate, the court
3 may not consider—

4 “(i) the absence of security before the date of fil-
5 ing of the petition;

6 “(ii) the payment by the debtor of charges for
7 utility service in a timely manner before the date of
8 filing of the petition; or

9 “(iii) the availability of an administrative ex-
10 pense priority.

11 “(4) Notwithstanding any other provision of law, with
12 respect to a case subject to this subsection, a utility may
13 recover or set off against a security deposit provided to the
14 utility by the debtor before the date of filing of the petition
15 without notice or order of the court.”.

16 **Subtitle B—Small Business** 17 **Bankruptcy Provisions**

18 **SEC. 421. FLEXIBLE RULES FOR DISCLOSURE STATEMENT**

19 **AND PLAN.**

20 Section 1125 of title 11, United States Code, is
21 amended by striking subsection (f) and inserting the fol-
22 lowing:

23 “(f) Notwithstanding subsection (b), in a small busi-
24 ness case—

1 “(1) in determining whether a disclosure state-
2 ment provides adequate information, the court shall
3 consider the complexity of the case, the benefit of
4 additional information to creditors and other parties
5 in interest, and the cost of providing additional in-
6 formation;

7 “(2) the court may determine that the plan
8 itself provides adequate information and that a sepa-
9 rate disclosure statement is not necessary;

10 “(3) the court may approve a disclosure state-
11 ment submitted on standard forms approved by the
12 court or adopted under section 2075 of title 28; and

13 “(4)(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
17 be solicited based on a conditionally approved disclo-
18 sure statement if the debtor provides adequate infor-
19 mation to each holder of a claim or interest that is
20 solicited, but a conditionally approved disclosure
21 statement shall be mailed not later than 20 days be-
22 fore the date of the hearing on confirmation of the
23 plan; and

1 “(C) the hearing on the disclosure statement
2 may be combined with the hearing on confirmation
3 of a plan.”.

4 **SEC. 422. DEFINITIONS; EFFECT OF DISCHARGE.**

5 (a) DEFINITIONS.—Section 101 of title 11, United
6 States Code, *as amended by section 402 of this Act*, is
7 amended by striking paragraph (51C) and inserting the
8 following:

9 “(51C) ‘small business case’ means a case filed
10 under chapter 11 of this title in which the debtor is
11 a small business debtor;

12 “(51D) ‘small business debtor’—

13 “(A) subject to subparagraph (B), means a
14 person (including any affiliate of such person
15 that is also a debtor under this title) that has
16 aggregate noncontingent, liquidated secured
17 and unsecured debts as of the date of the peti-
18 tion or the order for relief in an amount not
19 more than \$4,000,000 (excluding debts owed to
20 1 or more affiliates or insiders) for a case in
21 which the United States trustee has appointed
22 under section 1102(a)(1) a committee of unse-
23 cured creditors that the court has determined is
24 sufficiently active and representative to provide
25 effective oversight of the debtor; and

1 “(B) does not include any member of a
 2 group of affiliated debtors that has aggregate
 3 noncontingent liquidated secured and unsecured
 4 debts in an amount greater than \$4,000,000
 5 (excluding debt owed to 1 or more affiliates or
 6 insiders);”.

7 **(b) EFFECT OF DISCHARGE.**—Section 524 of title 11,
 8 United States Code, as amended by section 204 of this
 9 Act, is amended by adding at the end the following:

10 ~~“(j)(1) An individual who is injured by the willful fail-~~
 11 ~~ure of a creditor to substantially comply with the require-~~
 12 ~~ments specified in subsections (c) and (d), or by any will-~~
 13 ~~ful violation of the injunction operating under subsection~~
 14 ~~(a)(2), shall be entitled to recover—~~

15 ~~“(A) the greater of—~~

16 ~~“(i) the amount of actual damages; or~~

17 ~~“(ii) \$1,000; and~~

18 ~~“(B) costs and attorneys’ fees.~~

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

21 **(c) (b) CONFORMING AMENDMENT.**—Section
 22 1102(a)(3) of title 11, United States Code, is amended
 23 by inserting “debtor” after “small business”.

1 **SEC. 423. STANDARD FORM DISCLOSURE STATEMENT AND**
 2 **PLAN.**

3 Within a reasonable period of time after the date of
 4 the enactment of this Act, the Advisory Committee on
 5 Bankruptcy Rules of the Judicial Conference of the
 6 United States shall propose for adoption standard form
 7 disclosure statements and plans of reorganization for
 8 small business debtors (as defined in section 101 of title
 9 11, United States Code, as amended by this Act), designed
 10 to achieve a practical balance between—

11 (1) the reasonable needs of the courts, the
 12 United States trustee, creditors, and other parties in
 13 interest for reasonably complete information; and

14 (2) economy and simplicity for debtors.

15 **SEC. 424. UNIFORM NATIONAL REPORTING REQUIRE-**
 16 **MENTS.**

17 (a) REPORTING REQUIRED.—

18 (1) IN GENERAL.—Chapter 3 of title 11, United
 19 States Code, is amended by inserting after section
 20 307 the following:

21 **“§ 308. Debtor reporting requirements**

22 “(1) For purposes of this section, the term ‘profit-
 23 ability’ means, with respect to a debtor, the amount of
 24 money that the debtor has earned or lost during current
 25 and recent fiscal periods.

1 “(2) A small business debtor shall file periodic finan-
2 cial and other reports containing information including—

3 “(A) the debtor’s profitability;

4 “(B) reasonable approximations of the debtor’s
5 projected cash receipts and cash disbursements over
6 a reasonable period;

7 “(C) comparisons of actual cash receipts and
8 disbursements with projections in prior reports;

9 “(D)(i) whether the debtor is—

10 “(I) in compliance in all material respects
11 with postpetition requirements imposed by this
12 title and the Federal Rules of Bankruptcy Pro-
13 cedure; and

14 “(II) timely filing tax returns and paying
15 taxes and other administrative claims when due;
16 and

17 “(ii) if the debtor is not in compliance with the
18 requirements referred to in clause (i)(I) or filing tax
19 returns and making the payments referred to in
20 clause (i)(II), what the failures are and how, at what
21 cost, and when the debtor intends to remedy such
22 failures; and

23 “(iii) such other matters as are in the best in-
24 terests of the debtor and creditors, and in the public

1 interest in fair and efficient procedures under chap-
2 ter 11 of this title.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions for chapter 3 of title 11, United States Code,
5 is amended by inserting after the item relating to
6 section 307 the following:

“308. Debtor reporting requirements.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall take effect 60 days after the date on
9 which rules are prescribed under section 2075 of title 28,
10 United States Code, to establish forms to be used to com-
11 ply with section 308 of title 11, United States Code, as
12 added by subsection (a).

13 **SEC. 425. UNIFORM REPORTING RULES AND FORMS FOR**
14 **SMALL BUSINESS CASES.**

15 (a) PROPOSAL OF RULES AND FORMS.—The Advi-
16 sory Committee on Bankruptcy Rules of the Judicial Con-
17 ference of the United States shall propose for adoption
18 amended Federal Rules of Bankruptcy Procedure and Of-
19 ficial Bankruptcy Forms to be used by small business
20 debtors to file periodic financial and other reports con-
21 taining information, including information relating to—

22 (1) the debtor’s profitability;

23 (2) the debtor’s cash receipts and disburse-
24 ments; and

1 (3) whether the debtor is timely filing tax re-
2 turns and paying taxes and other administrative
3 claims when due.

4 (b) PURPOSE.—The rules and forms proposed under
5 subsection (a) shall be designed to achieve a practical bal-
6 ance among—

7 (1) the reasonable needs of the bankruptcy
8 court, the United States trustee, creditors, and other
9 parties in interest for reasonably complete informa-
10 tion;

11 (2) the small business debtor’s interest that re-
12 quired reports be easy and inexpensive to complete;
13 and

14 (3) the interest of all parties that the required
15 reports help the small business debtor to understand
16 the small business debtor’s financial condition and
17 plan the small business debtor’s future.

18 **SEC. 426. DUTIES IN SMALL BUSINESS CASES.**

19 (a) DUTIES IN CHAPTER 11 CASES.—Title 11,
20 United States Code, is amended by inserting after section
21 1114 the following:

1 **“§ 1115. Duties of trustee or debtor in possession in**
2 **small business cases**

3 “In a small business case, a trustee or the debtor in
4 possession, in addition to the duties provided in this title
5 and as otherwise required by law, shall—

6 “(1) append to the voluntary petition or, in an
7 involuntary case, file within 3 days after the date of
8 the order for relief—

9 “(A) its most recent balance sheet, state-
10 ment of operations, cash-flow statement, Fed-
11 eral income tax return; or

12 “(B) a statement made under penalty of
13 perjury that no balance sheet, statement of op-
14 erations, or cash-flow statement has been pre-
15 pared and no Federal tax return has been filed;

16 “(2) attend, through its senior management
17 personnel and counsel, meetings scheduled by the
18 court or the United States trustee, including initial
19 debtor interviews, scheduling conferences, and meet-
20 ings of creditors convened under section 341 unless
21 the court waives that requirement after notice and
22 hearing, upon a finding of extraordinary and com-
23 pelling circumstances;

24 “(3) timely file all schedules and statements of
25 financial affairs, unless the court, after notice and a
26 hearing, grants an extension, which shall not extend

1 such time period to a date later than 30 days after
2 the date of the order for relief, absent extraordinary
3 and compelling circumstances;

4 “(4) file all postpetition financial and other re-
5 ports required by the Federal Rules of Bankruptcy
6 Procedure or by local rule of the district court;

7 “(5) subject to section 363(c)(2), maintain in-
8 surance customary and appropriate to the industry;

9 “(6)(A) timely file tax returns;

10 “(B) subject to section 363(c)(2), timely pay all
11 administrative expense tax claims, except those
12 being contested by appropriate proceedings being
13 diligently prosecuted; and

14 “(C) subject to section 363(c)(2), establish 1 or
15 more separate deposit accounts not later than 10
16 business days after the date of order for relief (or
17 as soon thereafter as possible if all banks contacted
18 decline the business) and deposit therein, not later
19 than 1 business day after receipt thereof, all taxes
20 payable for periods beginning after the date the case
21 is commenced that are collected or withheld by the
22 debtor for governmental units, unless the court
23 waives that requirement after notice and hearing,
24 upon a finding of extraordinary and compelling cir-
25 cumstances; and

1 “(7) allow the United States trustee, or a des-
2 ignated representative of the United States trustee,
3 to inspect the debtor’s business premises, books, and
4 records at reasonable times, after reasonable prior
5 written notice, unless notice is waived by the debt-
6 or.”.

7 (b) **TECHNICAL AMENDMENT.**—The table of sections
8 for chapter 11, United States Code, is amended by insert-
9 ing after the item relating to section 1114 the following:

 “1115. Duties of trustee or debtor in possession in small business cases.”.

10 **SEC. 427. PLAN FILING AND CONFIRMATION DEADLINES.**

11 Section 1121 of title 11, United States Code, is
12 amended by striking subsection (e) and inserting the fol-
13 lowing:

14 “(e) In a small business case—

15 “(1) only the debtor may file a plan until after
16 90 days after the date of the order for relief, unless
17 that period is —

18 “(A) shortened on request of a party in in-
19 terest made during the 90-day period;

20 “(B) extended as provided by this sub-
21 section, after notice and hearing; or

22 “(C) the court, for cause, orders otherwise;

23 “(2) the plan, and any necessary disclosure
24 statement, shall be filed not later than 90 days after
25 the date of the order for relief; and

1 “(3) the time periods specified in paragraphs
2 (1) and (2), and the time fixed in section 1129(e),
3 within which the plan shall be confirmed, may be ex-
4 tended only if—

5 “(A) the debtor, after providing notice to
6 parties in interest (including the United States
7 trustee), demonstrates by a preponderance of
8 the evidence that it is more likely than not that
9 the court will confirm a plan within a reason-
10 able period of time;

11 “(B) a new deadline is imposed at the time
12 the extension is granted; and

13 “(C) the order extending time is signed be-
14 fore the existing deadline has expired.”.

15 **SEC. 428. PLAN CONFIRMATION DEADLINE.**

16 Section 1129 of title 11, United States Code, is
17 amended by adding at the end the following:

18 “(e) In a small business case, the plan shall be con-
19 firmed not later than 150 days after the date of the order
20 for relief, unless such 150-day period is extended as pro-
21 vided in section 1121(e)(3).”.

22 **SEC. 429. PROHIBITION AGAINST EXTENSION OF TIME.**

23 Section 105(d) of title 11, United States Code, is
24 amended—

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

3 (2) in paragraph (2)~~(B)(vi)~~, by striking the pe-
4 riod at the end and inserting “; and”; and

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

6 “(3) in a small business case, not extend the
7 time periods specified in sections 1121(e) and
8 1129(e), except as provided in section 1121(e)(3).”.

9 **SEC. 430. DUTIES OF THE UNITED STATES TRUSTEE.**

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

12 (1) in paragraph (3)—

13 (A) in subparagraph (G), by striking
14 “and” at the end;

15 (B) by redesignating subparagraph (H) as
16 subparagraph (I); and

17 (C) by inserting after subparagraph (G)
18 the following:

19 “(H) in small business cases (as defined in
20 section 101 of title 11), performing the addi-
21 tional duties specified in title 11 pertaining to
22 such cases;”;

23 (2) in paragraph (5), by striking “and” at the
24 end;

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

3 (4) by inserting after paragraph (6) the fol-
4 lowing:

5 “(7) in each of such small business cases—

6 “(A) conduct an initial debtor interview as
7 soon as practicable after the entry of order for
8 relief but before the first meeting scheduled
9 under section 341(a) of title 11, at which time
10 the United States trustee shall—

11 “(i) begin to investigate the debtor’s
12 viability;

13 “(ii) inquire about the debtor’s busi-
14 ness plan;

15 “(iii) explain the debtor’s obligations
16 to file monthly operating reports and other
17 required reports;

18 “(iv) attempt to develop an agreed
19 scheduling order; and

20 “(v) inform the debtor of other obliga-
21 tions;

22 “(B) if determined to be appropriate and
23 advisable, visit the appropriate business prem-
24 ises of the debtor and ascertain the state of the

1 debtor's books and records and verify that the
2 debtor has filed its tax returns; and

3 “(C) review and monitor diligently the
4 debtor's activities, to identify as promptly as
5 possible whether the debtor will be unable to
6 confirm a plan; and

7 “(8) in any case in which the United States
8 trustee finds material grounds for any relief under
9 section 1112 of title 11, the United States trustee
10 shall apply promptly after making that finding to
11 the court for relief.”.

12 **SEC. 431. SCHEDULING CONFERENCES.**

13 Section 105(d) of title 11, United States Code, as
14 amended by section 429 of this Act, is amended—

15 (1) in the matter preceding paragraph (1), by
16 striking “, may”;

17 (2) by striking paragraph (1) and inserting the
18 following:

19 “(1) shall hold such status conferences as are
20 necessary to further the expeditious and economical
21 resolution of the case; and”;

22 (3) in paragraph (2), by striking “unless incon-
23 sistent with another provision of this title or with
24 applicable Federal Rules of Bankruptcy Procedure,”
25 and inserting “may”.

1 **SEC. 432. SERIAL FILER PROVISIONS.**

2 Section 362 of title 11, United States Code, is
3 amended—

4 (1) in subsection (j), as redesignated by section
5 305(1) of this Act—

6 (A) by striking “An” and inserting “(1)
7 Except as provided in paragraph (2), an”; and

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

9 “(2) If such violation is based on an action taken by
10 an entity in the good faith belief that subsection (h) ap-
11 plies to the debtor, the recovery under paragraph (1)
12 against such entity shall be limited to actual damages.”;
13 and

14 (2) by inserting after subsection (j); ~~as added~~
15 ~~by section 419 of this Act~~, the following:

16 “(k)(1) Except as provided in paragraph (2), the fil-
17 ing of a petition under chapter 11 ~~of this title~~ operates
18 as a stay of the acts described in subsection (a) only in
19 an involuntary case involving no collusion by the debtor
20 with creditors and in which the debtor—

21 “(A) is a debtor in a small business case pend-
22 ing at the time the petition is filed;

23 “(B) was a debtor in a small business case that
24 was dismissed for any reason by an order that be-
25 came final in the 2-year period ending on the date

1 of the order for relief entered with respect to the pe-
2 tition;

3 “(C) was a debtor in a small business case in
4 which a plan was confirmed in the 2-year period
5 ending on the date of the order for relief entered
6 with respect to the petition; or

7 “(D) is an entity that has succeeded to sub-
8 stantially all of the assets or business of a small
9 business debtor described in subparagraph (A), (B),
10 or (C).

11 “(2) Paragraph (1) does not apply to the filing of
12 a petition if the debtor proves by a preponderance of the
13 evidence that—

14 “(A) the filing of that petition resulted from
15 circumstances beyond the control of the debtor not
16 foreseeable at the time the case then pending was
17 filed; and

18 “(B) it is more likely than not that the court
19 will confirm a feasible plan, but not a liquidating
20 plan, within a reasonable period of time.”.

21 **SEC. 433. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
22 **VERSION AND APPOINTMENT OF TRUSTEE.**

23 (a) EXPANDED GROUNDS FOR DISMISSAL OR CON-
24 VERSION.—Section 1112 of title 11, United States Code,

1 is amended by striking subsection (b) and inserting the
2 following:

3 “(b)(1) Except as provided in paragraph (2), in sub-
4 section (c), and section 1104(a)(3), on request of a party
5 in interest, and after notice and a hearing, the court shall
6 convert a case under this chapter to a case under chapter
7 7 or dismiss a case under this chapter, whichever is in
8 the best interest of creditors and the estate, if the movant
9 establishes cause.

10 “(2) The relief provided in paragraph (1) shall not
11 be granted if the debtor or another party in interest ob-
12 jects and establishes by a preponderance of the evidence
13 that—

14 “(A) it is more likely than not that a plan will
15 be confirmed within—

16 “(i) a period of time fixed under this title
17 or by order of the court entered under section
18 1121(e)(3); or

19 “(ii) a reasonable period of time if no pe-
20 riod of time has been fixed; and

21 “(B) if the reason is an act or omission of the
22 debtor that—

23 “(i) there exists a reasonable justification
24 for the act or omission; and

1 “(ii)(I) the act or omission will be cured
2 within a reasonable period of time fixed by the
3 court, but not to exceed 30 days after the court
4 decides the motion, unless the movant expressly
5 consents to a continuance for a specific period
6 of time; or

7 “(II) compelling circumstances beyond the
8 control of the debtor justify an extension.

9 “(3) The court shall commence the hearing on any
10 motion under this subsection not later than 30 days after
11 filing of the motion, and shall decide the motion within
12 15 days after commencement of the hearing, unless the
13 movant expressly consents to a continuance for a specific
14 period of time or compelling circumstances prevent the
15 court from meeting the time limits established by this
16 paragraph.

17 “(4) For purposes of this subsection, cause
18 includes—

19 “(A) substantial or continuing loss to or dimi-
20 nution of the estate;

21 “(B) gross mismanagement of the estate;

22 “(C) failure to maintain appropriate insurance;

23 “(D) unauthorized use of cash collateral harm-
24 ful to 1 or more creditors;

1 “(E) failure to comply with an order of the
2 court;

3 “(F) failure timely to satisfy any filing or re-
4 porting requirement established by this title or by
5 any rule applicable to a case under this chapter;

6 “(G) failure to attend the meeting of creditors
7 convened under section 341(a) or an examination or-
8 dered under Rule 2004 of the Federal Rules of
9 Bankruptcy Procedure;

10 “(H) failure timely to provide information or
11 attend meetings reasonably requested by the United
12 States trustee;

13 “(I) failure timely to pay taxes due after the
14 date of the order for relief or to file tax returns due
15 after the order for relief;

16 “(J) failure to file a disclosure statement, or to
17 file or confirm a plan, within the time fixed by this
18 title or by order of the court;

19 “(K) failure to pay any fees or charges required
20 under chapter 123 of title 28;

21 “(L) revocation of an order of confirmation
22 under section 1144;

23 “(M) inability to effectuate substantial con-
24 summation of a confirmed plan;

1 “(N) material default by the debtor with re-
2 spect to a confirmed plan; and

3 “(O) termination of a plan by reason of the oc-
4 currence of a condition specified in the plan.

5 “(5) The court shall commence the hearing on any
6 motion under this subsection not later than 30 days after
7 filing of the motion, and shall decide the motion within
8 15 days after commencement of the hearing, unless the
9 movant expressly consents to a continuance for a specific
10 period of time or compelling circumstances prevent the
11 court from meeting the time limits established by this
12 paragraph.”.

13 (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF
14 TRUSTEE.—Section 1104(a) of title 11, United States
15 Code, is amended—

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

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

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

21 “(3) if grounds exist to convert or dismiss the
22 case under section 1112, but the court determines
23 that the appointment of a trustee is in the best in-
24 terests of creditors and the estate.”.

1 **SEC. 434. STUDY OF OPERATION OF TITLE 11, UNITED**
2 **STATES CODE, WITH RESPECT TO SMALL**
3 **BUSINESSES.**

4 Not later than 2 years after the date of the enact-
5 ment of this Act, the Administrator of the Small Business
6 Administration, in consultation with the Attorney General
7 of the United States, the Director of the Administrative
8 Office of United States Trustees, and the Director of the
9 Administrative Office of the United States Courts, shall—

10 (1) conduct a study to determine—

11 (A) the internal and external factors that
12 cause small businesses, especially sole propri-
13 etorships, to become debtors in cases under title
14 11, United States Code, and that cause certain
15 small businesses to successfully complete cases
16 under chapter 11 of such title; and

17 (B) how Federal laws relating to bank-
18 ruptcy may be made more effective and efficient
19 in assisting small businesses to remain viable;
20 and

21 (2) submit to the President pro tempore of the
22 Senate and the Speaker of the House of Representa-
23 tives a report summarizing that study.

24 **SEC. 435. PAYMENT OF INTEREST.**

25 Section 362(d)(3) of title 11, United States Code, is
26 amended—

1 (1) by inserting “or 30 days after the court de-
2 termines that the debtor is subject to this para-
3 graph, whichever is later” after “90-day period”;
4 and

5 (2) by striking subparagraph (B) and inserting
6 the following:

7 “(B) the debtor has commenced monthly
8 payments that—

9 “(i) may, in the debtor’s sole discre-
10 tion, notwithstanding section 363(c)(2), be
11 made from rents or other income generated
12 before or after the commencement of the
13 case by or from the property to each cred-
14 itor whose claim is secured by such real es-
15 tate (other than a claim secured by a judg-
16 ment lien or by an unmatured statutory
17 lien); and

18 “(ii) are in an amount equal to inter-
19 est at the then applicable nondefault con-
20 tract rate of interest on the value of the
21 creditor’s interest in the real estate; 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
 7 Code, is amended by inserting “, notwithstanding section
 8 301(b)” 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”;
 12 and

13 (2) by striking the last sentence; and ~~inserting~~
 14 the following:

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

16 “(b) The commencement of a voluntary case under
 17 a chapter of this title constitutes an order for relief under
 18 such chapter.”.

19 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAP-**
 20 **TER 9.**

21 Section ~~901~~ 901(a) of title 11, United States Code,
 22 is amended—

23 (1) by inserting “555, 556,” after “553,”; and

24 (2) by inserting “559, 560,” after “557,”.

1 **TITLE VI—IMPROVED BANK-**
2 **RUPTCY STATISTICS AND**
3 **DATA**

4 **SEC. 601. AUDIT PROCEDURES.**

5 (a) AMENDMENTS.—Section 586 of title 28, United
6 States Code, is amended—

7 (1) in subsection (a), by striking paragraph (6)
8 and inserting the following:

9 “(6) make such reports as the Attorney General
10 directs, including the results of audits performed
11 under subsection (f); and”;

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

13 “(f)(1)(A) The Attorney General shall establish pro-
14 cedures to determine the accuracy, veracity, and complete-
15 ness of petitions, schedules, and other information which
16 the debtor is required to provide under sections 521 and
17 1322 of title 11, and, if applicable, section 111 of title
18 11, in individual cases filed under chapter 7 or 13 of such
19 title.

20 “(B) Those procedures shall—

21 “(i) establish a method of selecting appropriate
22 qualified persons to contract to perform those au-
23 dits;

24 “(ii) establish a method of randomly selecting
25 cases to be audited, except that not less than 1 out

1 of every 250 cases in each Federal judicial district
2 shall be selected for audit;

3 “(iii) require audits for schedules of income and
4 expenses which reflect greater than average
5 variances from the statistical norm of the district in
6 which the schedules were filed if those variances
7 occur by reason of higher income or higher expenses
8 than the statistical norm of the ~~district~~ *district* in
9 which the schedules were filed; and

10 “(iv) include procedures for providing, not less
11 frequently than annually, public information con-
12 cerning the aggregate results of the audits referred
13 to in this subparagraph, including the percentage of
14 cases, by district, in which a material misstatement
15 of income or expenditures is reported.

16 “(2) The United States trustee for each district may
17 contract with auditors to perform audits in cases des-
18 ignated by the United States trustee according to the pro-
19 cedures established under paragraph (1).

20 “(3)(A) The report of each audit conducted under
21 this subsection shall be filed with the court and trans-
22 mitted to the United States trustee. Each report shall
23 clearly and conspicuously specify any material
24 misstatement of income or expenditures or of assets iden-
25 tified by the person performing the audit. In any case

1 where a material misstatement of income or expenditures
2 or of assets has been reported, the clerk of the bankruptcy
3 court shall give notice of the misstatement to the creditors
4 in the case.

5 “(B) If a material misstatement of income or expend-
6 itures or of assets is reported, the United States trustee
7 shall—

8 “(i) report the material misstatement, if appro-
9 priate, to the United States Attorney under section
10 3057 of title 18; and

11 “(ii) if advisable, take appropriate action, in-
12 cluding commencing an adversary proceeding to re-
13 voke the debtor’s discharge under section 727(d) of
14 title 11.”.

15 (b) AMENDMENTS TO SECTION 521 OF TITLE 11,
16 UNITED STATES CODE.—Paragraphs (3) and (4) of sec-
17 tion 521(a) of title 11, United States Code, as amended
18 by section 315 of this Act, are each amended by inserting
19 “or an auditor appointed under section 586 of title 28”
20 after “serving in the case” each place that term appears.

21 (c) AMENDMENTS TO SECTION 727 OF TITLE 11,
22 UNITED STATES CODE.—Section 727(d) of title 11,
23 United States Code, is amended—

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

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

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

4 “(4) the debtor has failed to explain
5 satisfactorily—

6 “(A) a material misstatement in an audit
7 performed under section 586(f) of title 28; or

8 “(B) a failure to make available for inspec-
9 tion all necessary accounts, papers, documents,
10 financial records, files, and any other papers,
11 things, or property belonging to the debtor that
12 are requested for an audit conducted under sec-
13 tion 586(f).”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect 18 months after the date of
16 enactment of this Act.

17 **SEC. 602. IMPROVED BANKRUPTCY STATISTICS.**

18 (a) AMENDMENT.—Chapter 6 of title 28, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 **“§ 159. Bankruptcy statistics**

22 “(a) The clerk of each district court shall compile sta-
23 tistics regarding individual debtors with primarily con-
24 sumer debts seeking relief under chapters 7, 11, and 13
25 of title 11. Those statistics shall be in a form prescribed

1 by the Director of the Administrative Office of the United
2 States Courts (referred to in this section as the ‘Office’).

3 “(b) The Director shall—

4 “(1) compile the statistics referred to in sub-
5 section (a);

6 “(2) make the statistics available to the public;
7 and

8 “(3) not later than October 31, 1999, and an-
9 nually thereafter, prepare, and submit to Congress a
10 report concerning the information collected under
11 subsection (a) that contains an analysis of the infor-
12 mation.

13 “(c) The compilation required under subsection (b)
14 shall—

15 “(1) be itemized, by chapter, with respect to
16 title 11;

17 “(2) be presented in the aggregate and for each
18 district; and

19 “(3) include information concerning—

20 “(A) the total assets and total liabilities of
21 the debtors described in subsection (a), and in
22 each category of assets and liabilities, as re-
23 ported in the schedules prescribed under section
24 2075 and filed by those debtors;

1 “(B) the total current monthly income,
2 projected monthly net income, and average in-
3 come, and average expenses of those debtors as
4 reported on the schedules and statements that
5 each such debtor files under sections 111, 521,
6 and 1322 of title 11;

7 “(C) the aggregate amount of debt dis-
8 charged in the reporting period, determined as
9 the difference between the total amount of debt
10 and obligations of a debtor reported on the
11 schedules and the amount of such debt reported
12 in categories which are predominantly non-
13 dischargeable;

14 “(D) the average period of time between
15 the filing of the petition and the closing of the
16 case;

17 “(E) for the reporting period—

18 “(i) the number of cases in which a
19 reaffirmation was filed; and

20 “(ii)(I) the total number of reaffirma-
21 tions filed;

22 “(II) of those cases in which a reaffir-
23 mation was filed, the number in which the
24 debtor was not represented by an attorney;
25 and

1 “(III) of the cases under each of sub-
2 clauses (I) and (II), the number of cases in
3 which the reaffirmation was approved by
4 the court;

5 “(F) with respect to cases filed under
6 chapter 13 of title 11, for the reporting
7 period—

8 “(i)(I) the number of cases in which a
9 final order was entered determining the
10 value of property securing a claim in an
11 amount less than the amount of the claim;
12 and

13 “(II) the number of final orders deter-
14 mining the value of property securing a
15 claim issued;

16 “(ii) the number of cases dismissed
17 for failure to make payments under the
18 plan; and

19 “(iii) the number of cases in which
20 the debtor filed another case during the 6-
21 year period preceding the date of filing;

22 “(G) the number of cases in which credi-
23 tors were fined for misconduct and any amount
24 of punitive damages awarded by the court for
25 creditor misconduct; and

1 “(H) the number of cases in which sanc-
2 tions under Rule 9011 of the Federal Rules of
3 Bankruptcy Procedure were imposed against
4 debtor’s counsel and damages awarded under
5 such rule.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for chapter 6 of title 28, United States Code, is amended
8 by adding at the end the following:

 “159. Bankruptcy statistics.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect 18 months after the date of
11 enactment of this Act.

12 **SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANK-**
13 **RUPTCY DATA.**

14 (a) AMENDMENT.—Chapter 39 of title 28, United
15 States Code, is amended by inserting after section 589a
16 the following:

17 **“§ 589b. Bankruptcy data**

18 “(a) Within a reasonable period of time after the ef-
19 fective date of this section, the Attorney General of the
20 United States shall issue rules requiring uniform forms
21 for (and from time to time thereafter to appropriately
22 modify and approve)—

23 “(1) final reports by trustees in cases under
24 chapters 7, 12, and 13 of title 11; and

1 “(2) periodic reports by debtors in possession or
2 trustees, as the case may be, in cases under chapter
3 11 of title 11.

4 “(b) Each report referred to in subsection (a) shall
5 be designed (and the requirements as to place and manner
6 of filing shall be established) so as to facilitate compilation
7 of data and maximum practicable access of the public,
8 by—

9 “(1) physical inspection at 1 or more central fil-
10 ing locations; and

11 “(2) electronic access through the Internet or
12 other appropriate media.

13 “(c)(1) The information required to be filed in the
14 reports referred to in subsection (b) shall be information
15 that is—

16 “(A) in the best interests of debtors and credi-
17 tors, and in the public interest; and

18 “(B) reasonable and adequate information to
19 evaluate the efficiency and practicality of the Fed-
20 eral bankruptcy system.

21 “(2) In issuing rules proposing the forms referred to
22 in subsection (a), the Attorney General shall strike the
23 best achievable practical balance between—

1 “(A) the reasonable needs of the public for in-
2 formation about the operational results of the Fed-
3 eral bankruptcy system; and

4 “(B) economy, simplicity, and lack of undue
5 burden on persons with a duty to file reports.

6 “(d)(1) Final reports proposed for adoption by trust-
7 ees under chapters 7, 12, and 13 of title 11 shall include
8 with respect to a case under such title, by appropriate
9 category—

10 “(A) information about the length of time the
11 case was pending;

12 “(B) assets abandoned;

13 “(C) assets exempted;

14 “(D) receipts and disbursements of the estate;

15 “(E) expenses of administration;

16 “(F) claims asserted;

17 “(G) claims allowed; and

18 “(H) distributions to claimants and claims dis-
19 charged without payment.

20 “(2) In cases under chapters 12 and 13 of title 11,
21 final reports proposed for adoption by trustees shall
22 include—

23 “(A) the date of confirmation of the plan;

24 “(B) each modification to the plan; and

1 “(C) defaults by the debtor in performance
2 under the plan.

3 “(3) The information described in paragraphs (1)
4 and (2) shall be in addition to such other matters as are
5 required by law for a final report or as the Attorney Gen-
6 eral, in the discretion of the Attorney General, may pro-
7 pose for a final report.

8 “(e)(1) Periodic reports proposed for adoption by
9 trustees or debtors in possession under chapter 11 of title
10 11 shall include—

11 “(A) information about the standard industry
12 classification, published by the Department of Com-
13 merce, for the businesses conducted by the debtor;

14 “(B) the length of time the case has been pend-
15 ing;

16 “(C) the number of full-time employees—

17 “(i) as of the date of the order for relief;

18 and

19 “(ii) at the end of each reporting period
20 since the case was filed;

21 “(D) cash receipts, cash disbursements, and
22 profitability of the debtor for the most recent period
23 and cumulatively since the date of the order for re-
24 lief;

1 “(E) compliance with title 11, whether or not
2 tax returns and tax payments since the date of the
3 order for relief have been timely filed and made;

4 “(F) all professional fees approved by the court
5 in the case for the most recent period and cumula-
6 tively since the date of the order for relief (sepa-
7 rately reported, for the professional fees incurred by
8 or on behalf of the debtor, between those that would
9 have been incurred absent a bankruptcy case and
10 those that would not have been so incurred); and

11 “(G) plans of reorganization filed and con-
12 firmed and, with respect thereto, by class, the recov-
13 eries of the holders, expressed in aggregate dollar
14 values and, in the case of claims, as a percentage of
15 total claims of the class allowed.

16 “(2) The information described in paragraph (1)
17 shall be in addition to such other matters as are required
18 by law for a periodic report or as the Attorney General,
19 in the discretion of the Attorney General, may propose for
20 a periodic report.”.

21 (b) TECHNICAL AMENDMENT.—The table of sections
22 for chapter 39 of title 28, United States Code, is amended
23 by adding at the end the following:

“589b. Bankruptcy data.”.

1 **SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY**
 2 **OF BANKRUPTCY DATA.**

3 It is the sense of Congress that—

4 (1) it should be the national policy of the
 5 United States that all data held by bankruptcy
 6 clerks in electronic form, to the extent such data re-
 7 flects only public records (as defined in section 107
 8 of title 11, United States Code), should be released
 9 in a usable electronic form in bulk to the public sub-
 10 ject to such appropriate privacy concerns and safe-
 11 guards as the Judicial Conference of the United
 12 States may determine; and

13 (2) there should be established a bankruptcy
 14 data system in which—

15 (A) a single set of data definitions and
 16 forms are used to collect data nationwide; and

17 (B) data for any particular bankruptcy
 18 case are aggregated in the same electronic
 19 record.

20 **TITLE VII—BANKRUPTCY TAX**
 21 **PROVISIONS**

22 **SEC. 701. TREATMENT OF CERTAIN LIENS.**

23 (a) TREATMENT OF CERTAIN LIENS.—Section 724
 24 of title 11, United States Code, is amended—

25 (1) in subsection (b), in the matter preceding
 26 paragraph (1), by inserting “(other than to the ex-

1 tent that there is a properly perfected unavoidable
2 tax lien arising in connection with an ad valorem tax
3 on real or personal property of the estate)” after
4 “under this title”;

5 (2) in subsection (b)(2), by inserting “(except
6 that such expenses, other than claims for wages, sal-
7 aries, or commissions which arise after the filing of
8 a petition, shall be limited to expenses incurred
9 under chapter 7 of this title and shall not include ex-
10 penses incurred under chapter 11 of this title)” after
11 “507(a)(1)”;

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

13 “(e) Before subordinating a tax lien on real or per-
14 sonal property of the estate, the trustee shall—

15 “(1) exhaust the unencumbered assets of the
16 estate; and

17 “(2) in a manner consistent with section
18 506(c), recover from property securing an allowed
19 secured claim the reasonable, necessary costs, and
20 expenses of preserving or disposing of that property.

21 “(f) Notwithstanding the exclusion of ad valorem tax
22 liens under this section and subject to the requirements
23 of subsection (e), the following may be paid from property
24 of the estate which secures a tax lien, or the proceeds of
25 such property:

1 “(1) Claims for wages, salaries, and commis-
2 sions that are entitled to priority under section
3 507(a)(3).

4 “(2) Claims for contributions to an employee
5 benefit plan entitled to priority under section
6 507(a)(4).”.

7 (b) DETERMINATION OF TAX LIABILITY.—Section
8 505(a)(2) of title 11, United States Code, is amended—

9 (1) in subparagraph (A), by striking “or” at
10 the end;

11 (2) in subparagraph (B), by striking the period
12 at the end and inserting “; or”; and

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

14 “(C) the amount or legality of any amount aris-
15 ing in connection with an ad valorem tax on real or
16 personal property of the estate, if the applicable pe-
17 riod for contesting or redetermining that amount
18 under any law (other than a bankruptcy law) has ex-
19 pired.”.

20 **SEC. 702. EFFECTIVE NOTICE TO GOVERNMENT.**

21 (a) EFFECTIVE NOTICE TO GOVERNMENTAL
22 UNITS.—Section 342 of title 11, United States Code, as
23 amended by section 315(a) of this Act, is amended by add-
24 ing at the end the following:

1 “(g)(1) If a debtor lists a governmental unit as a
2 creditor in a list or schedule, any notice required to be
3 given by the debtor under this title, applicable rule, other
4 provision of law, or order of the court, shall identify the
5 department, agency, or instrumentality through which the
6 debtor is indebted.

7 “(2) The debtor shall identify (with information such
8 as a taxpayer identification number, loan, account or con-
9 tract number, or real estate parcel number, if applicable),
10 and describe the underlying basis for the claim of the gov-
11 ernmental unit.

12 “(3) If the liability of the debtor to a governmental
13 unit arises from a debt or obligation owed or incurred by
14 another individual, entity, or organization, or under a dif-
15 ferent name, the debtor shall identify that individual, enti-
16 ty, organization, or name.

17 “(h) The clerk shall keep and update on a quarterly
18 basis, in such form and manner as the Director of the
19 Administrative Office of the United States Courts pre-
20 scribes, a register in which a governmental unit may des-
21 ignate or redesignate a mailing address for service of no-
22 tice in cases pending in the district. The clerk shall make
23 such register available to debtors.”.

24 (b) ADOPTION OF RULES PROVIDING NOTICE.—

1 (1) IN GENERAL.—Within a reasonable period
2 of time after the date of enactment of this Act, the
3 Advisory Committee on Bankruptcy Rules of the Ju-
4 dicial Conference shall propose for adoption en-
5 hanced rules for providing notice to Federal, State,
6 and local government units that have regulatory au-
7 thority over the debtor or that may be creditors in
8 the debtor’s case.

9 (2) PERSONS NOTIFIED.—The rules proposed
10 under paragraph (1) shall be reasonably calculated
11 to ensure that notice will reach the representatives
12 of the governmental unit (or subdivision thereof)
13 who will be the appropriate persons authorized to
14 act upon the notice.

15 (3) RULES REQUIRED.—At a minimum, the
16 rules under paragraph (1) should require that the
17 debtor—

18 (A) identify in the schedules and the no-
19 tice, the subdivision, agency, or entity with re-
20 spect to which such notice should be received;

21 (B) provide sufficient information (such as
22 case captions, permit numbers, taxpayer identi-
23 fication numbers, or similar identifying infor-
24 mation) to permit the governmental unit (or
25 subdivision thereof) entitled to receive such no-

1 tice to identify the debtor or the person or enti-
2 ty on behalf of which the debtor is providing
3 notice in any case in which—

4 (i) the debtor may be a successor in
5 interest; or

6 (ii) may not be the same entity as the
7 entity that incurred the debt or obligation;
8 and

9 (C) identify, in appropriate schedules,
10 served together with the notice—

11 (i) the property with respect to which
12 the claim or regulatory obligation may
13 have arisen, if applicable;

14 (ii) the nature of such claim or regu-
15 latory obligation; and

16 (iii) the purpose for which notice is
17 being given.

18 (c) EFFECT OF FAILURE OF NOTICE.—Section 342
19 of title 11, United States Code, as amended by subsection
20 (a), is amended by adding at the end the following:

21 “(i) A notice that does not comply with subsections
22 (d) and (e) shall not be effective unless the debtor dem-
23 onstrates by clear and convincing evidence that—

1 “(1) timely notice was given in a manner rea-
2 sonably calculated to satisfy the requirements of this
3 section; and

4 “(2) either—

5 “(A) the notice was timely sent to the ad-
6 dress provided in the register maintained by the
7 clerk of the district in which the case was pend-
8 ing for such purposes; or

9 “(B) no address was provided in such list
10 for the governmental unit and that an officer of
11 the governmental unit who is responsible for the
12 matter or claim had actual knowledge of the
13 case in sufficient time to act.”.

14 **SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF**
15 **TAXES.**

16 The second sentence of section 505(b) of title 11,
17 United States Code, is amended by striking “Unless” and
18 inserting “If the request is made substantially in the man-
19 ner designated by the governmental unit and unless”.

20 **SEC. 704. RATE OF INTEREST ON TAX CLAIMS.**

21 (a) IN GENERAL.—Subchapter I of chapter 5 of title
22 11, United States Code, is amended by adding at the end
23 the following:

1 **“§ 511. Rate of interest on tax claims**

2 “If any provision of this title requires the payment
3 of interest on a tax claim or the payment of interest to
4 enable a creditor to receive the present value of the al-
5 lowed amount of a tax claim, the rate of interest shall be
6 as follows:

7 “(1) In the case of secured tax claims, unse-
8 cured ad valorem tax claims, other unsecured tax
9 claims in which interest is required to be paid under
10 section 726(a)(5), and administrative tax claims
11 paid under section 503(b)(1), the rate shall be deter-
12 mined under applicable nonbankruptcy law.

13 “(2)(A) In the case of any tax claim other than
14 a claim described in paragraph (1), the minimum
15 rate of interest shall be a percentage equal to the
16 sum of—

17 “(i) 3; plus

18 “(ii) the Federal short-term rate rounded
19 to the nearest full percent, determined under
20 section 1274(d) of the Internal Revenue Code
21 of 1986.

22 “(B) In the case of any claim for Federal in-
23 come taxes, the minimum rate of interest shall be
24 subject to any adjustment that may be required
25 under section 6621(d) of the Internal Revenue Code
26 of 1986.

1 “(II) the lesser of—

2 “(aa) any time during which
3 an installment agreement with
4 respect to that tax was pending
5 or in effect during that 240-day
6 period, plus 30 days; or

7 “(bb) 1 year; and

8 “(III) any time during which a
9 stay of proceedings against collections
10 was in effect in a prior case under
11 this title during that 240-day period;
12 plus 6 months.”.

13 **SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

14 Section 507(a)(9)(B) of title 11, United States Code,
15 ~~as redesignated by section 221 of this Act,~~ is amended
16 by striking “assessed” and inserting “incurred”.

17 **SEC. 707. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**
18 **OTHER TAXES.**

19 Section 1328(a)(2) of title 11, United States Code,
20 as amended by section ~~228~~ 314 of this Act, is amended
21 by inserting “(1),” after “paragraph”.

22 **SEC. 708. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

23 Section 1141(d) of title 11, United States Code, is
24 amended by adding at the end the following:

1 “(5) Notwithstanding paragraph (1), the confirma-
2 tion of a plan does not discharge a debtor that is a cor-
3 poration from any debt for a tax or customs duty with
4 respect to which the debtor—

5 “(A) made a fraudulent return; or

6 “(B) willfully attempted in any manner to
7 evade or defeat that tax or duty.”.

8 **SEC. 709. STAY OF TAX PROCEEDINGS.**

9 (a) SECTION 362 STAY LIMITED TO PREPETITION
10 TAXES.—Section 362(a)(8) of title 11, United States
11 Code, is amended by inserting before the semicolon at the
12 end the following: “, with respect to a tax liability for a
13 taxable period ending before the order for relief under sec-
14 tion 301, 302, or 303”.

15 (b) APPEAL OF TAX COURT DECISIONS PER-
16 MITTED.—Section 362(b)(9) of title 11, United States
17 Code, is amended—

18 (1) in subparagraph (C), by striking “or” at
19 the end;

20 (2) in subparagraph (D), by striking the period
21 at the end and inserting “; or”; and

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

23 “(E) the appeal of a decision by a court or
24 administrative tribunal which determines a tax
25 liability of the debtor (without regard to wheth-

1 er such determination was made prepetition or
2 postpetition).”.

3 **SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**

4 **CASES.**

5 Section 1129(a)(9) of title 11, United States Code,
6 is amended—

7 (1) in subparagraph (B), by striking “and” at
8 the end; and

9 (2) in subparagraph (C), by striking “deferred
10 cash payments, over a period not exceeding six years
11 after the date of assessment of such claim,” and all
12 that follows through the end of the subparagraph,
13 and inserting “regular installment payments—

14 “(i) of a total value, as of the effective
15 date of the claim, equal to the allowed
16 amount of such claim in cash, but in no
17 case with a balloon payment; and

18 “(ii) beginning not later than the ef-
19 fective date of the plan and ending on the
20 earlier of—

21 “(I) the date that is 5 years after
22 the date of the filing of the petition;
23 or

1 “(II) the last date payments are
2 to be made under the plan to unse-
3 cured creditors; and”;

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

5 “(D) with respect to a secured claim which
6 would otherwise meet the description on an un-
7 secured claim of a governmental unit under sec-
8 tion 507(a)(8), but for the secured status of
9 that claim, the holder of that claim will receive
10 on account of that claim, cash payments, in the
11 same manner and over the same period, as pre-
12 scribed in subparagraph (C).”.

13 **SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**
14 **ITED.**

15 Section 545(2) of title 11, United States Code, is
16 amended by striking the semicolon at the end and insert-
17 ing “, except in any case in which a purchaser is a pur-
18 chaser described in section 6323 of the Internal Revenue
19 Code of 1986, or in any other similar provision of State
20 or local law;”.

21 **SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
22 **NESS.**

23 (a) PAYMENT OF TAXES REQUIRED.—Section 960 of
24 title 28, United States Code, is amended—

25 (1) by inserting “(a)” before “Any”; and

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

2 “(b) A tax under subsection (a) shall be paid when
3 due in the conduct of business unless—

4 “(1) the tax is a property tax secured by a lien
5 against property that is abandoned within a reason-
6 able period of time after the lien attaches, by the
7 trustee of a bankruptcy estate, under section 554 of
8 title 11; or

9 “(2) payment of the tax is excused under a spe-
10 cific provision of title 11.

11 “(c) In a case pending under chapter 7 of title 11,
12 payment of a tax may be deferred until final distribution
13 is made under section 726 of title 11, if—

14 “(1) the tax was not incurred by a trustee duly
15 appointed under chapter 7 of title 11; or

16 “(2) before the due date of the tax, the court
17 makes a finding of probable insufficiency of funds of
18 the estate to pay in full the administrative expenses
19 allowed under section 503(b) of title 11 that have
20 the same priority in distribution under section
21 726(b) of title 11 as the priority of that tax.”.

22 (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—
23 Section 503(b)(1)(B)(i) of title 11, United States Code,
24 is amended by inserting “whether secured or unsecured,

1 including property taxes for which liability is in rem, in
2 personam, or both,” before “except”.

3 (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE
4 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of
5 title 11, United States Code, is amended—

6 (1) in subparagraph (B), by striking “and” at
7 the end;

8 (2) in subparagraph (C), by adding “and” at
9 the end; and

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

11 “(D) notwithstanding the requirements of sub-
12 section (a), a governmental unit shall not be re-
13 quired to file a request for the payment of a claim
14 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
19 statute” after “agreement”; and

20 (2) in subsection (c), by inserting “, including
21 the payment of all ad valorem property taxes with
22 respect to the property” before the period at the
23 end.

1 **SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.**

2 Section 726(a)(1) of title 11, United States Code, is
 3 amended by striking “before the date on which the trustee
 4 commences distribution under this section;” and inserting
 5 the following: “on or before the earlier of—

6 “(A) the date that is 10 days after the
 7 mailing to creditors of the summary of the
 8 trustee’s final report; or

9 “(B) the date on which the trustee com-
 10 mences final distribution under this section;”.

11 **SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AU-**
 12 **THORITIES.**

13 Section 523(a) of title 11, United States Code, is
 14 amended—

15 (1) in paragraph (1)(B)—

16 (A) by inserting “or equivalent report or
 17 notice,” after “a return,”;

18 (B) in clause (i)—

19 (i) by inserting “or given” after
 20 “filed”; and

21 (ii) by striking “or” at the end; and

22 (C) in clause (ii)—

23 (i) by inserting “or given” after
 24 “filed”; and

25 (ii) by inserting “, report, or notice”
 26 after “return”; and

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~~; *inserting*
4 *after paragraph (7) the following*:

5 “(8) if the debtor has filed all applicable Fed-
6 eral, State, and local tax returns as required by sec-
7 tion 1309.”.

8 (b) ADDITIONAL TIME PERMITTED FOR FILING TAX
9 RETURNS.—

10 (1) IN GENERAL.—Chapter 13 of title 11,
11 United States Code, as amended by section 309(c)
12 of this Act, is amended by adding at the end the fol-
13 lowing:

14 **“§ 1309. Filing of prepetition tax returns**

15 “(a) Not later than the day before the day on which
16 the first meeting of the creditors is convened under section
17 341(a), the debtor shall file with appropriate tax authori-
18 ties all tax returns for all taxable periods ending during
19 the 3-year period ending on the date of the filing of the
20 petition.

21 “(b)(1) Subject to paragraph (2), if the tax returns
22 required by subsection (a) have not been filed by the date
23 on which the first meeting of creditors is convened under
24 section 341(a), the trustee may continue that meeting for
25 a reasonable period of time to allow the debtor an addi-

1 tional period of time to file any unfiled returns, but such
2 additional period of time shall not extend beyond—

3 “(A) for any return that is past due as of the
4 date of the filing of the petition, the date that is 120
5 days after the date of that first meeting; or

6 “(B) for any return that is not past due as of
7 the date of the filing of the petition, the later of—

8 “(i) the date that is 120 days after the
9 date of that first meeting; or

10 “(ii) the date on which the return is due
11 under the last automatic extension of time for
12 filing that return to which the debtor is enti-
13 tled, and for which request has been timely
14 made, according to applicable nonbankruptcy
15 law.

16 “(2) Upon notice and hearing, and order entered be-
17 fore the tolling of any applicable filing period determined
18 under this subsection, if the debtor demonstrates by clear
19 and convincing evidence that the failure to file a return
20 as required under this subsection is attributable to cir-
21 cumstances beyond the control of the debtor, the court
22 may extend the filing period established by the trustee
23 under this subsection for—

24 “(A) a period of not more than 30 days for re-
25 turns described in paragraph (1); and

1 “(B) a period not to extend after the applicable
2 extended due date for a return described in para-
3 graph (2).

4 “(c) For purposes of this section, the term ‘return’
5 includes a return prepared pursuant to section 6020 (a)
6 or (b) of the Internal Revenue Code of 1986, or a similar
7 State or local law, or written stipulation to a judgment
8 entered by a nonbankruptcy tribunal.”.

9 (2) CONFORMING AMENDMENT.—The table of sec-
10 tions for chapter 13 of title 11, United States Code, is
11 amended by inserting after the item relating to section
12 1308 the following:

 “1309. Filing of prepetition tax returns.”.

13 (c) DISMISSAL OR CONVERSION ON FAILURE TO
14 COMPLY.—Section 1307 of title 11, United States Code,
15 is amended—

16 (1) by redesignating subsections (e) and (f) as
17 subsections (f) and (g), respectively; and

18 (2) by inserting after subsection (d), the fol-
19 lowing:

20 “(e) Upon the failure of the debtor to file a tax return
21 under section 1309, on request of a party in interest or
22 the United States trustee and after notice and a hearing,
23 the court shall dismiss the case.”.

1 (d) **TIMELY FILED CLAIMS.**—Section 502(b)(9) of
2 title 11, United States Code, is amended by inserting be-
3 fore the period at the end the following “, and except that
4 in a case under chapter 13 ~~of this title~~, a claim of a gov-
5 ernmental unit for a tax with respect to a return filed
6 under section 1309 shall be timely if the claim is filed on
7 or before the date that is 60 days after that return was
8 filed in accordance with applicable requirements”.

9 (e) **RULES FOR OBJECTIONS TO CLAIMS AND TO**
10 **CONFIRMATION.**—It is the sense of Congress that the Ad-
11 visory Committee on Bankruptcy Rules of the Judicial
12 Conference should, within a reasonable period of time
13 after the date of enactment of this Act, propose for adop-
14 tion amended Federal Rules of Bankruptcy Procedure
15 which provide that—

16 (1) notwithstanding the provisions of Rule
17 3015(f), in cases under chapter 13 of title 11,
18 United States Code, a governmental unit may object
19 to the confirmation of a plan on or before the date
20 that is 60 days after the date on which the debtor
21 files all tax returns required under sections 1309
22 and 1325(a)(7) of title 11, United States Code; and

23 (2) in addition to the provisions of Rule 3007,
24 in a case under chapter 13 of title 11, United States
25 Code, no objection to a tax with respect to which a

1 return is required to be filed under section 1309 of
2 title 11, United States Code, shall be filed until such
3 return has been filed as required.

4 **SEC. 717. STANDARDS FOR TAX DISCLOSURE.**

5 Section 1125(a)(1) of title 11, United States Code,
6 is amended—

7 (1) by inserting “including a full discussion of
8 the potential material, Federal, State, and local tax
9 consequences of the plan to the debtor, any suc-
10 cessor to the debtor, and a hypothetical investor
11 domiciled in the State in which the debtor resides or
12 has its principal place of business typical of the
13 holders of claims or interests in the case,” after
14 “records”; and

15 (2) by striking “a hypothetical reasonable inves-
16 tor typical of holders of claims or interests” and in-
17 serting “such a hypothetical investor”.

18 **SEC. 718. SETOFF OF TAX REFUNDS.**

19 Section 362(b) of title 11, United States Code, as
20 amended by section 402 of this Act, is amended—

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

23 (2) in paragraph (26), by striking the period at
24 the end and inserting “; or”; and

1 (3) by inserting after paragraph (26) the fol-
2 lowing:

3 “(27) under subsection (a), of the setoff of an
4 income tax refund, by a governmental unit, with re-
5 spect to a taxable period that ended before the order
6 for relief against an income tax liability for a taxable
7 period that also ended before the order for relief,
8 unless—

9 “(A) before that setoff, an action to deter-
10 mine the amount or legality of that tax liability
11 under section 505(a) was commenced; or

12 “(B) in any case in which the setoff of an
13 income tax refund is not permitted because of
14 a pending action to determine the amount or
15 legality of a tax liability, in which case the gov-
16 ernmental unit may hold the refund pending
17 the resolution of the action.”.

18 **TITLE VIII—ANCILLARY AND**
19 **OTHER CROSS-BORDER CASES**

20 **SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**
21 **UNITED STATES CODE.**

22 (a) IN GENERAL.—Title 11, United States Code, is
23 amended by inserting after chapter 13 the following:

1 **“CHAPTER 15—ANCILLARY AND OTHER**
 2 **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
4 effective mechanisms for dealing with cases of cross-border
5 insolvency with the objectives of—

6 “(1) cooperation between—

7 “(A) United States courts, United States
8 Trustees, trustees, examiners, debtors, and
9 debtors in possession; and

10 “(B) the courts and other competent au-
11 thorities of foreign countries involved in cross-
12 border insolvency cases;

13 “(2) greater legal certainty for trade and in-
14 vestment;

15 “(3) fair and efficient administration of cross-
16 border insolvencies that protects the interests of all
17 creditors, and other interested entities, including the
18 debtor;

19 “(4) protection and maximization of the value
20 of the debtor’s assets; and

21 “(5) facilitation of the rescue of financially
22 troubled businesses, thereby protecting investment
23 and preserving employment.

24 “(b) This chapter applies if—

1 “(1) assistance is sought in the United States
2 by a foreign court or a foreign representative in con-
3 nection with a foreign proceeding;

4 “(2) assistance is sought in a foreign country in
5 connection with a case under this title;

6 “(3) a foreign proceeding and a case under this
7 title with respect to the same debtor are taking place
8 concurrently; or

9 “(4) creditors or other interested persons in a
10 foreign country have an interest in requesting the
11 commencement of, or participating in, a case or pro-
12 ceeding under this title.

13 “(c) This chapter does not apply to—

14 “(1) a proceeding concerning an entity identi-
15 fied by exclusion in subsection 109(b);

16 “(2) an individual, or to an individual and such
17 individual’s spouse, who have debts within the limits
18 specified in section 109(e) and who are citizens of
19 the United States or aliens lawfully admitted for
20 permanent residence in the United States; or

21 “(3) an entity subject to a proceeding under the
22 Securities Investor Protection Act of 1970 (84 Stat.
23 1636 et seq.), a stockbroker subject to subchapter
24 III of chapter 7 of this title, or a commodity broker
25 subject to subchapter IV of chapter 7 of this title.

1 “SUBCHAPTER I—GENERAL PROVISIONS

2 **“§ 1502. Definitions**

3 “For the purposes of this chapter, the term—

4 “(1) ‘debtor’ means an entity that is the subject
5 of a foreign proceeding;6 “(2) ‘establishment’ means any place of oper-
7 ations where the debtor carries out a nontransitory
8 economic activity;9 “(3) ‘foreign court’ means a judicial or other
10 authority competent to control or supervise a foreign
11 proceeding;12 “(4) ‘foreign main proceeding’ means a foreign
13 proceeding taking place in the country where the
14 debtor has the center of its main interests;15 “(5) ‘foreign nonmain proceeding’ means a for-
16 eign proceeding, other than a foreign main pro-
17 ceeding, taking place in a country where the debtor
18 has an establishment;19 “(6) ‘trustee’ includes a trustee, a debtor in
20 possession in a case under any chapter of this title,
21 or a debtor under chapter 9 of this title; and22 “(7) ‘within the territorial jurisdiction of the
23 United States’ when used with reference to property
24 of a debtor refers to tangible property located within
25 the territory of the United States and intangible

1 property deemed under applicable nonbankruptcy
2 law to be located within that territory, including any
3 property subject to attachment or garnishment that
4 may properly be seized or garnished by an action in
5 a Federal or State court in the United States.

6 **“§ 1503. International obligations of the United States**

7 “To the extent that this chapter conflicts with an ob-
8 ligation of the United States arising out of any treaty or
9 other form of agreement to which it is a party with 1 or
10 more other countries, the requirements of the treaty or
11 agreement prevail.

12 **“§ 1504. Commencement of ancillary case**

13 “A case under this chapter is commenced by the filing
14 of a petition for recognition of a foreign proceeding under
15 section 1515.

16 **“§ 1505. Authorization to act in a foreign country**

17 “A trustee or another entity, including an examiner,
18 may be authorized by the court to act in a foreign country
19 on behalf of an estate created under section 541. An entity
20 authorized to act under this section may act in any way
21 permitted by the applicable foreign law.

22 **“§ 1506. Public policy exception**

23 “Nothing in this chapter prevents the court from re-
24 fusing to take an action governed by this chapter if the

1 action would be manifestly contrary to the public policy
2 of the United States.

3 **“§ 1507. Additional assistance**

4 “(a) Subject to the specific limitations under other
5 provisions of this chapter, the court, upon recognition of
6 a foreign proceeding, may provide additional assistance to
7 a foreign representative under this title or under other
8 laws of the United States.

9 “(b) In determining whether to provide additional as-
10 sistance under this title or under other laws of the United
11 States, the court shall consider whether such additional
12 assistance, consistent with the principles of comity, will
13 reasonably assure—

14 “(1) just treatment of all holders of claims
15 against or interests in the debtor’s property;

16 “(2) protection of claim holders in the United
17 States against prejudice and inconvenience in the
18 processing of claims in such foreign proceeding;

19 “(3) prevention of preferential or fraudulent
20 dispositions of property of the debtor;

21 “(4) distribution of proceeds of the debtor’s
22 property substantially in accordance with the order
23 prescribed by this title; and

1 “(5) if appropriate, the provision of an oppor-
2 tunity for a fresh start for the individual that such
3 foreign proceeding concerns.

4 **“§ 1508. Interpretation**

5 “‘In interpreting this chapter, the court shall consider
6 its international origin, and the need to promote an appli-
7 cation of this chapter that is consistent with the applica-
8 tion of similar statutes adopted by foreign jurisdictions.

9 “SUBCHAPTER II—ACCESS OF FOREIGN REP-
10 RESENTATIVES AND CREDITORS TO THE
11 COURT

12 **“§ 1509. Right of direct access**

13 “(a) A foreign representative is entitled to commence
14 a case under section 1504 by filing a petition for recogni-
15 tion under section 1515, and upon recognition, to apply
16 directly to other Federal and State courts for appropriate
17 relief in those courts.

18 “(b) Upon recognition, and subject to section 1510,
19 a foreign representative shall have the capacity to sue and
20 be sued, and shall be subject to the laws of the United
21 States of general applicability.

22 “(c) Subject to section 1510, a foreign representative
23 is subject to laws of general application.

24 “(d) Recognition under this chapter is prerequisite to
25 the granting of comity or cooperation to a foreign rep-

1 representative in any Federal or State court in the United
2 States. Any request for comity or cooperation by a foreign
3 representative in any court shall be accompanied by a
4 sworn statement setting forth whether recognition under
5 section 1515 has been sought and the status of any such
6 petition.

7 “(e) Upon denial of recognition under this chapter,
8 the court may issue appropriate orders necessary to pre-
9 vent an attempt to obtain comity or cooperation from
10 courts in the United States without such recognition.

11 **“§ 1510. Limited jurisdiction**

12 “The sole fact that a foreign representative files a
13 petition under section 1515 does not subject the foreign
14 representative to the jurisdiction of any court in the
15 United States for any other purpose.

16 **“§ 1511. Commencement of case under section 301 or**
17 **303**

18 “(a) Upon recognition, a foreign representative may
19 commence—

20 “(1) an involuntary case under section 303; or

21 “(2) a voluntary case under section 301 or 302,
22 if the foreign proceeding is a foreign main pro-
23 ceeding.

24 “(b) The petition commencing a case under sub-
25 section (a) must be accompanied by a statement describ-

1 ing the petition for recognition and its current status. The
2 court where the petition for recognition has been filed
3 must be advised of the foreign representative's intent to
4 commence a case under subsection (a) prior to such com-
5 mencement.

6 **“§ 1512. Participation of a foreign representative in a**
7 **case under this title**

8 “Upon recognition of a foreign proceeding, the for-
9 eign representative in that proceeding is entitled to par-
10 ticipate as a party in interest in a case regarding the debt-
11 or under this title.

12 **“§ 1513. Access of foreign creditors to a case under**
13 **this title**

14 “(a) Foreign creditors have the same rights regarding
15 the commencement of, and participation in, a case under
16 this title as domestic creditors.

17 “(b)(1) Subsection (a) does not change or codify law
18 in effect on the date of enactment of this chapter as to
19 the priority of claims under section 507 or 726, except
20 that the claim of a foreign creditor under section 507 or
21 726 shall not be given a lower priority than that of general
22 unsecured claims without priority solely because the holder
23 of such claim is a foreign creditor.

24 “(2)(A) Subsection (a) and paragraph (1) do not
25 change or codify law in effect on the date of enactment

1 of this chapter as to the allowability of foreign revenue
2 claims or other foreign public law claims in a proceeding
3 under this title.

4 “(B) Allowance and priority as to a foreign tax claim
5 or other foreign public law claim shall be governed by any
6 applicable tax treaty of the United States, under the con-
7 ditions and circumstances specified therein.

8 **“§ 1514. Notification to foreign creditors concerning a**
9 **case under this title**

10 “(a) Whenever in a case under this title notice is to
11 be given to creditors generally or to any class or category
12 of creditors, such notice shall also be given to the known
13 creditors generally, or to creditors in the notified class or
14 category, that do not have addresses in the United States.
15 The court may order that appropriate steps be taken with
16 a view to notifying any creditor whose address is not yet
17 known.

18 “(b) Such notification to creditors with foreign ad-
19 dresses described in subsection (a) shall be given individ-
20 ually, unless the court considers that, under the cir-
21 cumstances, some other form of notification would be
22 more appropriate. No letters rogatory or other similar for-
23 mality is required.

24 “(c) When a notification of commencement of a case
25 is to be given to foreign creditors, the notification shall—

1 “(2) a certificate from the foreign court affirm-
2 ing the existence of the foreign proceeding and of
3 the appointment of the foreign representative; or

4 “(3) in the absence of evidence referred to in
5 paragraphs (1) and (2), any other evidence accept-
6 able to the court of the existence of the foreign pro-
7 ceeding and of the appointment of the foreign rep-
8 resentative.

9 “(c) A petition for recognition shall also be accom-
10 panied by a statement identifying all foreign proceedings
11 with respect to the debtor that are known to the foreign
12 representative.

13 “(d) The documents referred to in paragraphs (1)
14 and (2) of subsection (b) must be translated into English.
15 The court may require a translation into English of addi-
16 tional documents.

17 **“§ 1516. Presumptions concerning recognition**

18 “(a) If the decision or certificate referred to in section
19 1515(b) indicates that the foreign proceeding is a foreign
20 proceeding as defined in section 101 and that the person
21 or body is a foreign representative as defined in section
22 101, the court is entitled to so presume.

23 “(b) The court is entitled to presume that documents
24 submitted in support of the petition for recognition are
25 authentic, whether or not they have been legalized.

1 “(c) In the absence of evidence to the contrary, the
2 debtor’s registered office, or habitual residence in the case
3 of an individual, is presumed to be the center of the debt-
4 or’s main interests.

5 **“§ 1517. Order recognizing a foreign proceeding**

6 “(a) Subject to section 1506, after notice and a hear-
7 ing an order recognizing a foreign proceeding shall be en-
8 tered if—

9 “(1) the foreign proceeding is a foreign main
10 proceeding or foreign nonmain proceeding within the
11 meaning of section 1502;

12 “(2) the foreign representative applying for rec-
13 ognition is a person or body as defined in section
14 101; and

15 “(3) the petition meets the requirements of sec-
16 tion 1515.

17 “(b) The foreign proceeding shall be recognized—

18 “(1) as a foreign main proceeding if it is taking
19 place in the country where the debtor has the center
20 of its main interests; or

21 “(2) as a foreign nonmain proceeding if the
22 debtor has an establishment within the meaning of
23 section 1502 in the foreign country where the pro-
24 ceeding is pending.

1 “(c) A petition for recognition of a foreign proceeding
2 shall be decided upon at the earliest possible time. Entry
3 of an order recognizing a foreign proceeding shall con-
4 stitute recognition under this chapter.

5 “(d) The provisions of this subchapter do not prevent
6 modification or termination of recognition if it is shown
7 that the grounds for granting it were fully or partially
8 lacking or have ceased to exist, but in considering such
9 action the court shall give due weight to possible prejudice
10 to parties that have relied upon the granting of recogni-
11 tion. The case under this chapter may be closed in the
12 manner prescribed for a case under section 350.

13 **“§ 1518. Subsequent information**

14 “After ~~the~~ the petition for recognition of the foreign
15 proceeding is filed, the foreign representative shall file
16 with the court promptly a notice of change of status
17 concerning—

18 “(1) any substantial change in the status of the
19 foreign proceeding or the status of the foreign rep-
20 resentative’s appointment; and

21 “(2) any other foreign proceeding regarding the
22 debtor that becomes known to the foreign represent-
23 ative.

1 **“§ 1519. Relief that may be granted upon petition for**
2 **recognition of a foreign proceeding**

3 “(a) Beginning on the date on which a petition for
4 recognition is filed and ending on the date on which the
5 petition is decided upon, the court may, at the request of
6 the foreign representative, where relief is urgently needed
7 to protect the assets of the debtor or the interests of the
8 creditors, grant relief of a provisional nature, including—

9 “(1) staying execution against the debtor’s as-
10 sets;

11 “(2) entrusting the administration or realiza-
12 tion of all or part of the debtor’s assets located in
13 the United States to the foreign representative or
14 another person authorized by the court, including an
15 examiner, in order to protect and preserve the value
16 of assets that, by their nature or because of other
17 circumstances, are perishable, susceptible to devalu-
18 ation, or otherwise in jeopardy; and

19 “(3) any relief referred to in paragraph (3),
20 (4), or (7) of section 1521(a).

21 “(b) Unless extended under section 1521(a)(6), the
22 relief granted under this section terminates when the peti-
23 tion for recognition is decided upon.

24 “(c) It is a ground for denial of relief under this sec-
25 tion that such relief would interfere with the administra-
26 tion of a foreign main proceeding.

1 subject to the exceptions and limitations provided in sub-
2 sections (b), (c), and (d) of section 362, subsections (b)
3 and (c) of section 363, and sections 552, 555 through 557,
4 559, and 560.

5 “(c) Subsection (a) does not affect the right to com-
6 mence individual actions or proceedings in a foreign coun-
7 try to the extent necessary to preserve a claim against the
8 debtor.

9 “(d) Subsection (a) does not affect the right of a for-
10 eign representative or an entity to file a petition com-
11 mencing a case under this title or the right of any party
12 to file claims or take other proper actions in such a case.

13 **“§ 1521. Relief that may be granted upon recognition**
14 **of a foreign proceeding**

15 “(a) Upon recognition of a foreign proceeding, wheth-
16 er main or nonmain, where necessary to effectuate the
17 purpose of this chapter and to protect the assets of the
18 debtor or the interests of the creditors, the court may, at
19 the request of the foreign representative, grant any appro-
20 priate relief, including—

21 “(1) staying the commencement or continuation
22 of individual actions or individual proceedings con-
23 cerning the debtor’s assets, rights, obligations or li-
24 abilities to the extent the actions or proceedings
25 have not been stayed under section 1520(a);

1 “(2) staying execution against the debtor’s as-
2 sets to the extent the execution has not been stayed
3 under section 1520(a);

4 “(3) suspending the right to transfer, encumber
5 or otherwise dispose of any assets of the debtor to
6 the extent that right has not been suspended under
7 section 1520(a);

8 “(4) providing for the examination of witnesses,
9 the taking of evidence or the delivery of information
10 concerning the debtor’s assets, affairs, rights, obliga-
11 tions or liabilities;

12 “(5) entrusting the administration or realiza-
13 tion of all or part of the debtor’s assets within the
14 territorial jurisdiction of the United States to the
15 foreign representative or another person, including
16 an examiner, authorized by the court;

17 “(6) extending relief granted under section
18 1519(a); and

19 “(7) granting any additional relief that may be
20 available to a trustee, except for relief available
21 under sections 522, 544, 545, 547, 548, 550, and
22 724(a).

23 “(b) Upon recognition of a foreign proceeding, wheth-
24 er main or nonmain, the court may, at the request of the
25 foreign representative, entrust the distribution of all or

1 part of the debtor’s assets located in the United States
2 to the foreign representative or another person, including
3 an examiner, authorized by the court, if the court is satis-
4 fied that the interests of creditors in the United States
5 are sufficiently protected.

6 “(c) In granting relief under this section to a rep-
7 resentative of a foreign nonmain proceeding, the court
8 must be satisfied that the relief relates to assets that,
9 under the law of the United States, should be adminis-
10 tered in the foreign nonmain proceeding or concerns infor-
11 mation required in that proceeding.

12 “(d) The court may not enjoin a police or regulatory
13 act of a governmental unit, including a criminal action or
14 proceeding, under this section.

15 “(e) The standards, procedures, and limitations ap-
16 plicable to an injunction shall apply to relief under para-
17 graphs (1), (2), (3), and (6) of subsection (a).

18 **“§ 1522. Protection of creditors and other interested**
19 **persons**

20 “(a) The court may grant relief under section 1519
21 or 1521, or may modify or terminate relief under sub-
22 section (c), only if the interests of the creditors and other
23 interested entities, including the debtor, are sufficiently
24 protected.

1 “(b) The court may subject relief granted under sec-
2 tion 1519 or 1521, or the operation of the debtor’s busi-
3 ness under section 1520(a)(2), to conditions that the court
4 considers to be appropriate, including the giving of secu-
5 rity or the filing of a bond.

6 “(c) The court may, at the request of the foreign rep-
7 resentative or an entity affected by relief granted under
8 section 1519 or 1521, or at its own motion, modify or
9 terminate the relief referred to in subsection (b).

10 “(d) Section 1104(d) shall apply to the appointment
11 of an examiner under this chapter. Any examiner shall
12 comply with the qualification requirements imposed on a
13 trustee by section 322.

14 **“§ 1523. Actions to avoid acts detrimental to creditors**

15 “(a) Upon recognition of a foreign proceeding, the
16 foreign representative has standing in a case concerning
17 the debtor pending under another chapter of this title to
18 initiate actions under sections 522, 544, 545, 547, 548,
19 550, and 724(a).

20 “(b) In any case in which the foreign proceeding is
21 a foreign nonmain proceeding, the court must be satisfied
22 that an action under subsection (a) relates to assets that,
23 under United States law, should be administered in the
24 foreign nonmain proceeding.

1 **“§ 1524. Intervention by a foreign representative**

2 “Upon recognition of a foreign proceeding, the for-
3 eign representative may intervene in any proceedings in
4 a State or Federal court in the United States in which
5 the debtor is a party.

6 **“SUBCHAPTER IV—COOPERATION WITH FOR-**
7 **EIGN COURTS AND FOREIGN REPRESENTA-**
8 **TIVES**

9 **“§ 1525. Cooperation and direct communication be-**
10 **tween the court and foreign courts or for-**
11 **foreign representatives**

12 “(a) Consistent with section 1501, the court shall co-
13 operate to the maximum extent possible with foreign
14 courts or foreign representatives, either directly or
15 through the trustee.

16 “(b) The court is entitled to communicate directly
17 with, or to request information or assistance directly from,
18 foreign courts or foreign representatives, subject to the
19 rights of parties in interest to notice and participation.

20 **“§ 1526. Cooperation and direct communication be-**
21 **tween the trustee and foreign courts or**
22 **foreign representatives**

23 “(a) Consistent with section 1501, the trustee or
24 other person, including an examiner, authorized by the
25 court, shall, subject to the supervision of the court, cooper-

1 ate to the maximum extent possible with foreign courts
2 or foreign representatives.

3 “(b) The trustee or other person, including an exam-
4 iner, authorized by the court is entitled, subject to the su-
5 pervision of the court, to communicate directly with for-
6 eign courts or foreign representatives.

7 **“§ 1527. Forms of cooperation**

8 “Cooperation referred to in sections 1525 and 1526
9 may be implemented by any appropriate means,
10 including—

11 “(1) appointment of a person or body, including
12 an examiner, to act at the direction of the court;

13 “(2) communication of information by any
14 means considered appropriate by the court;

15 “(3) coordination of the administration and su-
16 pervision of the debtor’s assets and affairs;

17 “(4) approval or implementation of agreements
18 concerning the coordination of proceedings; and

19 “(5) coordination of concurrent proceedings re-
20 garding the same debtor.

1 “SUBCHAPTER V—CONCURRENT PROCEEDINGS

2 **“§ 1528. Commencement of a case under this title**

3 **after recognition of a foreign main pro-**

4 **ceeding**

5 “After recognition of a foreign main proceeding, a

6 case under another chapter of this title may be commenced

7 only if the debtor has assets in the United States. The

8 effects of such case shall be restricted to the assets of the

9 debtor that are within the territorial jurisdiction of the

10 United States and, to the extent necessary to implement

11 cooperation and coordination under sections 1525, 1526,

12 and 1527, to other assets of the debtor that are within

13 the jurisdiction of the court under sections 541(a), and

14 1334(e) of title 28, to the extent that such other assets

15 are not subject to the jurisdiction and control of a foreign

16 proceeding that has been recognized under this chapter.

17 **“§ 1529. Coordination of a case under this title and a**

18 **foreign proceeding**

19 “In any case in which a foreign proceeding and a case

20 under another chapter of this title are taking place concur-

21 rently regarding the same debtor, the court shall seek co-

22 operation and coordination under sections 1525, 1526,

23 and 1527, and the following shall apply:

1 “(1) If the case in the United States is taking
2 place at the time the petition for recognition of the
3 foreign proceeding is filed—

4 “(A) any relief granted under sections
5 1519 or 1521 must be consistent with the relief
6 granted in the case in the United States; and

7 “(B) even if the foreign proceeding is rec-
8 ognized as a foreign main proceeding, section
9 1520 does not apply.

10 “(2) If a case in the United States under this
11 title commences after recognition, or after the filing
12 of the petition for recognition, of the foreign
13 proceeding—

14 “(A) any relief in effect under sections
15 1519 or 1521 shall be reviewed by the court
16 and shall be modified or terminated if incon-
17 sistent with the case in the United States; and

18 “(B) if the foreign proceeding is a foreign
19 main proceeding, the stay and suspension re-
20 ferred to in section 1520(a) shall be modified or
21 terminated if inconsistent with the relief grant-
22 ed in the case in the United States.

23 “(3) In granting, extending, or modifying relief
24 granted to a representative of a foreign nonmain
25 proceeding, the court must be satisfied that the re-

1 relief relates to assets that, under the law of the
2 United States, should be administered in the foreign
3 nonmain proceeding or concerns information re-
4 quired in that proceeding.

5 “(4) In achieving cooperation and coordination
6 under sections 1528 and 1529, the court may grant
7 any of the relief authorized under section 305.

8 **“§ 1530. Coordination of more than 1 foreign pro-**
9 **ceeding**

10 “In matters referred to in section 1501, with respect
11 to more than 1 foreign proceeding regarding the debtor,
12 the court shall seek cooperation and coordination under
13 sections 1525, 1526, and 1527, and the following shall
14 apply:

15 “(1) Any relief granted under section 1519 or
16 1521 to a representative of a foreign nonmain pro-
17 ceeding after recognition of a foreign main pro-
18 ceeding must be consistent with the foreign main
19 proceeding.

20 “(2) If a foreign main proceeding is recognized
21 after recognition, or after the filing of a petition for
22 recognition, of a foreign nonmain proceeding, any
23 relief in effect under section 1519 or 1521 shall be
24 reviewed by the court and shall be modified or termi-

1 nated if inconsistent with the foreign main pro-
2 ceeding.

3 “(3) If, after recognition of a foreign nonmain
4 proceeding, another foreign nonmain proceeding is
5 recognized, the court shall grant, modify, or termi-
6 nate relief for the purpose of facilitating coordina-
7 tion of the proceedings.

8 **“§ 1531. Presumption of insolvency based on recogni-
9 tion of a foreign main proceeding**

10 “In the absence of evidence to the contrary, recogni-
11 tion of a foreign main proceeding is for the purpose of
12 commencing a proceeding under section 303, proof that
13 the debtor is generally not paying its debts as such debts
14 become due.

15 **“§ 1532. Rule of payment in concurrent proceedings**

16 “Without prejudice to secured claims or rights in
17 rem, a creditor who has received payment with respect to
18 its claim in a foreign proceeding pursuant to a law relating
19 to insolvency may not receive a payment for the same
20 claim in a case under any other chapter of this title re-
21 garding the debtor, so long as the payment to other credi-
22 tors of the same class is proportionately less than the pay-
23 ment the creditor has already received.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters
 2 for title 11, United States Code, is amended by inserting
 3 after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Cases 1501”.

4 **SEC. 802. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**
 5 **UNITED STATES CODE.**

6 (a) APPLICABILITY OF CHAPTERS.—Section 103 of
 7 title 11, United States Code, is amended—

8 (1) in subsection (a), by inserting before the pe-
 9 riod the following: “, and this chapter, sections 307,
 10 304, 555 through 557, 559, and 560 apply in a case
 11 under chapter 15”; and

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

13 “(j) Chapter 15 applies only in a case under such
 14 chapter, except that—

15 “(1) sections 1513 and 1514 apply in all cases
 16 under this title; and

17 “(2) section 1505 applies to trustees and to any
 18 other entity (including an examiner) authorized by
 19 the court under chapter 7, 11, or 12, to debtors in
 20 possession under chapter 11 or 12, and to debtors
 21 under chapter 9 who are authorized to act under
 22 section 1505.”.

23 (b) DEFINITIONS.—Paragraphs (23) and (24) of sec-
 24 tion 101 of title 11, United States Code, are amended to
 25 read as follows:

1 “(23) ‘foreign proceeding’ means a collective ju-
2 dicial or administrative proceeding in a foreign coun-
3 try, including an interim proceeding, pursuant to a
4 law relating to insolvency in which proceeding the
5 assets and affairs of the debtor are subject to con-
6 trol or supervision by a foreign court, for the pur-
7 pose of reorganization or liquidation;

8 “(24) ‘foreign representative’ means a person
9 or body, including a person or body appointed on an
10 interim basis, authorized in a foreign proceeding to
11 administer the reorganization or the liquidation of
12 the debtor’s assets or affairs or to act as a rep-
13 resentative of the foreign proceeding;”.

14 (c) AMENDMENTS TO TITLE 28, UNITED STATES
15 CODE.—

16 (1) PROCEDURES.—Section 157(b)(2) of title
17 28, United States Code, is amended—

18 (A) in subparagraph (N), by striking
19 “and” at the end;

20 (B) in subparagraph (O), by striking the
21 period at the end and inserting “; and”; and

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

23 “(P) recognition of foreign proceedings and
24 other matters under chapter 15 of title 11.”.

1 (2) BANKRUPTCY CASES AND PROCEEDINGS.—
2 Section 1334(c)(1) of title 28, United States Code,
3 is amended by striking “Nothing in” and inserting
4 “Except with respect to a case under chapter 15 of
5 title 11, nothing in”.

6 (3) DUTIES OF TRUSTEES.—Section 586(a)(3)
7 of title 28, United States Code, is amended by in-
8 serting “15,” after “chapter”.

9 **SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN**
10 **CASES ANCILLARY TO FOREIGN PRO-**
11 **CEEDINGS.**

12 Section 304 of title 11, United States Code, is
13 amended to read as follows:

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

15 “(a) For purposes of this section—

16 “(1) the term ‘domestic insurance company’
17 means a domestic insurance company, as such term
18 is used in section 109(b)(2);

19 “(2) the term ‘foreign insurance company’
20 means a foreign insurance company, as such term is
21 used in section 109(b)(3);

22 “(3) the term ‘United States claimant’ means a
23 beneficiary of any deposit referred to in subsection
24 (b) or any multibeneficiary trust referred to in sub-
25 section (b);

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

3 “(i) a United States claimant; or

4 “(ii) any business entity that operates in
5 the United States and that is a creditor; and

6 “(5) the term ‘United States policyholder’
7 means a holder of an insurance policy issued in the
8 United States.

9 “(b) The court may not grant relief under chapter
10 15 of this title with respect to any deposit, escrow, trust
11 fund, or other security required or permitted under any
12 applicable State insurance law or regulation for the benefit
13 of claim holders in the United States.”.

14 **TITLE IX—FINANCIAL**
15 **CONTRACT PROVISIONS**

16 **SEC. 901. BANKRUPTCY CODE AMENDMENTS.**

17 (a) DEFINITIONS OF FORWARD CONTRACT, REPUR-
18 CHASE AGREEMENT, SECURITIES CLEARING AGENCY,
19 SWAP AGREEMENT, COMMODITY CONTRACT, AND SECUR-
20 ITIES CONTRACT.—Title 11, United States Code, is
21 amended—

22 (1) in section 101—

23 (A) in paragraph (25)—

24 (i) by striking “means a contract”

25 and inserting “means—

1 “(A) a contract”;

2 (ii) by striking “, or any combination
3 thereof or option thereon;” and inserting
4 “, or any other similar agreement;”; and

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

7 “(B) a combination of agreements or
8 transactions referred to in subparagraphs (A)
9 and (C);

10 “(C) an option to enter into an agreement
11 or transaction referred to in subparagraph (A)
12 or (B);

13 “(D) a master netting agreement that pro-
14 vides for an agreement or transaction referred
15 to in subparagraph (A), (B), or (C), together
16 with all supplements to such master netting
17 agreement, without regard to whether such
18 master netting agreement provides for an
19 agreement or transaction that is not a forward
20 contract under this paragraph, except that such
21 master netting agreement shall be considered to
22 be a forward contract under this paragraph
23 only with respect to each agreement or trans-
24 action under such master netting agreement

1 that is referred to in subparagraph (A), (B) or
2 (C); or

3 “(E) a security agreement or arrangement,
4 or other credit enhancement, directly pertaining
5 to a contract, option, agreement, or transaction
6 referred to in subparagraph (A), (B), (C), or
7 (D), but not to exceed the actual value of such
8 contract, option, agreement, or transaction on
9 the date of the filing of the petition;”;

10 (B) by striking paragraph (47) and insert-
11 ing the following:

12 “(47) ‘repurchase agreement’ and ‘reverse re-
13 purchase agreement’—

14 “(A) mean—

15 “(i) an agreement, including related
16 terms, which provides for the transfer of—

17 “(I) a certificate of deposit,
18 mortgage related security (as defined
19 in section 3 of the Securities Ex-
20 change Act of 1934), mortgage loan,
21 interest in a mortgage related security
22 or mortgage loan, eligible bankers’ ac-
23 ceptance, or qualified foreign govern-
24 ment security (defined for purposes of
25 this paragraph to mean a security

1 that is a direct obligation of, or that
2 is fully guaranteed by, the central
3 government of a member of the Orga-
4 nization for Economic Cooperation
5 and Development); or

6 “(II) a security that is a direct
7 obligation of, or that is fully guaran-
8 teed by, the United States or an agen-
9 cy of the United States against the
10 transfer of funds by the transferee of
11 such certificate of deposit, eligible
12 bankers’ acceptance, security, loan, or
13 interest;

14 with a simultaneous agreement by such
15 transferee to transfer to the transferor
16 thereof a certificate of deposit, eligible
17 bankers’ acceptance, security, loan, or in-
18 terest of the kind described in subclause
19 (I) or (II), at a date certain that is not
20 later than 1 year after the date of the
21 transferor’s transfer or on demand, against
22 the transfer of funds;

23 “(ii) a combination of agreements or
24 transactions referred to in clauses (i) and
25 (iii);

1 “(iii) an option to enter into an agree-
2 ment or transaction referred to in clause
3 (i) or (ii); or

4 “(iv) a master netting agreement that
5 provides for an agreement or transaction
6 referred to in clause (i), (ii), or (iii), to-
7 gether with all supplements to such master
8 netting agreement, without regard to
9 whether such master netting agreement
10 provides for an agreement or transaction
11 that is not a repurchase agreement under
12 this subparagraph, except that such master
13 netting agreement shall be considered to be
14 a repurchase agreement under this sub-
15 paragraph only with respect to each agree-
16 ment or transaction under such master
17 netting agreement that is referred to in
18 clause (i), (ii), or (iii); or

19 “(v) a security agreement or arrange-
20 ment, or other credit enhancement, directly
21 pertaining to a contract referred to in
22 clause (i), (ii), (iii), or (iv), but not to ex-
23 ceed the actual value of such contract on
24 the date of the filing of the petition; and

1 “(B) do not include a repurchase obliga-
2 tion under a participation in a commercial
3 mortgage loan;”;

4 (C) in paragraph (48) by inserting “, or
5 exempt from such registration under such sec-
6 tion pursuant to an order of the Securities and
7 Exchange Commission” after “1934”; and

8 (D) by striking paragraph (53B) and in-
9 serting the following:

10 “(53B) ‘swap agreement’—

11 “(A) means—

12 “(i) an agreement, including the
13 terms and conditions incorporated by ref-
14 erence in such agreement, that is—

15 “(I) an interest rate swap, op-
16 tion, future, or forward agreement, in-
17 cluding a rate floor, rate cap, rate col-
18 lar, cross-currency rate swap, and
19 basis swap;

20 “(II) a spot, same day-tomorrow,
21 tomorrow-next, forward, or other for-
22 eign exchange or precious metals
23 agreement;

24 “(III) a currency swap, option,
25 future, or forward agreement;

1 “(IV) an equity index or an equity swap, option, future, or forward agreement;
2
3

4 “(V) a debt index or a debt swap, option, future, or forward agreement;
5

6 “(VI) a credit spread or a credit swap, option, future, or forward agreement; or
7
8

9 “(VII) a commodity index or a commodity swap, option, future, or forward agreement;
10
11

12 “(ii) an agreement or transaction that is similar to an agreement or transaction referred to in clause (i) that—
13
14

15 “(I) is currently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and
16
17
18
19

20 “(II) is a forward, swap, future, or option on a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an eco-
21
22
23
24

1 nomic index or measure of economic
2 risk or value;

3 “(iii) a combination of agreements or
4 transactions referred to in clauses (i) and
5 (ii);

6 “(iv) an option to enter into an agree-
7 ment or transaction referred to in this sub-
8 paragraph;

9 “(v) a master netting agreement that
10 provides for an agreement or transaction
11 referred to in clause (i), (ii), (iii), or (iv),
12 together with all supplements to such mas-
13 ter netting agreement and without regard
14 to whether such master netting agreement
15 contains an agreement or transaction de-
16 scribed in any such clause, but only with
17 respect to each agreement or transaction
18 referred to in any such clause that is under
19 such master netting agreement; except that

20 “(B) the definition under subparagraph
21 (A) is applicable for purposes of this title only,
22 and shall not be construed or applied so as to
23 challenge or affect the characterization, defini-
24 tion, or treatment of any swap agreement under
25 any other statute, regulation, or rule, including

1 the Securities Act of 1933, the Securities Ex-
2 change Act of 1934, the Public Utility Holding
3 Company Act of 1935, the Trust Indenture Act
4 of 1939, the Investment Company Act of 1940,
5 the Investment Advisers Act of 1940, the Secu-
6 rities Investor Protection Act of 1970, the Com-
7 modity Exchange Act, and the regulations pre-
8 scribed by the Securities and Exchange Com-
9 mission or the Commodity Futures Trading
10 Commission.”;

11 (2) in section 741, by striking paragraph (7)
12 and inserting the following:

13 “(7) ‘securities contract’—

14 “(A) means—

15 “(i) a contract for the purchase, sale,
16 or loan of a security, a mortgage loan or
17 an interest in a mortgage loan, a group or
18 index of securities, or mortgage loans or
19 interests therein (including an interest
20 therein or based on the value thereof), or
21 option on any of the foregoing, including
22 an option to purchase or sell any of the
23 foregoing;

1 “(ii) an option entered into on a na-
2 tional securities exchange relating to for-
3 eign currencies;

4 “(iii) the guarantee by or to a securi-
5 ties clearing agency of a settlement of
6 cash, securities, mortgage loans or inter-
7 ests therein, group or index of securities,
8 or mortgage loans or interests therein (in-
9 cluding any interest therein or based on
10 the value thereof), or option on any of the
11 foregoing, including an option to purchase
12 or sell any of the foregoing;

13 “(iv) a margin loan;

14 “(v) any other agreement or trans-
15 action that is similar to an agreement or
16 transaction referred to in this subpara-
17 graph;

18 “(vi) a combination of the agreements
19 or transactions referred to in this subpara-
20 graph;

21 “(vii) an option to enter into an
22 agreement or transaction referred to in
23 this subparagraph;

24 “(viii) a master netting agreement
25 that provides for an agreement or trans-

1 action referred to in clause (i), (ii), (iii),
2 (iv), (v), (vi), or (vii), together with all
3 supplements to such master netting agree-
4 ment, without regard to whether such mas-
5 ter netting agreement provides for an
6 agreement or transaction that is not a se-
7 curities contract under this subparagraph,
8 except that such master netting agreement
9 shall be considered to be a securities con-
10 tract under this subparagraph only with
11 respect to each agreement or transaction
12 under such master netting agreement that
13 is referred to in clause (i), (ii), (iii), (iv),
14 (v), (vi), or (vii); or

15 “(ix) a security agreement or arrange-
16 ment, or other credit enhancement, directly
17 pertaining to a contract referred to in this
18 subparagraph, but not to exceed the actual
19 value of such contract on the date of the
20 filing of the petition; and

21 “(B) does not include a purchase, sale, or
22 repurchase obligation under a participation in a
23 commercial mortgage loan;” and

24 (3) in section 761(4)—

1 (A) by striking “or” at the end of subpara-
2 graph (D); *and*

3 ~~(B) in subparagraph (E), by striking the~~
4 ~~period at the end and inserting “; and”;~~ *and*

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

6 “(F) any other agreement or transaction
7 that is similar to an agreement or transaction
8 referred to in this paragraph;

9 “(G) a combination of the agreements or
10 transactions referred to in this paragraph;

11 “(H) an option to enter into an agreement
12 or transaction referred to in this paragraph;

13 “(I) a master netting agreement that pro-
14 vides for an agreement or transaction referred
15 to in subparagraph (A), (B), (C), (D), (E), (F),
16 (G), or (H), together with all supplements to
17 such master netting agreement, without regard
18 to whether such master netting agreement pro-
19 vides for an agreement or transaction that is
20 not a commodity contract under this paragraph,
21 except that such master netting agreement shall
22 be considered to be a commodity contract under
23 this paragraph only with respect to each agree-
24 ment or transaction under such master netting

1 agreement that is referred to in subparagraph
2 (A), (B), (C), (D), (E), (F), (G), or (H); or

3 “(J) a security agreement or arrangement,
4 or other credit enhancement, directly pertaining
5 to a contract referred to in this paragraph, but
6 not to exceed the actual value of such contract
7 on the date of the filing of the petition.”.

8 (b) DEFINITIONS OF FINANCIAL INSTITUTION, FI-
9 NANCIAL PARTICIPANT, AND FORWARD CONTRACT MER-
10 CHANT.—Section 101 of title 11, United States Code, *as*
11 *amended by section 802(b) of this Act*, is amended—

12 (1) by striking paragraph (22) and inserting
13 the following:

14 “(22) ‘financial institution’ means—

15 “(A)(i) a Federal reserve bank, or an enti-
16 ty that is a commercial or savings bank, indus-
17 trial savings bank, savings and loan association,
18 trust company, or receiver or conservator for
19 such entity; and

20 “(ii) if such Federal reserve bank, receiver,
21 or conservator or entity is acting as agent or
22 custodian for a customer in connection with a
23 securities contract, as defined in section 741,
24 such customer; or

1 “(B) in connection with a securities con-
2 tract, as defined in section 741 of this title, an
3 investment company registered under the In-
4 vestment Company Act of 1940;”;

5 (2) by inserting after paragraph (22) the fol-
6 lowing:

7 “(22A) ‘financial participant’ means an entity
8 that is a party to a securities contract, commodity
9 contract or forward contract, or on the date of the
10 filing of the petition, has a commodity contract (as
11 defined in section 761) with the debtor or any other
12 entity (other than an affiliate) of a total gross dollar
13 value of not less than \$1,000,000,000 in notional or
14 actual principal amount outstanding on any day dur-
15 ing the previous 15-month period, or has gross
16 mark-to-market positions of not less than
17 \$100,000,000 (aggregated across counterparties) in
18 any such agreement or transaction with the debtor
19 or any other entity (other than an affiliate) on any
20 day during the previous 15-month period;”;

21 (3) by striking paragraph (26) and inserting
22 the following:

23 “(26) ‘forward contract merchant’ means a
24 Federal reserve bank, or an entity, the business of
25 which consists in whole or in part of entering into

1 forward contracts as or with merchants or in a com-
2 modity, as defined or in section 761, or any similar
3 good, article, service, right, or interest that is pres-
4 ently or in the future becomes the subject of dealing
5 or in the forward contract trade;”.

6 (c) DEFINITION OF MASTER NETTING AGREEMENT
7 AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-
8 tion 101 of title 11, United States Code, *as amended by*
9 *subsection (b) of this section*, is amended by inserting after
10 paragraph (38) the following new paragraphs:

11 “(38A) the term ‘master netting agreement’—

12 “(A) means an agreement providing for
13 the exercise of rights, including rights of net-
14 ting, setoff, liquidation, termination, accelera-
15 tion, or closeout, under or in connection with 1
16 or more contracts that are described in any 1
17 or more of paragraphs (1) through (5) of sec-
18 tion 561(a), or any security agreement or ar-
19 rangement or other credit enhancement related
20 to 1 or more of the foregoing; except that

21 “(B) if a master netting agreement con-
22 tains provisions relating to agreements or trans-
23 actions that are not contracts described in para-
24 graphs (1) through (5) of section 561(a), the
25 master netting agreement shall be deemed to be

1 a master netting agreement only with respect to
2 those agreements or transactions that are de-
3 scribed in any 1 or more of the paragraphs (1)
4 through (5) of section 561(a);

5 “(38B) the term ‘master netting agreement
6 participant’ means an entity that, at any time before
7 the filing of the petition, is a party to an out-
8 standing master netting agreement with the debt-
9 or;”.

10 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,
11 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-
12 CHASE AGREEMENTS, AND MASTER NETTING AGREE-
13 MENTS UNDER THE AUTOMATIC STAY.—

14 (1) IN GENERAL.—Section 362(b) of title 11,
15 United States Code, as amended by section 718 of
16 this Act, is amended—

17 (A) in paragraph (6), by inserting “,
18 pledged to, and under the control of,” after
19 “held by”;

20 (B) in paragraph (7), by inserting “,
21 pledged to, and under the control of,” after
22 “held by”;

23 (C) by striking paragraph (17) and insert-
24 ing the following:

1 “(17) under subsection (a), of the setoff by a
2 swap participant of a mutual debt and claim under
3 or in connection with a swap agreement that con-
4 stitutes the setoff of a claim against the debtor for
5 a payment or transfer due from the debtor under or
6 in connection with a swap agreement against a pay-
7 ment due to the debtor from the swap participant
8 under or in connection with a swap agreement or
9 against cash, securities, or other property held by,
10 pledged to, and under the control of, or due from
11 such swap participant to guarantee, secure, or settle
12 a swap agreement;”;

13 (D) in paragraph (26), by striking “or” at
14 the end;

15 (E) in paragraph (27), by striking the pe-
16 riod at the end and inserting “; or”; and

17 (F) by inserting after paragraph (27) the
18 following:

19 “(28) under subsection (a), of the setoff by a
20 master netting agreement participant of a mutual
21 debt and claim under or in connection with 1 or
22 more master netting agreements or any contract or
23 agreement subject to such agreements that con-
24 stitutes the setoff of a claim against the debtor for
25 any payment or other transfer of property due from

1 the debtor under or in connection with such agree-
2 ments or any contract or agreement subject to such
3 agreements against any payment due to the debtor
4 from such master netting agreement participant
5 under or in connection with such agreements or any
6 contract or agreement subject to such agreements or
7 against cash, securities, or other property held by,
8 pledged or and under the control of, or due from
9 such master netting agreement participant to mar-
10 gin, guarantee, secure, or settle such agreements or
11 any contract or agreement subject to such agree-
12 ments, to the extent such participant is eligible to
13 exercise such offset rights under paragraph (6), (7),
14 or (17) for each individual contract covered by the
15 master netting agreement in issue.”.

16 (2) LIMITATION.—Section 362 of title 11,
17 United States Code, as amended by section 432(2)
18 of this Act, is amended by adding at the end the fol-
19 lowing:

20 “(1) LIMITATION.—The exercise of rights not subject
21 to the stay arising under subsection (a) pursuant to para-
22 graph (6), (7), or (17) of subsection (b) shall not be stayed
23 by an order of a court or administrative agency in any
24 proceeding under this title.”.

1 (e) LIMITATION OF AVOIDANCE POWERS UNDER
2 MASTER NETTING AGREEMENT.—Section 546 of title 11,
3 United States Code, is amended—

4 (1) in subsection (g) (as added by section 103
5 of Public Law 101–311 (104 Stat. 267 et seq.))—

6 (A) by striking “under a swap agreement”;

7 and

8 (B) by striking “in connection with a swap
9 agreement” and inserting “under or in connec-
10 tion with any swap agreement”; and

11 (2) by inserting before subsection (i) (as reded-
12 icated by section 407 of this Act) the following new
13 subsection:

14 “(h) Notwithstanding sections 544, 545, 547,
15 548(a)(2)(B), and 548(b), the trustee may not avoid a
16 transfer made by or to a master netting agreement partici-
17 pant under or in connection with any master netting
18 agreement or any individual contract covered thereby that
19 is made before the commencement of the case, and except
20 to the extent that the trustee could otherwise avoid such
21 a transfer made under an individual contract covered by
22 such master netting agreement (except under section
23 548(a)(1)(A)).”.

1 (f) FRAUDULENT TRANSFERS OF MASTER NETTING
2 AGREEMENTS.—Section 548(d)(2) of title 11, United
3 States Code, is amended—

4 (1) in subparagraph (C), by striking “and”;

5 (2) in subparagraph (D), by striking the period
6 at the end and inserting “; and”; and

7 (3) by adding at the end the following new sub-
8 paragraph:

9 “(E) a master netting agreement partici-
10 pant that receives a transfer in connection with
11 a master netting agreement or any individual
12 contract covered thereby takes for value to the
13 extent of such transfer, except, with respect to
14 a transfer under any individual contract covered
15 thereby, to the extent that such master netting
16 agreement participant otherwise did not take
17 (or is otherwise not deemed to have taken) such
18 transfer for value.”.

19 (g) TERMINATION OR ACCELERATION OF SECURITIES
20 CONTRACTS.—Section 555 of title 11, United States Code,
21 is amended—

22 (1) by striking the section heading and insert-
23 ing the following:

1 **“§ 555. Contractual right to liquidate, terminate, or**
2 **accelerate a securities contract”;**

3 and

4 (2) in the first sentence, by striking “liquida-
5 tion” and inserting “liquidation, termination, or ac-
6 celeration”.

7 (h) TERMINATION OR ACCELERATION OF COMMOD-
8 ITIES OR FORWARD CONTRACTS.—Section 556 of title 11,
9 United States Code, is amended—

10 (1) by striking the section heading and insert-
11 ing the following:

12 **“§ 556. Contractual right to liquidate, terminate, or**
13 **accelerate a commodities contract or for-**
14 **ward contract”;**

15 and

16 (2) in the first sentence, by striking “liquida-
17 tion” and inserting “liquidation, termination, or ac-
18 celeration”.

19 (i) TERMINATION OR ACCELERATION OF REPUR-
20 CHASE AGREEMENTS.—Section 559 of title 11, United
21 States Code, is amended—

22 (1) by striking the section heading and insert-
23 ing the following:

24 **“§ 559. Contractual right to liquidate, terminate, or**
25 **accelerate a repurchase agreement”;**

26 and

1 (2) in the first sentence, by striking “liquida-
2 tion” and inserting “liquidation, termination, or ac-
3 celeration”.

4 (j) LIQUIDATION, TERMINATION, OR ACCELERATION
5 OF SWAP AGREEMENTS.—Section 560 of title 11, United
6 States Code, is amended—

7 (1) by striking the section heading and insert-
8 ing following:

9 “§ 560. **Contractual right to liquidate, terminate, or**
10 **accelerate a swap agreement**”;

11 (2) in the first sentence, by striking “termi-
12 nation of a swap agreement” and inserting “liquida-
13 tion, termination, or acceleration of a swap agree-
14 ment”; and

15 (3) by striking “in connection with any swap
16 agreement” and inserting “in connection with the
17 termination, liquidation, or acceleration of a swap
18 agreement”.

19 (k) LIQUIDATION, TERMINATION, ACCELERATION, OR
20 OFFSET UNDER A MASTER NETTING AGREEMENT AND
21 ACROSS CONTRACTS.—Title 11, United States Code, is
22 amended by inserting after section 560 the following ~~new~~
23 ~~section~~:

1 **“§ 561. Contractual right to terminate, liquidate, ac-**
2 **celerate, or offset under a master netting**
3 **agreement and across contracts**

4 “(a) Subject to subsection (b), the exercise of any
5 contractual right, because of a condition of the kind speci-
6 fied in section 365(e)(1), to cause the termination, liquida-
7 tion, or acceleration of or to offset or net termination val-
8 ues, payment amounts or other transfer obligations arising
9 under or in connection with 1 or more (or the termination,
10 liquidation, or acceleration of 1 or more)—

11 “(1) securities contracts, as defined in section
12 741(7);

13 “(2) commodity contracts, as defined in section
14 761(4);

15 “(3) forward contracts;

16 “(4) repurchase agreements;

17 “(5) swap agreements; or

18 “(6) master netting agreements,

19 shall not be stayed, avoided, or otherwise limited by oper-
20 ation of any provision of this title or by any order of a
21 court or administrative agency in any proceeding under
22 this title.

23 “(b)(1) A party may exercise a contractual right de-
24 scribed in subsection (a) to terminate, liquidate, or accel-
25 erate only to the extent that such party could exercise such
26 a right under section 555, 556, 559, or 560 for each indi-

1 vidual contract covered by the master netting agreement
2 in issue.

3 “(2) If a debtor is a commodity broker subject to sub-
4 chapter IV of chapter 7 ~~of this title~~—

5 “(A) a party may not net or offset an obligation
6 to the debtor arising under, or in connection with,
7 a commodity contract against any claim arising
8 under, or in connection with, other instruments, con-
9 tracts, or agreements listed in subsection (a), except
10 to the extent that the party has ~~no~~ positive net eq-
11 uity in the commodity accounts at the debtor, as cal-
12 culated under *such* subchapter IV; and

13 “(B) another commodity broker may not net or
14 offset an obligation to the debtor arising under, or
15 in connection with, a commodity contract entered
16 into or held on behalf of a customer of the debtor
17 against any claim arising under, or in connection
18 with, other instruments, contracts, or agreements re-
19 ferred to in subsection (a).

20 “(c) As used in this section, the term ‘contractual
21 right’ includes a right set forth in a rule or bylaw of a
22 national securities exchange, a national securities associa-
23 tion, or a securities clearing agency, a right set forth in
24 a bylaw of a clearing organization or contract market or
25 in a resolution of the governing board thereof, and a right,

1 whether or not evidenced in writing, arising under com-
2 mon law, under law merchant, or by reason of normal
3 business practice.”.

4 (l) ANCILLARY PROCEEDINGS.—Section 304 of title
5 11, United States Code, is amended by adding at the end
6 the following:

7 “(d) Any provisions of this title relating to securities
8 contracts, commodity contracts, forward contracts, repur-
9 chase agreements, swap agreements, or master netting
10 agreements shall apply in a case ancillary to a foreign pro-
11 ceeding under this section or any other section of this title,
12 so that enforcement of contractual provisions of such con-
13 tracts and agreements in accordance with their terms—

14 “(1) shall not be stayed or otherwise limited
15 by—

16 “(A) operation of any provision of this
17 title; or

18 “(B) order of a court in any case under
19 this title;

20 “(2) shall limit avoidance powers to the same
21 extent as in a proceeding under chapter 7 or 11; and

22 “(3) shall not be limited based on the presence
23 or absence of assets of the debtor in the United
24 States.”.

1 (m) COMMODITY BROKER LIQUIDATIONS.—Title 11,
2 United States Code, is amended by inserting after section
3 766 the following:

4 **“§ 767. Commodity broker liquidation and forward**
5 **contract merchants, commodity brokers,**
6 **stockbrokers, financial institutions, secu-**
7 **rities clearing agencies, swap partici-**
8 **pants, repo participants, and master net-**
9 **ting agreement participants**

10 “Notwithstanding any other provision of this title,
11 the exercise of rights by a forward contract merchant,
12 commodity broker, stockbroker, financial institution, secu-
13 rities clearing agency, swap participant, repo participant,
14 or master netting agreement participant under this title
15 shall not affect the priority of any unsecured claim it may
16 have after the exercise of such rights.”.

17 (n) STOCKBROKER LIQUIDATIONS.—Title 11, United
18 States Code, is amended by inserting after section 752 the
19 following:

1 **“§ 753. Stockbroker liquidation and forward contract**
2 **merchants, commodity brokers, stock-**
3 **brokers, financial institutions, securities**
4 **clearing agencies, swap participants,**
5 **repo participants, and master netting**
6 **agreement participants**

7 “Notwithstanding any other provision of this title,
8 the exercise of rights by a forward contract merchant,
9 commodity broker, stockbroker, financial institution, secu-
10 rities clearing agency, swap participant, repo participant,
11 financial participant, or master netting agreement partici-
12 pant under this title shall not affect the priority of any
13 unsecured claim it may have after the exercise of such
14 rights.”.

15 (o) SETOFF.—Section 553 of title 11, United States
16 Code, is amended—

17 (1) in subsection (a)(3)(C), by inserting “(ex-
18 cept for a setoff of a kind described in section
19 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(~~19~~) (28),
20 555, 556, 559, or 560)” before the period; and

21 (2) in subsection (b)(1), by striking
22 “362(b)(14),” and inserting “362(b)(17),
23 ~~362(b)(19)~~ 362(b)(28), 555, 556, 559, 560.”.

24 (p) SECURITIES CONTRACTS, COMMODITY CON-
25 TRACTS, AND FORWARD CONTRACTS.—Title 11, United
26 States Code, 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 “fi-
7 nancial 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 “, a
12 right set forth in a bylaw of a clearing organi-
13 zation or contract market or in a resolution of
14 the governing board thereof, and a right,
15 whether or not in writing, arising under com-
16 mon law, under law merchant, or by reason of
17 normal 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~~, *United States Code*, is amended—

22 (1) in the table of sections for chapter 5—

23 (A) by striking the items relating to sec-
24 tions 555 and 556 and inserting the following:

“555. Contractual right to liquidate, terminate, or accelerate a securities con-
tract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.”;

1 (B) by striking the items relating to sec-
2 tions 559 and 560 and inserting the following:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;

3 and

4 (C) by adding after the item relating to
5 section 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.”;

6 and

7 (2) in the table of sections for chapter 7—

8 (A) by inserting after the item relating to
9 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 netting agreement participants.”;

10 and

11 (B) by inserting after the item relating to
12 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

13 **SEC. 902. DAMAGE MEASURE.**

14 (a) IN GENERAL.—Title 11, United States Code, is
15 amended—

16 (1) by inserting after section 561 the following:

1 **“§ 562. Damage measure in connection with swap**
 2 **agreements, securities contracts, forward**
 3 **contracts, commodity contracts, repur-**
 4 **chase agreements, or master netting**
 5 **agreements**

6 “If the trustee rejects a swap agreement, securities
 7 contract (as defined in section 741), forward contract,
 8 commodity contract (as defined in section 761) repurchase
 9 agreement, or master netting agreement under section
 10 365(a), or if a forward contract merchant, stockbroker,
 11 financial institution, securities clearing agency, repo par-
 12 ticipant, financial participant, master netting agreement
 13 participant, or swap participant liquidates, terminates, or
 14 accelerates such contract or agreement, damages shall be
 15 measured as of the earlier of—

16 “(1) the date of such rejection; or

17 “(2) the date of such liquidation, termination,
 18 or acceleration.”; and

19 (2) in the table of sections for chapter 5 by in-
 20 serting after the item relating to section 561 the fol-
 21 lowing:

“562. Damage measure in connection with swap agreements, securities con-
 tracts, forward contracts, commodity contracts, repurchase
 agreements, or master netting agreements.”.

22 (b) CLAIMS ARISING FROM REJECTION.—Section
 23 502(g) of title 11, United States Code, is amended—

24 (1) by inserting “(1)” after “(g)”; and

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

2 “(2) A claim for damages calculated in accordance
3 with section 561 shall be allowed under subsection (a), (b),
4 or (c) of this section, or disallowed under subsection (d)
5 or (e) of this section, as if such claim had arisen before
6 the date of the filing of the petition.”.

7 **SEC. 903. ASSET-BACKED SECURITIZATIONS.**

8 Section 541 of title 11, United States Code, is
9 amended—

10 (1) in subsection (b), by striking “or” at the
11 end of paragraph (4);

12 (2) by redesignating paragraph (5) of sub-
13 section (b) as paragraph (6);

14 (3) by inserting after paragraph (4) of sub-
15 section (b) the following new paragraph:

16 “(5) any eligible asset (or proceeds thereof), to
17 the extent that such eligible asset was transferred by
18 the debtor, before the date of commencement of the
19 case, to an eligible entity in connection with an
20 asset-backed securitization, except to the extent that
21 such asset (or proceeds or value thereof) may be re-
22 covered by the trustee under section 550 by virtue
23 of avoidance under section 548(a); or”; and

24 (4) by adding at the end the following ~~new sub-~~
25 ~~section:~~

1 “(e) For purposes of this section, the following defini-
2 tions shall apply:

3 “(1) The term ‘asset-backed securitization’
4 means a transaction in which eligible assets trans-
5 ferred to an eligible entity are used as the source of
6 payment on securities, the most senior of which are
7 rated investment grade by 1 or more nationally rec-
8 ognized securities rating organizations, issued by an
9 issuer.

10 “(2) The term ‘eligible asset’ means—

11 “(A) financial assets (including interests
12 therein and proceeds thereof), either fixed or re-
13 volving, including residential and commercial
14 mortgage loans, consumer receivables, trade re-
15 ceivables, and lease receivables, that, by their
16 terms, convert into cash within a finite time pe-
17 riod, plus any rights or other assets designed to
18 assure the servicing or timely distribution of
19 proceeds to security holders;

20 “(B) cash; and

21 “(C) securities.

22 “(3) The term ‘eligible entity’ means—

23 “(A) an issuer; or

24 “(B) a trust, corporation, partnership, or
25 other entity engaged exclusively in the business

1 of acquiring and transferring eligible assets di-
2 rectly or indirectly to an issuer and taking ac-
3 tions ancillary thereto.

4 “(4) The term ‘issuer’ means a trust, corpora-
5 tion, partnership, or other entity engaged exclusively
6 in the business of acquiring and holding eligible as-
7 sets, issuing securities backed by eligible assets, and
8 taking actions ancillary thereto.

9 “(5) The term ‘transferred’ means the debtor,
10 under a written agreement, represented and war-
11 ranted that eligible assets were sold, contributed, or
12 otherwise conveyed with the intention of removing
13 them from the estate of the debtor pursuant to sub-
14 section (b)(5), irrespective, without limitation of—

15 “(A) whether the debtor directly or indi-
16 rectly obtained or held an interest in the issuer
17 or in any securities issued by the issuer;

18 “(B) whether the debtor had an obligation
19 to repurchase or to service or supervise the
20 servicing of all or any portion of such eligible
21 assets; or

22 “(C) the characterization of such sale, con-
23 tribution, or other conveyance for tax, account-
24 ing, regulatory reporting, or other purposes.”.

1 **SEC. 904. EFFECTIVE DATE; APPLICATION OF AMEND-**
 2 **MENTS.**

3 (a) **EFFECTIVE DATE.**—This title shall take effect on
 4 the date of enactment of this Act.

5 (b) **APPLICATION OF AMENDMENTS.**—The amend-
 6 ments made by this title shall apply with respect to cases
 7 commenced or appointments made under any Federal or
 8 State law after the date of enactment of this Act, but shall
 9 not apply with respect to cases commenced or appoint-
 10 ments made under any Federal or State law before the
 11 date of enactment of this Act.

12 **TITLE X—PROTECTION OF**
 13 **FAMILY FARMERS**

14 **SEC. 1001. REENACTMENT OF CHAPTER 12.**

15 (a) **REENACTMENT.**—

16 (1) **IN GENERAL.**—Chapter 12 of title 11,
 17 United States Code, as reenacted by section 149 of
 18 division C of the Omnibus Consolidated and Emer-
 19 gency Supplemental Appropriations Act, 1999 (Pub-
 20 lic Law 105–277), and amended by this Act, is reen-
 21 acted.

22 (2) **EFFECTIVE DATE.**—Subsection (a) shall
 23 take effect on ~~April 1, 1999~~ *October 1, 1999*.

24 (b) **CONFORMING AMENDMENT.**—Section 302 of the
 25 Bankruptcy, Judges, United States Trustees, and Family

1 Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is
2 amended by striking subsection (f).

3 **SEC. 1002. DEBT LIMIT INCREASE.**

4 Section 104(b) of title 11, United States Code, is
5 amended by adding at the end the following:

6 “(4) The dollar amount in section 101(18) shall be
7 adjusted at the same times and in the same manner as
8 the dollar amounts in paragraph (1) of this subsection,
9 beginning with the adjustment to be made on April 1,
10 2001.”.

11 **SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY**
12 **FARMER AND SPOUSE RECEIVE OVER 50 PER-**
13 **CENT OF INCOME FROM FARMING OPER-**
14 **ATION IN YEAR PRIOR TO BANKRUPTCY.**

15 Section 101(18)(A) of title 11, United States Code,
16 is amended by striking “the taxable year preceding the
17 taxable year” and inserting “at least 1 of the 3 calendar
18 years preceding the year”.

19 **SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL**
20 **UNITS.**

21 (a) CONTENTS OF PLAN.—Section 1222(a)(2) of title
22 11, United States Code, is amended to read as follows:

23 “(2) provide for the full payment, in deferred
24 cash payments, of all claims entitled to priority
25 under section 507, unless—

1 “(A) the claim is a claim owed to a govern-
 2 mental unit that arises as a result of the sale,
 3 transfer, exchange, or other disposition of any
 4 farm asset used in the debtor’s farming oper-
 5 ation, in which case the claim shall be treated
 6 as an unsecured claim that is not entitled to
 7 priority under section 507, but the debt shall be
 8 treated in such manner only if the debtor re-
 9 ceives a discharge; or

10 “(B) the holder of a particular claim
 11 agrees to a different treatment of that claim;
 12 and”.

13 (b) SPECIAL NOTICE PROVISIONS.—Section 1231(d)
 14 of title 11, United States Code, is amended by striking
 15 “a State or local governmental unit” and inserting “any
 16 governmental unit”.

17 **TITLE XI—HEALTH CARE AND**
 18 **EMPLOYEE BENEFITS**

19 **SEC. 1101. DEFINITIONS.**

20 (a) HEALTH CARE BUSINESS DEFINED.—Section
 21 ~~101~~ of title ~~11~~, United States Code, as amended by section
 22 ~~1004(a)~~ of this Act, is amended—

23 (1) by redesignating paragraph (27A) as para-
 24 graph (27C); and

25 (2) inserting after paragraph (27) the following:

1 ~~“(27A) ‘health care business’—~~

2 ~~“(A) means any public or private entity~~
3 ~~(without regard to whether that entity is orga-~~
4 ~~nized for profit or not for profit) that is pri-~~
5 ~~marily engaged in offering to the general public~~
6 ~~facilities and services for—~~

7 ~~“(i) the diagnosis or treatment of in-~~
8 ~~jury, deformity, or disease; and~~

9 ~~“(ii) surgical, drug treatment, psy-~~
10 ~~chiatric or obstetric care; and~~

11 ~~“(B) includes—~~

12 ~~“(i) any—~~

13 ~~“(I) general or specialized hos-~~
14 ~~pital;~~

15 ~~“(II) ancillary ambulatory, emer-~~
16 ~~gency, or surgical treatment facility;~~

17 ~~“(III) hospice;~~

18 ~~“(IV) health maintenance organi-~~
19 ~~zation;~~

20 ~~“(V) home health agency; and~~

21 ~~“(VI) other health care institu-~~
22 ~~tion that is similar to an entity re-~~
23 ~~ferred to in subclause (I), (II), (III),~~
24 ~~(IV), or (V); and~~

1 “(ii) any long-term care facility, in-
2 cluding any—

3 “(I) skilled nursing facility;

4 “(II) intermediate care facility;

5 “(III) assisted living facility;

6 “(IV) home for the aged;

7 “(V) domiciliary care facility; and

8 “(VI) health care institution that
9 is related to a facility referred to in
10 subclause (I), (II), (III), (IV), or (V),
11 if that institution is primarily engaged
12 in offering room, board, laundry, or
13 personal assistance with activities of
14 daily living and incidentals to activi-
15 ties of daily living;”.

16 (b) HEALTH MAINTENANCE ORGANIZATION DE-
17 FINED.—Section 101 of title 41, United States Code, as
18 amended by subsection (a), is amended by inserting after
19 paragraph (27A) the following:

20 “(27B) ‘health maintenance organization’
21 means any person that undertakes to provide or ar-
22 range for basic health care services through an orga-
23 nized system that—

24 “(A)(i) combines the delivery and financing
25 of health care to enrollees; and

1 “(ii)(I) provides—

2 “(aa) physician services directly
3 through physicians or 1 or more groups of
4 physicians; and

5 “(bb) basic health care services di-
6 rectly or under a contractual arrangement;
7 and

8 “(II) if reasonable and appropriate, pro-
9 vides physician services and basic health care
10 services through arrangements other than the
11 arrangements referred to in clause (i); and

12 “(B) includes any organization described
13 in subparagraph (A) that provides, or arranges
14 for, health care services on a prepayment or
15 other financial basis;”.

16 (e) PATIENT.—Section 101 of title 11, United States
17 Code, as amended by subsection (b), is amended by insert-
18 ing after paragraph (40) the following:

19 “(40A) ‘patient’ means any person who obtains
20 or receives services from a health care business;”.

21 (d) PATIENT RECORDS.—Section 101 of title 11,
22 United States Code, as amended by subsection (c), is
23 amended by inserting after paragraph (40A) the following:

24 “(40B) ‘patient records’ means any written doc-
25 ument relating to a patient or record recorded in a

1 magnetic, optical, or other form of electronic me-
 2 dium;”.

3 **SEC. 1102. DISPOSAL OF PATIENT RECORDS.**

4 (a) IN GENERAL.—Subchapter III of chapter 3 of
 5 title 11, United States Code, is amended by adding at the
 6 end the following:

7 **“§ 351. Disposal of patient records**

8 “If a health care business commences a case under
 9 chapter 7, 9, or 11, and the trustee does not have a suffi-
 10 cient amount of funds to pay for the storage of patient
 11 records in the manner required under applicable Federal
 12 or State law, the following requirements shall apply:

13 “(1) The trustee shall mail, by certified mail, a
 14 written request to each appropriate Federal or State
 15 agency to request permission from that agency to
 16 deposit the patient records with that agency.

17 “(2) If no appropriate Federal or State agency
 18 agrees to permit the deposit of patient records re-
 19 ferred to in paragraph (1) by the date that is 60
 20 days after the trustee mails a written request under
 21 that paragraph, the trustee shall—

22 “(A) publish notice, in 1 or more appro-
 23 priate newspapers, that if those patient records
 24 are not claimed by the patient or an insurance
 25 provider (if applicable law permits the insur-

1 ance provider to make that claim) by the date
2 that is 60 days after the date of that notifica-
3 tion, the trustee will destroy the patient
4 records; and

5 “~~(B)~~ during the 60-day period described in
6 subparagraph ~~(A)~~, the trustee shall attempt to
7 notify directly each patient that is the subject
8 of the patient records concerning the patient
9 records by mailing to the last known address of
10 that patient an appropriate notice regarding the
11 claiming or disposing of patient records.

12 “~~(3)~~ If, after providing the notification under
13 paragraph ~~(2)~~, patient records are not claimed dur-
14 ing the 60-day period described in paragraph ~~(2)~~(A)
15 or in any case in which a notice is mailed under
16 paragraph ~~(2)~~(B), during the 90-day period begin-
17 ning on the date on which the notice is mailed, by
18 a patient or insurance provider in accordance with
19 that paragraph, the trustee shall destroy those
20 records by—

21 “~~(A)~~ if the records are written, shredding
22 or burning the records; or

23 “~~(B)~~ if the records are magnetic, optical,
24 or other electronic records, by otherwise de-

1 stroying those records so that those records
2 cannot be retrieved.”.

3 (b) ~~CLERICAL AMENDMENT.~~—The chapter analysis
4 for chapter ~~3~~ of title ~~11~~, United States Code, is amended
5 by inserting after the item relating to section ~~350~~ the fol-
6 lowing:

“~~351~~. Disposal of patient records.”.

7 **SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS**
8 **OF CLOSING A HEALTH CARE BUSINESS.**

9 Section ~~503(b)~~ of title ~~11~~, United States Code, is
10 amended—

11 (1) in paragraph (5), by striking “and” at the
12 end;

13 (2) in paragraph (6), by striking the period at
14 the end and inserting “; and”; and

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

16 “~~(7)~~ the actual, necessary costs and expenses of
17 closing a health care business incurred by a trustee,
18 including any cost or expense incurred—

19 “(A) in disposing of patient records in ac-
20 cordance with section ~~351~~; or

21 “(B) in connection with transferring pa-
22 tients from the health care business that is in
23 the process of being closed to another health
24 care business.”.

1 **SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PA-**
 2 **TIENT ADVOCATE.**

3 (a) IN GENERAL.—

4 (1) APPOINTMENT OF OMBUDSMAN.—Sub-
 5 chapter H of chapter 3 of title 11, United States
 6 Code, is amended by inserting after section 331 the
 7 following:

8 **“§ 332. Appointment of ombudsman**

9 “(a) Not later than 30 days after a case is com-
 10 menced by a health care business under chapter 7, 9, or
 11 11, the court shall appoint an ombudsman to represent
 12 the interests of the patients of the health care business.

13 “(b) An ombudsman appointed under subsection (a)
 14 shall—

15 “(1) monitor the quality of patient care, to the
 16 extent necessary under the circumstances, including
 17 reviewing records and interviewing patients and phy-
 18 sicians;

19 “(2) not later than 60 days after the date of
 20 appointment, and not less frequently than every 60
 21 days thereafter, report to the court, at a hearing or
 22 in writing, regarding the quality of patient care at
 23 the health care business involved; and

24 “(3) if the ombudsman determines that the
 25 quality of patient care is declining significantly or is
 26 otherwise being materially compromised, notify the

1 court by motion or written report, with notice to ap-
 2 propriate parties in interest, immediately upon mak-
 3 ing that determination.

4 “(c) An ombudsman shall maintain any information
 5 obtained by the ombudsman under this section that relates
 6 to patients (including information relating to patient
 7 records) as confidential information.”

8 (2) CLERICAL AMENDMENT.—The chapter anal-
 9 ysis for chapter 3 of title 11, United States Code,
 10 is amended by inserting after the item relating to
 11 section 331 the following:

“332. Appointment of ombudsman.”

12 (b) COMPENSATION OF OMBUDSMAN.—Section
 13 330(a)(1) of title 11, United States Code, is amended—

14 (1) in the matter proceeding subparagraph (A),
 15 by inserting “an ombudsman appointed under sec-
 16 tion 331, or” before “a professional person”; and

17 (2) in subparagraph (A), by inserting “ombuds-
 18 man,” before “professional person”.

19 **SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO**
 20 **TRANSFER PATIENTS.**

21 (a) IN GENERAL.—Section 704(a) of title 11, United
 22 States Code, as amended by section 219 of this Act, is
 23 amended—

24 (1) in paragraph (9), by striking “and” at the
 25 end;

1 (2) in paragraph (10), by striking the period
2 and inserting “; and”; and

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

4 “(11) use all reasonable and best efforts to
5 transfer patients from a health care business that is
6 in the process of being closed to an appropriate
7 health care business that—

8 “(A) is in the vicinity of the health care
9 business that is closing;

10 “(B) provides the patient with services
11 that are substantially similar to those provided
12 by the health care business that is in the pro-
13 cess of being closed; and

14 “(C) maintains a reasonable quality of
15 care.”.

16 (b) CONFORMING AMENDMENT.—Section 1106(a)(1)
17 of title 11, United States Code, is amended by striking
18 “and 704(9)” and inserting “704(9), and 704(10)”.

19 **TITLE XI XI—TECHNICAL** 20 **AMENDMENTS**

21 **SEC. 1201. 1101. DEFINITIONS.**

22 Section 101 of title 11, United States Code, as
23 amended by section 1101 1003 of this Act, is amended—

24 (1) by striking “In this title—” and inserting
25 “‘In this title.’”;

1 (2) in each paragraph, by inserting “The term”
2 after the paragraph designation;

3 (3) in paragraph (35)(B), by striking “para-
4 graphs (21B) and (33)(A)” and inserting “para-
5 graphs (23) and (35)”;

6 (4) in each of paragraphs (35A) and (38), by
7 striking “; and” at the end and inserting a period;

8 (5) in paragraph (51B)—

9 (A) by inserting “who is not a family farm-
10 er” after “debtor” the first place it appears;
11 and

12 (B) by striking “thereto having aggregate”
13 and all that follows through the end of the
14 paragraph;

15 (6) by striking paragraph (54) and inserting
16 the following:

17 “(54) The term ‘transfer’ means—

18 “(A) the creation of a lien;

19 “(B) the retention of title as a security in-
20 terest;

21 “(C) the foreclosure of a debtor’s equity of
22 redemption; or

23 “(D) each mode, direct or indirect, abso-
24 lute or conditional, voluntary or involuntary, of
25 disposing of or parting with—

1 “(i) property; or

2 “(ii) an interest in property;”;

3 (7) in each of paragraphs (1) through (35), in
4 each of paragraphs (36) and (37), and in each of
5 paragraphs (40) through (55) (including paragraph
6 (54), as amended by paragraph (6) of this section),
7 by striking the semicolon at the end and inserting a
8 period; and

9 (8) by redesignating paragraphs (4) through
10 (55), including paragraph (54), as amended by para-
11 graph (6) of this section, in entirely numerical se-
12 quence.

13 **SEC. ~~1202.~~ 1102. ADJUSTMENT OF DOLLAR AMOUNTS.**

14 Section 104 of title 11, United States Code, is
15 amended by inserting “522(f)(3), ~~707(b)(5),~~” after
16 “522(d),” each place it appears.

17 **SEC. ~~1203.~~ 1103. EXTENSION OF TIME.**

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

21 **SEC. ~~1204.~~ 1104. TECHNICAL AMENDMENTS.**

22 Title 11, ~~of the~~ United States Code, is amended—

23 (1) in section 109(b)(2), by striking “subsection
24 (c) or (d) of”; *and*

1 (2) in section 541(b)(4), by adding “or” at the
2 end; and

3 ~~(3)~~ (2) in section 552(b)(1), by striking “prod-
4 uct” each place it appears and inserting “products”.

5 **SEC. ~~1205.~~ 1105. PENALTY FOR PERSONS WHO NEG-**
6 **LIGENTLY OR FRAUDULENTLY PREPARE**
7 **BANKRUPTCY PETITIONS.**

8 Section 110(j)(3) of title 11, United States Code, is
9 amended by striking “attorney’s” and inserting “attor-
10 neys’”.

11 **SEC. ~~1206.~~ 1106. LIMITATION ON COMPENSATION OF PRO-**
12 **FESSIONAL PERSONS.**

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

16 **SEC. ~~1207.~~ 1107. SPECIAL TAX PROVISIONS.**

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

20 **SEC. ~~1208.~~ 1108. EFFECT OF CONVERSION.**

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

1 **SEC. ~~1209.~~ 1109. ALLOWANCE OF ADMINISTRATIVE EX-**
 2 **PENSES.**

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

6 **SEC. ~~1210.~~ PRIORITIES.**

7 Section ~~507(a)~~ of title ~~11~~, United States Code, as
 8 amended by sections ~~211~~ and ~~229~~ of this Act, is
 9 amended—

10 (1) in paragraph (4)(B), by striking the semi-
 11 colon at the end and inserting a period; and

12 (2) in paragraph (8), by inserting “unsecured”
 13 after “allowed”.

14 **SEC. ~~1211.~~ EXEMPTIONS.**

15 Section ~~522(g)(2)~~ of title ~~11~~, United States Code, as
 16 amended by section ~~311~~ of this Act, is amended by strik-
 17 ing “subsection (f)(2)” and inserting “subsection
 18 (f)(1)(B)”.

19 **SEC. ~~1212.~~ 1110. EXCEPTIONS TO DISCHARGE.**

20 Section 523 of title 11, United States Code, as
 21 amended by section ~~229~~ ~~714~~ of this Act, is amended—

22 (1) as amended by section 304(e) of Public Law
 23 103–394 (108 Stat. 4133), in paragraph (15), by
 24 transferring such paragraph so as to insert it *such*
 25 *paragraph* after paragraph (14) of subsection (a);

26 (2) in subsection (a)—

1 (1) in paragraph (1), by inserting “student” be-
2 fore “grant” the second place it appears; and

3 (2) in paragraph (2), by striking “the program
4 operated under part B, D, or E of” and inserting
5 “any program operated under”.

6 **SEC. ~~1215.~~ 1113. PROPERTY OF THE ESTATE.**

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

9 **SEC. ~~1216.~~ 1114. PREFERENCES.**

10 (a) IN GENERAL.—Section 547 of title 11, United
11 States Code, *as amended by section 201(b) of this Act*, is
12 amended—

13 (1) in subsection (b), by striking “subsection
14 (c)” and inserting “subsections (c) and (i)”; and

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

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

23 (b) APPLICABILITY.—The amendments made by this
24 section shall apply to any case that pending or commenced
25 on or after the date of enactment of this Act.

1 **SEC. ~~1217.~~ 1115. POSTPETITION TRANSACTIONS.**

2 Section 549(c) of title 11, United States Code, is
3 amended—

4 (1) by inserting “an interest in” after “transfer
5 of”;

6 (2) by striking “such property” and inserting
7 “such real property”; and

8 (3) by striking “the interest” and inserting
9 “such interest”.

10 **SEC. ~~1218.~~ 1116. DISPOSITION OF PROPERTY OF THE ES-**
11 **TATE.**

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

14 **SEC. ~~1219.~~ 1117. GENERAL PROVISIONS.**

15 Section 901(a) of title 11, United States Code, as
16 amended by section ~~901(k)~~ 502 of this Act, is amended
17 by inserting “1123(d),” after “1123(b),”.

18 **SEC. ~~1220.~~ 1118. ABANDONMENT OF RAILROAD LINE.**

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

22 **SEC. ~~1221.~~ 1119. CONTENTS OF PLAN.**

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

1 **SEC. ~~1222.~~ 1120. DISCHARGE UNDER CHAPTER 12.**

2 Subsections (a) and (c) of section 1228 of title 11,
3 United States Code, are amended by striking
4 “1222(b)(10)” each place it appears and inserting
5 “1222(b)(9)”.

6 **SEC. ~~1223.~~ 1121. BANKRUPTCY CASES AND PROCEEDINGS.**

7 Section 1334(d) of title 28, United States Code, is
8 amended—

9 (1) by striking “made under this subsection”
10 and inserting “made under subsection (c)”; and

11 (2) by striking “This subsection” and inserting
12 “Subsection (c) and this subsection”.

13 **SEC. ~~1224.~~ 1122. KNOWING DISREGARD OF BANKRUPTCY**
14 **LAW OR RULE.**

15 Section 156(a) of title 18, United States Code, is
16 amended—

17 (1) in the first undesignated paragraph—

18 (A) by inserting “(1) the term” before
19 “bankruptcy”; and

20 (B) by striking the period at the end and
21 inserting “; and”; and

22 (2) in the second undesignated paragraph—

23 (A) by inserting “(2) the term” before
24 “document”; and

25 (B) by striking “this title” and inserting
26 “title 11”.

1 **SEC. ~~1225.~~ 1123. TRANSFERS MADE BY NONPROFIT CHARIT-**
2 **TABLE CORPORATIONS.**

3 (a) SALE OF PROPERTY OF ESTATE.—Section 363(d)
4 of title 11, United States Code, is amended by striking
5 “only” and all that follows through the end of the sub-
6 section and inserting “only—

7 “(1) in accordance with applicable nonbank-
8 ruptcy law that governs the transfer of property by
9 a corporation or trust that is not a moneyed, busi-
10 ness, or commercial corporation or trust; and

11 “(2) to the extent not inconsistent with any re-
12 lief granted under subsection (c), (d), (e), or (f) of
13 section 362.”.

14 (b) CONFIRMATION OF PLAN FOR REORGANIZA-
15 TION.—Section 1129(a) of title 11, United States Code,
16 as amended by section 212 of this Act, is amended by add-
17 ing at the end the following:

18 “(15) All transfers of property of the plan shall
19 be made in accordance with any applicable provi-
20 sions of nonbankruptcy law that govern the transfer
21 of property by a corporation or trust that is not a
22 moneyed, business, or commercial corporation or
23 trust.”.

24 (c) TRANSFER OF PROPERTY.—Section 541 of title
25 11, United States Code, is amended by adding at the end
26 the following:

1 “(f) Notwithstanding any other provision of this title,
2 property that is held by a debtor that is a corporation de-
3 scribed in section 501(c)(3) of the Internal Revenue Code
4 of 1986 and exempt from tax under section 501(a) of such
5 Code may be transferred to an entity that is not such a
6 corporation, but only under the same conditions as would
7 apply if the debtor had not filed a case under this title.”.

8 (d) APPLICABILITY.—The amendments made by this
9 section shall apply to a case pending under title 11, United
10 States Code, on the date of enactment of this Act, except
11 that the court shall not confirm a plan under chapter 11
12 of this title without considering whether this section would
13 substantially affect the rights of a party in interest who
14 first acquired rights with respect to the debtor after the
15 date of the petition. The parties who may appear and be
16 heard in a proceeding under this section include the attor-
17 ney general of the State in which the debtor is incor-
18 porated, was formed, or does business.

19 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to require the court in which a
21 case under chapter 11 is pending to remand or refer any
22 proceeding, issue, or controversy to any other court or to
23 require the approval of any other court for the transfer
24 of property.

1 **SEC. ~~1226.~~ 1124. PROTECTION OF VALID PURCHASE MONEY**
2 **SECURITY INTERESTS.**

3 Section 547(c)(3)(B) of title 11, United States Code,
4 is amended by striking “20” and inserting “30”.

5 **SEC. ~~1227.~~ 1125. EXTENSIONS.**

6 Section 302(d)(3) of the Bankruptcy, Judges, United
7 States Trustees, and Family Farmer Bankruptcy Act of
8 1986 (28 U.S.C. 581 note) is amended—

9 (1) in subparagraph (A), in the matter fol-
10 lowing clause (ii), by striking “or October 1, 2002,
11 whichever occurs first”; and

12 (2) in subparagraph (F)—

13 (A) in clause (i)—

14 (i) in subclause (II), by striking “or
15 October 1, 2002, whichever occurs first”;
16 and

17 (ii) in the matter following subclause
18 (II), by striking “October 1, 2003, or”;
19 and

20 (B) in clause (ii), in the matter following
21 subclause (II)—

22 (i) by striking “before October 1,
23 2003, or”; and

24 (ii) by striking “, whichever occurs
25 first”.

1 **SEC. ~~1228.~~ 1126. BANKRUPTCY JUDGESHIPS.**

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

4 (b) TEMPORARY JUDGESHIPS.—

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

10 (A) One additional bankruptcy judgeship
11 for the eastern district of California.

12 (B) Four additional bankruptcy judgeships
13 for the central district of California.

14 (C) One additional bankruptcy judgeship
15 for the southern district of Florida.

16 (D) Two additional bankruptcy judgeships
17 for the district of Maryland.

18 (E) One additional bankruptcy judgeship
19 for the eastern district of Michigan.

20 (F) One additional bankruptcy judgeship
21 for the southern district of Mississippi.

22 (G) One additional bankruptcy judgeship
23 for the district of New Jersey.

24 (H) One additional bankruptcy judgeship
25 for the eastern district of New York.

1 (I) One additional bankruptcy judgeship
2 for the northern district of New York.

3 (J) One additional bankruptcy judgeship
4 for the southern district of New York.

5 (K) One additional bankruptcy judgeship
6 for the eastern district of Pennsylvania.

7 (L) One additional bankruptcy judgeship
8 for the middle district of Pennsylvania.

9 (M) One additional bankruptcy judgeship
10 for the western district of Tennessee.

11 (N) One additional bankruptcy judgeship
12 for the eastern district of Virginia.

13 (2) VACANCIES.—The first vacancy occurring in
14 the office of a bankruptcy judge in each of the judi-
15 cial districts set forth in paragraph (1) that—

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

18 (B) occurs 5 years or more after the ap-
19 pointment date of a bankruptcy judge ap-
20 pointed under paragraph (1);

21 shall not be filled.

22 (c) EXTENSIONS.—

23 (1) IN GENERAL.—The temporary bankruptcy
24 judgeship positions authorized for the northern dis-
25 trict of Alabama, the district of Delaware, the dis-

1 trict of Puerto Rico, the district of South Carolina,
2 and the eastern district of Tennessee under section
3 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy
4 Judgeship Act of 1992 (28 U.S.C. 152 note) are ex-
5 tended until the first vacancy occurring in the office
6 of a bankruptcy judge in the applicable district re-
7 sulting from the death, retirement, resignation, or
8 removal of a bankruptcy judge and occurring—

9 (A) 8 years or more after November 8,
10 1993, with respect to the northern district of
11 Alabama;

12 (B) 10 years or more after October 28,
13 1993, with respect to the district of Delaware;

14 (C) 8 years or more after August 29,
15 1994, with respect to the district of Puerto
16 Rico;

17 (D) 8 years or more after June 27, 1994,
18 with respect to the district of South Carolina;
19 and

20 (E) 8 years or more after November 23,
21 1993, with respect to the eastern district of
22 Tennessee.

23 (2) APPLICABILITY OF OTHER PROVISIONS.—

24 All other provisions of section 3 of the Bankruptcy

1 Judgeship Act of 1992 remain applicable to such
2 temporary judgeship positions.

3 (d) TECHNICAL AMENDMENT.—The first sentence of
4 section 152(a)(1) of title 28, United States Code, is
5 amended to read as follows: “Each bankruptcy judge to
6 be appointed for a judicial district as provided in para-
7 graph (2) shall be appointed by the United States court
8 of appeals for the circuit in which such district is lo-
9 cated.”.

10 (e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—
11 Section 156 of title 28, United States Code, is amended
12 by adding at the end the following:

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

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

18 “(B) shall not include the travel expenses of a
19 bankruptcy judge if—

20 “(i) the payment for the travel expenses is
21 paid by such bankruptcy judge from the per-
22 sonal funds of such bankruptcy judge; and

23 “(ii) such bankruptcy judge does not re-
24 ceive funds (including reimbursement) from the

1 United States or any other person or entity for
2 the payment of such travel expenses.

3 “(2) Each bankruptcy judge shall annually submit
4 the information required under paragraph (3) to the chief
5 bankruptcy judge for the district in which the bankruptcy
6 judge is assigned.

7 “(3)(A) Each chief bankruptcy judge shall submit an
8 annual report to the Director of the Administrative Office
9 of the United States Courts on the travel expenses of each
10 bankruptcy judge assigned to the applicable district (in-
11 cluding the travel expenses of the chief bankruptcy judge
12 of such district).

13 “(B) The annual report under this paragraph shall
14 include—

15 “(i) the travel expenses of each bankruptcy
16 judge, with the name of the bankruptcy judge to
17 whom the travel expenses apply;

18 “(ii) a description of the subject matter and
19 purpose of the travel relating to each travel expense
20 identified under clause (i), with the name of the
21 bankruptcy judge to whom the travel applies; and

22 “(iii) the number of days of each travel de-
23 scribed under clause (ii), with the name of the bank-
24 ruptcy judge to whom the travel applies.

1 “(4)(A) The Director of the Administrative Office of
2 the United States Courts shall—

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

5 “(ii) annually submit such consolidated report
6 to Congress.

7 “(B) The consolidated report submitted under this
8 paragraph shall include the specific information required
9 under paragraph (3)(B), including the name of each bank-
10 ruptcy judge with respect to clauses (i), (ii), and (iii) of
11 paragraph (3)(B).”.

12 **TITLE ~~XIII~~ XVII—GENERAL EFFEC-**
13 **TIVE DATE; APPLICATION OF**
14 **AMENDMENTS**

15 **SEC. ~~1301.~~ 1201. EFFECTIVE DATE; APPLICATION OF AMEND-**
16 **MENTS.**

17 (a) EFFECTIVE DATE.—Except as provided otherwise
18 in this Act, this Act and the amendments made by this
19 Act shall take effect 180 days after the date of enactment
20 of this Act.

21 (b) APPLICATION OF AMENDMENTS.—The amend-
22 ments made by this Act shall not apply with respect to
23 cases commenced under title 11, United States Code, be-
24 fore the effective date of this Act.