

In the Senate of the United States,

July 17, 2001.

Resolved, That the bill from the House of Representatives (H.R. 333) entitled “An Act to amend title 11, United States Code, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the*

3 *“Bankruptcy Reform Act of 2001”.*

1 **(b) TABLE OF CONTENTS.—***The table of contents for*
 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. Sense of Congress and study.

Sec. 104. Notice of alternatives.

Sec. 105. Debtor financial management training test program.

Sec. 106. Credit counseling.

Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.

Sec. 202. Effect of discharge.

Sec. 203. Discouraging abuse of reaffirmation practices.

Sec. 204. Preservation of claims and defenses upon sale of predatory loans.

Sec. 205. GAO study on reaffirmation process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.

Sec. 212. Priorities for claims for domestic support obligations.

Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.

Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.

Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.

Sec. 216. Continued liability of property.

Sec. 217. Protection of domestic support claims against preferential transfer motions.

Sec. 218. Disposable income defined.

Sec. 219. Collection of child support.

Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.

Sec. 222. Sense of Congress.

Sec. 223. Additional amendments to title 11, United States Code.

Sec. 224. Protection of retirement savings in bankruptcy.

Sec. 225. Protection of education savings in bankruptcy.

Sec. 226. Definitions.

Sec. 227. Restrictions on debt relief agencies.

Sec. 228. Disclosures.

Sec. 229. Requirements for debt relief agencies.

Sec. 230. GAO study.

Sec. 231. Protection of nonpublic personal information.

Sec. 232. Consumer privacy ombudsman.

Sec. 233. Prohibition on disclosure of identity of minor children.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

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

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

- Sec. 401. Adequate protection for investors.*
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinancing of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.

- Sec. 413. Creditor representation at first meeting of creditors.*
- Sec. 414. Definition of disinterested person.*
- Sec. 415. Factors for compensation of professional persons.*
- Sec. 416. Appointment of elected trustee.*
- Sec. 417. Utility service.*
- Sec. 418. Bankruptcy fees.*
- Sec. 419. More complete information regarding assets of the estate.*
- Sec. 420. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.*

Subtitle B—Small Business Bankruptcy Provisions

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

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

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

TITLE VI—BANKRUPTCY DATA

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

TITLE VII—BANKRUPTCY TAX PROVISIONS

- Sec. 701. Treatment of certain liens.*
- Sec. 702. Treatment of fuel tax claims.*
- Sec. 703. Notice of request for a determination of taxes.*
- Sec. 704. Rate of interest on tax claims.*
- Sec. 705. Priority of tax claims.*
- Sec. 706. Priority property taxes incurred.*
- Sec. 707. No discharge of fraudulent taxes in chapter 13.*
- Sec. 708. No discharge of fraudulent taxes in chapter 11.*
- Sec. 709. Stay of tax proceedings limited to prepetition taxes.*
- 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.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 801. Amendment to add chapter 15 to title 11, United States Code.*
Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.*
Sec. 902. Authority of the Corporation with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy Code amendments.
Sec. 907A. Securities broker/commodity broker liquidation.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.
Sec. 912. Asset-backed securitizations.
Sec. 913. Effective date; application of amendments.
Sec. 914. Savings clause.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

- Sec. 1001. Permanent reenactment of chapter 12.*
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
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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 and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

- Sec. 1201. Definitions.*
- Sec. 1202. Adjustment of dollar amounts.*
- Sec. 1203. Extension of time.*
- Sec. 1204. Technical amendments.*
- Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.*
- Sec. 1206. Limitation on compensation of professional persons.*
- Sec. 1207. Effect of conversion.*
- Sec. 1208. Allowance of administrative expenses.*
- Sec. 1209. Exceptions to discharge.*
- Sec. 1210. Effect of discharge.*
- Sec. 1211. Protection against discriminatory treatment.*
- Sec. 1212. Property of the estate.*
- Sec. 1213. Preferences.*
- Sec. 1214. Postpetition transactions.*
- Sec. 1215. Disposition of property of the estate.*
- Sec. 1216. General provisions.*
- Sec. 1217. Abandonment of railroad line.*
- Sec. 1218. Contents of plan.*
- Sec. 1219. Bankruptcy cases and proceedings.*
- Sec. 1220. Knowing disregard of bankruptcy law or rule.*
- Sec. 1221. Transfers made by nonprofit charitable corporations.*
- Sec. 1222. Protection of valid purchase money security interests.*
- Sec. 1223. Bankruptcy judgeships.*
- Sec. 1224. Compensating trustees.*
- Sec. 1225. Amendment to section 362 of title 11, United States Code.*
- Sec. 1226. Judicial education.*
- Sec. 1227. Reclamation.*
- Sec. 1228. Providing requested tax documents to the court.*
- Sec. 1229. Encouraging creditworthiness.*
- Sec. 1230. Property no longer subject to redemption.*
- Sec. 1231. Trustees.*
- Sec. 1232. Bankruptcy forms.*
- Sec. 1233. Expedited appeals of bankruptcy cases to courts of appeals.*
- Sec. 1234. Exemptions.*
- Sec. 1235. Involuntary cases.*
- Sec. 1236. Federal election law fines and penalties as nondischargeable debt.*
- Sec. 1237. No bankruptcy for insolvent political committees.*

TITLE XIII—CONSUMER CREDIT DISCLOSURE

- Sec. 1301. Enhanced disclosures under an open end credit plan.*
- Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.*
- Sec. 1303. Disclosures related to “introductory rates”.*
- Sec. 1304. Internet-based credit card solicitations.*
- Sec. 1305. Disclosures related to late payment deadlines and penalties.*
- Sec. 1306. Prohibition on certain actions for failure to incur finance charges.*
- Sec. 1307. Dual use debit card.*
- Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.*
- Sec. 1309. Clarification of clear and conspicuous.*

*TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION
MEASURES*

- Sec. 1401. Short title.*
Sec. 1402. Findings and purposes.
Sec. 1403. Increased funding for LIHEAP, weatherization and State energy grants.
Sec. 1404. Federal energy management reviews.
Sec. 1405. Cost savings from replacement facilities.
Sec. 1406. Repeal of Energy Savings Performance Contract sunset.
Sec. 1407. Energy Savings Performance Contract definitions.
Sec. 1408. Effective date.

*TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF
AMENDMENTS*

- Sec. 1501. Effective date; application of amendments.*

TITLE XVI—MISCELLANEOUS PROVISIONS

- Sec. 1601. Reimbursement of research, development, and maintenance costs.*
Sec. 1602. Study of the effect of the Bankruptcy Reform Act of 2001.

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 inserting*
10 *the following:*

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

13 *and*

14 *(2) in subsection (b)—*

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

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

3 (i) in the first sentence—

4 (I) by striking “but not at the re-
5 quest or suggestion of” and inserting
6 “trustee, bankruptcy administrator,
7 or”;

8 (II) by inserting “, or, with the
9 debtor’s consent, convert such a case to
10 a case under chapter 11 or 13 of this
11 title,” after “consumer debts”; and

12 (III) by striking “a substantial
13 abuse” and inserting “an abuse”; and

14 (ii) by striking the next to last sen-
15 tence; and

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

17 “(2)(A)(i) In considering under paragraph (1) whether
18 the granting of relief would be an abuse of the provisions
19 of this chapter, the court shall presume abuse exists if the
20 debtor’s current monthly income reduced by the amounts
21 determined under clauses (ii), (iii), and (iv), and multi-
22 plied by 60 is not less than the lesser of—

23 (I) 25 percent of the debtor’s nonpriority unse-
24 cured claims in the case, or \$6,000, whichever is
25 greater; or

1 “(II) \$10,000.

2 “(ii)(I) *The debtor’s monthly expenses shall be the debt-*
3 *or’s applicable monthly expense amounts specified under*
4 *the National Standards and Local Standards, and the debt-*
5 *or’s actual monthly expenses for the categories specified as*
6 *Other Necessary Expenses issued by the Internal Revenue*
7 *Service for the area in which the debtor resides, as in effect*
8 *on the date of the entry of the order for relief, for the debtor,*
9 *the dependents of the debtor, and the spouse of the debtor*
10 *in a joint case, if the spouse is not otherwise a dependent.*
11 *Notwithstanding any other provision of this clause, the*
12 *monthly expenses of the debtor shall not include any pay-*
13 *ments for debts. In addition, the debtor’s monthly expenses*
14 *shall include the debtor’s reasonably necessary expenses in-*
15 *curred to maintain the safety of the debtor and the family*
16 *of the debtor from family violence as identified under sec-*
17 *tion 309 of the Family Violence Prevention and Services*
18 *Act (42 U.S.C. 10408), or other applicable Federal law. The*
19 *expenses included in the debtor’s monthly expenses described*
20 *in the preceding sentence shall be kept confidential by the*
21 *court. In addition, if it is demonstrated that it is reasonable*
22 *and necessary, the debtor’s monthly expenses may also in-*
23 *clude an additional allowance for food and clothing of up*
24 *to 5 percent of the food and clothing categories as specified*

1 *by the National Standards issued by the Internal Revenue*
2 *Service.*

3 “(II) *In addition, the debtor’s monthly expenses may*
4 *include, if applicable, the continuation of actual expenses*
5 *paid by the debtor that are reasonable and necessary for*
6 *care and support of an elderly, chronically ill, or disabled*
7 *household member or member of the debtor’s immediate*
8 *family (including parents, grandparents, siblings, children,*
9 *and grandchildren of the debtor, the dependents of the debt-*
10 *or, and the spouse of the debtor in a joint case) who is not*
11 *a dependent and who is unable to pay for such reasonable*
12 *and necessary expenses.*

13 “(III) *In addition, for a debtor eligible for chapter 13,*
14 *the debtor’s monthly expenses may include the actual ad-*
15 *ministrative expenses of administering a chapter 13 plan*
16 *for the district in which the debtor resides, up to an amount*
17 *of 10 percent of the projected plan payments, as determined*
18 *under schedules issued by the Executive Office for United*
19 *States Trustees.*

20 “(IV) *In addition, the debtor’s monthly expenses may*
21 *include the actual expenses for each dependent child under*
22 *the age of 18 years up to \$1,500 per year per child to attend*
23 *a private or public elementary or secondary school, if the*
24 *debtor provides documentation of such expenses and a de-*
25 *tailed explanation of why such expenses are reasonable and*

1 *necessary, and that such expenses are not already accounted*
2 *for in the Internal Revenue Service standards referred to*
3 *in section 707(b)(2) of this title.*

4 “(V) *In addition, if it is demonstrated that it is rea-*
5 *sonable and necessary, the debtor’s monthly expenses may*
6 *also include an additional allowance for housing and utili-*
7 *ties, in excess of the allowance specified by the Local Stand-*
8 *ards for housing and utilities issued by the International*
9 *Revenue Service, based on the actual expenses for home en-*
10 *ergy costs, if the debtor provides documentation of such ex-*
11 *penses.*

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

14 “(I) *the sum of—*

15 “(aa) *the total of all amounts scheduled as*
16 *contractually due to secured creditors in each*
17 *month of the 60 months following the date of the*
18 *petition; and*

19 “(bb) *any additional payments to secured*
20 *creditors necessary for the debtor, in filing a*
21 *plan under chapter 13 of this title, to maintain*
22 *possession of the debtor’s primary residence,*
23 *motor vehicle, or other property necessary for the*
24 *support of the debtor and the debtor’s depend-*

1 *ents, that serves as collateral for secured debts;*
2 *divided by*
3 “(II) 60.

4 “(iv) *The debtor’s expenses for payment of all priority*
5 *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 only be rebutted by*
12 *demonstrating special circumstances that justify additional*
13 *expenses or adjustments of current monthly income for*
14 *which there is no reasonable alternative.*

15 “(ii) *In order to establish special circumstances, the*
16 *debtor shall be required to—*

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

19 “(II) *provide—*

20 “(aa) *documentation for such expense or ad-*
21 *justment to income; and*

22 “(bb) *a detailed explanation of the special*
23 *circumstances that make such expenses or adjust-*
24 *ment to income necessary and reasonable.*

1 “(iii) The debtor shall attest under oath to the accu-
2 racy of any information provided to demonstrate that addi-
3 tional expenses or adjustments to income are required.

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

10 “(I) 25 percent of the debtor’s nonpriority unse-
11 curred claims, or \$6,000, whichever is greater; or

12 “(II) \$10,000.

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

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

24 “(A) whether the debtor filed the petition in bad
25 faith; or

1 “(B) the totality of the circumstances (including
2 whether the debtor seeks to reject a personal services
3 contract and the financial need for such rejection as
4 sought by the debtor) of the debtor’s financial situa-
5 tion demonstrates abuse.

6 “(4)(A) The court shall order the counsel for the debtor
7 to reimburse the trustee for all reasonable costs in pros-
8 ecuting a motion brought under section 707(b), including
9 reasonable attorneys’ fees, if—

10 “(i) a trustee appointed under section 586(a)(1)
11 of title 28 or from a panel of private trustees main-
12 tained by the bankruptcy administrator brings a mo-
13 tion for dismissal or conversion under this subsection;
14 and

15 “(ii) the court—

16 “(I) grants that motion; and

17 “(II) finds that the action of the counsel for
18 the debtor in filing under this chapter violated
19 rule 9011 of the Federal Rules of Bankruptcy
20 Procedure.

21 “(B) If the court finds that the attorney for the debtor
22 violated rule 9011 of the Federal Rules of Bankruptcy Pro-
23 cedure, at a minimum, the court shall order—

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

1 “(ii) the payment of the civil penalty to the
2 trustee, the United States trustee, or the bankruptcy
3 administrator.

4 “(C) In the case of a petition, pleading, or written mo-
5 tion, the signature of an attorney shall constitute a certifi-
6 cation that the attorney has—

7 “(i) performed a reasonable investigation into
8 the circumstances that gave rise to the petition, plead-
9 ing, or written motion; and

10 “(ii) determined that the petition, pleading, or
11 written motion—

12 “(I) is well grounded in fact; and

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

17 “(D) The signature of an attorney on the petition shall
18 constitute a certification that the attorney has no knowledge
19 after an inquiry that the information in the schedules filed
20 with such petition is incorrect.

21 “(5)(A) Except as provided in subparagraph (B) and
22 subject to paragraph (6), the court may award a debtor all
23 reasonable costs (including reasonable attorneys’ fees) in
24 contesting a motion brought by a party in interest (other

1 *than a trustee, United States trustee, or bankruptcy admin-*
2 *istrator) under this subsection if—*

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

4 *“(ii) the court finds that—*

5 *“(I) the position of the party that brought*
6 *the motion violated rule 9011 of the Federal*
7 *Rules of Bankruptcy Procedure; or*

8 *“(II) the party brought the motion solely for*
9 *the purpose of coercing a debtor into waiving a*
10 *right guaranteed to the debtor under this title.*

11 *“(B) A small business that has a claim of an aggregate*
12 *amount less than \$1,000 shall not be subject to subpara-*
13 *graph (A)(i)(I).*

14 *“(C) For purposes of this paragraph—*

15 *“(i) the term ‘small business’ means an unincor-*
16 *porated business, partnership, corporation, associa-*
17 *tion, or organization that—*

18 *“(I) has less than 25 full-time employees as*
19 *determined on the date the motion is filed; and*

20 *“(II) is engaged in commercial or business*
21 *activity; and*

22 *“(ii) the number of employees of a wholly owned*
23 *subsidiary of a corporation includes the employees*
24 *of—*

25 *“(I) a parent corporation; and*

1 “(II) any other subsidiary corporation of
2 the parent corporation.

3 “(6) Only the judge, United States trustee, or bank-
4 ruptcy administrator may bring a motion under section
5 707(b), if the current monthly income of the debtor, or in
6 a joint case, the debtor and the debtor’s spouse, as of the
7 date of the order for relief, when multiplied by 12, is equal
8 to or less than—

9 “(A) in the case of a debtor in a household of 1
10 person, the median family income of the applicable
11 State for 1 earner last reported by the Bureau of the
12 Census;

13 “(B) in the case of a debtor in a household of 2,
14 3, or 4 individuals, the highest median family income
15 of the applicable State for a family of the same num-
16 ber or fewer individuals last reported by the Bureau
17 of the Census; or

18 “(C) in the case of a debtor in a household ex-
19 ceeding 4 individuals, the highest median family in-
20 come of the applicable State for a family of 4 or fewer
21 individuals last reported by the Bureau of the Census,
22 plus \$525 per month for each individual in excess of
23 4.

24 “(7) No judge, United States trustee, panel trustee,
25 bankruptcy administrator or other party in interest may

1 *bring a motion under paragraph (2), if the current monthly*
2 *income of the debtor, or in a joint case, the debtor and the*
3 *debtor's spouse, as of the date of the order for relief when*
4 *multiplied by 12, is equal to or less than—*

5 “(A) *in the case of a debtor in a household of 1*
6 *person, the median family income of the applicable*
7 *State for 1 earner last reported by the Bureau of the*
8 *Census;*

9 “(B) *in the case of a debtor in a household of 2,*
10 *3, or 4 individuals, the highest median family income*
11 *of the applicable State for a family of the same num-*
12 *ber or fewer individuals last reported by the Bureau*
13 *of the Census; or*

14 “(C) *in the case of a debtor in a household ex-*
15 *ceeding 4 individuals, the highest median family in-*
16 *come of the applicable State for a family of 4 or fewer*
17 *individuals last reported by the Bureau of the Census,*
18 *plus \$525 per month for each individual in excess of*
19 *4.”.*

20 (b) *DEFINITION.—Section 101 of title 11, United*
21 *States Code, is amended by inserting after paragraph (10)*
22 *the following:*

23 “(10A) *‘current monthly income’—*

24 “(A) *means the average monthly income*
25 *from all sources which the debtor, or in a joint*

1 case, the debtor and the debtor's spouse, receive
2 without regard to whether the income is taxable
3 income, derived during the 6-month period pre-
4 ceding the date of determination, which shall be
5 the date which is the last day of the calendar
6 month immediately preceding the date of the
7 bankruptcy filing. If the debtor is providing the
8 debtor's current monthly income at the time of
9 the filing and otherwise the date of determina-
10 tion shall be such date on which the debtor's cur-
11 rent monthly income is determined by the court
12 for the purposes of this Act; and

13 “(B) includes any amount paid by any en-
14 tity other than the debtor (or, in a joint case, the
15 debtor and the debtor's spouse), on a regular
16 basis to the household expenses of the debtor or
17 the debtor's dependents (and, in a joint case, the
18 debtor's spouse if not otherwise a dependent), but
19 excludes benefits received under the Social Secu-
20 rity Act and payments to victims of war crimes
21 or crimes against humanity on account of their
22 status as victims of such crimes;”.

23 (c) UNITED STATES TRUSTEE AND BANKRUPTCY AD-
24 MINISTRATOR DUTIES.—Section 704 of title 11, United
25 States Code, is amended—

1 (1) by inserting “(a)” before “The trustee shall—
2 ”; and

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

4 “(b)(1) With respect to an individual debtor under this
5 chapter—

6 “(A) the United States trustee or bankruptcy ad-
7 ministrators shall review all materials filed by the
8 debtor and, not later than 10 days after the date of
9 the first meeting of creditors, file with the court a
10 statement as to whether the debtor’s case would be
11 presumed to be an abuse under section 707(b); and

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

15 “(2) The United States trustee or bankruptcy adminis-
16 trator shall, not later than 30 days after the date of filing
17 a statement under paragraph (1), either file a motion to
18 dismiss or convert under section 707(b) or file a statement
19 setting forth the reasons the United States trustee or bank-
20 ruptcy administrator does not believe that such a motion
21 would be appropriate, if the United States trustee or bank-
22 ruptcy administrator determines that the debtor’s case
23 should be presumed to be an abuse under section 707(b) and
24 the product of the debtor’s current monthly income, multi-
25 plied by 12 is not less than—

1 “(A) in the case of a debtor in a household of 1
2 person, the median family income of the applicable
3 State for 1 earner last reported by the Bureau of the
4 Census; or

5 “(B) in the case of a debtor in a household of 2
6 or more individuals, the highest median family in-
7 come of the applicable State for a family of the same
8 number or fewer individuals last reported by the Bu-
9 reau of the Census.

10 “(3) In any case in which a motion to dismiss or con-
11 vert, or a statement is required to be filed by this subsection,
12 the United States trustee or bankruptcy administrator may
13 decline to file a motion to dismiss or convert pursuant to
14 section 704(b)(2) if the product of the debtor’s current
15 monthly income multiplied by 12 exceeds 100 percent, but
16 does not exceed 150 percent of—

17 “(A)(i) in the case of a debtor in a household of
18 1 person, the median family income of the applicable
19 State for 1 earner last reported by the Bureau of the
20 Census; or

21 “(ii) in the case of a debtor in a household of 2
22 or more individuals, the highest median family in-
23 come of the applicable State for a family of the same
24 number or fewer individuals last reported by the Bu-
25 reau of the Census; and

1 “(B) the product of the debtor’s current monthly
2 income, reduced by the amounts determined under
3 section 707(b)(2)(A)(ii) (except for the amount cal-
4 culated under the other necessary expenses standard
5 issued by the Internal Revenue Service) and clauses
6 (iii) and (iv) of section 707(b)(2)(A), multiplied by
7 60 is less than the lesser of—

8 “(i) 25 percent of the debtor’s nonpriority
9 unsecured claims in the case or \$6,000, which-
10 ever is greater; or

11 “(ii) \$10,000.”.

12 (d) NOTICE.—Section 342 of title 11, United States
13 Code, is amended by adding at the end the following:

14 “(d) In an individual case under chapter 7 in which
15 the presumption of abuse is triggered under section 707(b),
16 the clerk shall give written notice to all creditors not later
17 than 10 days after the date of the filing of the petition that
18 the presumption of abuse has been triggered.”.

19 (e) NONLIMITATION OF INFORMATION.—Nothing in
20 this title shall limit the ability of a creditor to provide in-
21 formation to a judge (except for information communicated
22 ex parte, unless otherwise permitted by applicable law),
23 United States trustee, bankruptcy administrator or trustee.

1 (f) *DISMISSAL FOR CERTAIN CRIMES.*—Section 707 of
2 *title 11, United States Code, as amended by this section,*
3 *is amended by adding at the end the following:*

4 “(c)(1) *In this subsection—*

5 “(A) *the term ‘crime of violence’ has the meaning*
6 *given that term in section 16 of title 18; and*

7 “(B) *the term ‘drug trafficking crime’ has the*
8 *meaning given that term in section 924(c)(2) of title*
9 *18.*

10 “(2) *Except as provided in paragraph (3), after notice*
11 *and a hearing, the court, on a motion by the victim of a*
12 *crime of violence or a drug trafficking crime, may when*
13 *it is in the best interest of the victims dismiss a voluntary*
14 *case filed by an individual debtor under this chapter if that*
15 *individual was convicted of that crime.*

16 “(3) *The court may not dismiss a case under para-*
17 *graph (2) if the debtor establishes by a preponderance of*
18 *the evidence that the filing of a case under this chapter is*
19 *necessary to satisfy a claim for a domestic support obliga-*
20 *tion.”.*

21 (g) *CONFIRMATION OF PLAN.*—Section 1325(a) of title
22 *11, United States Code, is amended—*

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

1 (2) *in paragraph (6), by striking the period and*
2 *inserting a semicolon; and*

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

4 “*(7) the action of the debtor in filing the petition*
5 *was in good faith;*”.

6 (h) *APPLICABILITY OF MEANS TEST TO CHAPTER*
7 13.—*Section 1325(b) of title 11, United States Code, is*
8 *amended—*

9 (1) *in paragraph (1)(B), by inserting “to unse-*
10 *cured creditors” after “to make payments”; and*

11 (2) *by striking paragraph (2) and inserting the*
12 *following:*

13 “*(2) For purposes of this subsection, the term*
14 *‘disposable income’ means current monthly income re-*
15 *ceived by the debtor (other than child support pay-*
16 *ments, foster care payments, or disability payments*
17 *for a dependent child made in accordance with appli-*
18 *cable nonbankruptcy law to the extent reasonably nec-*
19 *essary to be expended for such child) less amounts*
20 *reasonably necessary to be expended—*

21 “*(A) for the maintenance or support of the*
22 *debtor or a dependent of the debtor or for a do-*
23 *mestic support obligation that first becomes pay-*
24 *able after the date the petition is filed and for*
25 *charitable contributions (that meet the definition*

1 of ‘charitable contribution’ under section
2 548(d)(3) to a qualified religious or charitable
3 entity or organization (as that term is defined in
4 section 548(d)(4)) in an amount not to exceed 15
5 percent of gross income of the debtor for the year
6 in which the contributions are made; and

7 “(B) if the debtor is engaged in business, for
8 the payment of expenditures necessary for the
9 continuation, preservation, and operation of such
10 business.

11 “(3) Amounts reasonably necessary to be ex-
12 pended under paragraph (2) shall be determined in
13 accordance with subparagraphs (A) and (B) of section
14 707(b)(2), if the debtor has current monthly income,
15 when multiplied by 12, greater than—

16 “(A) in the case of a debtor in a household
17 of 1 person, the median family income of the ap-
18 plicable State for 1 earner last reported by the
19 Bureau of the Census;

20 “(B) in the case of a debtor in a household
21 of 2, 3, or 4 individuals, the highest median
22 family income of the applicable State for a fam-
23 ily of the same number or fewer individuals last
24 reported by the Bureau of the Census; or

1 “(C) in the case of a debtor in a household
2 exceeding 4 individuals, the highest median fam-
3 ily income of the applicable State for a family
4 of 4 or fewer individuals last reported by the Bu-
5 reau of the Census, plus \$525 per month for each
6 individual in excess of 4.”.

7 (i) *SPECIAL ALLOWANCE FOR HEALTH INSURANCE.*—
8 Section 1329(a) of title 11, United States Code, is amended
9 by inserting the following new paragraph—

10 “(4) reduce amounts to be paid under the plan
11 by the actual amount expended by the debtor to pur-
12 chase health insurance for the debtor and any depend-
13 ent of the debtor (if those dependents do not otherwise
14 have health insurance coverage) if the debtor docu-
15 ments the cost of such insurance and demonstrates
16 that—

17 “(A) such expenses are reasonable and nec-
18 essary;

19 “(B)(i) if the debtor previously paid for
20 health insurance, the amount is not materially
21 larger than the cost the debtor previously paid or
22 the cost necessary to maintain the lapsed policy,
23 or;

24 “(ii) if the debtor did not have health insur-
25 ance, the amount is not materially larger than

1 *the reasonable cost that would be incurred by a*
2 *debtor who purchases health insurance and who*
3 *has similar income, expenses, age, health status,*
4 *and lives in the same geographic location with*
5 *the same number of dependents that do not other-*
6 *wise have health insurance coverage; and*

7 “(C) *the amount is not otherwise allowed*
8 *for purposes of determining disposable income*
9 *under section 1325(b) of this title.*

10 *Upon request of any party in interest the debtor shall file*
11 *proof that a health insurance policy was purchased.”.*

12 (j) *CLERICAL AMENDMENT.—The table of sections for*
13 *chapter 7 of title 11, United States Code, is amended by*
14 *striking the item relating to section 707 and inserting the*
15 *following:*

“707. Dismissal of a case or conversion to a case under chapter 11 or 13.”.

16 **SEC. 103. SENSE OF CONGRESS AND STUDY.**

17 (a) *SENSE OF CONGRESS.—It is the sense of Congress*
18 *that the Secretary of the Treasury has the authority to alter*
19 *the Internal Revenue Service standards established to set*
20 *guidelines for repayment plans as needed to accommodate*
21 *their use under section 707(b) of title 11, United States*
22 *Code.*

23 (b) *STUDY.—*

24 (1) *IN GENERAL.—Not later than 2 years after*
25 *the date of enactment of this Act, the Director of the*

1 *Executive Office for United States Trustees shall sub-*
2 *mit a report to the Committee on the Judiciary of the*
3 *Senate and the Committee on the Judiciary of the*
4 *House of Representatives containing the findings of*
5 *the Director regarding the utilization of Internal Rev-*
6 *enue Service standards for determining—*

7 (A) *the current monthly expenses of a debtor*
8 *under section 707(b) of title 11, United States*
9 *Code; and*

10 (B) *the impact that the application of such*
11 *standards has had on debtors and on the bank-*
12 *ruptcy courts.*

13 (2) *RECOMMENDATION.—The report under para-*
14 *graph (1) may include recommendations for amend-*
15 *ments to title 11, United States Code, that are con-*
16 *sistent with the findings of the Director under para-*
17 *graph (1).*

18 **SEC. 104. NOTICE OF ALTERNATIVES.**

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

21 “(b) *Before the commencement of a case under this title*
22 *by an individual whose debts are primarily consumer debts,*
23 *the clerk shall give to such individual written notice*
24 *containing—*

25 “(1) *a brief description of—*

1 “(A) chapters 7, 11, 12, and 13 and the
2 general purpose, benefits, and costs of proceeding
3 under each of those chapters; and

4 “(B) the types of services available from
5 credit counseling agencies; and

6 “(2) statements specifying that—

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

12 “(B) all information supplied by a debtor
13 in connection with a bankruptcy case is subject
14 to examination by the Attorney General.”.

15 **SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING**

16 **TEST PROGRAM.**

17 (a) *DEVELOPMENT OF FINANCIAL MANAGEMENT AND*
18 *TRAINING CURRICULUM AND MATERIALS.*—*The Director of*
19 *the Executive Office for United States Trustees (in this sec-*
20 *tion referred to as the “Director”)* shall consult with a wide
21 *range of individuals who are experts in the field of debtor*
22 *education, including trustees who are appointed under*
23 *chapter 13 of title 11, United States Code, and who operate*
24 *financial management education programs for debtors, and*
25 *shall develop a financial management training curriculum*

1 *and materials that can be used to educate individual debt-*
2 *ors on how to better manage their finances.*

3 (b) *TEST.*—

4 (1) *SELECTION OF DISTRICTS.*—*The Director*
5 *shall select 6 judicial districts of the United States in*
6 *which to test the effectiveness of the financial manage-*
7 *ment training curriculum and materials developed*
8 *under subsection (a).*

9 (2) *USE.*—*For an 18-month period beginning*
10 *not later than 270 days after the date of enactment*
11 *of this Act, such curriculum and materials shall be,*
12 *for the 6 judicial districts selected under paragraph*
13 *(1), used as the instructional course concerning per-*
14 *sonal financial management for purposes of section*
15 *111 of title 11, United States Code.*

16 (c) *EVALUATION.*—

17 (1) *IN GENERAL.*—*During the 18-month period*
18 *referred to in subsection (b), the Director shall evalu-*
19 *ate the effectiveness of—*

20 (A) *the financial management training cur-*
21 *riculum and materials developed under sub-*
22 *section (a); and*

23 (B) *a sample of existing consumer edu-*
24 *cation programs such as those described in the*
25 *Report of the National Bankruptcy Review Com-*

1 *mission (October 20, 1997) that are representa-*
2 *tive of consumer education programs carried out*
3 *by the credit industry, by trustees serving under*
4 *chapter 13 of title 11, United States Code, and*
5 *by consumer counseling groups.*

6 (2) *REPORT.*—*Not later than 3 months after con-*
7 *cluding such evaluation, the Director shall submit a*
8 *report to the Speaker of the House of Representatives*
9 *and the President pro tempore of the Senate, for refer-*
10 *ral to the appropriate committees of the Congress,*
11 *containing the findings of the Director regarding the*
12 *effectiveness of such curriculum, such materials, and*
13 *such programs and their costs.*

14 **SEC. 106. CREDIT COUNSELING.**

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

18 “(h)(1) *Subject to paragraphs (2) and (3), and not-*
19 *withstanding any other provision of this section, an indi-*
20 *vidual may not be a debtor under this title unless that indi-*
21 *vidual has, during the 180-day period preceding the date*
22 *of filing of the petition of that individual, received from*
23 *an approved nonprofit budget and credit counseling agency*
24 *described in section 111(a) an individual or group briefing*
25 *(including a briefing conducted by telephone or on the*

1 *Internet) that outlined the opportunities for available credit*
2 *counseling and assisted that individual in performing a re-*
3 *lated budget analysis.*

4 “(2)(A) *Paragraph (1) shall not apply with respect to*
5 *a debtor who resides in a district for which the United*
6 *States trustee or bankruptcy administrator of the bank-*
7 *ruptcy court of that district determines that the approved*
8 *nonprofit budget and credit counseling agencies for that dis-*
9 *trict are not reasonably able to provide adequate services*
10 *to the additional individuals who would otherwise seek cred-*
11 *it counseling from that agency by reason of the require-*
12 *ments of paragraph (1).*

13 “(B) *Each United States trustee or bankruptcy admin-*
14 *istrator that makes a determination described in subpara-*
15 *graph (A) shall review that determination not later than*
16 *1 year after the date of that determination, and not less*
17 *frequently than every year thereafter. Notwithstanding the*
18 *preceding sentence, a nonprofit budget and credit coun-*
19 *seling service may be disapproved by the United States*
20 *trustee or bankruptcy administrator at any time.*

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

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

1 “(ii) states that the debtor requested credit coun-
2 seling services from an approved nonprofit budget
3 and credit counseling agency, but was unable to ob-
4 tain the services referred to in paragraph (1) during
5 the 5-day period beginning on the date on which the
6 debtor made that request; and

7 “(iii) is satisfactory to the court.

8 “(B) With respect to a debtor, an exemption under sub-
9 paragraph (A) shall cease to apply to that debtor on the
10 date on which the debtor meets the requirements of para-
11 graph (1), but in no case may the exemption apply to that
12 debtor after the date that is 30 days after the debtor files
13 a petition, except that the court, for cause, may order an
14 additional 15 days.”.

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

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

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

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

22 “(11) after the filing of the petition, the debtor
23 failed to complete an instructional course concerning
24 personal financial management described in section
25 111.

1 “(12)(A) Paragraph (11) shall not apply with
2 respect to a debtor who resides in a district for which
3 the United States trustee or bankruptcy adminis-
4 trator of that district determines that the approved
5 instructional courses are not adequate to service the
6 additional individuals required to complete such in-
7 structional courses under this section.

8 “(B) Each United States trustee or bankruptcy
9 administrator that makes a determination described
10 in subparagraph (A) shall review that determination
11 not later than 1 year after the date of that determina-
12 tion, and not less frequently than every year there-
13 after.”.

14 (c) CHAPTER 13 DISCHARGE.—Section 1328 of title
15 11, United States Code, is amended by adding at the end
16 the following:

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

21 “(h) Subsection (g) shall not apply with respect to a
22 debtor who resides in a district for which the United States
23 trustee or bankruptcy administrator of the bankruptcy
24 court of that district determines that the approved instruc-
25 tional courses are not adequate to service the additional in-

1 *dividuals who would be required to complete the instruc-*
2 *tional course by reason of the requirements of this section.*

3 “(i) *Each United States trustee or bankruptcy admin-*
4 *istrator that makes a determination described in subsection*
5 *(h) shall review that determination not later than 1 year*
6 *after the date of that determination, and not less frequently*
7 *than every year thereafter.*”.

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

10 (1) *by inserting “(a)” before “The debtor shall—*
11 *”; and*

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

13 “(b) *In addition to the requirements under subsection*
14 *(a), an individual debtor shall file with the court—*

15 “(1) *a certificate from the approved nonprofit*
16 *budget and credit counseling agency that provided the*
17 *debtor services under section 109(h) describing the*
18 *services provided to the debtor; and*

19 “(2) *a copy of the debt repayment plan, if any,*
20 *developed under section 109(h) through the approved*
21 *nonprofit budget and credit counseling agency re-*
22 *ferred to in paragraph (1).*”.

23 (e) *GENERAL PROVISIONS.*—

1 *tional courses which will be offered by such agency or*
2 *provider, and may require an agency or provider of*
3 *an instructional course which has sought approval to*
4 *provide information with respect to such review.*

5 *“(2) The United States trustee or bankruptcy ad-*
6 *ministrator shall have determined that the credit*
7 *counseling agency or course of instruction fully satis-*
8 *fies the applicable standards set forth in this section.*

9 *“(3) When an agency or course of instruction is*
10 *initially approved, such approval shall be for a pro-*
11 *bationary period not to exceed 6 months. An agency*
12 *or course of instruction is initially approved if it did*
13 *not appear on the approved list for the district under*
14 *subsection (a) immediately prior to approval.*

15 *“(4) At the conclusion of the probationary period*
16 *under paragraph (3), the United States trustee or*
17 *bankruptcy administrator may only approve for an*
18 *additional 1-year period, and for successive 1-year*
19 *periods thereafter, any agency or course of instruction*
20 *which has demonstrated during the probationary or*
21 *subsequent period that such agency or course of*
22 *instruction—*

23 *“(A) has met the standards set forth under*
24 *this section during such period; and*

1 “(B) can satisfy such standards in the fu-
2 ture.

3 “(5) Not later than 30 days after any final deci-
4 sion under paragraph (4), that occurs either after the
5 expiration of the initial probationary period, or after
6 any 2-year period thereafter, an interested person
7 may seek judicial review of such decision in the ap-
8 propriate United States District Court.

9 “(c)(1) The United States trustee or bankruptcy ad-
10 ministrators shall only approve a credit counseling agency
11 that demonstrates that it will provide qualified counselors,
12 maintain adequate provision for safekeeping and payment
13 of client funds, provide adequate counseling with respect to
14 client credit problems, and deal responsibly and effectively
15 with other matters as relate to the quality, effectiveness, and
16 financial security of such programs.

17 “(2) To be approved by the United States trustee or
18 bankruptcy administrator, a credit counseling agency shall,
19 at a minimum—

20 “(A) be a nonprofit budget and credit counseling
21 agency, the majority of the board of directors of
22 which—

23 “(i) are not employed by the agency; and

1 “(i) will not directly or indirectly benefit
2 financially from the outcome of a credit coun-
3 seling session;

4 “(B) if a fee is charged for counseling services,
5 charge a reasonable fee, and provide services without
6 regard to ability to pay the fee;

7 “(C) provide for safekeeping and payment of cli-
8 ent funds, including an annual audit of the trust ac-
9 counts and appropriate employee bonding;

10 “(D) provide full disclosures to clients, including
11 funding sources, counselor qualifications, possible im-
12 pact on credit reports, and any costs of such program
13 that will be paid by the debtor and how such costs
14 will be paid;

15 “(E) provide adequate counseling with respect to
16 client credit problems that includes an analysis of
17 their current situation, what brought them to that fi-
18 nancial status, and how they can develop a plan to
19 handle the problem without incurring negative amor-
20 tization of their debts;

21 “(F) provide trained counselors who receive no
22 commissions or bonuses based on the counseling ses-
23 sion outcome, and who have adequate experience, and
24 have been adequately trained to provide counseling

1 *services to individuals in financial difficulty, includ-*
2 *ing the matters described in subparagraph (E);*

3 *“(G) demonstrate adequate experience and back-*
4 *ground in providing credit counseling; and*

5 *“(H) have adequate financial resources to pro-*
6 *vide continuing support services for budgeting plans*
7 *over the life of any repayment plan.*

8 *“(d) The United States trustee or bankruptcy adminis-*
9 *trator shall only approve an instructional course con-*
10 *cerning personal financial management—*

11 *“(1) for an initial probationary period under*
12 *subsection (b)(3) if the course will provide at a*
13 *minimum—*

14 *“(A) trained personnel with adequate expe-*
15 *rience and training in providing effective in-*
16 *struction and services;*

17 *“(B) learning materials and teaching meth-*
18 *odologies designed to assist debtors in under-*
19 *standing personal financial management and*
20 *that are consistent with stated objectives directly*
21 *related to the goals of such course of instruction;*

22 *“(C) adequate facilities situated in reason-*
23 *ably convenient locations at which such course of*
24 *instruction is offered, except that such facilities*
25 *may include the provision of such course of in-*

1 *struction or program by telephone or through the*
2 *Internet, if the course of instruction or program*
3 *is effective; and*

4 “(D) *the preparation and retention of rea-*
5 *sonable records (which shall include the debtor’s*
6 *bankruptcy case number) to permit evaluation of*
7 *the effectiveness of such course of instruction or*
8 *program, including any evaluation of satisfac-*
9 *tion of course of instruction or program require-*
10 *ments for each debtor attending such course of*
11 *instruction or program, which shall be available*
12 *for inspection and evaluation by the Executive*
13 *Office for United States Trustees, the United*
14 *States trustee, bankruptcy administrator, or*
15 *chief bankruptcy judge for the district in which*
16 *such course of instruction or program is offered;*
17 *and*

18 “(2) *for any 1-year period if the provider thereof*
19 *has demonstrated that the course meets the standards*
20 *of paragraph (1) and, in addition—*

21 “(A) *has been effective in assisting a sub-*
22 *stantial number of debtors to understand per-*
23 *sonal financial management; and*

1 “(B) is otherwise likely to increase substan-
2 tially debtor understanding of personal financial
3 management.

4 “(e) The District Court may, at any time, investigate
5 the qualifications of a credit counseling agency referred to
6 in subsection (a), and request production of documents to
7 ensure the integrity and effectiveness of such credit coun-
8 seling agencies. The District Court may, at any time, re-
9 move from the approved list under subsection (a) a credit
10 counseling agency upon finding such agency does not meet
11 the qualifications of subsection (b).

12 “(f) The United States trustee or bankruptcy adminis-
13 trator shall notify the clerk that a credit counseling agency
14 or an instructional course is no longer approved, in which
15 case the clerk shall remove it from the list maintained under
16 subsection (a).

17 “(g)(1) No credit counseling service may provide to a
18 credit reporting agency information concerning whether an
19 individual debtor has received or sought instruction con-
20 cerning personal financial management from the credit
21 counseling service.

22 “(2) A credit counseling service that willfully or neg-
23 ligently fails to comply with any requirement under this
24 title with respect to a debtor shall be liable for damages
25 in an amount equal to the sum of—

1 “(A) any actual damages sustained by the debtor
2 as a result of the violation; and

3 “(B) any court costs or reasonable attorneys’ fees
4 (as determined by the court) incurred in an action to
5 recover those damages.”.

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

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

9 (f) *LIMITATION.*—Section 362 of title 11, United States
10 Code, is amended by adding at the end the following:

11 “(i) If a case commenced under chapter 7, 11, or 13
12 is dismissed due to the creation of a debt repayment plan,
13 for purposes of subsection (c)(3), any subsequent case com-
14 menced by the debtor under any such chapter shall not be
15 presumed to be filed not in good faith.

16 “(j) On request of a party in interest, the court shall
17 issue an order under subsection (c) confirming that the
18 automatic stay has been terminated.”.

19 **SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY**
20 **EXPENSES.**

21 For purposes of section 707(b) of title 11, United
22 States Code, as amended by this Act, the Director of the
23 Executive Office for United States Trustees shall, not later
24 than 180 days after the date of enactment of this Act, issue
25 schedules of reasonable and necessary administrative ex-

1 *penses of administering a chapter 13 plan for each judicial*
 2 *district of the United States.*

3 **TITLE II—ENHANCED**
 4 **CONSUMER PROTECTION**
 5 **Subtitle A—Penalties for Abusive**
 6 **Creditor Practices**

7 **SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**
 8 **TION.**

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

12 “(k)(1) *The court, on the motion of the debtor and after*
 13 *a hearing, may reduce a claim filed under this section based*
 14 *in whole on unsecured consumer debts by not more than*
 15 *20 percent of the claim, if—*

16 “(A) *the claim was filed by a creditor who un-*
 17 *reasonably refused to negotiate a reasonable alter-*
 18 *native repayment schedule proposed by an approved*
 19 *credit counseling agency described in section 111 act-*
 20 *ing on behalf of the debtor;*

21 “(B) *the offer of the debtor under subparagraph*
 22 *(A)—*

23 “(i) *was made at least 60 days before the*
 24 *filing of the petition; and*

1 “(i) provided for payment of at least 60
2 percent of the amount of the debt over a period
3 not to exceed the repayment period of the loan,
4 or a reasonable extension thereof; and

5 “(C) no part of the debt under the alternative re-
6 payment schedule is nondischargeable.

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

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

11 “(B) the proposed alternative repayment sched-
12 ule was made prior to expiration of the 60-day period
13 specified in paragraph (1)(B)(i).”.

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

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

21 **SEC. 202. EFFECT OF DISCHARGE.**

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

24 “(i) The willful failure of a creditor to credit payments
25 received under a plan confirmed under this title (including

1 a plan of reorganization confirmed under chapter 11 of this
 2 title), unless the plan is dismissed, in default, or the cred-
 3 itor has not received payments required to be made under
 4 the plan in the manner required by the plan (including
 5 crediting the amounts required under the plan), shall con-
 6 stitute a violation of an injunction under subsection (a)(2)
 7 if the act of the creditor to collect and failure to credit pay-
 8 ments in the manner required by the plan caused material
 9 injury to the debtor.

10 “(j) Subsection (a)(2) does not operate as an injunc-
 11 tion against an act by a creditor that is the holder of a
 12 secured claim, if—

13 “(1) such creditor retains a security interest in
 14 real property that is the principal residence of the
 15 debtor;

16 “(2) such act is in the ordinary course of busi-
 17 ness between the creditor and the debtor; and

18 “(3) such act is limited to seeking or obtaining
 19 periodic payments associated with a valid security
 20 interest in lieu of pursuit of in rem relief to enforce
 21 the lien.”.

22 **SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRAC-**
 23 **TICES.**

24 (a) *IN GENERAL.*—Section 524 of title 11, United
 25 States Code, as amended by this Act, is amended—

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

3 “(2) *the debtor received the disclosures described*
4 *in subsection (k) at or before the time at which the*
5 *debtor signed the agreement;”;*

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

7 “(k)(1) *The disclosures required under subsection*
8 *(c)(2) shall consist of the disclosure statement described in*
9 *paragraph (3), completed as required in that paragraph,*
10 *together with the agreement, statement, declaration, motion*
11 *and order described, respectively, in paragraphs (4) through*
12 *(8), and shall be the only disclosures required in connection*
13 *with the reaffirmation.*

14 “(2) *Disclosures made under paragraph (1) shall be*
15 *made clearly and conspicuously and in writing. The terms*
16 *‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall*
17 *be disclosed more conspicuously than other terms, data or*
18 *information provided in connection with this disclosure, ex-*
19 *cept that the phrases ‘Before agreeing to reaffirm a debt,*
20 *review these important disclosures’ and ‘Summary of Reaf-*
21 *firmation Agreement’ may be equally conspicuous. Disclo-*
22 *sure may be made in a different order and may use termi-*
23 *nology different from that set forth in paragraphs (2)*
24 *through (8), except that the terms ‘Amount Reaffirmed’ and*
25 *‘Annual Percentage Rate’ must be used where indicated.*

1 “(3) *The disclosure statement required under this*
2 *paragraph shall consist of the following:*

3 “(A) *The statement: ‘Part A: Before agreeing to*
4 *reaffirm a debt, review these important disclosures:’;*

5 “(B) *Under the heading ‘Summary of Reaffir-*
6 *mation Agreement’, the statement: ‘This Summary is*
7 *made pursuant to the requirements of the Bankruptcy*
8 *Code’;*

9 “(C) *The ‘Amount Reaffirmed’, using that term,*
10 *which shall be—*

11 “(i) *the total amount which the debtor*
12 *agrees to reaffirm, and*

13 “(ii) *the total of any other fees or cost ac-*
14 *crued as of the date of the disclosure statement.*

15 “(D) *In conjunction with the disclosure of the*
16 *‘Amount Reaffirmed’, the statements—*

17 “(i) *‘The amount of debt you have agreed to*
18 *reaffirm’; and*

19 “(ii) *‘Your credit agreement may obligate*
20 *you to pay additional amounts which may come*
21 *due after the date of this disclosure. Consult your*
22 *credit agreement.’.*

23 “(E) *The ‘Annual Percentage Rate’, using that*
24 *term, which shall be disclosed as—*

1 “(i) if, at the time the petition is filed, the
2 debt is open end credit as defined under the
3 Truth in Lending Act (15 U.S.C. 1601 et seq.),
4 then—

5 “(I) the annual percentage rate deter-
6 mined under paragraphs (5) and (6) of sec-
7 tion 127(b) of the Truth in Lending Act (15
8 U.S.C. 1637(b) (5) and (6)), as applicable,
9 as disclosed to the debtor in the most recent
10 periodic statement prior to the agreement
11 or, if no such periodic statement has been
12 provided the debtor during the prior 6
13 months, the annual percentage rate as it
14 would have been so disclosed at the time the
15 disclosure statement is given the debtor, or
16 to the extent this annual percentage rate is
17 not readily available or not applicable, then

18 “(II) the simple interest rate applica-
19 ble to the amount reaffirmed as of the date
20 the disclosure statement is given to the debt-
21 or, or if different simple interest rates apply
22 to different balances, the simple interest rate
23 applicable to each such balance, identifying
24 the amount of each such balance included in
25 the amount reaffirmed, or

1 “(III) if the entity making the disclo-
2 sure elects, to disclose the annual percentage
3 rate under subclause (I) and the simple in-
4 terest rate under subclause (II);

5 “(i) if, at the time the petition is filed, the
6 debt is closed end credit as defined under the
7 Truth in Lending Act (15 U.S.C. 1601 et seq.),
8 then—

9 “(I) the annual percentage rate under
10 section 128(a)(4) of the Truth in Lending
11 Act (15 U.S.C. 1638(a)(4)), as disclosed to
12 the debtor in the most recent disclosure
13 statement given the debtor prior to the reaff-
14 firmation agreement with respect to the
15 debt, or, if no such disclosure statement was
16 provided the debtor, the annual percentage
17 rate as it would have been so disclosed at
18 the time the disclosure statement is given
19 the debtor, or to the extent this annual per-
20 centage rate is not readily available or not
21 applicable, then

22 “(II) the simple interest rate applica-
23 ble to the amount reaffirmed as of the date
24 the disclosure statement is given the debtor,
25 or if different simple interest rates apply to

1 *different balances, the simple interest rate*
2 *applicable to each such balance, identifying*
3 *the amount of such balance included in the*
4 *amount reaffirmed, or*

5 *“(III) if the entity making the disclo-*
6 *sure elects, to disclose the annual percentage*
7 *rate under (I) and the simple interest rate*
8 *under (II).*

9 *“(F) If the underlying debt transaction was dis-*
10 *closed as a variable rate transaction on the most re-*
11 *cent disclosure given under the Truth in Lending Act*
12 *(15 U.S.C. 1601 et seq.), by stating ‘The interest rate*
13 *on your loan may be a variable interest rate which*
14 *changes from time to time, so that the annual per-*
15 *centage rate disclosed here may be higher or lower.’.*

16 *“(G) If the debt is secured by a security interest*
17 *which has not been waived in whole or in part or de-*
18 *termined to be void by a final order of the court at*
19 *the time of the disclosure, by disclosing that a secu-*
20 *rity interest or lien in goods or property is asserted*
21 *over some or all of the obligations you are reaffirming*
22 *and listing the items and their original purchase*
23 *price that are subject to the asserted security interest,*
24 *or if not a purchase-money security interest then list-*

1 *ing by items or types and the original amount of the*
2 *loan.*

3 *“(H) At the election of the creditor, a statement*
4 *of the repayment schedule using 1 or a combination*
5 *of the following—*

6 *“(i) by making the statement: ‘Your first*
7 *payment in the amount of \$_____ is due on*
8 *_____ but the future payment amount may be*
9 *different. Consult your reaffirmation or credit*
10 *agreement, as applicable.’, and stating the*
11 *amount of the first payment and the due date of*
12 *that payment in the places provided;*

13 *“(ii) by making the statement: ‘Your pay-*
14 *ment schedule will be.’, and describing the repay-*
15 *ment schedule with the number, amount and due*
16 *dates or period of payments scheduled to repay*
17 *the obligations reaffirmed to the extent then*
18 *known by the disclosing party; or*

19 *“(iii) by describing the debtor’s repayment*
20 *obligations with reasonable specificity to the ex-*
21 *tent then known by the disclosing party.*

22 *“(I) The following statement: ‘Note: When this*
23 *disclosure refers to what a creditor “may” do, it does*
24 *not use the word “may” to give the creditor specific*
25 *permission. The word “may” is used to tell you what*

1 *might occur if the law permits the creditor to take the*
2 *action. If you have questions about your reaffirma-*
3 *tion or what the law requires, talk to the attorney*
4 *who helped you negotiate this agreement. If you don't*
5 *have an attorney helping you, the judge will explain*
6 *the effect of your reaffirmation when the reaffirma-*
7 *tion hearing is held.'.*

8 *“(J)(i) The following additional statements:*

9 *“‘Reaffirming a debt is a serious financial decision.*
10 *The law requires you to take certain steps to make sure*
11 *the decision is in your best interest. If these steps are not*
12 *completed, the reaffirmation agreement is not effective, even*
13 *though you have signed it.*

14 *“‘1. Read the disclosures in this Part A care-*
15 *fully. Consider the decision to reaffirm carefully.*
16 *Then, if you want to reaffirm, sign the reaffirmation*
17 *agreement in Part B (or you may use a separate*
18 *agreement you and your creditor agree on).*

19 *“‘2. Complete and sign Part D and be sure you*
20 *can afford to make the payments you are agreeing to*
21 *make and have received a copy of the disclosure state-*
22 *ment and a completed and signed reaffirmation*
23 *agreement.*

24 *“‘3. If you were represented by an attorney dur-*
25 *ing the negotiation of the reaffirmation agreement,*

1 *the attorney must have signed the certification in*
2 *Part C.*

3 *“4. If you were not represented by an attorney*
4 *during the negotiation of the reaffirmation agreement,*
5 *you must have completed and signed Part E.*

6 *“5. The original of this disclosure must be filed*
7 *with the court by you or your creditor. If a separate*
8 *reaffirmation agreement (other than the one in Part*
9 *B) has been signed, it must be attached.*

10 *“6. If you were represented by an attorney dur-*
11 *ing the negotiation of the reaffirmation agreement,*
12 *your reaffirmation agreement becomes effective upon*
13 *filing with the court unless the reaffirmation is pre-*
14 *sumed to be an undue hardship as explained in Part*
15 *D.*

16 *“7. If you were not represented by an attorney*
17 *during the negotiation of the reaffirmation agreement,*
18 *it will not be effective unless the court approves it.*
19 *The court will notify you of the hearing on your reaf-*
20 *firmation agreement. You must attend this hearing in*
21 *bankruptcy court where the judge will review your*
22 *agreement. The bankruptcy court must approve the*
23 *agreement as consistent with your best interests, ex-*
24 *cept that no court approval is required if the agree-*
25 *ment is for a consumer debt secured by a mortgage,*

1 *deed of trust, security deed or other lien on your real*
2 *property, like your home.*

3 “*Your right to rescind a reaffirmation. You may re-*
4 *scind (cancel) your reaffirmation at any time before the*
5 *bankruptcy court enters a discharge order or within 60 days*
6 *after the agreement is filed with the court, whichever is*
7 *longer. To rescind or cancel, you must notify the creditor*
8 *that the agreement is canceled.*

9 “*What are your obligations if you reaffirm the debt?*
10 *A reaffirmed debt remains your personal legal obligation.*
11 *It is not discharged in your bankruptcy. That means that*
12 *if you default on your reaffirmed debt after your bank-*
13 *ruptcy is over, your creditor may be able to take your prop-*
14 *erty or your wages. Otherwise, your obligations will be de-*
15 *termined by the reaffirmation agreement which may have*
16 *changed the terms of the original agreement. For example,*
17 *if you are reaffirming an open end credit agreement, the*
18 *creditor may be permitted by that agreement or applicable*
19 *law to change the terms of the agreement in the future under*
20 *certain conditions.*

21 “*Are you required to enter into a reaffirmation agree-*
22 *ment by any law? No, you are not required to reaffirm a*
23 *debt by any law. Only agree to reaffirm a debt if it is in*
24 *your best interest. Be sure you can afford the payments you*
25 *agree to make.*

1 “*What if your creditor has a security interest or lien?*
2 *Your bankruptcy discharge does not eliminate any lien on*
3 *your property. A “lien” is often referred to as a security*
4 *interest, deed of trust, mortgage or security deed. Even if*
5 *you do not reaffirm and your personal liability on the debt*
6 *is discharged, because of the lien your creditor may still*
7 *have the right to take the security property if you do not*
8 *pay the debt or default on it. If the lien is on an item of*
9 *personal property that is exempt under your State’s law*
10 *or that the trustee has abandoned, you may be able to re-*
11 *deem the item rather than reaffirm the debt. To redeem,*
12 *you make a single payment to the creditor equal to the cur-*
13 *rent value of the security property, as agreed by the parties*
14 *or determined by the court.’*

15 “(i) *In the case of a reaffirmation under sub-*
16 *section (m)(2), numbered paragraph 6 in the disclo-*
17 *tures required by clause (i) of this subparagraph shall*
18 *read as follows:*

19 “*6. If you were represented by an attorney dur-*
20 *ing the negotiation of the reaffirmation agreement,*
21 *your reaffirmation agreement becomes effective upon*
22 *filing with the court.’*

23 “(4) *The form of reaffirmation agreement required*
24 *under this paragraph shall consist of the following:*

1 “(C) In the case of a reaffirmation agreement under
2 subsection (m)(2), subparagraph (B) is not applicable.

3 “(6)(A) The statement in support of reaffirmation
4 agreement, which the debtor shall sign and date prior to
5 filing with the court, shall consist of the following:

6 “‘Part D: Debtor’s Statement in Support of Reaffir-
7 mation Agreement.

8 “‘1. I believe this agreement will not impose an undue
9 hardship on my dependents or me. I can afford to make
10 the payments on the reaffirmed debt because my monthly
11 income (take home pay plus any other income received) is
12 \$_____, and my actual current monthly expenses includ-
13 ing monthly payments on post-bankruptcy debt and other
14 reaffirmation agreements total \$_____, leaving \$_____
15 to make the required payments on this reaffirmed debt. I
16 understand that if my income less my monthly expenses
17 does not leave enough to make the payments, this reaffirma-
18 tion agreement is presumed to be an undue hardship on
19 me and must be reviewed by the court. However, this pre-
20 sumption may be overcome if I explain to the satisfaction
21 of the court how I can afford to make the payments here:
22 _____.

23 “‘2. I received a copy of the Reaffirmation Disclosure
24 Statement in Part A and a completed and signed reaffirma-
25 tion agreement.’.

1 “(B) Where the debtor is represented by counsel and
2 is reaffirming a debt owed to a creditor defined in section
3 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C.
4 461(b)(1)(A)(iv)), the statement of support of the reaffirma-
5 tion agreement, which the debtor shall sign and date prior
6 to filing with the court, shall consist of the following:

7 “‘I believe this agreement is in my financial interest.
8 I can afford to make the payments on the reaffirmed debt.
9 I received a copy of the Reaffirmation Disclosure Statement
10 in Part A and a completed and signed reaffirmation agree-
11 ment.’.

12 “(7) The motion, which may be used if approval of
13 the agreement by the court is required in order for it to
14 be effective and shall be signed and dated by the moving
15 party, shall consist of the following:

16 “‘Part E: Motion for Court Approval (To be completed
17 only where debtor is not represented by an attorney.). I
18 (we), the debtor, affirm the following to be true and correct:

19 “‘I am not represented by an attorney in connection
20 with this reaffirmation agreement.

21 “‘I believe this agreement is in my best interest based
22 on the income and expenses I have disclosed in my State-
23 ment in Support of this reaffirmation agreement above, and
24 because (provide any additional relevant reasons the court
25 should consider):

1 *“Therefore, I ask the court for an order approving this*
2 *reaffirmation agreement.’.*

3 *“(8) The court order, which may be used to approve*
4 *a reaffirmation, shall consist of the following:*

5 *“‘Court Order: The court grants the debtor’s motion*
6 *and approves the reaffirmation agreement described above.’.*

7 *“(9) Subsection (a)(2) does not operate as an injunc-*
8 *tion against an act by a creditor that is the holder of a*
9 *secured claim, if—*

10 *“(A) such creditor retains a security interest in*
11 *real property that is the debtor’s principal residence;*

12 *“(B) such act is in the ordinary course of busi-*
13 *ness between the creditor and the debtor; and*

14 *“(C) such act is limited to seeking or obtaining*
15 *periodic payments associated with a valid security*
16 *interest in lieu of pursuit of in rem relief to enforce*
17 *the lien.*

18 *“(l) Notwithstanding any other provision of this title:*

19 *“(1) A creditor may accept payments from a*
20 *debtor before and after the filing of a reaffirmation*
21 *agreement with the court.*

22 *“(2) A creditor may accept payments from a*
23 *debtor under a reaffirmation agreement which the*
24 *creditor believes in good faith to be effective.*

1 “(3) *The requirements of subsections (c)(2) and*
2 *(k) shall be satisfied if disclosures required under*
3 *those subsections are given in good faith.*

4 “(m)(1) *Until 60 days after a reaffirmation agreement*
5 *is filed with the court (or such additional period as the*
6 *court, after notice and hearing and for cause, orders before*
7 *the expiration of such period), it shall be presumed that*
8 *the reaffirmation agreement is an undue hardship on the*
9 *debtor if the debtor’s monthly income less the debtor’s*
10 *monthly expenses as shown on the debtor’s completed and*
11 *signed statement in support of the reaffirmation agreement*
12 *required under subsection (k)(6)(A) is less than the sched-*
13 *uled payments on the reaffirmed debt. This presumption*
14 *shall be reviewed by the court. The presumption may be*
15 *rebutted in writing by the debtor if the statement includes*
16 *an explanation which identifies additional sources of funds*
17 *to make the payments as agreed upon under the terms of*
18 *the reaffirmation agreement. If the presumption is not re-*
19 *butted to the satisfaction of the court, the court may dis-*
20 *approve the agreement. No agreement shall be disapproved*
21 *without notice and hearing to the debtor and creditor and*
22 *such hearing shall be concluded before the entry of the debt-*
23 *or’s discharge.*

24 “(2) *This subsection does not apply to reaffirmation*
25 *agreements where the creditor is a credit union, as defined*

1 *in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12*
2 *U.S.C. 461(b)(1)(A)(iv)).”.*

3 *(b) LAW ENFORCEMENT.—*

4 *(1) IN GENERAL.—Chapter 9 of title 18, United*
5 *States Code, is amended by adding at the end the fol-*
6 *lowing:*

7 **“§158. Designation of United States attorneys and**
8 **agents of the Federal Bureau of Investiga-**
9 **tion to address abusive reaffirmations of**
10 **debt and materially fraudulent state-**
11 **ments in bankruptcy schedules**

12 *“(a) IN GENERAL.—The Attorney General of the*
13 *United States shall designate the individuals described in*
14 *subsection (b) to have primary responsibility in carrying*
15 *out enforcement activities in addressing violations of sec-*
16 *tion 152 or 157 relating to abusive reaffirmations of debt.*
17 *In addition to addressing the violations referred to in the*
18 *preceding sentence, the individuals described under sub-*
19 *section (b) shall address violations of section 152 or 157*
20 *relating to materially fraudulent statements in bankruptcy*
21 *schedules that are intentionally false or intentionally mis-*
22 *leading.*

23 *“(b) UNITED STATES DISTRICT ATTORNEYS AND*
24 *AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—*
25 *The individuals referred to in subsection (a) are—*

1 *is subject to the Truth in Lending Act (15 U.S.C. 1601 et*
2 *seq.), or any interest in a consumer credit contract as de-*
3 *finied by the Federal Trade Commission Preservation of*
4 *Claims Trade Regulation, and that interest is purchased*
5 *through a sale under this section, then that person shall*
6 *remain subject to all claims and defenses that are related*
7 *to the consumer credit transaction or contract, to the same*
8 *extent as that person would be subject to such claims and*
9 *defenses of the consumer had the sale taken place other than*
10 *under title 11.*

11 **SEC. 205. GAO STUDY ON REAFFIRMATION PROCESS.**

12 (a) *STUDY.*—*The General Accounting Office (in this*
13 *section referred to as the “GAO”) shall conduct a study of*
14 *the reaffirmation process under title 11, United States*
15 *Code, to determine the overall treatment of consumers with-*
16 *in the context of that process, including consideration of—*

17 (1) *the policies and activities of creditors with*
18 *respect to reaffirmation; and*

19 (2) *whether consumers are fully, fairly and con-*
20 *sistently informed of their rights pursuant to this*
21 *title.*

22 (b) *REPORT TO CONGRESS.*—*Not later than 1½ years*
23 *after the date of enactment of this Act, the GAO shall submit*
24 *a report to the Congress on the results of the study con-*
25 *ducted under subsection (a), together with any rec-*

1 *ommendations for legislation to address any abusive or co-*
2 *ercive tactics found within the reaffirmation process.*

3 ***Subtitle B—Priority Child Support***

4 ***SEC. 211. 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 order*
13 *for relief under this title, including interest that ac-*
14 *crues on that debt as provided under applicable non-*
15 *bankruptcy law notwithstanding any other provision*
16 *of this title, that is—*

17 *“(A) owed to or recoverable by—*

18 *“(i) a spouse, former spouse, or child of*
19 *the debtor or such child’s parent, legal*
20 *guardian, or responsible relative; or*

21 *“(ii) a governmental unit;*

22 *“(B) in the nature of alimony, mainte-*
23 *nance, or support (including assistance provided*
24 *by a governmental unit) of such spouse, former*
25 *spouse, or child of the debtor or such child’s par-*

1 ent, without regard to whether such debt is ex-
2 pressly so designated;

3 “(C) established or subject to establishment
4 before or after entry of an order for relief under
5 this title, by reason of applicable provisions of—

6 “(i) a separation agreement, divorce
7 decree, or property settlement agreement;

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

9 “(iii) a determination made in accord-
10 ance with applicable nonbankruptcy law by
11 a governmental unit; and

12 “(D) not assigned to a nongovernmental en-
13 tity, unless that obligation is assigned volun-
14 tarily by the spouse, former spouse, child, or par-
15 ent, legal guardian, or responsible relative of the
16 child for the purpose of collecting the debt;”.

17 **SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP-**
18 **PORT OBLIGATIONS.**

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

21 (1) by striking paragraph (7);

22 (2) by redesignating paragraphs (1) through (6)
23 as paragraphs (2) through (7), respectively;

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

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

3 (5) in paragraph (4), as redesignated—

4 (A) by striking “Third” and inserting
5 “Fourth”; and

6 (B) by striking the semicolon at the end and
7 inserting a period;

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

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

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

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

16 “(1) First:

17 “(A) Allowed unsecured claims for domestic
18 support obligations that, as of the date of the fil-
19 ing of the petition, are owed to or recoverable by
20 a spouse, former spouse, or child of the debtor, or
21 the parent, legal guardian, or responsible relative
22 of such child, without regard to whether the
23 claim is filed by such person or is filed by a gov-
24 ernmental unit on behalf of that person, on the
25 condition that funds received under this para-

1 *graph by a governmental unit under this title*
2 *after the date of filing of the petition shall be ap-*
3 *plied and distributed in accordance with appli-*
4 *cable nonbankruptcy law.*

5 “(B) *Subject to claims under subparagraph*
6 *(A), allowed unsecured claims for domestic sup-*
7 *port obligations that, as of the date the petition*
8 *was filed are assigned by a spouse, former*
9 *spouse, child of the debtor, or such child’s parent,*
10 *legal guardian, or responsible relative to a gov-*
11 *ernmental unit (unless such obligation is as-*
12 *signed voluntarily by the spouse, former spouse,*
13 *child, parent, legal guardian, or responsible rel-*
14 *ative of the child for the purpose of collecting the*
15 *debt) or are owed directly to or recoverable by a*
16 *government unit under applicable nonbank-*
17 *ruptcy law, on the condition that funds received*
18 *under this paragraph by a governmental unit*
19 *under this title after the date of filing of the peti-*
20 *tion be applied and distributed in accordance*
21 *with applicable nonbankruptcy law.”.*

22 **SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND**
23 **DISCHARGE IN CASES INVOLVING DOMESTIC**
24 **SUPPORT OBLIGATIONS.**

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

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

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

9 (2) *in section 1208(c)—*

10 (A) *in paragraph (8), by striking “or” at*
11 *the end;*

12 (B) *in paragraph (9), by striking the period*
13 *at the end and inserting “; and”; and*

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

15 “(10) *failure of the debtor to pay any domestic*
16 *support obligation that first becomes payable after the*
17 *date on which the petition is filed.”;*

18 (3) *in section 1222(a)—*

19 (A) *in paragraph (2), by striking “and” at*
20 *the end;*

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

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

24 “(4) *notwithstanding any other provision of this*
25 *section, a plan may provide for less than full pay-*

1 *ment of all amounts owed for a claim entitled to pri-*
2 *ority under section 507(a)(1)(B) only if the plan pro-*
3 *vides that all of the debtor’s projected disposable in-*
4 *come for a 5-year period, beginning on the date that*
5 *the first payment is due under the plan, will be ap-*
6 *plied to make payments under the plan.”;*

7 *(4) in section 1222(b)—*

8 *(A) by redesignating paragraph (11) as*
9 *paragraph (12); and*

10 *(B) by inserting after paragraph (10) the*
11 *following:*

12 *“(11) provide for the payment of interest accru-*
13 *ing after the date of the filing of the petition on unse-*
14 *cured claims that are nondischargeable under section*
15 *1328(a), except that such interest may be paid only*
16 *to the extent that the debtor has disposable income*
17 *available to pay such interest after making provision*
18 *for full payment of all allowed claims;”;*

19 *(5) in section 1225(a)—*

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

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

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

1 “(7) if the debtor is required by a judicial or ad-
2 ministrative order or statute to pay a domestic sup-
3 port obligation, the debtor has paid all amounts pay-
4 able under such order for such obligation that first be-
5 come payable after the date on which the petition is
6 filed.”;

7 (6) in section 1228(a), in the matter preceding
8 paragraph (1), by inserting “; and in the case of a
9 debtor who is required by a judicial or administrative
10 order to pay a domestic support obligation, after such
11 debtor certifies that all amounts payable under such
12 order or statute that are due on or before the date of
13 the certification (including amounts due before the pe-
14 tition was filed, but only to the extent provided for
15 in the plan) have been paid” after “completion by the
16 debtor of all payments under the plan”;

17 (7) in section 1307(c)—

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

20 (B) in paragraph (10), by striking the pe-
21 riod at the end and inserting “; or”; and

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

23 “(11) failure of the debtor to pay any domestic
24 support obligation that first becomes payable after the
25 date on which the petition is filed.”;

1 (8) *in section 1322(a)—*

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

4 (B) *in paragraph (3), by striking the period*
5 *at the end and inserting “; and”; and*

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

7 “(4) *notwithstanding any other provision of this*
8 *section, a plan may provide for less than full pay-*
9 *ment of all amounts owed for a claim entitled to pri-*
10 *ority under section 507(a)(1)(B) only if the plan pro-*
11 *vides that all of the debtor’s projected disposable in-*
12 *come for a 5-year period beginning on the date that*
13 *the first payment is due under the plan will be ap-*
14 *plied to make payments under the plan.”;*

15 (9) *in section 1322(b)—*

16 (A) *in paragraph (9), by striking “; and”*
17 *and inserting a semicolon;*

18 (B) *by redesignating paragraph (10) as*
19 *paragraph (11); and*

20 (C) *inserting after paragraph (9) the fol-*
21 *lowing:*

22 “(10) *provide for the payment of interest accru-*
23 *ing after the date of the filing of the petition on unse-*
24 *cured claims that are nondischargeable under section*
25 *1328(a), except that such interest may be paid only*

1 to the extent that the debtor has disposable income
2 available to pay such interest after making provision
3 for full payment of all allowed claims; and”;

4 (10) in section 1325(a) (as amended by this
5 Act), by adding at the end the following:

6 “(8) the debtor is required by a judicial or ad-
7 ministrative order or statute to pay a domestic sup-
8 port obligation, the debtor has paid all amounts pay-
9 able under such order or statute for such obligation
10 that first becomes payable after the date on which the
11 petition is filed; and”;

12 (11) in section 1328(a), in the matter preceding
13 paragraph (1), by inserting “, and in the case of a
14 debtor who is required by a judicial or administrative
15 order to pay a domestic support obligation, after such
16 debtor certifies that all amounts payable under such
17 order or statute that are due on or before the date of
18 the certification (including amounts due before the pe-
19 tition was filed, but only to the extent provided for
20 in the plan) have been paid” after “completion by the
21 debtor of all payments under the plan”.

1 **SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
2 **SUPPORT OBLIGATION PROCEEDINGS.**

3 *Section 362(b) of title 11, United States Code, is*
4 *amended by striking paragraph (2) and inserting the fol-*
5 *lowing:*

6 “(2) under subsection (a)—

7 “(A) of the commencement or continuation
8 of a civil action or proceeding—

9 “(i) for the establishment of paternity;

10 “(ii) for the establishment or modifica-
11 tion of an order for domestic support obli-
12 gations;

13 “(iii) concerning child custody or visi-
14 tation;

15 “(iv) for the dissolution of a marriage,
16 except to the extent that such proceeding
17 seeks to determine the division of property
18 that is property of the estate; or

19 “(v) regarding domestic violence;

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

23 “(C) with respect to the withholding of in-
24 come that is property of the estate or property of
25 the debtor for payment of a domestic support ob-

1 *ligation under a judicial or administrative*
2 *order;*

3 *“(D) the withholding, suspension, or restric-*
4 *tion of drivers’ licenses, professional and occupa-*
5 *tional licenses, and recreational licenses under*
6 *State law, as specified in section 466(a)(16) of*
7 *the Social Security Act (42 U.S.C. 666(a)(16));*

8 *“(E) the reporting of overdue support owed*
9 *by a parent to any consumer reporting agency*
10 *as specified in section 466(a)(7) of the Social Se-*
11 *curity Act (42 U.S.C. 666(a)(7));*

12 *“(F) the interception of tax refunds, as*
13 *specified in sections 464 and 466(a)(3) of the So-*
14 *cial Security Act (42 U.S.C. 664 and 666(a)(3))*
15 *or under an analogous State law; or*

16 *“(G) the enforcement of medical obligations*
17 *as specified under title IV of the Social Security*
18 *Act (42 U.S.C. 601 et seq.);”.*

19 **SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
20 **ALIMONY, MAINTENANCE, AND SUPPORT.**

21 *Section 523 of title 11, United States Code, is*
22 *amended—*

23 *(1) in subsection (a)—*

24 *(A) by striking paragraph (5) and inserting*
25 *the following:*

1 “(5) for a domestic support obligation;”;
2 (B) in paragraph (15)—
3 (i) by inserting “to a spouse, former
4 spouse, or child of the debtor and” before
5 “not of the kind”;
6 (ii) by inserting “or” after “court of
7 record,”; and
8 (iii) by striking “unless—” and all
9 that follows through the end of the para-
10 graph and inserting a semicolon; and
11 (C) by striking paragraph (18); and
12 (2) in subsection (c), by striking “(6), or (15)”
13 each place it appears and inserting “or (6)”.

14 **SEC. 216. CONTINUED LIABILITY OF PROPERTY.**

15 Section 522 of title 11, United States Code, is
16 amended—

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

19 “(1) a debt of a kind specified in paragraph (1)
20 or (5) of section 523(a) (in which case, notwith-
21 standing any provision of applicable nonbankruptcy
22 law to the contrary, such property shall be liable for
23 a debt of a kind specified in section 523(a)(5));”;

24 (2) in subsection (f)(1)(A), by striking the dash
25 and all that follows through the end of the subpara-

1 *graph and inserting “of a kind that is specified in*
2 *section 523(a)(5); or”;* and

3 *(3) in subsection (g)(2), by striking “subsection*
4 *(f)(2)” and inserting “subsection (f)(1)(B)”.*

5 **SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS**
6 **AGAINST PREFERENTIAL TRANSFER MO-**
7 **TIONS.**

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

10 *“(7) to the extent such transfer was a bona fide*
11 *payment of a debt for a domestic support obliga-*
12 *tion;”.*

13 **SEC. 218. DISPOSABLE INCOME DEFINED.**

14 *(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—*
15 *Section 1225(b)(2)(A) of title 11, United States Code, is*
16 *amended by inserting “or for a domestic support obligation*
17 *that first becomes payable after the date on which the peti-*
18 *tion is filed” after “dependent of the debtor”.*

19 *(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—*
20 *Section 1325(b)(2)(A) of title 11, United States Code, is*
21 *amended by inserting “or for a domestic support obligation*
22 *that first becomes payable after the date on which the peti-*
23 *tion is filed” after “dependent of the debtor”.*

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

2 (a) *DUTIES OF TRUSTEE UNDER CHAPTER 7.*—Sec-
3 *tion 704 of title 11, United States Code, as amended by*
4 *this Act, is amended—*

5 (1) *in subsection (a)—*

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

8 (B) *in paragraph (9), by striking the period*
9 *and inserting a semicolon; and*

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

11 “(10) *if, with respect to an individual debtor,*
12 *there is a claim for a domestic support obligation,*
13 *provide the applicable notification specified in sub-*
14 *section (c); and”;* and

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

16 “(c)(1) *In any case described in subsection (a)(10), 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, 666) for the State in which the holder re-*
23 *sides for assistance in collecting child support during*
24 *and after the bankruptcy procedures;*

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

4 “(iii) include in the notice an explanation of the
5 rights of the holder of the claim to payment of the
6 claim under this chapter; and

7 “(B)(i) notify in writing the State child support
8 agency of the State in which the holder of the claim
9 resides of the claim;

10 “(ii) include in the notice under this paragraph
11 the name, address, and telephone number of the holder
12 of the claim; and

13 “(iii) at such time as the debtor is granted a dis-
14 charge under section 727, notify the holder of that
15 claim and the State child support agency of the State
16 in which that holder resides of—

17 “(I) the granting of the discharge;

18 “(II) the last recent known address of the
19 debtor;

20 “(III) the last recent known name and ad-
21 dress of the debtor’s employer; and

22 “(IV) with respect to the debtor’s case, the
23 name of each creditor that holds a claim that—

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

4 “(bb) was reaffirmed by the debtor
5 under section 524(c).

6 “(2)(A) A holder of a claim or a State child support
7 agency may request from a creditor described in paragraph
8 (1)(B)(iii)(IV) the last known address of the debtor.

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

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

16 (1) in subsection (a)—

17 (A) in paragraph (6), by striking “and” at
18 the end;

19 (B) in paragraph (7), by striking the period
20 and inserting “; and”; and

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

22 “(8) if, with respect to an individual debtor,
23 there is a claim for a domestic support obligation,
24 provide the applicable notification specified in sub-
25 section (c).”; and

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

2 “(c)(1) *In any case described in subsection (a)(7), the*
3 *trustee shall—*

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

10 “(ii) *include in the notice under this paragraph*
11 *the address and telephone number of the child support*
12 *enforcement agency; and*

13 “(B)(i) *notify, in writing, the State child sup-*
14 *port agency (of the State in which the holder of the*
15 *claim resides) of the claim;*

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

19 “(iii) *at such time as the debtor is granted a dis-*
20 *charge under section 1141, notify the holder of the*
21 *claim and the State child support agency of the State*
22 *in which that holder resides of—*

23 “(I) *the granting of the discharge;*

24 “(II) *the last recent known address of the*
25 *debtor;*

1 “(III) the last recent known name and ad-
2 dress of the debtor’s employer; and

3 “(IV) with respect to the debtor’s case, the
4 name of each creditor that holds a claim that—

5 “(aa) is not discharged under para-
6 graph (2), (3), or (14) of section 523(a); or

7 “(bb) was reaffirmed by the debtor
8 under section 524(c).

9 “(2)(A) A holder of a claim or a State child support
10 agency may request from a creditor described in paragraph
11 (1)(B)(iii)(IV) the last 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 (c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Sec-
18 tion 1202 of title 11, United States Code, is amended—

19 (1) in subsection (b)—

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

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

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

1 “(6) if, with respect to an individual debtor,
2 there is a claim for a domestic support obligation,
3 provide the applicable notification specified in sub-
4 section (c).”; and

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

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

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

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

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

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

24 “(iii) at such time as the debtor is granted a dis-
25 charge under section 1228, notify the holder of the

1 *claim and the State child support agency of the State*
2 *in which that holder resides of—*

3 *“(I) the granting of the discharge;*

4 *“(II) the last recent known address of the*
5 *debtor;*

6 *“(III) the last recent known name and ad-*
7 *dress of the debtor’s employer; and*

8 *“(IV) 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 (14) of section 523(a); or*

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

14 *“(2)(A) A holder of a claim or a State child support*
15 *agency may request from a creditor described in paragraph*
16 *(1)(B)(iii)(IV) the last known address of the debtor.*

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

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

24 *(1) in subsection (b)—*

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

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

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

6 “(6) if, with respect to an individual debtor,
7 there is a claim for a domestic support obligation,
8 provide the applicable notification specified in sub-
9 section (d).”; and

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

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

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

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

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

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

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

8 “(I) the granting of the discharge;

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

11 “(III) the last recent known name and ad-
12 dress of the debtor’s employer; and

13 “(IV) with respect to the debtor’s case, the
14 name of each creditor that holds a claim that—

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

17 “(bb) was reaffirmed by the debtor
18 under section 524(c).

19 “(2)(A) A holder of a claim or a State child support
20 agency may request from a creditor described in paragraph
21 (1)(B)(iii)(IV) the last known address of the debtor.

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

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

3 **SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDU-**
4 **CATIONAL BENEFITS AND LOANS.**

5 *Section 523(a) of title 11, United States Code, is*
6 *amended by striking paragraph (8) and inserting the fol-*
7 *lowing:*

8 *“(8) unless excepting such debt from discharge*
9 *under this paragraph would impose an undue hard-*
10 *ship on the debtor and the debtor’s dependents, for—*

11 *“(A)(i) an educational benefit overpayment*
12 *or loan made, insured, or guaranteed by a gov-*
13 *ernmental unit, or made under any program*
14 *funded in whole or in part by a governmental*
15 *unit or nonprofit institution; or*

16 *“(ii) an obligation to repay funds received*
17 *as an educational benefit, scholarship, or sti-*
18 *pend; or*

19 *“(B) any other educational loan that is a*
20 *qualified education loan, as that term is defined*
21 *in section 221(e)(1) of the Internal Revenue Code*
22 *of 1986, incurred by an individual debtor;”.*

1 **Subtitle C—Other Consumer**
2 **Protections**

3 **SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANK-**
4 **RUPTCY FILINGS.**

5 Section 110 of title 11, United States Code, is
6 amended—

7 (1) in subsection (a)(1), by striking “an attorney
8 or an employee of an attorney” and inserting “the at-
9 torney for the debtor or an employee of such attorney
10 under the direct supervision of such attorney”;

11 (2) in subsection (b)—

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

17 “(A) sign the document for filing; and

18 “(B) print on the document the name and ad-
19 dress of that officer, principal, responsible person or
20 partner.”; and

21 (B) by striking paragraph (2) and inserting
22 the following:

23 “(2)(A) Before preparing any document for filing or
24 accepting any fees from a debtor, the bankruptcy petition
25 preparer shall provide to the debtor a written notice to debt-

1 ors concerning bankruptcy petition preparers, which shall
2 be on an official form issued by the Judicial Conference
3 of the United States.

4 “(B) The notice under subparagraph (A)—

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

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

13 “(iii) shall—

14 “(I) be signed by—

15 “(aa) the debtor; and

16 “(bb) the bankruptcy petition preparer,
17 under penalty of perjury; and

18 “(II) be filed with any document for fil-
19 ing.”;

20 (3) in subsection (c)—

21 (A) in paragraph (2)—

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

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

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

6 (B) by striking paragraph (3);

7 (4) in subsection (d)—

8 (A) by striking “(d)(1)” and inserting
9 “(d)”; and

10 (B) by striking paragraph (2);

11 (5) in subsection (e)—

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

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

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

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

19 “(i) whether—

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

21 “(II) commencing a case under chapter 7,
22 11, 12, or 13 is appropriate;

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

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

4 “(iv) concerning—

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

7 “(II) the dischargeability of tax claims;

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

11 “(vi) concerning how to characterize the nature
12 of the debtor’s interests in property or the debtor’s
13 debts; or

14 “(vii) concerning bankruptcy procedures and
15 rights.”;

16 (6) in subsection (f)—

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

18 and

19 (B) by striking paragraph (2);

20 (7) in subsection (g)—

21 (A) by striking “(g)(1)” and inserting

22 “(g)”;

23 (B) by striking paragraph (2);

24 (8) in subsection (h)—

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

4 (B) by inserting before paragraph (2), as
5 redesignated, the following:

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

14 (C) in paragraph (2), as redesignated—

15 (i) by striking “Within 10 days after
16 the date of filing a petition, a bankruptcy
17 petition preparer shall file a” and inserting
18 “A”;

19 (ii) by inserting “by the bankruptcy
20 petition preparer shall be filed together with
21 the petition,” after “perjury”; and

22 (iii) by adding at the end the fol-
23 lowing: “If rules or guidelines setting a
24 maximum fee for services have been promul-
25 gated or prescribed under paragraph (1),

1 the declaration under this paragraph shall
2 include a certification that the bankruptcy
3 petition preparer complied with the notifi-
4 cation requirement under paragraph (1).”;

5 (D) by striking paragraph (3), as redesign-
6 ated, and inserting the following:

7 “(3)(A) The court shall disallow and order the
8 immediate turnover to the bankruptcy trustee any fee
9 referred to in paragraph (2) found to be in excess of
10 the value of any services—

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

14 “(ii) found to be in violation of any rule or
15 guideline promulgated or prescribed under para-
16 graph (1).

17 “(B) All fees charged by a bankruptcy petition
18 preparer may be forfeited in any case in which the
19 bankruptcy petition preparer fails to comply with
20 this subsection or subsection (b), (c), (d), (e), (f), or
21 (g).

22 “(C) An individual may exempt any funds re-
23 covered under this paragraph under section 522(b).”;
24 and

1 (E) in paragraph (4), as redesignated, by
2 striking “or the United States trustee” and in-
3 serting “the United States trustee, the bank-
4 ruptcy administrator, or the court, on the initia-
5 tive of the court,”;

6 (9) in subsection (i)(1), by striking the matter
7 preceding subparagraph (A) and inserting the fol-
8 lowing:

9 “(i)(1) If a bankruptcy petition preparer violates this
10 section or commits any act that the court finds to be fraudu-
11 lent, unfair, or deceptive, on motion of the debtor, trustee,
12 United States trustee, or bankruptcy administrator, and
13 after the court holds a hearing with respect to that violation
14 or act, the court shall order the bankruptcy petition pre-
15 parer to pay to the debtor—”;

16 (10) in subsection (j)—

17 (A) in paragraph (2)—

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

21 (ii) in subparagraph (B)—

22 (I) by striking “or has not paid a
23 penalty” and inserting “has not paid
24 a penalty”; and

1 (II) by inserting “or failed to dis-
2 gorge all fees ordered by the court”
3 after “a penalty imposed under this
4 section,”;

5 (B) by redesignating paragraph (3) as
6 paragraph (4); and

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

9 “(3) The court, as part of its contempt power, may
10 enjoin a bankruptcy petition preparer that has failed to
11 comply with a previous order issued under this section. The
12 injunction under this paragraph may be issued upon mo-
13 tion of the court, the trustee, the United States trustee, or
14 the bankruptcy administrator.”; and

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

16 “(l)(1) A bankruptcy petition preparer who fails to
17 comply with any provision of subsection (b), (c), (d), (e),
18 (f), (g), or (h) may be fined not more than \$500 for each
19 such failure.

20 “(2) The court shall triple the amount of a fine as-
21 sessed under paragraph (1) in any case in which the court
22 finds that a bankruptcy petition preparer—

23 “(A) advised the debtor to exclude assets or in-
24 come that should have been included on applicable
25 schedules;

1 “(B) advised the debtor to use a false Social Se-
2 curity account number;

3 “(C) failed to inform the debtor that the debtor
4 was filing for relief under this title; or

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

7 “(3) The debtor, the trustee, a creditor, the United
8 States trustee, or the bankruptcy administrator may file a
9 motion for an order imposing a fine on the bankruptcy peti-
10 tion preparer for each violation of this section.

11 “(4)(A) Fines imposed under this subsection in judi-
12 cial districts served by United States trustees shall be paid
13 to the United States trustee, who shall deposit an amount
14 equal to such fines in a special account of the United States
15 Trustee System Fund referred to in section 586(e)(2) of title
16 28. Amounts deposited under this subparagraph shall be
17 available to fund the enforcement of this section on a na-
18 tional basis.

19 “(B) Fines imposed under this subsection in judicial
20 districts served by bankruptcy administrators shall be de-
21 posited as offsetting receipts to the fund established under
22 section 1931 of title 28, and shall remain available until
23 expended to reimburse any appropriation for the amount
24 paid out of such appropriation for expenses of the operation
25 and maintenance of the courts of the United States.”.

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

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

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

14 **SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANK-**
15 **RUPTCY.**

16 *(a) IN GENERAL.—Section 522 of title 11, United*
17 *States Code, is amended—*

18 *(1) in subsection (b)—*

19 *(A) in paragraph (2)—*

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

22 *(ii) in subparagraph (B), by striking*
23 *the period at the end and inserting “; and”;*

24 *(iii) by adding at the end the fol-*
25 *lowing:*

1 “(C) retirement funds to the extent that those
2 funds are in a fund or account that is exempt from
3 taxation under section 401, 403, 408, 408A, 414, 457,
4 or 501(a) of the Internal Revenue Code of 1986.”; and

5 (iv) by striking “(2)(A) any property”
6 and inserting:

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

8 “(A) any property”;

9 (B) by striking paragraph (1) and insert-
10 ing:

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

15 (C) by striking “(b) Notwithstanding” and
16 inserting “(b)(1) Notwithstanding”;

17 (D) by striking “paragraph (2)” each place
18 it appears and inserting “paragraph (3)”;

19 (E) by striking “paragraph (1)” each place
20 it appears and inserting “paragraph (2)”;

21 (F) by striking “Such property is—”; and

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

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

1 “(A) *If the retirement funds are in a retirement*
2 *fund that has received a favorable determination*
3 *under section 7805 of the Internal Revenue Code of*
4 *1986, and that determination is in effect as of the*
5 *date of the commencement of the case under section*
6 *301, 302, or 303 of this title, those funds shall be pre-*
7 *sumed to be exempt from the estate.*

8 “(B) *If the retirement funds are in a retirement*
9 *fund that has not received a favorable determination*
10 *under such section 7805, those funds are exempt from*
11 *the estate if the debtor demonstrates that—*

12 “(i) *no prior determination to the contrary*
13 *has been made by a court or the Internal Rev-*
14 *enue Service; and*

15 “(ii)(I) *the retirement fund is in substan-*
16 *tial compliance with the applicable requirements*
17 *of the Internal Revenue Code of 1986; or*

18 “(II) *the retirement fund fails to be in sub-*
19 *stantial compliance with the applicable require-*
20 *ments of the Internal Revenue Code of 1986 and*
21 *the debtor is not materially responsible for that*
22 *failure.*

23 “(C) *A direct transfer of retirement funds from*
24 *1 fund or account that is exempt from taxation under*
25 *section 401, 403, 408, 408A, 414, 457, or 501(a) of*

1 *the Internal Revenue Code of 1986, under section*
2 *401(a)(31) of the Internal Revenue Code of 1986, or*
3 *otherwise, shall not cease to qualify for exemption*
4 *under paragraph (3)(C) or subsection (d)(12) by rea-*
5 *son of that direct transfer.*

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

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

14 *“(I) has been distributed from a fund or ac-*
15 *count that is exempt from taxation under section*
16 *401, 403, 408, 408A, 414, 457, or 501(a) of the*
17 *Internal Revenue Code of 1986; and*

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

22 *(A) in the matter preceding paragraph (1),*
23 *by striking “subsection (b)(1)” and inserting*
24 *“subsection (b)(2)”;* and

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

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

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

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

9 (2) *in paragraph (18), by striking the period*
10 *and inserting a semicolon;*

11 (3) *by inserting after paragraph (18) the fol-*
12 *lowing:*

13 “(19) *under subsection (a), of withholding of in-*
14 *come from a debtor’s wages and collection of amounts*
15 *withheld, under the debtor’s agreement authorizing*
16 *that withholding and collection for the benefit of a*
17 *pension, profit-sharing, stock bonus, or other plan es-*
18 *tablished under section 401, 403, 408, 408A, 414, 457,*
19 *or 501(a) of the Internal Revenue Code of 1986, that*
20 *is sponsored by the employer of the debtor, or an affil-*
21 *iate, successor, or predecessor of such employer—*

22 “(A) *to the extent that the amounts withheld*
23 *and collected are used solely for payments relat-*
24 *ing to a loan from a plan that satisfies the re-*
25 *quirements of section 408(b)(1) of the Employee*

1 *Retirement Income Security Act of 1974 or is*
2 *subject to section 72(p) of the Internal Revenue*
3 *Code of 1986; or*

4 *“(B) in the case of a loan from a thrift sav-*
5 *ings plan described in subchapter III of chapter*
6 *84 of title 5, that satisfies the requirements of*
7 *section 8433(g) of such title;”;* and

8 (4) *by adding at the end of the flush material at*
9 *the end of the subsection, the following: “Nothing in*
10 *paragraph (19) may be construed to provide that any*
11 *loan made under a governmental plan under section*
12 *414(d), or a contract or account under section 403(b)*
13 *of the Internal Revenue Code of 1986 constitutes a*
14 *claim or a debt under this title.”.*

15 (c) *EXCEPTIONS TO DISCHARGE.—Section 523(a) of*
16 *title 11, United States Code, as amended by this Act, is*
17 *amended by adding at the end the following:*

18 *“(18) owed to a pension, profit-sharing, stock*
19 *bonus, or other plan established under section 401,*
20 *403, 408, 408A, 414, 457, or 501(c) of the Internal*
21 *Revenue Code of 1986, under—*

22 *“(A) a loan permitted under section*
23 *408(b)(1) of the Employee Retirement Income*
24 *Security Act of 1974, or subject to section 72(p)*
25 *of the Internal Revenue Code of 1986; or*

1 “(B) a loan from the thrift savings plan de-
2 scribed in subchapter III of chapter 84 of title 5,
3 that satisfies the requirements of section 8433(g)
4 of such title.

5 *Nothing in paragraph (18) may be construed to pro-
6 vide that any loan made under a governmental plan
7 under section 414(d), or a contract or account under
8 section 403(b), of the Internal Revenue Code of 1986
9 constitutes a claim or a debt under this title.”.*

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

12 “(f) A plan may not materially alter the terms of a
13 loan described in section 362(b)(19) and any amounts re-
14 quired to repay such loan shall not constitute ‘disposable
15 income’ under section 1325.”.

16 (e) *ASSET LIMITATION.*—Section 522 of title 11,
17 United States Code, is amended by adding at the end the
18 following:

19 “(n) For assets in individual retirement accounts de-
20 scribed in section 408 or 408A of the Internal Revenue Code
21 of 1986, other than a simplified employee pension under
22 section 408(k) of that Code or a simple retirement account
23 under section 408(p) of that Code, the aggregate value of
24 such assets exempted under this section, without regard to
25 amounts attributable to rollover contributions under section

1 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the
2 Internal Revenue Code of 1986, and earnings thereon, shall
3 not exceed \$1,000,000 (which amount shall be adjusted as
4 provided in section 104 of this title) in a case filed by an
5 individual debtor, except that such amount may be in-
6 creased if the interests of justice so require.”.

7 **SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANK-**
8 **RUPTCY.**

9 (a) *EXCLUSIONS.*—Section 541 of title 11, United
10 States Code, is amended—

11 (1) in subsection (b)—

12 (A) in paragraph (4), by striking “or” at
13 the end;

14 (B) by redesignating paragraph (5) as
15 paragraph (10); and

16 (C) by inserting after paragraph (4) the fol-
17 lowing:

18 “(5) funds placed in an education individual re-
19 tirement account (as defined in section 530(b)(1) of
20 the Internal Revenue Code of 1986) not later than
21 365 days before the date of filing of the petition,
22 but—

23 “(A) only if the designated beneficiary of
24 such account was a son, daughter, stepson, step-
25 daughter, grandchild, or step-grandchild of the

1 debtor for the taxable year for which funds were
2 placed in such account;

3 “(B) only to the extent that such funds—

4 “(i) are not pledged or promised to
5 any entity in connection with any extension
6 of credit; and

7 “(ii) are not excess contributions (as
8 described in section 4973(e) of the Internal
9 Revenue Code of 1986); and

10 “(C) in the case of funds placed in all such
11 accounts having the same designated beneficiary
12 not earlier than 720 days nor later than 365
13 days before such date, only so much of such
14 funds as does not exceed \$5,000;

15 “(6) funds used to purchase a tuition credit or
16 certificate or contributed to an account in accordance
17 with section 529(b)(1)(A) of the Internal Revenue
18 Code of 1986 under a qualified State tuition program
19 (as defined in section 529(b)(1) of such Code) not
20 later than 365 days before the date of filing of the pe-
21 tition, but—

22 “(A) only if the designated beneficiary of
23 the amounts paid or contributed to such tuition
24 program was a son, daughter, stepson, step-
25 daughter, grandchild, or step-grandchild of the

1 debtor for the taxable year for which funds were
2 paid or contributed;

3 “(B) with respect to the aggregate amount
4 paid or contributed to such program having the
5 same designated beneficiary, only so much of
6 such amount as does not exceed the total con-
7 tributions permitted under section 529(b)(7) of
8 such Code with respect to such beneficiary, as
9 adjusted beginning on the date of the filing of the
10 petition by the annual increase or decrease
11 (rounded to the nearest tenth of 1 percent) in the
12 education expenditure category of the Consumer
13 Price Index prepared by the Department of
14 Labor; and

15 “(C) in the case of funds paid or contrib-
16 uted to such program having the same designated
17 beneficiary not earlier than 720 days nor later
18 than 365 days before such date, only so much of
19 such funds as does not exceed \$5,000;” and

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

21 “(e) In determining whether any of the relationships
22 specified in paragraph (5)(A) or (6)(A) of subsection (b)
23 exists, a legally adopted child of an individual (and a child
24 who is a member of an individual’s household, if placed
25 with such individual by an authorized placement agency

1 *for legal adoption by such individual), or a foster child of*
2 *an individual (if such child has as the child's principal*
3 *place of abode the home of the debtor and is a member of*
4 *the debtor's household) shall be treated as a child of such*
5 *individual by blood.”.*

6 (b) *DEBTOR'S DUTIES.*—Section 521 of title 11,
7 *United States Code, as amended by this Act, is amended*
8 *by adding at the end the following:*

9 “(c) *In addition to meeting the requirements under*
10 *subsection (a), a debtor shall file with the court a record*
11 *of any interest that a debtor has in an education individual*
12 *retirement account (as defined in section 530(b)(1) of the*
13 *Internal Revenue Code of 1986) or under a qualified State*
14 *tuition program (as defined in section 529(b)(1) of such*
15 *Code).”.*

16 **SEC. 226. DEFINITIONS.**

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

19 (1) *by inserting after paragraph (2) the fol-*
20 *lowing:*

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

24 (2) *by inserting after paragraph (4) the fol-*
25 *lowing:*

1 “(4A) ‘bankruptcy assistance’ means any goods
2 or services sold or otherwise provided to an assisted
3 person with the express or implied purpose of pro-
4 viding information, advice, counsel, document prepa-
5 ration, or filing, or attendance at a creditors’ meeting
6 or appearing in a proceeding on behalf of another or
7 providing legal representation with respect to a case
8 or proceeding under this title;”;

9 (3) by inserting after paragraph (12) the fol-
10 lowing:

11 “(12A) ‘debt relief agency’ means any person
12 who provides any bankruptcy assistance to an as-
13 sisted person in return for the payment of money or
14 other valuable consideration, or who is a bankruptcy
15 petition preparer under section 110, but does not
16 include—

17 “(A) any person that is an officer, director,
18 employee or agent of that person;

19 “(B) a nonprofit organization which is ex-
20 empt from taxation under section 501(c)(3) of
21 the Internal Revenue Code of 1986;

22 “(C) a creditor of the person, to the extent
23 that the creditor is assisting the person to re-
24 structure any debt owed by the person to the
25 creditor;

1 “(D) a depository institution (as defined in
2 section 3 of the Federal Deposit Insurance Act)
3 or any Federal credit union or State credit
4 union (as those terms are defined in section 101
5 of the Federal Credit Union Act), or any affiliate
6 or subsidiary of such a depository institution or
7 credit union; or

8 “(E) an author, publisher, distributor, or
9 seller of works subject to copyright protection
10 under title 17, when acting in such capacity.”.

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

14 **SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.**

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

18 **“§ 526. Restrictions on debt relief agencies**

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

20 “(1) fail to perform any service that such agency
21 informed an assisted person or prospective assisted
22 person it would provide in connection with a case or
23 proceeding under this title;

24 “(2) make any statement, or counsel or advise
25 any assisted person or prospective assisted person to

1 *make a statement in a document filed in a case or*
2 *proceeding under this title, that is untrue and mis-*
3 *leading, or that upon the exercise of reasonable care,*
4 *should have been known by such agency to be untrue*
5 *or misleading;*

6 *“(3) misrepresent to any assisted person or pro-*
7 *spective assisted person, directly or indirectly, affirm-*
8 *atively or by material omission, with respect to—*

9 *“(i) the services that such agency will pro-*
10 *vide to such person; or*

11 *“(ii) the benefits and risks that may result*
12 *if such person becomes a debtor in a case under*
13 *this title; or*

14 *“(4) advise an assisted person or prospective as-*
15 *sisted person to incur more debt in contemplation of*
16 *such person filing a case under this title or to pay*
17 *an attorney or bankruptcy petition preparer fee or*
18 *charge for services performed as part of preparing for*
19 *or representing a debtor in a case under this title.*

20 *“(b) Any waiver by any assisted person of any protec-*
21 *tion or right provided under this section shall not be en-*
22 *forceable against the debtor by any Federal or State court*
23 *or any other person, but may be enforced against a debt*
24 *relief agency.*

1 “(c)(1) *Any contract for bankruptcy assistance between*
2 *a debt relief agency and an assisted person that does not*
3 *comply with the material requirements of this section, sec-*
4 *tion 527, or section 528 shall be void and may not be en-*
5 *forced by any Federal or State court or by any other person,*
6 *other than such assisted person.*

7 “(2) *Any debt relief agency shall be liable to an as-*
8 *sisted person in the amount of any fees or charges in con-*
9 *nection with providing bankruptcy assistance to such per-*
10 *son that such debt relief agency has received, for actual*
11 *damages, and for reasonable attorneys’ fees and costs if such*
12 *agency is found, after notice and hearing, to have—*

13 “(A) *intentionally or negligently failed to com-*
14 *ply with any provision of this section, section 527, or*
15 *section 528 with respect to a case or proceeding under*
16 *this title for such assisted person;*

17 “(B) *provided bankruptcy assistance to an as-*
18 *sisted person in a case or proceeding under this title*
19 *that is dismissed or converted to a case under another*
20 *chapter of this title because of such agency’s inten-*
21 *tional or negligent failure to file any required docu-*
22 *ment including those specified in section 521; or*

23 “(C) *intentionally or negligently disregarded the*
24 *material requirements of this title or the Federal*

1 *Rules of Bankruptcy Procedure applicable to such*
2 *agency.*

3 “(3) *In addition to such other remedies as are provided*
4 *under State law, whenever the chief law enforcement officer*
5 *of a State, or an official or agency designated by a State,*
6 *has reason to believe that any person has violated or is vio-*
7 *lating this section, the State—*

8 “(A) *may bring an action to enjoin such viola-*
9 *tion;*

10 “(B) *may bring an action on behalf of its resi-*
11 *dents to recover the actual damages of assisted persons*
12 *arising from such violation, including any liability*
13 *under paragraph (2); and*

14 “(C) *in the case of any successful action under*
15 *subparagraph (A) or (B), shall be awarded the costs*
16 *of the action and reasonable attorney fees as deter-*
17 *mined by the court.*

18 “(4) *The United States District Court for any district*
19 *located in the State shall have concurrent jurisdiction of*
20 *any action under subparagraph (A) or (B) of paragraph*
21 *(3).*

22 “(5) *Notwithstanding any other provision of Federal*
23 *law and in addition to any other remedy provided under*
24 *Federal or State law, if the court, on its own motion or*
25 *on motion of the United States trustee or the debtor, finds*

1 *that a person intentionally violated this section, or engaged*
2 *in a clear and consistent pattern or practice of violating*
3 *this section, the court may—*

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

5 “(B) *impose an appropriate civil penalty*
6 *against such person.*”.

7 “(d) *No provision of this section, section 527, or sec-*
8 *tion 528 shall—*

9 “(1) *annul, alter, affect, or exempt any person*
10 *subject to such sections from complying with any law*
11 *of any State except to the extent that such law is in-*
12 *consistent with those sections, and then only to the ex-*
13 *tent of the inconsistency; or*

14 “(2) *be deemed to limit or curtail the authority*
15 *or ability—*

16 “(A) *of a State or subdivision or instru-*
17 *mentality thereof, to determine and enforce*
18 *qualifications for the practice of law under the*
19 *laws of that State; or*

20 “(B) *of a Federal court to determine and*
21 *enforce the qualifications for the practice of law*
22 *before that court.*”.

23 (b) *CONFORMING AMENDMENT.—The table of sections*
24 *for chapter 5 of title 11, United States Code, is amended*

1 *by inserting before the item relating to section 527, the fol-*
2 *lowing:*

“526. Debt relief enforcement.”.

3 **SEC. 228. DISCLOSURES.**

4 *(a) DISCLOSURES.—Subchapter II of chapter 5 of title*
5 *11, United States Code, as amended by this Act, is amended*
6 *by adding at the end the following:*

7 **“§ 527. Disclosures**

8 *“(a) A debt relief agency providing bankruptcy assist-*
9 *ance to an assisted person shall provide—*

10 *“(1) the written notice required under section*
11 *342(b)(1) of this title; and*

12 *“(2) to the extent not covered in the written no-*
13 *tice described in paragraph (1), and not later than 3*
14 *business days after the first date on which a debt re-*
15 *lief agency first offers to provide any bankruptcy as-*
16 *sistance services to an assisted person, a clear and*
17 *conspicuous written notice advising assisted persons*
18 *that—*

19 *“(A) all information that the assisted per-*
20 *son is required to provide with a petition and*
21 *thereafter during a case under this title is re-*
22 *quired to be complete, accurate, and truthful;*

23 *“(B) all assets and all liabilities are re-*
24 *quired to be completely and accurately disclosed*
25 *in the documents filed to commence the case, and*

1 *the replacement value of each asset as defined in*
2 *section 506 of this title must be stated in those*
3 *documents where requested after reasonable in-*
4 *quiry to establish such value;*

5 *“(C) current monthly income, the amounts*
6 *specified in section 707(b)(2), and, in a case*
7 *under chapter 13, disposable income (determined*
8 *in accordance with section 707(b)(2)), are re-*
9 *quired to be stated after reasonable inquiry; and*

10 *“(D) information that an assisted person*
11 *provides during their case may be audited pur-*
12 *suant to this title, and that failure to provide*
13 *such information may result in dismissal of the*
14 *proceeding under this title or other sanction in-*
15 *cluding, in some instances, criminal sanctions.*

16 *“(b) A debt relief agency providing bankruptcy assist-*
17 *ance to an assisted person shall provide each assisted person*
18 *at the same time as the notices required under subsection*
19 *(a)(1) with the following statement, to the extent applicable,*
20 *or one substantially similar. The statement shall be clear*
21 *and conspicuous and shall be in a single document separate*
22 *from other documents or notices provided to the assisted*
23 *person:*

1 “*IMPORTANT INFORMATION ABOUT BANK-*
2 *RUPTCY ASSISTANCE SERVICES FROM AN ATTOR-*
3 *NEY OR BANKRUPTCY PETITION PREPARER.*

4 “*If you decide to seek bankruptcy relief, you can rep-*
5 *resent yourself, you can hire an attorney to represent you,*
6 *or you can get help in some localities from a bankruptcy*
7 *petition preparer who is not an attorney. THE LAW RE-*
8 *QUIRES AN ATTORNEY OR BANKRUPTCY PETI-*
9 *TION PREPARER TO GIVE YOU A WRITTEN CON-*
10 *TRACT SPECIFYING WHAT THE ATTORNEY OR*
11 *BANKRUPTCY PETITION PREPARER WILL DO FOR*
12 *YOU AND HOW MUCH IT WILL COST. Ask to see the*
13 *contract before you hire anyone.*

14 “*The following information helps you understand*
15 *what must be done in a routine bankruptcy case to help*
16 *you evaluate how much service you need. Although bank-*
17 *ruptcy can be complex, many cases are routine.*

18 “*Before filing a bankruptcy case, either you or your*
19 *attorney should analyze your eligibility for different forms*
20 *of debt relief made available by the Bankruptcy Code and*
21 *which form of relief is most likely to be beneficial for you.*
22 *Be sure you understand the relief you can obtain and its*
23 *limitations. To file a bankruptcy case, documents called a*
24 *Petition, Schedules and Statement of Financial Affairs, as*
25 *well as in some cases a Statement of Intention need to be*

1 prepared correctly and filed with the bankruptcy court. You
2 will have to pay a filing fee to the bankruptcy court. Once
3 your case starts, you will have to attend the required first
4 meeting of creditors where you may be questioned by a court
5 official called a “trustee” and by creditors.

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

10 “If you choose to file a chapter 13 case in which you
11 repay your creditors what you can afford over 3 to 5 years,
12 you may also want help with preparing your chapter 13
13 plan and with the confirmation hearing on your plan which
14 will be before a bankruptcy judge.

15 “If you select another type of relief under the Bank-
16 ruptcy Code other than chapter 7 or chapter 13, you will
17 want to find out what needs to be done from someone famil-
18 iar with that type of relief.

19 “Your bankruptcy case may also involve litigation.
20 You are generally permitted to represent yourself in litiga-
21 tion in bankruptcy court, but only attorneys, not bank-
22 ruptcy petition preparers, can give you legal advice.’.

23 “(c) Except to the extent the debt relief agency provides
24 the required information itself after reasonably diligent in-
25 quiry of the assisted person or others so as to obtain such

1 *information reasonably accurately for inclusion on the peti-*
2 *tion, schedules or statement of financial affairs, a debt relief*
3 *agency providing bankruptcy assistance to an assisted per-*
4 *son, to the extent permitted by nonbankruptcy law, shall*
5 *provide each assisted person at the time required for the*
6 *notice required under subsection (a)(1) reasonably sufficient*
7 *information (which shall be provided in a clear and con-*
8 *spicuous writing) to the assisted person on how to provide*
9 *all the information the assisted person is required to pro-*
10 *vide under this title pursuant to section 521, including—*

11 “(1) *how to value assets at replacement value,*
12 *determine current monthly income, the amounts spec-*
13 *ified in section 707(b)(2) and, in a chapter 13 case,*
14 *how to determine disposable income in accordance*
15 *with section 707(b)(2) and related calculations;*

16 “(2) *how to complete the list of creditors, includ-*
17 *ing how to determine what amount is owed and what*
18 *address for the creditor should be shown; and*

19 “(3) *how to determine what property is exempt*
20 *and how to value exempt property at replacement*
21 *value as defined in section 506 of this title.*

22 “(d) *A debt relief agency shall maintain a copy of the*
23 *notices required under subsection (a) of this section for 2*
24 *years after the date on which the notice is given the assisted*
25 *person.”.*

1 (b) *CONFORMING AMENDMENT.*—*The table of sections*
2 *for chapter 5 of title 11, United States Code, as amended*
3 *by this Act, is amended by inserting after the item relating*
4 *to section 526 the following:*

“527. Disclosures.”.

5 **SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.**

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

9 **“§ 528. Requirements for debt relief agencies**

10 “(a) *A debt relief agency shall—*

11 “(1) *not later than 5 business days after the first*
12 *date such agency provides any bankruptcy assistance*
13 *services to an assisted person, but prior to such as-*
14 *sisted person’s petition under this title being filed,*
15 *execute a written contract with such assisted person*
16 *that explains clearly and conspicuously—*

17 “(A) *the services such agency will provide to*
18 *such assisted person; and*

19 “(B) *the fees or charges for such services,*
20 *and the terms of payment;*

21 “(2) *provide the assisted person with a copy of*
22 *the fully executed and completed contract;*

23 “(3) *clearly and conspicuously disclose in any*
24 *advertisement of bankruptcy assistance services or of*
25 *the benefits of bankruptcy directed to the general pub-*

1 *lic (whether in general media, seminars or specific*
2 *mailings, telephonic or electronic messages, or other-*
3 *wise) that the services or benefits are with respect to*
4 *bankruptcy relief under this title; and*

5 *“(4) clearly and conspicuously using the fol-*
6 *lowing statement: ‘We are a debt relief agency. We*
7 *help people file for bankruptcy relief under the Bank-*
8 *ruptcy Code.’ or a substantially similar statement.*

9 *“(b)(1) An advertisement of bankruptcy assistance*
10 *services or of the benefits of bankruptcy directed to the gen-*
11 *eral public includes—*

12 *“(A) descriptions of bankruptcy assistance in*
13 *connection with a chapter 13 plan whether or not*
14 *chapter 13 is specifically mentioned in such advertise-*
15 *ment; and*

16 *“(B) statements such as ‘federally supervised re-*
17 *payment plan’ or ‘Federal debt restructuring help’ or*
18 *other similar statements that could lead a reasonable*
19 *consumer to believe that debt counseling was being of-*
20 *fered when in fact the services were directed to pro-*
21 *viding bankruptcy assistance with a chapter 13 plan*
22 *or other form of bankruptcy relief under this title.*

23 *“(2) An advertisement, directed to the general public,*
24 *indicating that the debt relief agency provides assistance*
25 *with respect to credit defaults, mortgage foreclosures, evic-*

1 *tion proceedings, excessive debt, debt collection pressure, or*
2 *inability to pay any consumer debt shall—*

3 “(A) *disclose clearly and conspicuously in such*
4 *advertisement that the assistance may involve bank-*
5 *ruptcy relief under this title; and*

6 “(B) *include the following statement: ‘We are a*
7 *debt relief agency. We help people file for bankruptcy*
8 *relief under the Bankruptcy Code.’ or a substantially*
9 *similar statement.’”.*

10 **(b) CONFORMING AMENDMENT.**—*The table of sections*
11 *for chapter 5 of title 11, United States Code, as amended*
12 *by this Act, is amended by inserting after the item relating*
13 *to section 527, the following:*

“528. Debtor’s bill of rights.”.

14 **SEC. 230. GAO STUDY.**

15 **(a) STUDY.**—*Not later than 270 days after the date*
16 *of enactment of this Act, the Comptroller General of the*
17 *United States shall conduct a study of the feasibility, effec-*
18 *tiveness, and cost of requiring trustees appointed under title*
19 *11, United States Code, or the bankruptcy courts, to provide*
20 *to the Office of Child Support Enforcement promptly after*
21 *the commencement of cases by individual debtors under*
22 *such title, the names and social security numbers of such*
23 *debtors for the purposes of allowing such Office to determine*
24 *whether such debtors have outstanding obligations for child*

1 *support (as determined on the basis of information in the*
2 *Federal Case Registry or other national database).*

3 **(b) REPORT.**—*Not later than 300 days after the date*
4 *of enactment of this Act, the Comptroller General shall sub-*
5 *mit to the President pro tempore of the Senate and the*
6 *Speaker of the House of Representatives a report containing*
7 *the results of the study required by subsection (a).*

8 **SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFOR-**
9 **MATION.**

10 **(a) IN GENERAL.**—*Section 363(b)(1) of title 11,*
11 *United States Code, is amended by striking the period at*
12 *the end and inserting the following:“, except that if the debt-*
13 *or has disclosed a policy to an individual prohibiting the*
14 *transfer of personally identifiable information about the in-*
15 *dividual to unaffiliated third persons, and the policy re-*
16 *mains in effect at the time of the bankruptcy filing, the*
17 *trustee may not sell or lease such personally identifiable in-*
18 *formation to any person, unless—*

19 **“(A)** *the sale is consistent with such prohi-*
20 *bition; or*

21 **“(B)** *the court, after notice and hearing and*
22 *due consideration of the facts, circumstances,*
23 *and conditions of the sale or lease, approves the*
24 *sale or lease.”.*

1 (b) *DEFINITION.*—Section 101 of title 11, United
2 States Code, is amended by inserting after paragraph (41)
3 the following:

4 “(41A) ‘personally identifiable information’, if
5 provided by the individual to the debtor in connection
6 with obtaining a product or service from the debtor
7 primarily for personal, family, or household
8 purposes—

9 “(A) means—

10 “(i) the individual’s first name (or ini-
11 tials) and last name, whether given at birth
12 or adoption or legally changed;

13 “(ii) the physical address for the indi-
14 vidual’s home;

15 “(iii) the individual’s e-mail address;

16 “(iv) the individual’s home telephone
17 number;

18 “(v) the individual’s social security
19 number; or

20 “(vi) the individual’s credit card ac-
21 count number; and

22 “(B) means, when identified in connection
23 with one or more of the items of information list-
24 ed in subparagraph (A)—

1 “(i) an individual’s birth date, birth
2 certificate number, or place of birth; or

3 “(ii) any other information concerning
4 an identified individual that, if disclosed,
5 will result in the physical or electronic con-
6 tacting or identification of that person;”.

7 **SEC. 232. CONSUMER PRIVACY OMBUDSMAN.**

8 (a) *IN GENERAL.*—

9 (1) *APPOINTMENT ON REQUEST.*—If the trustee
10 intends to sell or lease personally identifiable infor-
11 mation in a manner which requires a hearing de-
12 scribed in section 363(b)(1)(B), the trustee shall re-
13 quest, and the court shall appoint, an individual to
14 serve as ombudsman during the case not later than—

15 (A) on or before the expiration of 30 days
16 after the date of the order for relief; or

17 (B) 5 days prior to any hearing described
18 in section 363(b)(1)(B) of title 11, United States
19 Code, as amended by this Act.

20 (2) *DUTIES OF OMBUDSMAN.*—It shall be the
21 duty of the ombudsman to provide the court informa-
22 tion to assist the court in its consideration of the
23 facts, circumstances, and conditions of the sale or
24 lease under section 363(b)(1)(B) of title 11, United
25 States Code, as amended by this Act. Such informa-

1 *tion may include a presentation of the debtor’s pri-*
2 *vacv policy in effect, potential losses or gains of pri-*
3 *vacv to consumers if the sale or lease is approved, po-*
4 *tential costs or benefits to consumers if the sale or*
5 *lease is approved, and potential alternatives which*
6 *mitigate potential privacy losses or potential costs to*
7 *consumers.*

8 (3) *NOTICE TO OMBUDSMAN.—The ombudsman*
9 *shall receive notice of, and shall have a right to ap-*
10 *pear and be heard, at any hearing described in sec-*
11 *tion 363b(1)(B) of title 11, United States Code, as*
12 *amended by this Act.*

13 (4) *CONFIDENTIALITY.—The ombudsman shall*
14 *maintain any personally identifiable information ob-*
15 *tained by the ombudsman under this title as confiden-*
16 *tial information.*

17 (b) *APPOINTMENT.—If the court orders the appoint-*
18 *ment of an ombudsman under this section, the United*
19 *States Trustee shall appoint 1 disinterested person, other*
20 *than the United States trustee, to serve as the ombudsman.*

21 (c) *COMPENSATION OF CONSUMER PRIVACY OMBUDS-*
22 *MAN.—Section 330(a)(1) of title 11, United States Code, is*
23 *amended in the matter preceding subparagraph (A), by in-*
24 *serting “an ombudsman appointed under section 332,” be-*
25 *fore “an examiner”.*

1 **SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF**
2 **MINOR CHILDREN.**

3 (a) *PROHIBITION.*—Chapter 1 of title 11, United
4 States Code, is amended by adding after section 111, as
5 added by this Act, the following:

6 **“§ 112. Prohibition on disclosure of identity of minor**
7 **children**

8 “In a case under this title, the debtor may be required
9 to provide information regarding a minor child involved
10 in matters under this title, but may not be required to dis-
11 close in the public records in the case the name of such
12 minor child. Notwithstanding section 107(a), the debtor
13 may be required to disclose the name of such minor child
14 in a nonpublic record maintained by the court. Such non-
15 public record shall be available for inspection by the judge,
16 United States Trustee, the trustee, or an auditor under sec-
17 tion 603 of the Bankruptcy Reform Act of 2001. Each such
18 judge, United States Trustee, trustee, or auditor shall main-
19 tain the confidentiality of the identity of such minor child
20 in the nonpublic record.”.

21 (b) *CLERICAL AMENDMENT.*—The table of sections for
22 chapter 1 of title 11, United States Code, is amended by
23 adding at the end the following:

“112. Prohibition on disclosure of identity of minor children.”.

1 **TITLE III—DISCOURAGING**
2 **BANKRUPTCY ABUSE**

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

4 *Section 523(a)(17) of title 11, United States Code, is*
5 *amended—*

6 (1) *by striking “by a court” and inserting “on*
7 *a prisoner by any court”,*

8 (2) *by striking “section 1915(b) or (f)” and in-*
9 *serting “subsection (b) or (f)(2) of section 1915”, and*

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

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

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

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

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

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

20 “(3) *if a single or joint case is filed by or*
21 *against an individual debtor under chapter 7, 11, or*
22 *13, and if a single or joint case of the debtor was*
23 *pending within the preceding 1-year period but was*
24 *dismissed, other than a case refiled under a chapter*

1 *other than chapter 7 after dismissal under section*
2 *707(b)—*

3 “(A) *the stay under subsection (a) with re-*
4 *spect to any action taken with respect to a debt*
5 *or property securing such debt or with respect to*
6 *any lease shall terminate with respect to the*
7 *debtor on the 30th day after the filing of the*
8 *later case;*

9 “(B) *upon motion by a party in interest for*
10 *continuation of the automatic stay and upon no-*
11 *tice and a hearing, the court may extend the*
12 *stay in particular cases as to any or all creditors*
13 *(subject to such conditions or limitations as the*
14 *court may then impose) after notice and a hear-*
15 *ing completed before the expiration of the 30-day*
16 *period only if the party in interest demonstrates*
17 *that the filing of the later case is in good faith*
18 *as to the creditors to be stayed; and*

19 “(C) *for purposes of subparagraph (B), a*
20 *case is presumptively filed not in good faith (but*
21 *such presumption may be rebutted by clear and*
22 *convincing evidence to the contrary)—*

23 “(i) *as to all creditors, if—*

24 “(I) *more than 1 previous case*
25 *under any of chapter 7, 11, or 13 in*

1 *which the individual was a debtor was*
2 *pending within the preceding 1-year*
3 *period;*

4 “(II) a previous case under any of
5 chapter 7, 11, or 13 in which the indi-
6 vidual was a debtor was dismissed
7 within such 1-year period, after the
8 debtor failed to—

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

18 “(bb) provide adequate pro-
19 tection as ordered by the court; or

20 “(cc) perform the terms of a
21 plan confirmed by the court; or

22 “(III) there has not been a sub-
23 stantial change in the financial or per-
24 sonal affairs of the debtor since the dis-
25 missal of the next most previous case

1 *under chapter 7, 11, or 13 or any other*
2 *reason to conclude that the later case*
3 *will be concluded—*

4 *“(aa) if a case under chapter*
5 *7, with a discharge; or*

6 *“(bb) if a case under chapter*
7 *11 or 13, with a confirmed plan*
8 *which will be fully performed; and*

9 *“(ii) as to any creditor that com-*
10 *menced an action under subsection (d) in a*
11 *previous case in which the individual was*
12 *a debtor if, as of the date of dismissal of*
13 *such case, that action was still pending or*
14 *had been resolved by terminating, condi-*
15 *tioning, or limiting the stay as to actions of*
16 *such creditor; and*

17 *“(4)(A)(i) if a single or joint case is filed by or*
18 *against an individual debtor under this title, and if*
19 *2 or more single or joint cases of the debtor were*
20 *pending within the previous year but were dismissed,*
21 *other than a case refiled under section 707(b), the*
22 *stay under subsection (a) shall not go into effect upon*
23 *the filing of the later case; and*

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

4 “(B) if, within 30 days after the filing of the
5 later case, a party in interest requests the court may
6 order the stay to take effect in the case as to any or
7 all creditors (subject to such conditions or limitations
8 as the court may impose), after notice and hearing,
9 only if the party in interest demonstrates that the fil-
10 ing of the later case is in good faith as to the creditors
11 to be stayed;

12 “(C) a stay imposed under subparagraph (B)
13 shall be effective on the date of entry of the order al-
14 lowing the stay to go into effect; and

15 “(D) for purposes of subparagraph (B), a case is
16 presumptively not filed in good faith (but such pre-
17 sumption may be rebutted by clear and convincing
18 evidence to the contrary)—

19 “(i) as to all creditors if—

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

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

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

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

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

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

3 **SEC. 303. CURBING ABUSIVE FILINGS.**

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

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

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

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

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

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

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

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

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

10 *(b) AUTOMATIC STAY.—Section 362(b) of title 11,*
11 *United States Code, is amended by inserting after para-*
12 *graph (19), as added by this Act, the following:*

13 *“(20) under subsection (a), of any act to enforce*
14 *any lien against or security interest in real property*
15 *following the entry of an order under section*
16 *362(d)(4) as to that property in any prior bank-*
17 *ruptcy case for a period of 2 years after entry of such*
18 *an order, except that the debtor, in a subsequent case,*
19 *may move the court for relief from such order based*
20 *upon changed circumstances or for other good cause*
21 *shown, after notice and a hearing;*

22 *“(21) under subsection (a), of any act to enforce*
23 *any lien against or security interest in real*
24 *property—*

1 “(A) if the debtor is ineligible under section
2 109(g) to be a debtor in a bankruptcy case; or
3 “(B) if the bankruptcy case was filed in
4 violation of a bankruptcy court order in a prior
5 bankruptcy case prohibiting the debtor from
6 being a debtor in another bankruptcy case;”.

7 **SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY**
8 **SECURITY.**

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

10 (1) *in section 521(a) (as so designated by this*
11 *Act)—*

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

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

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

17 “(6) *in an individual case under chapter 7 of*
18 *this title, not retain possession of personal property*
19 *as to which a creditor has an allowed claim for the*
20 *purchase price secured in whole or in part by an in-*
21 *terest in that personal property unless, in the case of*
22 *an individual debtor, the debtor, not later than 45*
23 *days after the first meeting of creditors under section*
24 *341(a), either—*

1 “(A) enters into an agreement with the
2 creditor pursuant to section 524(c) of this title
3 with respect to the claim secured by such prop-
4 erty; or

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

7 *If the debtor fails to so act within the 45-day period referred*
8 *to in paragraph (6), the stay under section 362(a) of this*
9 *title is terminated with respect to the personal property of*
10 *the estate or of the debtor which is affected, such property*
11 *shall no longer be property of the estate, and the creditor*
12 *may take whatever action as to such property as is per-*
13 *mitted by applicable nonbankruptcy law, unless the court*
14 *determines on the motion of the trustee brought before the*
15 *expiration of such 45-day period, and after notice and a*
16 *hearing, that such property is of consequential value or ben-*
17 *efit to the estate, orders appropriate adequate protection of*
18 *the creditor’s interest, and orders the debtor to deliver any*
19 *collateral in the debtor’s possession to the trustee.”; and*

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

1 **SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE**
2 **DEBTOR DOES NOT COMPLETE INTENDED**
3 **SURRENDER OF CONSUMER DEBT COLLAT-**
4 **ERAL.**

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

6 *(1) in section 362—*

7 *(A) in subsection (c), by striking “(e), and*
8 *(f)” and inserting “(e), (f), and (h)”;*

9 *(B) by redesignating subsection (h) as sub-*
10 *section (k); and*

11 *(C) by inserting after subsection (g) the fol-*
12 *lowing:*

13 *“(h)(1) In an individual case under chapter 7, 11, or*
14 *13, the stay provided by subsection (a) is terminated with*
15 *respect to personal property of the estate or of the debtor*
16 *securing in whole or in part a claim, or subject to an unex-*
17 *pired lease, and such personal property shall no longer be*
18 *property of the estate if the debtor fails within the applica-*
19 *ble time set by section 521(a)(2) of this title—*

20 *“(A) to file timely any statement of intention re-*
21 *quired under section 521(a)(2) of this title with re-*
22 *spect to that property or to indicate in that statement*
23 *that the debtor will either surrender the property or*
24 *retain it and, if retaining it, either redeem the prop-*
25 *erty pursuant to section 722 of this title, reaffirm the*
26 *debt it secures pursuant to section 524(c) of this title,*

1 or assume the unexpired lease pursuant to section
2 365(p) of this title if the trustee does not do so, as ap-
3 plicable; and

4 “(B) to take timely the action specified in that
5 statement of intention, as it may be amended before
6 expiration of the period for taking action, unless the
7 statement of intention specifies reaffirmation and the
8 creditor refuses to reaffirm on the original contract
9 terms.

10 “(2) Paragraph (1) does not apply if the court deter-
11 mines, on the motion of the trustee filed before the expira-
12 tion of the applicable time set by section 521(a)(2), after
13 notice and a hearing, that such property is of consequential
14 value or benefit to the estate, and orders appropriate ade-
15 quate protection of the creditor’s interest, and orders the
16 debtor to deliver any collateral in the debtor’s possession
17 to the trustee. If the court does not so determine, the stay
18 provided by subsection (a) shall terminate upon the conclu-
19 sion of the proceeding on the motion.”; and

20 (2) in section 521—

21 (A) in subsection (a)(2), as so designated by
22 this Act, by striking “consumer”;

23 (B) in subsection (a)(2)(B), as so designated
24 by this Act—

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

6 (ii) by striking “forty-five day” and
7 inserting “30-day”;

8 (C) in subsection (a)(2)(C), as so designated
9 by this Act, by inserting “, except as provided in
10 section 362(h) of this title” before the semicolon;
11 and

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

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

1 *justify limiting such a provision in any other cir-*
2 *cumstance.”.*

3 **SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT**

4 **IN CHAPTER 13.**

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

7 *“(i) the plan provides that—*

8 *“(I) the holder of such claim retain the*
9 *lien securing such claim until the earlier*
10 *of—*

11 *“(aa) the payment of the under-*
12 *lying debt determined under nonbank-*
13 *ruptcy law; or*

14 *“(bb) discharge under section*
15 *1328; and*

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

21 *(b) RESTORING THE FOUNDATION FOR SECURED*
22 *CREDIT.—Section 1325(a) of title 11, United States Code,*
23 *is amended by adding at the end the following flush sen-*
24 *tence:*

1 “For purposes of paragraph (5), section 506 shall not apply
2 to a claim described in that paragraph if the creditor has
3 a purchase money security interest securing the debt that
4 is the subject of the claim, the debt was incurred within
5 the 3-year period preceding the filing of the petition, and
6 the collateral for that debt consists of a motor vehicle (as
7 defined in section 30102 of title 49) acquired for the per-
8 sonal use of the debtor, or if collateral for that debt consists
9 of any other thing of value, if the debt was incurred during
10 the 1-year period preceding that filing.”.

11 (c) *DEFINITIONS.*—Section 101 of title 11, United
12 States Code, as amended by this Act, is amended—

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

15 “(13A) ‘debtor’s principal residence’—

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

20 “(B) includes an individual condominium
21 or cooperative unit, a mobile or manufactured
22 home, or trailer;” and

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

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

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

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

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

11 **SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.**

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

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

16 (2) by striking “, or for a longer portion of such
17 180-day period than in any other place” and insert-
18 ing “or if the debtor’s domicile has not been located
19 at a single State for such 730-day period, the place
20 in which the debtor’s domicile was located for 180
21 days immediately preceding the 730-day period or for
22 a longer portion of such 180-day period than in any
23 other place”.

1 **SEC. 308. LIMITATION.**

2 *Section 522 of title 11, United States Code, is*
3 *amended—*

4 *(1) in subsection (b)(3)(A), as so designated by*
5 *this Act, by inserting “subject to subsection (o),” be-*
6 *fore “any property”; and*

7 *(2) by adding at the end the following new sub-*
8 *section:*

9 *“(o)(1) As a result of electing under subsection*
10 *(b)(3)(A) to exempt property under State or local law, a*
11 *debtor may not exempt any amount of interest that exceeds,*
12 *in the aggregate, \$125,000 in value in—*

13 *“(A) real or personal property that the debtor or*
14 *a dependent of the debtor uses as a residence;*

15 *“(B) a cooperative that owns property that the*
16 *debtor or a dependent of the debtor uses as a resi-*
17 *dence; or*

18 *“(C) a burial plot for the debtor or a dependent*
19 *of the debtor.*

20 *“(2) The limitation under paragraph (1) shall not*
21 *apply to an exemption claimed under subsection (b)(3)(A)*
22 *by a family farmer for the principal residence of that farm-*
23 *er.”.*

1 **SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER**
2 **13 CASES.**

3 (a) *STOPPING ABUSIVE CONVERSIONS FROM CHAPTER*
4 *13.—Section 348(f)(1) of title 11, United States Code, is*
5 *amended—*

6 (1) *in subparagraph (A), by striking “and” at*
7 *the end;*

8 (2) *in subparagraph (B)—*

9 (A) *by striking “in the converted case, with*
10 *allowed secured claims” and inserting “only in*
11 *a case converted to a case under chapter 11 or*
12 *12, but not in a case converted to a case under*
13 *chapter 7, with allowed secured claims in cases*
14 *under chapters 11 and 12”; and*

15 (B) *by striking the period and inserting “;*
16 *and”; and*

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

18 “(C) *with respect to cases converted from chapter*
19 *13—*

20 “(i) *the claim of any creditor holding secu-*
21 *rity as of the date of the petition shall continue*
22 *to be secured by that security unless the full*
23 *amount of such claim determined under applica-*
24 *ble nonbankruptcy law has been paid in full as*
25 *of the date of conversion, notwithstanding any*
26 *valuation or determination of the amount of an*

1 *allowed secured claim made for the purposes of*
2 *the chapter 13 proceeding; and*

3 “(i) unless a prebankruptcy default has
4 been fully cured under the plan at the time of
5 conversion, in any proceeding under this title or
6 otherwise, the default shall have the effect given
7 under applicable nonbankruptcy law.”.

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

12 “(p)(1) *If a lease of personal property is rejected or*
13 *not timely assumed by the trustee under subsection (d), the*
14 *leased property is no longer property of the estate and the*
15 *stay under section 362(a) is automatically terminated.*

16 “(2)(A) *In the case of an individual under chapter 7,*
17 *the debtor may notify the creditor in writing that the debtor*
18 *desires to assume the lease. Upon being so notified, the cred-*
19 *itor may, at its option, notify the debtor that it is willing*
20 *to have the lease assumed by the debtor and may condition*
21 *such assumption on cure of any outstanding default on*
22 *terms set by the contract.*

23 “(B) *If, not later than 30 days after notice is provided*
24 *under subparagraph (A), the debtor notifies the lessor in*

1 *writing that the lease is assumed, the liability under the*
2 *lease will be assumed by the debtor and not by the estate.*

3 “(C) *The stay under section 362 and the injunction*
4 *under section 524(a)(2) shall not be violated by notification*
5 *of the debtor and negotiation of cure under this subsection.*

6 “(3) *In a case under chapter 11 in which the debtor*
7 *is an individual and in a case under chapter 13, if the*
8 *debtor is the lessee with respect to personal property and*
9 *the lease is not assumed in the plan confirmed by the court,*
10 *the lease is deemed rejected as of the conclusion of the hear-*
11 *ing on confirmation. If the lease is rejected, the stay under*
12 *section 362 and any stay under section 1301 is automati-*
13 *cally terminated with respect to the property subject to the*
14 *lease.”.*

15 (c) *ADEQUATE PROTECTION OF LESSORS AND PUR-*
16 *CHASE MONEY SECURED CREDITORS.—*

17 (1) *CONFIRMATION OF PLAN.—Section*
18 *1325(a)(5)(B) of title 11, United States Code, is*
19 *amended—*

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

22 (B) *in clause (ii), by striking “or” at the*
23 *end and inserting “and”; and*

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

25 “(iii) *if—*

1 “(I) property to be distributed
2 pursuant to this subsection is in the
3 form of periodic payments, such pay-
4 ments shall be in equal monthly
5 amounts; and

6 “(II) the holder of the claim is se-
7 cured by personal property, the
8 amount of such payments shall not be
9 less than an amount sufficient to pro-
10 vide to the holder of such claim ade-
11 quate protection during the period of
12 the plan; or”.

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

15 “(a)(1) Unless the court orders otherwise, the debtor
16 shall commence making payments not later than 30 days
17 after the date of the filing of the plan or the order for relief,
18 whichever is earlier, in the amount—

19 “(A) proposed by the plan to the trustee;

20 “(B) scheduled in a lease of personal property
21 directly to the lessor for that portion of the obligation
22 that becomes due after the order for relief, reducing
23 the payments under subparagraph (A) by the amount
24 so paid and providing the trustee with evidence of

1 *such payment, including the amount and date of pay-*
2 *ment; and*

3 *“(C) that provides adequate protection directly*
4 *to a creditor holding an allowed claim secured by per-*
5 *sonal property to the extent the claim is attributable*
6 *to the purchase of such property by the debtor for that*
7 *portion of the obligation that becomes due after the*
8 *order for relief, reducing the payments under sub-*
9 *paragraph (A) by the amount so paid and providing*
10 *the trustee with evidence of such payment, including*
11 *the amount and date of payment.*

12 *“(2) A payment made under paragraph (1)(A) shall*
13 *be retained by the trustee until confirmation or denial of*
14 *confirmation. If a plan is confirmed, the trustee shall dis-*
15 *tribute any such payment in accordance with the plan as*
16 *soon as is practicable. If a plan is not confirmed, the trustee*
17 *shall return any such payments not previously paid and*
18 *not yet due and owing to creditors pursuant to paragraph*
19 *(3) to the debtor, after deducting any unpaid claim allowed*
20 *under section 503(b).*

21 *“(3) Subject to section 363, the court may, upon notice*
22 *and a hearing, modify, increase, or reduce the payments*
23 *required under this subsection pending confirmation of a*
24 *plan.*

1 “(4) Not later than 60 days after the date of filing
2 of a case under this chapter, a debtor retaining possession
3 of personal property subject to a lease or securing a claim
4 attributable in whole or in part to the purchase price of
5 such property shall provide the lessor or secured creditor
6 reasonable evidence of the maintenance of any required in-
7 surance coverage with respect to the use or ownership of
8 such property and continue to do so for so long as the debtor
9 retains possession of such property.”.

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

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

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

14 “(I) consumer debts owed to a single cred-
15 itor and aggregating more than \$750 for luxury
16 goods or services incurred by an individual debt-
17 or on or within 90 days before the order for relief
18 under this title are presumed to be nondischarge-
19 able; and

20 “(II) cash advances aggregating more than
21 \$750 that are extensions of consumer credit
22 under an open end credit plan obtained by an
23 individual debtor on or within 70 days before the
24 order for relief under this title, are presumed to
25 be nondischargeable; and

1 “(ii) for purposes of this subparagraph—

2 “(I) the term ‘extension of credit under an
3 open end credit plan’ means an extension of
4 credit under an open end credit plan, within the
5 meaning of the Consumer Credit Protection Act
6 (15 U.S.C. 1601 et seq.);

7 “(II) the term ‘open end credit plan’ has the
8 meaning given that term under section 103 of
9 the Consumer Credit Protection Act (15 U.S.C.
10 1602); and

11 “(III) the term ‘luxury goods or services’
12 does not include goods or services reasonably nec-
13 essary for the support or maintenance of the
14 debtor or a dependent of the debtor.”.

15 **SEC. 311. AUTOMATIC STAY.**

16 (a) *IN GENERAL.*—Section 362(b) of title 11, United
17 States Code, is amended—

18 (1) by inserting after paragraph (21), as added
19 by this Act, the following:

20 “(23) under subsection (a)(3), of the commence-
21 ment or continuation of any eviction, unlawful de-
22 tainer action, or similar proceeding by a lessor
23 against a debtor seeking possession of residential
24 property—

1 “(A) on which the debtor resides as a ten-
2 ant; and

3 “(B) with respect to which—

4 “(i) the debtor fails to make a rental
5 payment that first becomes due under the
6 unexpired specific term of a rental agree-
7 ment or lease or under a tenancy under ap-
8 plicable State or local rent control law,
9 after the date of filing of the petition or
10 during the 10-day period preceding the date
11 of filing of the petition, if the lessor files
12 with the court a certification that the debtor
13 has not made a payment for rent and serves
14 a copy of the certification upon the debtor;
15 or

16 “(ii) the debtor has a month to month
17 tenancy (or one of shorter term) other than
18 under applicable State or local rent control
19 law where timely payments are made pur-
20 suant to clause (i) if the lessor files with the
21 court a certification that the requirements
22 of this clause have been met and serves a
23 copy of the certification upon the debtor.

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

1 *tainer action, or similar proceeding by a lessor*
2 *against a debtor seeking possession of residential*
3 *property, if during the 2-year period preceding the*
4 *date of filing of the petition, the debtor or another oc-*
5 *cupant of the leased premises—*

6 *“(A) commenced another case under this*
7 *title; and*

8 *“(B) failed to make any rental payment*
9 *that first became due under applicable nonbank-*
10 *ruptcy law after the date of filing of the petition*
11 *for that other case;*

12 *“(25) under subsection (a)(3), of an eviction ac-*
13 *tion, to the extent that it seeks possession based on*
14 *endangerment of property or the illegal use of con-*
15 *trolled substances on the property, if the lessor files*
16 *with the court a certification that such an eviction*
17 *has been filed or the debtor has endangered property*
18 *or illegally used or allowed to be used a controlled*
19 *substance on the property during the 30-day period*
20 *preceding the date of filing of the certification, and*
21 *serves a copy of the certification upon the debtor;”;*

22 *(2) by adding at the end of the flush material at*
23 *the end of the subsection the following: “With respect*
24 *to the applicability of paragraph (23) or (25) to a*
25 *debtor with respect to the commencement or continu-*

1 *ation of a proceeding described in any such para-*
2 *graph, the exception to the automatic stay shall be-*
3 *come effective on the 15th day after the lessor meets*
4 *the filing and notification requirements under any*
5 *such paragraph, unless—*

6 *“(A) the debtor files a certification with the*
7 *court and serves a copy of that certification*
8 *upon the lessor on or before that 15th day,*
9 *that—*

10 *“(i) contests the truth or legal suffi-*
11 *ciency of the lessor’s certification; or*

12 *“(ii) states that the tenant has taken*
13 *such action as may be necessary to remedy*
14 *the subject of the certification under para-*
15 *graph (23)(B)(i), except that no tenant may*
16 *take advantage of such remedy more than*
17 *once under this title; or*

18 *“(B) the court orders that the exception to*
19 *the automatic stay shall not become effective, or*
20 *provides for a later date of applicability.”; and*

21 *(3) by adding at the end of the flush material*
22 *added by paragraph (2), the following:*

23 *“Where a debtor makes a certification under subparagraph*
24 *(A), the clerk of the court shall set a hearing on a date*
25 *no later than 10 days after the date of the filing of the cer-*

1 *tification of the debtor and provide written notice thereof.*
2 *If the debtor can demonstrate to the satisfaction of the court*
3 *that the rent payment due post-petition or 10 days prior*
4 *to the petition was made prior to the filing of the debtor’s*
5 *certification under subparagraph (A), or that the situation*
6 *giving rise to the exception in paragraph (25) does not exist*
7 *or has been remedied to the court’s satisfaction, then a stay*
8 *under subsection (a) shall be in effect until the termination*
9 *of the stay under this section. If the debtor cannot make*
10 *this demonstration to the satisfaction of the court, the court*
11 *shall order the stay under subsection (a) lifted forthwith.*
12 *Where a debtor does not file a certification under subpara-*
13 *graph (A), the stay under subsection (a) shall be lifted by*
14 *operation of law and the clerk of the court shall certify a*
15 *copy of the bankruptcy docket as sufficient evidence that*
16 *the automatic stay of subsection (a) is lifted.”.*

17 **SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY**
18 **DISCHARGES.**

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

20 *(1) in section 727(a)(8), by striking “six” and*
21 *inserting “8”; and*

22 *(2) in section 1328, by inserting after subsection*
23 *(e) the following:*

24 *“(f) Notwithstanding subsections (a) and (b), the court*
25 *shall not grant a discharge of all debts provided for by the*

1 *plan or disallowed under section 502, if the debtor has re-*
 2 *ceived a discharge—*

3 “(1) *in a case filed under chapter 7, 11, or 12*
 4 *of this title during the three-year period preceding the*
 5 *date of the order for relief under this chapter, or*

6 “(2) *in a case filed under chapter 13 of this title*
 7 *during the two-year period preceding the date of such*
 8 *order, except that if the debtor demonstrates extreme*
 9 *hardship requiring that a chapter 13 case be filed, the*
 10 *court may shorten the two-year period.”.*

11 **SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND AN-**
 12 **TIQUES.**

13 (a) *DEFINITION.—Section 522(f) of title 11, United*
 14 *States Code, is amended by adding at the end the following:*

15 “(4)(A) *Subject to subparagraph (B), for purposes of*
 16 *paragraph (1)(B), the term ‘household goods’ means—*

17 “(i) *clothing;*

18 “(ii) *furniture;*

19 “(iii) *appliances;*

20 “(iv) *1 radio;*

21 “(v) *1 television;*

22 “(vi) *1 VCR;*

23 “(vii) *linens;*

24 “(viii) *china;*

25 “(ix) *crockery;*

1 “(x) kitchenware;

2 “(xi) educational materials and educational
3 equipment primarily for the use of minor dependent
4 children of the debtor, but only 1 personal computer
5 only if used primarily for the education or entertain-
6 ment of such minor children;

7 “(xii) medical equipment and supplies;

8 “(xiii) furniture exclusively for the use of minor
9 children, or elderly or disabled dependents of the debt-
10 or; and

11 “(xiv) personal effects (including the toys and
12 hobby equipment of minor dependent children and
13 wedding rings) of the debtor and the dependents of the
14 debtor.

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

16 “(i) works of art (unless by or of the debtor or
17 the dependents of the debtor);

18 “(ii) electronic entertainment equipment (except
19 1 television, 1 radio, and 1 VCR);

20 “(iii) items acquired as antiques;

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

22 “(v) a computer (except as otherwise provided
23 for in this section), motor vehicle (including a tractor
24 or lawn tractor), boat, or a motorized recreational de-
25 vice, conveyance, vehicle, watercraft, or aircraft.”.

1 (b) *STUDY.*—Not later than 2 years after the date of
2 enactment of this Act, the Director of the Executive Office
3 for United States Trustees shall submit a report to the Com-
4 mittee on the Judiciary of the Senate and the Committee
5 on the Judiciary of the House of Representatives containing
6 its findings regarding utilization of the definition of house-
7 hold goods, as defined in section 522(f)(4) of title 11, United
8 States Code, as added by this section, with respect to the
9 avoidance of nonpossessory, nonpurchase money security
10 interests in household goods under section 522(f)(1)(B) of
11 title 11, United States Code, and the impact that section
12 522(f)(4) of that title, as added by this section, has had
13 on debtors and on the bankruptcy courts. Such report may
14 include recommendations for amendments to section
15 522(f)(4) of title 11, United States Code, consistent with
16 the Director’s findings.

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

19 (a) *IN GENERAL.*—Section 523(a) of title 11, United
20 States Code, is amended by inserting after paragraph (14)
21 the following:

22 “(14A) incurred to pay a tax to a governmental
23 unit, other than the United States, that would be non-
24 dischargeable under paragraph (1);”.

1 (b) *DISCHARGE UNDER CHAPTER 13.*—Section
 2 1328(a) of title 11, United States Code, is amended by strik-
 3 ing paragraphs (1) through (3) and inserting the following:

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

5 “(2) of the kind specified in paragraph (2), (3),
 6 (4), (5), (8), or (9) of section 523(a);

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

9 “(4) for restitution, or damages, awarded in a
 10 civil action against the debtor as a result of willful
 11 or malicious injury by the debtor that caused per-
 12 sonal injury to an individual or the death of an indi-
 13 vidual.”.

14 **SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7**
 15 **AND 13 CASES.**

16 (a) *NOTICE.*—Section 342 of title 11, United States
 17 Code, as amended by this Act, is amended—

18 (1) in subsection (c)—

19 (A) by inserting “(1)” after “(c)”;

20 (B) by striking “, but the failure of such no-
 21 tice to contain such information shall not invali-
 22 date the legal effect of such notice”; and

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

24 “(2) If, within the 90 days prior to the date of
 25 the filing of a petition in a voluntary case, the cred-

1 itor supplied the debtor in at least 2 communications
2 sent to the debtor with the current account number of
3 the debtor and the address at which the creditor wish-
4 es to receive correspondence, then the debtor shall send
5 any notice required under this title to the address
6 provided by the creditor and such notice shall include
7 the account number. In the event the creditor would
8 be in violation of applicable nonbankruptcy law by
9 sending any such communication within such 90-day
10 period and if the creditor supplied the debtor in the
11 last 2 communications with the current account num-
12 ber of the debtor and the address at which the creditor
13 wishes to receive correspondence, then the debtor shall
14 send any notice required under this title to the ad-
15 dress provided by the creditor and such notice shall
16 include the account number.”; and

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

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

1 “(f) *An entity may file with the court a notice stating*
2 *its address for notice in cases under chapters 7 and 13.*
3 *After 30 days following the filing of such notice, any notice*
4 *in any case filed under chapter 7 or 13 given by the court*
5 *shall be to that address unless specific notice is given under*
6 *subsection (e) with respect to a particular case.*

7 “(g)(1) *Notice given to a creditor other than as pro-*
8 *vided in this section shall not be effective notice until that*
9 *notice has been brought to the attention of the creditor. If*
10 *the creditor designates a person or department to be respon-*
11 *sible for receiving notices concerning bankruptcy cases and*
12 *establishes reasonable procedures so that bankruptcy notices*
13 *received by the creditor are to be delivered to such depart-*
14 *ment or person, notice shall not be considered to have been*
15 *brought to the attention of the creditor until received by*
16 *such person or department.*

17 “(2) *No sanction under section 362(k) or any other*
18 *sanction that a court may impose on account of violations*
19 *of the stay under section 362(a) or failure to comply with*
20 *section 542 or 543 may be imposed on any action of the*
21 *creditor unless the action takes place after the creditor has*
22 *received notice of the commencement of the case effective*
23 *under this section.”.*

24 (b) *DEBTOR’S DUTIES.*—Section 521 of title 11,
25 *United States Code, as amended by this Act, is amended—*

1 (1) in subsection (a), as so designated by this
2 Act, by striking paragraph (1) and inserting the fol-
3 lowing:

4 “(1) file—

5 “(A) a list of creditors; and

6 “(B) unless the court orders otherwise—

7 “(i) a schedule of assets and liabilities;

8 “(ii) a schedule of current income and
9 current expenditures;

10 “(iii) a statement of the debtor’s finan-
11 cial affairs and, if applicable, a
12 certificate—

13 “(I) of an attorney whose name is
14 on the petition as the attorney for the
15 debtor or any bankruptcy petition pre-
16 parer signing the petition under sec-
17 tion 110(b)(1) indicating that such at-
18 torney or bankruptcy petition preparer
19 delivered to the debtor any notice re-
20 quired by section 342(b); or

21 “(II) if no attorney for the debtor
22 is indicated and no bankruptcy peti-
23 tion preparer signed the petition, of the
24 debtor that such notice was obtained
25 and read by the debtor;

1 “(iv) copies of all payment advices or
2 other evidence of payment, if any, received
3 by the debtor from any employer of the
4 debtor in the period 60 days before the fil-
5 ing of the petition;

6 “(v) a statement of the amount of
7 monthly net income, itemized to show how
8 the amount is calculated; and

9 “(vi) a statement disclosing any rea-
10 sonably anticipated increase in income or
11 expenditures over the 12-month period fol-
12 lowing the date of filing;”; and

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

14 “(e)(1) At any time, a creditor, in the case of an indi-
15 vidual under chapter 7 or 13, may file with the court notice
16 that the creditor requests the petition, schedules, and a
17 statement of affairs filed by the debtor in the case, and the
18 court shall make those documents available to the creditor
19 who requests those documents.

20 “(2)(A) The debtor shall provide either a tax return
21 or transcript at the election of the debtor, for the latest tax-
22 able period prior to filing for which a tax return has been
23 or should have been filed, to the trustee, not later than 7
24 days before the date first set for the first meeting of credi-
25 tors, or the case shall be dismissed, unless the debtor dem-

1 *onstrates that the failure to file a return as required is due*
2 *to circumstances beyond the control of the debtor.*

3 “(B) *If a creditor has requested a tax return or tran-*
4 *script referred to in subparagraph (A), the debtor shall pro-*
5 *vide such tax return or transcript to the requesting creditor*
6 *at the time the debtor provides the tax return or transcript*
7 *to the trustee, or the case shall be dismissed, unless the debt-*
8 *or demonstrates that the debtor is unable to provide such*
9 *information due to circumstances beyond the control of the*
10 *debtor.*

11 “(3)(A) *At any time, a creditor in a case under chap-*
12 *ter 13 may file with the court notice that the creditor re-*
13 *quests the plan filed by the debtor in the case.*

14 “(B) *The court shall make such plan available to the*
15 *creditor who requests such plan—*

16 “(i) *at a reasonable cost; and*

17 “(ii) *not later than 5 days after such request.*

18 “(f) *An individual debtor in a case under chapter 7,*
19 *11, or 13 shall file with the court at the request of the judge,*
20 *United States trustee, or any party in interest—*

21 “(1) *at the time filed with the taxing authority,*
22 *the Federal tax returns or transcript thereof required*
23 *under applicable law, with respect to the period from*
24 *the commencement of the case until such time as the*
25 *case is closed;*

1 “(2) at the time filed with the taxing authority,
2 the Federal tax returns or transcript thereof required
3 under applicable law, that were not filed with the
4 taxing authority when the schedules under subsection
5 (a)(1) were filed with respect to the period that is 3
6 years before the order of relief;

7 “(3) any amendments to any of the Federal tax
8 returns or transcripts thereof, described in paragraph
9 (1) or (2); and

10 “(4) in a case under chapter 13, a statement
11 subject to the penalties of perjury by the debtor of the
12 debtor’s income and expenditures in the preceding tax
13 year and monthly income, that shows how the
14 amounts are calculated—

15 “(A) beginning on the date that is the later
16 of 90 days after the close of the debtor’s tax year
17 or 1 year after the order for relief, unless a plan
18 has been confirmed; and

19 “(B) thereafter, on or before the date that is
20 45 days before each anniversary of the confirma-
21 tion of the plan until the case is closed.

22 “(g)(1) A statement referred to in subsection (f)(4)
23 shall disclose—

24 “(A) the amount and sources of income of the
25 debtor;

1 “(B) the identity of any person responsible with
2 the debtor for the support of any dependent of the
3 debtor; and

4 “(C) the identity of any person who contributed,
5 and the amount contributed, to the household in
6 which the debtor resides.

7 “(2) The tax returns, amendments, and statement of
8 income and expenditures described in subsection (e)(2)(A)
9 and subsection (f) shall be available to the United States
10 trustee, any bankruptcy administrator, any trustee, and
11 any party in interest for inspection and copying, subject
12 to the requirements of subsection (h).

13 “(h)(1) Not later than 180 days after the date of enact-
14 ment of the Bankruptcy Reform Act of 2001, the Director
15 of the Administrative Office of the United States Courts
16 shall establish procedures for safeguarding the confiden-
17 tiality of any tax information required to be provided
18 under this section.

19 “(2) The procedures under paragraph (1) shall include
20 restrictions on creditor access to tax information that is re-
21 quired to be provided under this section.

22 “(3) Not later than 1 year and 180 days after the date
23 of enactment of the Bankruptcy Reform Act of 2001, the
24 Director of the Administrative Office of the United States

1 *Courts shall prepare and submit to Congress a report*
2 *that—*

3 “(A) *assesses the effectiveness of the procedures*
4 *under paragraph (1); and*

5 “(B) *if appropriate, includes proposed legisla-*
6 *tion to—*

7 “(i) *further protect the confidentiality of tax*
8 *information; and*

9 “(ii) *provide penalties for the improper use*
10 *by any person of the tax information required to*
11 *be provided under this section.*

12 “(i) *If requested by the United States trustee or a*
13 *trustee serving in the case, the debtor shall provide—*

14 “(1) *a document that establishes the identity of*
15 *the debtor, including a driver’s license, passport, or*
16 *other document that contains a photograph of the*
17 *debtor; and*

18 “(2) *such other personal identifying information*
19 *relating to the debtor that establishes the identity of*
20 *the debtor.”.*

21 **SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**
22 **ULES OR PROVIDE REQUIRED INFORMATION.**

23 *Section 521 of title 11, United States Code, as amend-*
24 *ed by this Act, is amended by adding at the end the fol-*
25 *lowing:*

1 “(j)(1) Notwithstanding section 707(a), and subject to
2 paragraph (2), if an individual debtor in a voluntary case
3 under chapter 7 or 13 fails to file all of the information
4 required under subsection (a)(1) within 45 days after the
5 filing of the petition commencing the case, the case shall
6 be automatically dismissed effective on the 46th day after
7 the filing of the petition.

8 “(2) With respect to a case described in paragraph (1),
9 any party in interest may request the court to enter an
10 order dismissing the case. If requested, the court shall enter
11 an order of dismissal not later than 5 days after such re-
12 quest.

13 “(3) Upon request of the debtor made within 45 days
14 after the filing of the petition commencing a case described
15 in paragraph (1), the court may allow the debtor an addi-
16 tional period of not to exceed 45 days to file the information
17 required under subsection (a)(1) if the court finds justifica-
18 tion for extending the period for the filing.”.

19 **SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON**
20 **CONFIRMATION OF THE PLAN.**

21 Section 1324 of title 11, United States Code, is
22 amended—

23 (1) by striking “After” and inserting the fol-
24 lowing:

1 “(a) *Except as provided in subsection (b) and after*”;

2 *and*

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

4 “(b) *The hearing on confirmation of the plan may be*
5 *held not earlier than 20 days and not later than 45 days*
6 *after the date of the meeting of creditors under section*
7 *341(a).*”.

8 **SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**
9 **IN CERTAIN CASES.**

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

11 (1) *by amending section 1322(d) to read as fol-*
12 *lows:*

13 “(d)(1) *If the current monthly income of the debtor*
14 *and the debtor’s spouse combined, when multiplied by 12,*
15 *is not less than—*

16 “(A) *in the case of a debtor in a household of 1*
17 *person, the median family income of the applicable*
18 *State for 1 earner last reported by the Bureau of the*
19 *Census;*

20 “(B) *in the case of a debtor in a household of 2,*
21 *3, or 4 individuals, the highest median family income*
22 *of the applicable State for a family of the same num-*
23 *ber or fewer individuals last reported by the Bureau*
24 *of the Census; or*

1 “(C) in the case of a debtor in a household ex-
2 ceeding 4 individuals, the highest median family in-
3 come of the applicable State for a family of 4 or fewer
4 individuals last reported by the Bureau of the Census,
5 plus \$525 per month for each individual in excess of
6 4,

7 the plan may not provide for payments over a period that
8 is longer than 5 years.

9 “(2) If the current monthly income of the debtor and
10 the debtor’s spouse combined, when multiplied by 12, is less
11 than—

12 “(A) in the case of a debtor in a household of 1
13 person, the median family income of the applicable
14 State for 1 earner last reported by the Bureau of the
15 Census;

16 “(B) in the case of a debtor in a household of 2,
17 3, or 4 individuals, the highest median family income
18 of the applicable State for a family of the same num-
19 ber or fewer individuals last reported by the Bureau
20 of the Census; or

21 “(C) in the case of a debtor in a household ex-
22 ceeding 4 individuals, the highest median family in-
23 come of the applicable State for a family of 4 or fewer
24 individuals last reported by the Bureau of the Census,

1 *plus \$525 per month for each individual in excess of*
2 *4,*
3 *the plan may not provide for payments over a period that*
4 *is longer than 3 years, unless the court, for cause, approves*
5 *a longer period, but the court may not approve a period*
6 *that is longer than 5 years.”;*

7 *(2) in section 1325(b)(1)(B), by striking “three-*
8 *year period” and inserting “applicable commitment*
9 *period”;* and

10 *(3) in section 1325(b), as amended by this Act,*
11 *by adding at the end the following:*

12 *“(4) For purposes of this subsection, the ‘applicable*
13 *commitment period’—*

14 *“(A) subject to subparagraph (B), shall be—*

15 *“(i) 3 years; or*

16 *“(ii) not less than 5 years, if the current*
17 *monthly income of the debtor and the debtor’s*
18 *spouse combined, when multiplied by 12, is not*
19 *less than—*

20 *“(I) in the case of a debtor in a house-*
21 *hold of 1 person, the median family income*
22 *of the applicable State for 1 earner last re-*
23 *ported by the Bureau of the Census;*

24 *“(II) in the case of a debtor in a*
25 *household of 2, 3, or 4 individuals, the high-*

1 *est median family income of the applicable*
2 *State for a family of the same number or*
3 *fewer individuals last reported by the Bu-*
4 *reau of the Census; or*

5 *“(III) in the case of a debtor in a*
6 *household exceeding 4 individuals, the high-*
7 *est median family income of the applicable*
8 *State for a family of 4 or fewer individuals*
9 *last reported by the Bureau of the Census,*
10 *plus \$525 per month for each individual in*
11 *excess of 4; and*

12 *“(B) may be less than 3 or 5 years, whichever*
13 *is applicable under subparagraph (A), but only if the*
14 *plan provides for payment in full of all allowed unse-*
15 *cured claims over a shorter period.”; and*

16 *(4) in section 1329(c), by striking “three years”*
17 *and inserting “the applicable commitment period*
18 *under section 1325(b)(1)(B)”.*

19 **SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF**
20 **RULE 9011 OF THE FEDERAL RULES OF BANK-**
21 **RUPTCY PROCEDURE.**

22 *It is the sense of Congress that rule 9011 of the Federal*
23 *Rules of Bankruptcy Procedure (11 U.S.C. App.) should be*
24 *modified to include a requirement that all documents (in-*
25 *cluding schedules), signed and unsigned, submitted to the*

1 *court or to a trustee by debtors who represent themselves*
2 *and debtors who are represented by an attorney be sub-*
3 *mitted only after the debtor or the debtor’s attorney has*
4 *made reasonable inquiry to verify that the information con-*
5 *tained in such documents is—*

6 (1) *well grounded in fact; and*

7 (2) *warranted by existing law or a good-faith ar-*
8 *gument for the extension, modification, or reversal of*
9 *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 an*
17 *individual filing under chapter 7, 11, or 13, the stay under*
18 *subsection (a) shall terminate on the date that is 60 days*
19 *after a request is made by a party in interest under sub-*
20 *section (d), unless—*

21 “(A) *a final decision is rendered by the court*
22 *during the 60-day period beginning on the date of the*
23 *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 of
4 time as the court finds is required for good
5 cause, as described in findings made by the
6 court.”.

7 **SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.**

8 (a) *PROPERTY OF THE ESTATE.*—

9 (1) *IN GENERAL.*—Subchapter I of chapter 11 of
10 title 11, United States Code, is amended by adding
11 at the end the following:

12 **“§ 1115. Property of the estate**

13 “(a) In a case concerning an individual debtor, prop-
14 erty of the estate includes, in addition to the property speci-
15 fied in section 541—

16 “(1) all property of the kind specified in section
17 541 that the debtor acquires after the commencement
18 of the case but before the case is closed, dismissed, or
19 converted to a case under chapter 7, 12, or 13, which-
20 ever occurs first; and

21 “(2) earnings from services performed by the
22 debtor after the commencement of the case but before
23 the case is closed, dismissed, or converted to a case
24 under chapter 7, 12, or 13, whichever occurs first.”.

1 “(b) *Except as provided in section 1104 or a confirmed*
2 *plan or order confirming a plan, the debtor shall remain*
3 *in possession of all property of the estate.*”.

4 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
5 *tions for chapter 11 of title 11, United States Code,*
6 *is amended by adding at the end of the matter relat-*
7 *ing to subchapter I the following:*

“1115. *Property of the estate.*”.

8 (b) *CONTENTS OF PLAN.*—*Section 1123(a) of title 11,*
9 *United States Code, is amended—*

10 (1) *in paragraph (6), by striking “and” at the*
11 *end;*

12 (2) *in paragraph (7), by striking the period and*
13 *inserting “; and”; and*

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

15 “(8) *in a case concerning an individual, provide*
16 *for the payment to creditors through the plan of all*
17 *or such portion of earnings from personal services*
18 *performed by the debtor after the commencement of*
19 *the case or other future income of the debtor as is nec-*
20 *essary for the execution of the plan.*”.

21 (c) *CONFIRMATION OF PLAN.*—

22 (1) *REQUIREMENTS RELATING TO VALUE OF*
23 *PROPERTY.*—*Section 1129(a) of title 11, United*
24 *States Code, is amended by adding at the end the fol-*
25 *lowing:*

1 “(15) *In a case concerning an individual in*
2 *which the holder of an allowed unsecured claim ob-*
3 *jects to the confirmation of the plan—*

4 “(A) *the value of the property to be distrib-*
5 *uted under the plan on account of such claim is,*
6 *as of the effective date of the plan, not less than*
7 *the amount of such claim; or*

8 “(B) *the value of the property to be distrib-*
9 *uted under the plan is not less than the debtor’s*
10 *projected disposable income (as that term is de-*
11 *finied in section 1325(b)(2)) to be received during*
12 *the 5-year period beginning on the date that the*
13 *first payment is due under the plan, or during*
14 *the term of the plan, whichever is longer.”.*

15 (2) *REQUIREMENT RELATING TO INTERESTS IN*
16 *PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11,*
17 *United States Code, is amended by inserting before*
18 *the period at the end the following: “, except that in*
19 *a case concerning an individual, the debtor may re-*
20 *tain property included in the estate under section*
21 *1115, subject to the requirements of subsection*
22 *(a)(14)”.*

23 (d) *EFFECT OF CONFIRMATION.—Section 1141(d) of*
24 *title 11, United States Code, is amended—*

1 (1) *in paragraph (2), by striking “The confirma-*
2 *tion of a plan does not discharge an individual debt-*
3 *or” and inserting “A discharge under this chapter*
4 *does not discharge an individual debtor”;* and

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

6 “(5) *In a case concerning an individual—*

7 “(A) *except as otherwise ordered for cause shown,*
8 *the discharge is not effective until completion of all*
9 *payments under the plan; and*

10 “(B) *at any time after the confirmation of the*
11 *plan and after notice and a hearing, the court may*
12 *grant a discharge to a debtor that has not completed*
13 *payments under the plan only if—*

14 “(i) *for each allowed unsecured claim, the*
15 *value, as of the effective date of the plan, of prop-*
16 *erty actually distributed under the plan on ac-*
17 *count of that claim is not less than the amount*
18 *that would have been paid on such claim if the*
19 *estate of the debtor had been liquidated under*
20 *chapter 7 of this title on such date; and*

21 “(ii) *modification of the plan under 1127 of*
22 *this title is not practicable.”.*

23 (e) *MODIFICATION OF PLAN.—Section 1127 of title 11,*
24 *United States Code, is amended by adding at the end the*
25 *following:*

1 “(e) *In a case concerning an individual, the plan may*
2 *be modified at any time after confirmation of the plan but*
3 *before the completion of payments under the plan, whether*
4 *or not the plan has been substantially consummated, upon*
5 *request of the debtor, the trustee, the United States trustee,*
6 *or the holder of an allowed unsecured claim, to—*

7 “(1) *increase or reduce the amount of payments*
8 *on claims of a particular class provided for by the*
9 *plan;*

10 “(2) *extend or reduce the time period for such*
11 *payments; or*

12 “(3) *alter the amount of the distribution to a*
13 *creditor whose claim is provided for by the plan to*
14 *the extent necessary to take account of any payment*
15 *of such claim made other than under the plan.*

16 “(f)(1) *Sections 1121 through 1128 of this title and*
17 *the requirements of section 1129 of this title apply to any*
18 *modification under subsection (a).*

19 “(2) *The plan, as modified, shall become the plan only*
20 *after there has been disclosure under section 1125, as the*
21 *court may direct, notice and a hearing, and such modifica-*
22 *tion is approved.”.*

1 **SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICI-**
2 **PANT CONTRIBUTIONS AND OTHER PROP-**
3 **ERTY FROM THE ESTATE.**

4 (a) *IN GENERAL.*—Section 541(b) of title 11, United
5 States Code, is amended by inserting after paragraph (6),
6 as added by this Act, the following:

7 “(7) any amount—

8 “(A) withheld by an employer from the
9 wages of employees for payment as contributions
10 to—

11 “(i) an employee benefit plan subject to
12 title I of the Employee Retirement Income
13 Security Act of 1974 (29 U.S.C. 1001 et
14 seq.) or under an employee benefit plan
15 which is a governmental plan under section
16 414(d) of the Internal Revenue Code of
17 1986, a deferred compensation plan under
18 section 457 of the Internal Revenue Code of
19 1986, or a tax-deferred annuity under sec-
20 tion 403(b) of the Internal Revenue Code of
21 1986, except that amount shall not con-
22 stitute disposable income, as defined in sec-
23 tion 1325(b)(2) of this title; or

24 “(ii) a health insurance plan regulated
25 by State law whether or not subject to such
26 title; or

1 “(B) received by the employer from employ-
2 ees for payment as contributions to—

3 “(i) an employee benefit plan subject to
4 title I of the Employee Retirement Income
5 Security Act of 1974 (29 U.S.C. 1001 et
6 seq.) or under an employee benefit plan
7 which is a governmental plan under section
8 414(d) of the Internal Revenue Code of
9 1986, a deferred compensation plan under
10 section 457 of the Internal Revenue Code of
11 1986, or a tax-deferred annuity under sec-
12 tion 403(b) of the Internal Revenue Code of
13 1986, except that amount shall not con-
14 stitute disposable income, as defined in sec-
15 tion 1325(b)(2) of this title; or

16 “(ii) a health insurance plan regulated
17 by State law whether or not subject to such
18 title;”.

19 (b) APPLICATION OF AMENDMENT.—The amendments
20 made by this section shall not apply to cases commenced
21 under title 11, United States Code, before the expiration
22 of the 180-day period beginning on the date of enactment
23 of this Act.

1 **SEC. 323. EXCLUSIVE JURISDICTION IN MATTERS INVOLV-**
2 **ING BANKRUPTCY PROFESSIONALS.**

3 (a) *IN GENERAL.*—Section 1334 of title 28, United
4 States Code, is amended—

5 (1) in subsection (b), by striking “Notwith-
6 standing” and inserting “Except as provided in sub-
7 section (e)(2), and notwithstanding”; and

8 (2) by striking subsection (e) and inserting the
9 following:

10 “(e) The district court in which a case under title 11
11 is commenced or is pending shall have exclusive
12 jurisdiction—

13 “(1) of all the property, wherever located, of the
14 debtor as of the date of commencement of such case,
15 and of property of the estate; and

16 “(2) over all claims or causes of action that in-
17 volve construction of section 327 of title 11, United
18 States Code, or rules relating to disclosure require-
19 ments under section 327.”.

20 (b) *APPLICABILITY.*—This section shall only apply to
21 cases filed after the date of enactment of this Act.

22 **SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE**
23 **INCREASE.**

24 (a) *ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11,*
25 *UNITED STATES CODE.*—Section 1930(a) of title 28,

1 *United States Code, is amended by striking paragraph (1)*
2 *and inserting the following:*

3 “(1) *For a case commenced—*

4 “(A) *under chapter 7 of title 11, \$160; or*

5 “(B) *under chapter 13 of title 11, \$150.*”.

6 (b) *UNITED STATES TRUSTEE SYSTEM FUND.—Sec-*
7 *tion 589a(b) of title 28, United States Code, is amended—*

8 (1) *by striking paragraph (1) and inserting the*
9 *following:*

10 “(1)(A) *40.63 percent of the fees collected under*
11 *section 1930(a)(1)(A) of this title in cases commenced*
12 *under chapter 7 of title 11; and*

13 “(B) *70.00 percent of the fees collected under sec-*
14 *tion 1930(a)(1)(B) of this title in cases commenced*
15 *under chapter 13 of title 11;”;*

16 (2) *in paragraph (2), by striking “one-half” and*
17 *inserting “three-fourths”; and*

18 (3) *in paragraph (4), by striking “one-half” and*
19 *inserting “100 percent”.*

20 (c) *COLLECTION AND DEPOSIT OF MISCELLANEOUS*
21 *BANKRUPTCY FEES.—Section 406(b) of the Judiciary Ap-*
22 *propriations Act, 1990 (28 U.S.C. 1931 note) is amended*
23 *by striking “pursuant to 28 U.S.C. section 1930(b) and*
24 *30.76 per centum of the fees hereafter collected under 28*
25 *U.S.C. section 1930(a)(1) and 25 percent of the fees here-*

1 *after collected under 28 U.S.C. section 1930(a)(3) shall be*
2 *deposited as offsetting receipts to the fund established under*
3 *28 U.S.C. section 1931” and inserting “under section*
4 *1930(b) of title 28, United States Code, and 31.25 percent*
5 *of the fees collected under section 1930(a)(1)(A) of that title,*
6 *30.00 percent of the fees collected under section*
7 *1930(a)(1)(B) of that title, and 25 percent of the fees col-*
8 *lected under section 1930(a)(3) of that title shall be depos-*
9 *ited as offsetting receipts to the fund established under sec-*
10 *tion 1931 of that title”.*

11 **SEC. 325. SHARING OF COMPENSATION.**

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

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

20 **SEC. 326. FAIR VALUATION OF COLLATERAL.**

21 *Section 506(a) of title 11, United States Code, is*
22 *amended by—*

23 *(1) inserting “(1)” after “(a)”;* and

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

1 “(2) *In the case of an individual debtor under chapters*
 2 *7 and 13, such value with respect to personal property se-*
 3 *curing an allowed claim shall be determined based on the*
 4 *replacement value of such property as of the date of filing*
 5 *the petition without deduction for costs of sale or marketing.*
 6 *With respect to property acquired for personal, family, or*
 7 *household purpose, replacement value shall mean the price*
 8 *a retail merchant would charge for property of that kind*
 9 *considering the age and condition of the property at the*
 10 *time value is determined.”.*

11 **SEC. 327. DEFAULTS BASED ON NONMONETARY OBLIGA-**
 12 **TIONS.**

13 (a) *EXECUTORY CONTRACTS AND UNEXPIRED*
 14 *LEASES.—Section 365 of title 11, United States Code, is*
 15 *amended—*

16 (1) *in subsection (b)—*

17 (A) *in paragraph (1)(A), by striking the*
 18 *semicolon at the end and inserting the following:*

19 *“other than a default that is a breach of a provi-*
 20 *sion relating to the satisfaction of any provision*

21 *(other than a penalty rate or penalty provision)*

22 *relating to a default arising from any failure to*

23 *perform nonmonetary obligations under an un-*

24 *expired lease of real property, if it is impossible*

25 *for the trustee to cure such default by performing*

1 *nonmonetary acts at and after the time of as-*
2 *sumption, except that if such default arises from*
3 *a failure to operate in accordance with a non-*
4 *residential real property lease, then such default*
5 *shall be cured by performance at and after the*
6 *time of assumption in accordance with such*
7 *lease, and pecuniary losses resulting from such*
8 *default shall be compensated in accordance with*
9 *the provisions of paragraph (b)(1);”;* and

10 *(B) in paragraph (2)(D), by striking “pen-*
11 *alty rate or provision” and inserting “penalty*
12 *rate or penalty provision”;*

13 *(2) in subsection (c)—*

14 *(A) in paragraph (2), by inserting “or” at*
15 *the end;*

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

18 *(C) by striking paragraph (4);*

19 *(3) in subsection (d)—*

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

21 *and*

22 *(B) by redesignating paragraph (10) as*
23 *paragraph (5); and*

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

4 (b) *IMPAIRMENT OF CLAIMS OR INTERESTS.*—Section
5 1124(2) of title 11, United States Code, is amended—

6 (1) in subparagraph (A), by inserting “or of a
7 kind that section 365(b)(2) of this title expressly does
8 not require to be cured” before the semicolon at the
9 end;

10 (2) in subparagraph (C), by striking “and” at
11 the end;

12 (3) by redesignating subparagraph (D) as sub-
13 paragraph (E); and

14 (4) by inserting after subparagraph (C) the fol-
15 lowing:

16 “(D) if such claim or such interest arises
17 from any failure to perform a nonmonetary obli-
18 gation, other than a default arising from failure
19 to operate a non-residential real property lease
20 subject to section 365(b)(1)(A), compensates the
21 holder of such claim or such interest (other than
22 the debtor or an insider) for any actual pecu-
23 niary loss incurred by such holder as a result of
24 such failure; and”.

1 **SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED**
2 **THROUGH VIOLATIONS OF LAWS RELATING**
3 **TO THE PROVISION OF LAWFUL GOODS AND**
4 **SERVICES.**

5 *Section 523(a) of title 11, United States Code, is*
6 *amended—*

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

9 *(2) in paragraph (18), as added by section 224*
10 *of this Act, by striking the period at the end of sub-*
11 *paragraph (B) and inserting “; or”;*

12 *(3) by adding at the end of the flush material*
13 *immediately following that paragraph (18), as added*
14 *by section 224 of this Act, the following: “Nothing in*
15 *paragraph (19) shall be construed to affect any ex-*
16 *pressive conduct (including peaceful picketing or*
17 *other peaceful demonstration) protected from legal*
18 *prohibition by the first amendment to the Constitu-*
19 *tion of the United States.”; and*

20 *(4) by inserting before the flush material fol-*
21 *lowing that paragraph (18), the following:*

22 *“(19) that results from any judgment, order, con-*
23 *sent order, or decree entered in any Federal or State*
24 *court, or contained in any settlement agreement en-*
25 *tered into by the debtor, including any court-ordered*

1 *damages, fine, penalty, citation, or attorney fee or*
2 *cost owed by the debtor, arising from—*

3 *“(A) an action alleging the violation of any*
4 *Federal, State, or local statutory law, including*
5 *but not limited to violations of sections 247 and*
6 *248 of title 18, that results from the debtor’s—*

7 *“(i) harassment of, intimidation of, in-*
8 *terference with, obstruction of, injury to,*
9 *threat to, or violence against, any person—*

10 *“(I) because that person provides*
11 *or has provided lawful goods or serv-*
12 *ices;*

13 *“(II) because that person is or has*
14 *been obtaining lawful goods or services;*
15 *or*

16 *“(III) to deter that person, any*
17 *other person, or a class of persons from*
18 *obtaining or providing lawful goods or*
19 *services; or*

20 *“(ii) damage or destruction of property*
21 *of a facility providing lawful goods or serv-*
22 *ices; or*

23 *“(B) a violation of a court order or injunc-*
24 *tion that protects access to a facility that pro-*

1 *vides lawful goods or services or the provision of*
2 *lawful goods or services.”.*

3 **SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND**
4 **BENEFITS.**

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

7 *“(A) the actual, necessary costs and expenses of*
8 *preserving the estate, including wages, salaries, or*
9 *commissions for services rendered after the commence-*
10 *ment of the case, and wages and benefits awarded*
11 *pursuant to an action brought in a court of law or*
12 *the National Labor Relations Board as back pay at-*
13 *tributable to any period of time after commencement*
14 *of the case as a result of the debtor’s violation of Fed-*
15 *eral or State law, without regard to when the original*
16 *unlawful act occurred or to whether any services were*
17 *rendered if the court determines that the award will*
18 *not substantially increase the probability of layoff or*
19 *termination of current employees or of nonpayment of*
20 *domestic support obligations during the case;”.*

1 **TITLE IV—GENERAL AND SMALL**
2 **BUSINESS BANKRUPTCY PRO-**
3 **VISIONS**

4 **Subtitle A—General Business**
5 **Bankruptcy Provisions**

6 **SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.**

7 (a) *DEFINITION.*—Section 101 of title 11, United
8 States Code, as amended by this Act, is amended by insert-
9 ing after paragraph (48) the following:

10 “(48A) ‘securities self regulatory organization’
11 means either a securities association registered with
12 the Securities and Exchange Commission under sec-
13 tion 15A of the Securities Exchange Act of 1934 (15
14 U.S.C. 78o–3) or a national securities exchange reg-
15 istered with the Securities and Exchange Commission
16 under section 6 of the Securities Exchange Act of
17 1934 (15 U.S.C. 78f);”.

18 (b) *AUTOMATIC STAY.*—Section 362(b) of title 11,
19 United States Code, is amended by inserting after para-
20 graph (24), as added by this Act, the following:

21 “(25) under subsection (a), of—

22 “(A) the commencement or continuation of
23 an investigation or action by a securities self
24 regulatory organization to enforce such organiza-
25 tion’s regulatory power;

1 “(B) the enforcement of an order or deci-
2 sion, other than for monetary sanctions, obtained
3 in an action by the securities self regulatory or-
4 ganization to enforce such organization’s regu-
5 latory power; or

6 “(C) any act taken by the securities self reg-
7 ulatory organization to delist, delete, or refuse to
8 permit quotation of any stock that does not meet
9 applicable regulatory requirements;”.

10 **SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY**

11 **HOLDERS.**

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

14 “(e) Notwithstanding subsections (a) and (b), the
15 court, on the request of a party in interest and after notice
16 and a hearing, for cause may order that the United States
17 trustee not convene a meeting of creditors or equity security
18 holders if the debtor has filed a plan as to which the debtor
19 solicited acceptances prior to the commencement of the
20 case.”.

21 **SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTER-**

22 **EST.**

23 Subparagraphs (A), (B), and (C) of section 547(e)(2)
24 of title 11, United States Code, are each amended by strik-
25 ing “10” each place it appears and inserting “30”.

1 **SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED**
2 **LEASES.**

3 (a) *IN GENERAL.*—Section 365(d)(4) of title 11,
4 *United States Code, is 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 lessee*
8 *shall be deemed rejected, and the trustee shall immediately*
9 *surrender that nonresidential real property to the lessor, if*
10 *the trustee does not assume or reject the unexpired lease by*
11 *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 confirming*
15 *a plan.*

16 “(B)(i) *The court may extend the period determined*
17 *under subparagraph (A), prior to the expiration of the 120-*
18 *day period, for 90 days upon motion of the trustee or lessor*
19 *for cause.*

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

23 (b) *EXCEPTION.*—Section 365(f)(1) of title 11, *United*
24 *States Code, is amended by striking “subsection” the first*
25 *place it appears and inserting “subsections (b) and”.*

1 **SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS**
2 **COMMITTEES.**

3 (a) *APPOINTMENT.*—Section 1102(a) of title 11,
4 *United States Code*, is amended by adding at the end the
5 *following*:

6 “(4) *On request of a party in interest and after notice*
7 *and a hearing, the court may order the United States trust-*
8 *ee to change the membership of a committee appointed*
9 *under this subsection, if the court determines that the*
10 *change is necessary to ensure adequate representation of*
11 *creditors or equity security holders. The court may order*
12 *the United States trustee to increase the number of members*
13 *of a committee to include a creditor that is a small business*
14 *concern (as described in section 3(a)(1) of the Small Busi-*
15 *ness Act (15 U.S.C. 632(a)(1))), if the court determines that*
16 *the creditor holds claims (of the kind represented by the*
17 *committee) the aggregate amount of which, in comparison*
18 *to the annual gross revenue of that creditor, is dispropor-*
19 *tionately large.”.*

20 (b) *INFORMATION.*—Section 1102(b) of title 11, *United*
21 *States Code*, is amended by adding at the end the *following*:

22 “(3) *A committee appointed under subsection (a)*
23 *shall—*

24 “(A) *provide access to information for creditors*
25 *who—*

1 “(i) hold claims of the kind represented by
2 that committee; and

3 “(ii) are not appointed to the committee;

4 “(B) solicit and receive comments from the credi-
5 tors described in subparagraph (A); and

6 “(C) be subject to a court order that compels any
7 additional report or disclosure to be made to the
8 creditors described in subparagraph (A).”.

9 **SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11,**

10 **UNITED STATES CODE.**

11 Section 546 of title 11, United States Code, is
12 amended—

13 (1) by redesignating the second subsection des-
14 ignated as subsection (g) (as added by section 222(a)
15 of Public Law 103–394) as subsection (i);

16 (2) in subsection (i), as so redesignated, by in-
17 serting “and subject to the prior rights of holders of
18 security interests in such goods or the proceeds there-
19 of,” after “consent of a creditor,”; and

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

21 “(j)(1) Notwithstanding paragraphs (2) and (3) of sec-
22 tion 545, the trustee may not avoid a warehouseman’s lien
23 for storage, transportation, or other costs incidental to the
24 storage and handling of goods.

1 “(2) *The prohibition under paragraph (1) shall be ap-*
 2 *plied in a manner consistent with any applicable State*
 3 *statute that is similar to section 7–209 of the Uniform Com-*
 4 *mercial Code, as in effect on the date of enactment of the*
 5 *Bankruptcy Reform Act of 2001, or any successor thereto.”.*

6 **SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11,**

7 **UNITED STATES CODE.**

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

10 (1) *in paragraph (3)—*

11 (A) *by striking “(A) In” and inserting*
 12 *“In”; and*

13 (B) *by inserting “to an examiner, trustee*
 14 *under chapter 11, or professional person” after*
 15 *“awarded”; and*

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

17 “(7) *In determining the amount of reasonable*
 18 *compensation to be awarded to a trustee, the court*
 19 *shall treat such compensation as a commission, based*
 20 *on section 326 of this title.”.*

21 **SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.**

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

24 “(g) *Notwithstanding subsection (b), an acceptance or*
 25 *rejection of the plan may be solicited from a holder of a*

1 *claim or interest if such solicitation complies with applica-*
2 *ble nonbankruptcy law and if such holder was solicited be-*
3 *fore the commencement of the case in a manner complying*
4 *with applicable nonbankruptcy law.”.*

5 **SEC. 409. PREFERENCES.**

6 *Section 547(c) of title 11, United States Code, is*
7 *amended—*

8 *(1) by striking paragraph (2) and inserting the*
9 *following:*

10 *“(2) to the extent that such transfer was in pay-*
11 *ment of a debt incurred by the debtor in the ordinary*
12 *course of business or financial affairs of the debtor*
13 *and the transferee, and such transfer was—*

14 *“(A) made in the ordinary course of busi-*
15 *ness or financial affairs of the debtor and the*
16 *transferee; or*

17 *“(B) made according to ordinary business*
18 *terms;”;*

19 *(2) in paragraph (8), by striking the period at*
20 *the end and inserting “; or”; and*

21 *(3) 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 value*
24 *of all property that constitutes or is affected by such*
25 *transfer is less than \$5,000.”.*

1 **SEC. 410. VENUE OF CERTAIN PROCEEDINGS.**

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

5 **SEC. 411. 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 (2), on”; and*

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

11 *“(2)(A) The 120-day period specified in paragraph (1)*
12 *may not be extended beyond a date that is 18 months after*
13 *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. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTER-**
18 **ESTS.**

19 *Section 523(a)(16) of title 11, United States Code, is*
20 *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 (4) *by striking “but only” and all that follows*
2 *through “such period” and inserting “or a lot in a*
3 *homeowners association, for as long as the debtor or*
4 *the trustee has a legal, equitable, or possessory owner-*
5 *ship interest in such unit, such corporation, or such*
6 *lot,”.*

7 **SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING**
8 **OF CREDITORS.**

9 Section 341(c) of title 11, United States Code, is
10 *amended by inserting at the end the following: “Notwith-*
11 *standing any local court rule, provision of a State constitu-*
12 *tion, any other Federal or State law that is not a bank-*
13 *ruptcy law, or other requirement that representation at the*
14 *meeting of creditors under subsection (a) be by an attorney,*
15 *a creditor holding a consumer debt or any representative*
16 *of the creditor (which may include an entity or an employee*
17 *of an entity and may be a representative for more than*
18 *1 creditor) shall be permitted to appear at and participate*
19 *in the meeting of creditors in a case under chapter 7 or*
20 *13, either alone or in conjunction with an attorney for the*
21 *creditor. Nothing in this subsection shall be construed to*
22 *require any creditor to be represented by an attorney at*
23 *any meeting of creditors.”.*

1 **SEC. 414. DEFINITION OF DISINTERESTED PERSON.**

2 *Section 101(14) of title 11, United States Code, is*
3 *amended to read as follows:*

4 “(14) ‘disinterested person’ means a person
5 that—

6 “(A) is not a creditor, an equity security
7 holder, or an insider;

8 “(B) is not and was not, within 2 years be-
9 fore the date of the filing of the petition, a direc-
10 tor, officer, or employee of the debtor; and

11 “(C) does not have an interest materially
12 adverse to the interest of the estate or of any
13 class of creditors or equity security holders, by
14 reason of any direct or indirect relationship to,
15 connection with, or interest in, the debtor, or for
16 any other reason;”.

17 **SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL**
18 **PERSONS.**

19 *Section 330(a)(3) of title 11, United States Code, as*
20 *amended by this Act, is amended—*

21 (1) *in subparagraph (D), by striking “and” at*
22 *the end;*

23 (2) *by redesignating subparagraph (E) as sub-*
24 *paragraph (F); and*

25 (3) *by inserting after subparagraph (D) the fol-*
26 *lowing:*

1 “(E) with respect to a professional person,
2 whether the person is board certified or otherwise
3 has demonstrated skill and experience in the
4 bankruptcy field; and”.

5 **SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.**

6 Section 1104(b) of title 11, United States Code, is
7 amended—

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

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

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

13 “(B) Upon the filing of a report under subparagraph
14 (A)—

15 “(i) the trustee elected under paragraph (1) shall
16 be considered to have been selected and appointed for
17 purposes of this section; and

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

20 “(C) In the case of any dispute arising out of an elec-
21 tion described in subparagraph (A), the court shall resolve
22 the dispute.”.

23 **SEC. 417. UTILITY SERVICE.**

24 Section 366 of title 11, United States Code, is
25 amended—

1 (1) in subsection (a), by striking “subsection (b)”
2 and inserting “subsections (b) and (c)”; and

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

4 “(c)(1)(A) For purposes of this subsection, the term
5 ‘assurance of payment’ means—

6 “(i) a cash deposit;

7 “(ii) a letter of credit;

8 “(iii) a certificate of deposit;

9 “(iv) a surety bond;

10 “(v) a prepayment of utility consumption; or

11 “(vi) another form of security that is mutually
12 agreed on between the utility and the debtor or the
13 trustee.

14 “(B) For purposes of this subsection an administrative
15 expense priority shall not constitute an assurance of pay-
16 ment.

17 “(2) Subject to paragraphs (3) and (4), with respect
18 to a case filed under chapter 11, a utility referred to in
19 subsection (a) may alter, refuse, or discontinue utility serv-
20 ice, if during the 30-day period beginning on the date of
21 filing of the petition, the utility does not receive from the
22 debtor or the trustee adequate assurance of payment for
23 utility service that is satisfactory to the utility.

24 “(3)(A) On request of a party in interest and after
25 notice and a hearing, the court may order modification of

1 *the amount of an assurance of payment under paragraph*
2 *(2).*

3 “(B) *In making a determination under this paragraph*
4 *whether an assurance of payment is adequate, the court*
5 *may not consider—*

6 “(i) *the absence of security before the date of fil-*
7 *ing of the petition;*

8 “(ii) *the payment by the debtor of charges for*
9 *utility service in a timely manner before the date of*
10 *filing of the petition; or*

11 “(iii) *the availability of an administrative ex-*
12 *pense priority.*

13 “(4) *Notwithstanding any other provision of law, with*
14 *respect to a case subject to this subsection, a utility may*
15 *recover or set off against a security deposit provided to the*
16 *utility by the debtor before the date of filing of the petition*
17 *without notice or order of the court.”.*

18 **SEC. 418. BANKRUPTCY FEES.**

19 *Section 1930 of title 28, United States Code, is*
20 *amended—*

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

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

1 “(f)(1) Under the procedures prescribed by the Judicial
2 Conference of the United States, the district court or the
3 bankruptcy court may waive the filing fee in a case under
4 chapter 7 of title 11 for an individual if the court deter-
5 mines that such debtor has income less than 150 percent
6 of the income official poverty line (as defined by the Office
7 of Management and Budget, and revised annually in ac-
8 cordance with section 673(2) of the Omnibus Budget Rec-
9 onciliation Act of 1981) applicable to a family of the size
10 involved and is unable to pay that fee in installments. For
11 purposes of this paragraph, the term “filing fee” means the
12 filing required by subsection (a), or any other fee prescribed
13 by the Judicial Conference under subsections (b) and (c)
14 that is payable to the clerk upon the commencement of a
15 case under chapter 7.

16 “(2) The district court or the bankruptcy court may
17 waive for such debtors other fees prescribed under sub-
18 sections (b) and (c).

19 “(3) This subsection does not restrict the district court
20 or the bankruptcy court from waiving, in accordance with
21 Judicial Conference policy, fees prescribed under this sec-
22 tion for other debtors and creditors.”.

23 **SEC. 419. MORE COMPLETE INFORMATION REGARDING AS-**
24 **SETS OF THE ESTATE.**

25 (a) *IN GENERAL.*—

1 (1) *DISCLOSURE.*—*The Advisory Committee on*
2 *Bankruptcy Rules of the Judicial Conference of the*
3 *United States, after consideration of the views of the*
4 *Director of the Executive Office for United States*
5 *Trustees, shall propose for adoption amended Federal*
6 *Rules of Bankruptcy Procedure and Official Bank-*
7 *ruptcy Forms directing debtors under chapter 11 of*
8 *title 11, United States Code, to disclose the informa-*
9 *tion described in paragraph (2) by filing and serving*
10 *periodic financial and other reports designed to pro-*
11 *vide such information.*

12 (2) *INFORMATION.*—*The information referred to*
13 *in paragraph (1) is the value, operations, and profit-*
14 *ability of any closely held corporation, partnership,*
15 *or of any other entity in which the debtor holds a sub-*
16 *stantial or controlling interest.*

17 (b) *PURPOSE.*—*The purpose of the rules and reports*
18 *under subsection (a) shall be to assist parties in interest*
19 *taking steps to ensure that the debtor's interest in any enti-*
20 *ty referred to in subsection (a)(2) is used for the payment*
21 *of allowed claims against debtor.*

1 **SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO IS A**
2 **PLAN ADMINISTRATOR OF AN EMPLOYEE**
3 **BENEFIT PLAN.**

4 (a) *IN GENERAL.*—Section 521(a) of title 11, United
5 States Code, as so designated by section 106(d) of this Act,
6 is amended—

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

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

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

12 “(6) unless a trustee is serving in the case, if at
13 the time of filing, the debtor, served as the adminis-
14 trator (as defined in section 3 of the Employee Retirement
15 Income Security Act of 1974 (29 U.S.C. 1002))
16 of an employee benefit plan, continue to perform the
17 obligations required of the administrator.”.

18 (b) *DUTIES OF TRUSTEES.*—Section 704(a) of title 11,
19 United States Code, as so designated and otherwise amend-
20 ed by this Act, is amended—

21 (1) in paragraph (10), by striking “and” at the
22 end;

23 (2) in paragraph (11), by striking the period at
24 the end and inserting “; and”; and

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

1 “(12) where, at the time of the time of the com-
2 mencement of the case, the debtor served as the ad-
3 ministrators (as defined in section 3 of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1002)) of an employee benefit plan, continue to per-
6 form the obligations required of the administrator;”.

7 (c) *CONFORMING AMENDMENT.*—Section 1106(a) of
8 title 11, United States Code, is amended by striking para-
9 graph (1) and inserting the following:

10 “(1) perform the duties of the trustee, as speci-
11 fied in paragraphs (2), (5), (7), (8), (9), (10), (11),
12 and (12) of section 704;”.

13 **Subtitle B—Small Business**

14 **Bankruptcy Provisions**

15 **SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT** 16 **AND PLAN.**

17 Section 1125 of title 11, United States Code, is
18 amended—

19 (1) in subsection (a)(1), by inserting before the
20 semicolon “and in determining whether a disclosure
21 statement provides adequate information, the court
22 shall consider the complexity of the case, the benefit
23 of additional information to creditors and other par-
24 ties in interest, and the cost of providing additional
25 information”; and

1 (2) *by striking subsection (f), and inserting the*
2 *following:*

3 “(f) *Notwithstanding subsection (b), in a small busi-*
4 *ness case—*

5 “(1) *the court may determine that the plan itself*
6 *provides adequate information and that a separate*
7 *disclosure statement is not necessary;*

8 “(2) *the court may approve a disclosure state-*
9 *ment submitted on standard forms approved by the*
10 *court or adopted under section 2075 of title 28; and*

11 “(3)(A) *the court may conditionally approve a*
12 *disclosure statement subject to final approval after*
13 *notice and a hearing;*

14 “(B) *acceptances and rejections of a plan may be*
15 *solicited based on a conditionally approved disclosure*
16 *statement if the debtor provides adequate information*
17 *to each holder of a claim or interest that is solicited,*
18 *but a conditionally approved disclosure statement*
19 *shall be mailed not later than 20 days before the date*
20 *of the hearing on confirmation of the plan; and*

21 “(C) *the hearing on the disclosure statement may*
22 *be combined with the hearing on confirmation of a*
23 *plan.”.*

1 **SEC. 432. DEFINITIONS.**

2 (a) *DEFINITIONS.*—Section 101 of title 11, United
3 States Code, as amended by this Act, is amended by striking
4 paragraph (51C) and inserting the following:

5 “(51C) ‘small business case’ means a case filed
6 under chapter 11 of this title in which the debtor is
7 a small business debtor;

8 “(51D) ‘small business debtor’—

9 “(A) subject to subparagraph (B), means a
10 person engaged in commercial or business activi-
11 ties (including any affiliate of such person that
12 is also a debtor under this title and excluding a
13 person whose primary activity is the business of
14 owning or operating real property or activities
15 incidental thereto) that has aggregate noncontin-
16 gent, liquidated secured and unsecured debts as
17 of the date of the petition or the order for relief
18 in an amount not more than \$3,000,000 (exclud-
19 ing debts owed to 1 or more affiliates or insiders)
20 for a case in which the United States trustee has
21 not appointed under section 1102(a)(1) a com-
22 mittee of unsecured creditors or where the court
23 has determined that the committee of unsecured
24 creditors is not sufficiently active and represent-
25 ative to provide effective oversight of the debtor;
26 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 \$3,000,000 (ex-
5 cluding debt owed to 1 or more affiliates or in-
6 siders);”.

7 (b) *CONFORMING AMENDMENT.*—Section 1102(a)(3) of
8 title 11, United States Code, is amended by inserting “debt-
9 or” after “small business”.

10 **SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND**
11 **PLAN.**

12 Within a reasonable period of time after the date of
13 enactment of this Act, the Advisory Committee on Bank-
14 ruptcy Rules of the Judicial Conference of the United States
15 shall propose for adoption standard form disclosure state-
16 ments and plans of reorganization for small business debt-
17 ors (as defined in section 101 of title 11, United States
18 Code, as amended by this Act), designed to achieve a prac-
19 tical balance between—

- 20 (1) the reasonable needs of the courts, the United
21 States trustee, creditors, and other parties in interest
22 for reasonably complete information; and
23 (2) economy and simplicity for debtors.

24 **SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.**

25 (a) *REPORTING REQUIRED.*—

1 (1) *IN GENERAL.*—Chapter 3 of title 11, United
2 States Code, is amended by inserting after section 307
3 the following:

4 **“§ 308. Debtor reporting requirements**

5 “(a) For purposes of this section, the term ‘profit-
6 ability’ means, with respect to a debtor, the amount of
7 money that the debtor has earned or lost during current
8 and recent fiscal periods.

9 “(b) A small business debtor shall file periodic finan-
10 cial and other reports containing information including—

11 “(1) the debtor’s profitability;

12 “(2) reasonable approximations of the debtor’s
13 projected cash receipts and cash disbursements over a
14 reasonable period;

15 “(3) comparisons of actual cash receipts and dis-
16 bursements with projections in prior reports;

17 “(4)(A) whether the debtor is—

18 “(i) in compliance in all material respects
19 with postpetition requirements imposed by this
20 title and the Federal Rules of Bankruptcy Proce-
21 dure; and

22 “(ii) timely filing tax returns and other re-
23 quired government filings and paying taxes and
24 other administrative claims when due;

1 “(B) if the debtor is not in compliance with the
2 requirements referred to in subparagraph (A)(i) or
3 filing tax returns and other required government fil-
4 ings and making the payments referred to in sub-
5 paragraph (A)(ii), what the failures are and how, at
6 what cost, and when the debtor intends to remedy
7 such failures; and

8 “(C) such other matters as are in the best inter-
9 ests of the debtor and creditors, and in the public in-
10 terest in fair and efficient procedures under chapter
11 11 of this title.”.

12 (2) *CLERICAL AMENDMENT.*—The table of sec-
13 tions for chapter 3 of title 11, United States Code, is
14 amended by inserting after the item relating to sec-
15 tion 307 the following:

“308. Debtor reporting requirements.”.

16 (b) *EFFECTIVE DATE.*—The amendments made by sub-
17 section (a) shall take effect 60 days after the date on which
18 rules are prescribed under section 2075 of title 28, United
19 States Code, to establish forms to be used to comply with
20 section 308 of title 11, United States Code, as added by
21 subsection (a).

22 **SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR**
23 **SMALL BUSINESS CASES.**

24 (a) *PROPOSAL OF RULES AND FORMS.*—The Advisory
25 Committee on Bankruptcy Rules of the Judicial Conference

1 *of the United States shall propose for adoption amended*
2 *Federal Rules of Bankruptcy Procedure and Official Bank-*
3 *ruptcy Forms to be used by small business debtors to file*
4 *periodic financial and other reports containing informa-*
5 *tion, including information relating to—*

6 (1) *the debtor’s profitability;*

7 (2) *the debtor’s cash receipts and disbursements;*

8 *and*

9 (3) *whether the debtor is timely filing tax re-*
10 *turns and paying taxes and other administrative*
11 *claims when due.*

12 (b) *PURPOSE.—The rules and forms proposed under*
13 *subsection (a) shall be designed to achieve a practical bal-*
14 *ance among—*

15 (1) *the reasonable needs of the bankruptcy court,*
16 *the United States trustee, creditors, and other parties*
17 *in interest for reasonably complete information;*

18 (2) *the small business debtor’s interest that re-*
19 *quired reports be easy and inexpensive to complete;*
20 *and*

21 (3) *the interest of all parties that the required re-*
22 *ports help the small business debtor to understand the*
23 *small business debtor’s financial condition and plan*
24 *the small business debtor’s future.*

1 **SEC. 436. DUTIES IN SMALL BUSINESS CASES.**

2 (a) *DUTIES IN CHAPTER 11 CASES.*—Subchapter I of
3 title 11, United States Code, as amended by this Act, is
4 amended by adding at the end the following:

5 **“§1116. Duties of trustee or debtor in possession in**
6 **small business cases**

7 “In a small business case, a trustee or the debtor in
8 possession, in addition to the duties provided in this title
9 and as otherwise required by law, shall—

10 “(1) append to the voluntary petition or, in an
11 involuntary case, file not later than 7 days after the
12 date of the order for relief—

13 “(A) its most recent balance sheet, statement
14 of operations, cash-flow statement, Federal in-
15 come tax return; or

16 “(B) a statement made under penalty of
17 perjury that no balance sheet, statement of oper-
18 ations, or cash-flow statement has been prepared
19 and no Federal tax return has been filed;

20 “(2) attend, through its senior management per-
21 sonnel and counsel, meetings scheduled by the court or
22 the United States trustee, including initial debtor
23 interviews, scheduling conferences, and meetings of
24 creditors convened under section 341 unless the court
25 waives that requirement after notice and hearing,

1 upon a finding of extraordinary and compelling cir-
2 cumstances;

3 “(3) timely file all schedules and statements of
4 financial affairs, unless the court, after notice and a
5 hearing, grants an extension, which shall not extend
6 such time period to a date later than 30 days after
7 the date of the order for relief, absent extraordinary
8 and compelling circumstances;

9 “(4) file all postpetition financial and other re-
10 ports required by the Federal Rules of Bankruptcy
11 Procedure or by local rule of the district court;

12 “(5) subject to section 363(c)(2), maintain insur-
13 ance customary and appropriate to the industry;

14 “(6)(A) timely file tax returns and other re-
15 quired government filings; and

16 “(B) subject to section 363(c)(2), timely pay all
17 administrative expense tax claims, except those being
18 contested by appropriate proceedings being diligently
19 prosecuted; and

20 “(7) allow the United States trustee, or a des-
21 ignated representative of the United States trustee, to
22 inspect the debtor’s business premises, books, and
23 records at reasonable times, after reasonable prior
24 written notice, unless notice is waived by the debtor.”.

1 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
2 *chapter 11 of title 11, United States Code, is amended by*
3 *adding at the end of the matter relating to subchapter I*
4 *the following:*

“1116. Duties of trustee or debtor in possession in small business cases.”.

5 **SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.**

6 *Section 1121 of title 11, United States Code, is amend-*
7 *ed by striking subsection (e) and inserting the following:*

8 “(e) *In a small business case—*

9 “(1) *only the debtor may file a plan until after*
10 *180 days after the date of the order for relief, unless*
11 *that period is—*

12 “(A) *extended as provided by this sub-*
13 *section, after notice and hearing; or*

14 “(B) *the court, for cause, orders otherwise;*

15 “(2) *the plan, and any necessary disclosure*
16 *statement, shall be filed not later than 300 days after*
17 *the date of the order for relief; and*

18 “(3) *the time periods specified in paragraphs (1)*
19 *and (2), and the time fixed in section 1129(e), within*
20 *which the plan shall be confirmed, may be extended*
21 *only if—*

22 “(A) *the debtor, after providing notice to*
23 *parties in interest (including the United States*
24 *trustee), demonstrates by a preponderance of the*
25 *evidence that it is more likely than not that the*

1 *court will confirm a plan within a reasonable*
2 *period of time;*

3 “(B) a new deadline is imposed at the time
4 *the extension is granted; and*

5 “(C) the order extending time is signed be-
6 *fore the existing deadline has expired.”.*

7 **SEC. 438. PLAN CONFIRMATION DEADLINE.**

8 *Section 1129 of title 11, United States Code, is amend-*
9 *ed by adding at the end the following:*

10 “(e)(1) *In a small business case, the plan shall be con-*
11 *firmed not later than 45 days after the date that a plan*
12 *is filed with the court as provided in section 1121(e).*

13 “(2) *The 45-day period referred to in paragraph (1)*
14 *may be extended only if—*

15 “(A) *the debtor, after notice and hearing,*
16 *demonstrates that it is more likely than not that*
17 *the court will confirm a plan within a reason-*
18 *able period of time;*

19 “(B) *a new deadline is imposed at the time*
20 *at which the extension is granted; and*

21 “(C) *the order extending time is signed be-*
22 *fore the existing deadline has expired.”.*

23 **SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.**

24 *Section 586(a) of title 28, United States Code, is*
25 *amended—*

1 (1) in paragraph (3)—

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

4 (B) by redesignating subparagraph (H) as
5 subparagraph (I); and

6 (C) by inserting after subparagraph (G) the
7 following:

8 “(H) in small business cases (as defined in
9 section 101 of title 11), performing the addi-
10 tional duties specified in title 11 pertaining to
11 such cases; and”;

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

14 (3) in paragraph (6), by striking the period at
15 the end and inserting a semicolon; and

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

17 “(7) in each of such small business cases—

18 “(A) conduct an initial debtor interview as
19 soon as practicable after the entry of order for
20 relief but before the first meeting scheduled under
21 section 341(a) of title 11, at which time the
22 United States trustee shall—

23 “(i) begin to investigate the debtor’s vi-
24 ability;

1 “(ii) inquire about the debtor’s busi-
2 ness plan;

3 “(iii) explain the debtor’s obligations
4 to file monthly operating reports and other
5 required reports;

6 “(iv) attempt to develop an agreed
7 scheduling order; and

8 “(v) inform the debtor of other obliga-
9 tions;

10 “(B) if determined to be appropriate and
11 advisable, visit the appropriate business premises
12 of the debtor and ascertain the state of the debt-
13 or’s books and records and verify that the debtor
14 has filed its tax returns; and

15 “(C) review and monitor diligently the
16 debtor’s activities, to identify as promptly as
17 possible whether the debtor will be unable to con-
18 firm a plan; and

19 “(8) in any case in which the United States
20 trustee finds material grounds for any relief under
21 section 1112 of title 11, the United States trustee shall
22 apply promptly after making that finding to the
23 court for relief.”.

1 **SEC. 440. SCHEDULING CONFERENCES.**

2 *Section 105(d) of title 11, United States Code, is*
3 *amended—*

4 *(1) in the matter preceding paragraph (1), by*
5 *striking “; may”; and*

6 *(2) by striking paragraph (1) and inserting the*
7 *following:*

8 *“(1) shall hold such status conferences as are*
9 *necessary to further the expeditious and economical*
10 *resolution of the case; and”.*

11 **SEC. 441. SERIAL FILER PROVISIONS.**

12 *Section 362 of title 11, United States Code, as amend-*
13 *ed by this Act is amended—*

14 *(1) in subsection (k), as redesignated by this*
15 *Act—*

16 *(A) by striking “An” and inserting “(1)*
17 *Except as provided in paragraph (2), an”; and*

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

19 *“(2) If such violation is based on an action taken by*
20 *an entity in the good faith belief that subsection (h) applies*
21 *to the debtor, the recovery under paragraph (1) of this sub-*
22 *section against such entity shall be limited to actual dam-*
23 *ages.”; and*

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

1 “(l)(1) *Except as provided in paragraph (2) of this*
2 *subsection, the provisions of subsection (a) do not apply in*
3 *a case in which the debtor—*

4 “(A) *is a debtor in a small business case pending*
5 *at the time the petition is filed;*

6 “(B) *was a debtor in a small business case that*
7 *was dismissed for any reason by an order that became*
8 *final in the 2-year period ending on the date of the*
9 *order for relief entered with respect to the petition;*

10 “(C) *was a debtor in a small business case in*
11 *which a plan was confirmed in the 2-year period end-*
12 *ing on the date of the order for relief entered with re-*
13 *spect to the petition; or*

14 “(D) *is an entity that has succeeded to substan-*
15 *tially all of the assets or business of a small business*
16 *debtor described in subparagraph (A), (B), or (C).*

17 “(2) *This subsection does not apply—*

18 “(A) *to an involuntary case involving no collu-*
19 *sion by the debtor with creditors; or*

20 “(B) *to the filing of a petition if—*

21 “(i) *the debtor proves by a preponderance of*
22 *the evidence that the filing of that petition re-*
23 *sulted from circumstances beyond the control of*
24 *the debtor not foreseeable at the time the case*
25 *then pending was filed; and*

1 “(i) it is more likely than not that the
2 court will confirm a feasible plan, but not a liq-
3 uidating plan, within a reasonable period of
4 time.”.

5 **SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
6 **VERSION AND APPOINTMENT OF TRUSTEE.**

7 (a) *EXPANDED GROUNDS FOR DISMISSAL OR CONVER-*
8 *SION.*—Section 1112 of title 11, United States Code, is
9 amended by striking subsection (b) and inserting the fol-
10 lowing:

11 “(b)(1) *Except as provided in paragraph (2) of this*
12 *subsection, subsection (c) of this section, and section*
13 *1104(a)(3), on request of a party in interest, and after no-*
14 *tice and a hearing, the court shall convert a case under this*
15 *chapter to a case under chapter 7 or dismiss a case under*
16 *this chapter, whichever is in the best interest of creditors*
17 *and the estate, if the movant establishes cause.*

18 “(2) *The relief provided in paragraph (1) shall not be*
19 *granted if the debtor or another party in interest objects*
20 *and establishes that—*

21 “(A) *there is a reasonable likelihood that a*
22 *plan will be confirmed within the timeframes es-*
23 *tablished in sections 1121(e) and 1129(e) of this*
24 *title, as amended, or in cases in which these sec-*

1 *tions do not apply, within a reasonable period of*
2 *time; and*

3 *“(B) the grounds include an act or omission of*
4 *the debtor—*

5 *“(i) for which there exists a reasonable jus-*
6 *tification for the act or omission; and*

7 *“(ii) that will be cured within a reasonable*
8 *period of time fixed by the court.*

9 *“(3) The court shall commence the hearing on any mo-*
10 *tion under this subsection not later than 30 days after filing*
11 *of the motion, and shall decide the motion not later than*
12 *15 days after commencement of the hearing, unless the mov-*
13 *ant expressly consents to a continuance for a specific period*
14 *of time or compelling circumstances prevent the court from*
15 *meeting the time limits established by this paragraph.*

16 *“(4) For purposes of this subsection, the term ‘cause’*
17 *includes—*

18 *“(A) substantial or continuing loss to or diminu-*
19 *tion of the estate;*

20 *“(B) gross mismanagement of the estate;*

21 *“(C) failure to maintain appropriate insurance*
22 *that poses a risk to the estate or to the public;*

23 *“(D) unauthorized use of cash collateral harmful*
24 *to 1 or more creditors;*

1 “(E) failure to comply with an order of the
2 court;

3 “(F) repeated failure timely to satisfy any filing
4 or reporting requirement established by this title or
5 by 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 Bank-
9 ruptcy Procedure;

10 “(H) failure timely to provide information or at-
11 tend meetings reasonably requested by the United
12 States trustee or the bankruptcy administrator;

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 respect
2 to a confirmed plan;

3 “(O) termination of a confirmed plan by reason
4 of the occurrence of a condition specified in the plan;
5 and

6 “(P) failure of the debtor to pay any domestic
7 support obligation that first becomes payable after the
8 date on which the petition is filed.

9 “(5) The court shall commence the hearing on any mo-
10 tion under this subsection not later than 30 days after filing
11 of the motion, and shall decide the motion not later than
12 15 days after commencement of the hearing, unless the mov-
13 ant expressly consents to a continuance for a specific period
14 of time or compelling circumstances prevent the court from
15 meeting the time limits established by this paragraph.”.

16 (b) *ADDITIONAL GROUNDS FOR APPOINTMENT OF*
17 *TRUSTEE.*—Section 1104(a) of title 11, United States Code,
18 is amended—

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

21 (2) in paragraph (2), by striking the period at
22 the end and inserting “; or”; and

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

24 “(3) if grounds exist to convert or dismiss the
25 case under section 1112, but the court determines that

1 *the appointment of a trustee or an examiner is in the*
 2 *best interests of creditors and the estate.”.*

3 **SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED**
 4 **STATES CODE, WITH RESPECT TO SMALL**
 5 **BUSINESSES.**

6 *Not later than 2 years after the date of enactment of*
 7 *this Act, the Administrator of the Small Business Adminis-*
 8 *tration, in consultation with the Attorney General, the Di-*
 9 *rector of the Administrative Office of United States Trust-*
 10 *ees, and the Director of the Administrative Office of the*
 11 *United States Courts, shall—*

12 (1) *conduct a study to determine—*

13 (A) *the internal and external factors that*
 14 *cause small businesses, especially sole proprietor-*
 15 *ships, to become debtors in cases under title 11,*
 16 *United States Code, and that cause certain small*
 17 *businesses to successfully complete cases under*
 18 *chapter 11 of such title; and*

19 (B) *how Federal laws relating to bank-*
 20 *ruptcy may be made more effective and efficient*
 21 *in assisting small businesses to remain viable;*
 22 *and*

23 (2) *submit to the President pro tempore of the*
 24 *Senate and the Speaker of the House of Representa-*
 25 *tives a report summarizing that study.*

1 **SEC. 444. PAYMENT OF INTEREST.**

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

4 *(1) by inserting “or 30 days after the court de-*
5 *termines that the debtor is subject to this paragraph,*
6 *whichever is later” after “90-day period”;* and

7 *(2) by striking subparagraph (B) and inserting*
8 *the following:*

9 *“(B) the debtor has commenced monthly*
10 *payments that—*

11 *“(i) may, in the debtor’s sole discre-*
12 *tion, notwithstanding section 363(c)(2), be*
13 *made from rents or other income generated*
14 *before or after the commencement of the case*
15 *by or from the property to each creditor*
16 *whose claim is secured by such real estate*
17 *(other than a claim secured by a judgment*
18 *lien or by an unmatured statutory lien);*
19 *and*

20 *“(ii) are in an amount equal to inter-*
21 *est at the then applicable nondefault con-*
22 *tract rate of interest on the value of the*
23 *creditor’s interest in the real estate; or”.*

24 **SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.**

25 *Section 503(b) of title 11, United States Code, is*
26 *amended—*

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

3 (2) *in paragraph (6), by striking the period at*
 4 *the end and inserting a semicolon; and*

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

6 “(7) *with respect to a nonresidential real prop-*
 7 *erty lease previously assumed under section 365, and*
 8 *subsequently rejected, a sum equal to all monetary ob-*
 9 *ligations due, excluding those arising from or relating*
 10 *to a failure to operate or penalty provisions, for the*
 11 *period of 2 years following the later of the rejection*
 12 *date or the date of actual turnover of the premises,*
 13 *without reduction or setoff for any reason whatsoever*
 14 *except for sums actually received or to be received*
 15 *from a nondebtor, and the claim for remaining sums*
 16 *due for the balance of the term of the lease shall be*
 17 *a claim under section 502(b)(6);”.*

18 **TITLE V—MUNICIPAL**
 19 **BANKRUPTCY PROVISIONS**

20 **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**
 21 **TION.**

22 (a) *TECHNICAL AMENDMENT RELATING TO MUNICI-*
 23 *PALITIES.*—*Section 921(d) of title 11, United States Code,*
 24 *is amended by inserting “notwithstanding section 301(b)”*
 25 *before the period at the end.*

1 (b) *CONFORMING AMENDMENT.*—Section 301 of title
2 11, *United States Code*, is amended—

3 (1) by inserting “(a)” before “A voluntary”; and

4 (2) by striking the last sentence and inserting
5 *the following:*

6 “(b) *The commencement of a voluntary case under a*
7 *chapter of this title constitutes an order for relief under such*
8 *chapter.*”.

9 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER**

10 **9.**

11 Section 901(a) of title 11, *United States Code*, is
12 *amended—*

13 (1) by inserting “555, 556,” after “553,”; and

14 (2) by inserting “559, 560, 561, 562” after
15 “557,”.

16 **TITLE VI—BANKRUPTCY DATA**

17 **SEC. 601. IMPROVED BANKRUPTCY STATISTICS.**

18 (a) *IN GENERAL.*—Chapter 6 of title 28, *United States*
19 *Code*, is amended by adding at the end the following:

20 **“§ 159. Bankruptcy statistics**

21 “(a) *The clerk of each district shall collect statistics*
22 *regarding individual debtors with primarily consumer*
23 *debts seeking relief under chapters 7, 11, and 13 of title*
24 *11. Those statistics shall be on a standardized form pre-*
25 *scribed by the Director of the Administrative Office of the*

1 *United States Courts (referred to in this section as the ‘Di-*
2 *rector’).*

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, 2002, and annu-*
9 *ally thereafter, prepare, and submit to Congress a re-*
10 *port concerning the information collected under sub-*
11 *section (a) that contains an analysis of the informa-*
12 *tion.*

13 *“(c) The compilation required under subsection (b)*
14 *shall—*

15 *“(1) be itemized, by chapter, with respect to title*
16 *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 pursuant to*
24 *section 2075 of this title and filed by those debt-*
25 *ors;*

1 “(B) the current monthly income, average
2 income, and average expenses of those debtors as
3 reported on the schedules and statements that
4 each such debtor files under sections 521 and
5 1322 of title 11;

6 “(C) the aggregate amount of debt dis-
7 charged in the reporting period, determined as
8 the difference between the total amount of debt
9 and obligations of a debtor reported on the sched-
10 ules and the amount of such debt reported in cat-
11 egories which are predominantly nondischarge-
12 able;

13 “(D) the average period of time between the
14 filing of the petition and the closing of the case;

15 “(E) for the reporting period—

16 “(i) the number of cases in which a re-
17 affirmation was filed; and

18 “(ii)(I) the total number of reaffirma-
19 tions filed;

20 “(II) of those cases in which a reaffir-
21 mation was filed, the number of cases in
22 which the debtor was not represented by an
23 attorney; and

24 “(III) of those cases in which a reaffir-
25 mation was filed, the number of cases in

1 *which the reaffirmation was approved by*
2 *the court;*

3 “(F) *with respect to cases filed under chap-*
4 *ter 13 of title 11, for the reporting period—*

5 “(i)(I) *the number of cases in which a*
6 *final order was entered determining the*
7 *value of property securing a claim in an*
8 *amount less than the amount of the claim;*
9 *and*

10 “(II) *the number of final orders deter-*
11 *mining the value of property securing a*
12 *claim issued;*

13 “(ii) *the number of cases dismissed, the*
14 *number of cases dismissed for failure to*
15 *make payments under the plan, the number*
16 *of cases refiled after dismissal, and the*
17 *number of cases in which the plan was com-*
18 *pleted, separately itemized with respect to*
19 *the number of modifications made before*
20 *completion of the plan, if any; and*

21 “(iii) *the number of cases in which the*
22 *debtor filed another case during the 6-year*
23 *period preceding the filing;*

24 “(G) *the number of cases in which creditors*
25 *were fined for misconduct and any amount of*

1 *punitive damages awarded by the court for cred-*
2 *itor misconduct; and*

3 *“(H) the number of cases in which sanc-*
4 *tions under rule 9011 of the Federal Rules of*
5 *Bankruptcy Procedure were imposed against*
6 *debtor’s counsel or damages awarded under such*
7 *Rule.”.*

8 *(b) CLERICAL AMENDMENT.—The table of sections for*
9 *chapter 6 of title 28, United States Code, is amended by*
10 *adding at the end the following:*

“159. Bankruptcy statistics.”.

11 *(c) EFFECTIVE DATE.—The amendments made by this*
12 *section shall take effect 18 months after the date of enact-*
13 *ment of this Act.*

14 **SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANK-**
15 **RUPTCY DATA.**

16 *(a) AMENDMENT.—Chapter 39 of title 28, United*
17 *States Code, is amended by adding at the end the following:*

18 **“§ 589b. Bankruptcy data**

19 *“(a) RULES.—The Attorney General shall, within a*
20 *reasonable time after the effective date of this section, issue*
21 *rules requiring uniform forms for (and from time to time*
22 *thereafter to appropriately 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) *REPORTS.—Each report referred to in subsection*
5 *(a) shall be designed (and the requirements as to place and*
6 *manner of filing shall be established) so as to facilitate com-*
7 *pilation of data and maximum possible access of the public,*
8 *both by physical inspection at one or more central filing*
9 *locations, and by electronic access through the Internet or*
10 *other appropriate media.*

11 “(c) *REQUIRED INFORMATION.—The information re-*
12 *quired to be filed in the reports referred to in subsection*
13 *(b) shall be that which is in the best interests of debtors*
14 *and creditors, and in the public interest in reasonable and*
15 *adequate information to evaluate the efficiency and practi-*
16 *cality of the Federal bankruptcy system. In issuing rules*
17 *proposing the forms referred to in subsection (a), the Attor-*
18 *ney General shall strike the best achievable practical bal-*
19 *ance between—*

20 “(1) *the reasonable needs of the public for infor-*
21 *mation about the operational results of the Federal*
22 *bankruptcy system;*

23 “(2) *economy, simplicity, and lack of undue bur-*
24 *den on persons with a duty to file reports; and*

1 “(3) appropriate privacy concerns and safe-
2 guards.

3 “(d) *FINAL REPORTS*.—*Final reports proposed for*
4 *adoption by trustees under chapters 7, 12, and 13 of title*
5 *11 shall, in addition to such other matters as are required*
6 *by law or as the Attorney General in the discretion of the*
7 *Attorney General, shall propose, include with respect to a*
8 *case under such title—*

9 “(1) information about the length of time the
10 case was pending;

11 “(2) assets abandoned;

12 “(3) assets exempted;

13 “(4) receipts and disbursements of the estate;

14 “(5) expenses of administration, including for
15 use under section 707(b), actual costs of admin-
16 istering cases under chapter 13 of title 11;

17 “(6) claims asserted;

18 “(7) claims allowed; and

19 “(8) distributions to claimants and claims dis-
20 charged without payment,

21 *in each case by appropriate category and, in cases under*
22 *chapters 12 and 13 of title 11, date of confirmation of the*
23 *plan, each modification thereto, and defaults by the debtor*
24 *in performance under the plan.*

1 “(e) *PERIODIC REPORTS.*—Periodic reports proposed
2 for adoption by trustees or debtors in possession under
3 chapter 11 of title 11 shall, in addition to such other mat-
4 ters as are required by law or as the Attorney General, in
5 the discretion of the Attorney General, shall propose,
6 include—

7 “(1) information about the standard industry
8 classification, published by the Department of Com-
9 merce, for the businesses conducted by the debtor;

10 “(2) length of time the case has been pending;

11 “(3) number of full-time employees as of the date
12 of the order for relief and at the end of each reporting
13 period since the case was filed;

14 “(4) cash receipts, cash disbursements and prof-
15 itability of the debtor for the most recent period and
16 cumulatively since the date of the order for relief;

17 “(5) compliance with title 11, whether or not tax
18 returns and tax payments since the date of the order
19 for relief have been timely filed and made;

20 “(6) all professional fees approved by the court
21 in the case for the most recent period and cumula-
22 tively since the date of the order for relief (separately
23 reported, for the professional fees incurred by or on
24 behalf of the debtor, between those that would have

1 *been incurred absent a bankruptcy case and those*
2 *not); and*

3 “(7) *plans of reorganization filed and confirmed*
4 *and, with respect thereto, by class, the recoveries of*
5 *the holders, expressed in aggregate dollar values and,*
6 *in the case of claims, as a percentage of total claims*
7 *of the class allowed.”.*

8 **(b) CLERICAL AMENDMENT.**—*The table of sections at*
9 *the beginning of chapter 39 of title 28, United States Code,*
10 *is amended by adding at the end the following:*

 “589b. *Bankruptcy data.*”.

11 **SEC. 603. AUDIT PROCEDURES.**

12 **(a) IN GENERAL.**—

13 **(1) ESTABLISHMENT OF PROCEDURES.**—*The At-*
14 *torney General (in judicial districts served by United*
15 *States trustees) and the Judicial Conference of the*
16 *United States (in judicial districts served by bank-*
17 *ruptcy administrators) shall establish procedures to*
18 *determine the accuracy, veracity, and completeness of*
19 *petitions, schedules, and other information which the*
20 *debtor is required to provide under sections 521 and*
21 *1322 of title 11, and, if applicable, section 111 of title*
22 *11, in individual cases filed under chapter 7 or 13 of*
23 *such title. Such audits shall be in accordance with*
24 *generally accepted auditing standards and performed*
25 *by independent certified public accountants or inde-*

1 *pendent licensed public accountants, provided that the*
2 *Attorney General and the Judicial Conference, as ap-*
3 *propriate, may develop alternative auditing stand-*
4 *ards not later than 2 years after the date of enact-*
5 *ment of this Act.*

6 (2) *PROCEDURES.—Those procedures required by*
7 *paragraph (1) shall—*

8 (A) *establish a method of selecting appro-*
9 *priate qualified persons to contract to perform*
10 *those audits;*

11 (B) *establish a method of randomly select-*
12 *ing cases to be audited, except that not less than*
13 *1 out of every 250 cases in each Federal judicial*
14 *district shall be selected for audit;*

15 (C) *require audits for schedules of income*
16 *and expenses which reflect greater than average*
17 *variances from the statistical norm of the district*
18 *in which the schedules were filed if those*
19 *variances occur by reason of higher income or*
20 *higher expenses than the statistical norm of the*
21 *district in which the schedules were filed; and*

22 (D) *establish procedures for providing, not*
23 *less frequently than annually, public information*
24 *concerning the aggregate results of such audits*
25 *including the percentage of cases, by district, in*

1 *which a material misstatement of income or ex-*
2 *penditures is reported.*

3 **(b) AMENDMENTS.**—*Section 586 of title 28, United*
4 *States Code, is amended—*

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

7 *“(6) make such reports as the Attorney General*
8 *directs, including the results of audits performed*
9 *under section 603(a) of the Bankruptcy Reform Act*
10 *of 2001; and”;* and

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

12 *“(f)(1) The United States trustee for each district is*
13 *authorized to contract with auditors to perform audits in*
14 *cases designated by the United States trustee, in accordance*
15 *with the procedures established under section 603(a) of the*
16 *Bankruptcy Reform Act of 2001.*

17 *“(2)(A) The report of each audit referred to in para-*
18 *graph (1) shall be filed with the court and transmitted to*
19 *the United States trustee. Each report shall clearly and con-*
20 *spicuously specify any material misstatement of income or*
21 *expenditures or of assets identified by the person performing*
22 *the audit. In any case in which a material misstatement*
23 *of income or expenditures or of assets has been reported,*
24 *the clerk of the bankruptcy court shall give notice of the*
25 *misstatement to the creditors in the case.*

1 “(B) If a material misstatement of income or expendi-
2 tures or of assets is reported, the United States trustee
3 shall—

4 “(i) report the material misstatement, if appro-
5 priate, to the United States Attorney pursuant to sec-
6 tion 3057 of title 18; and

7 “(ii) if advisable, take appropriate action, in-
8 cluding but not limited to commencing an adversary
9 proceeding to revoke the debtor’s discharge pursuant
10 to section 727(d) of title 11.”.

11 (c) AMENDMENTS TO SECTION 521 OF TITLE 11,
12 U.S.C.—Section 521(a) of title 11, United States Code, as
13 so designated by this Act, is amended in each of paragraphs
14 (3) and (4) by inserting “or an auditor appointed under
15 section 586(f) of title 28” after “serving in the case”.

16 (d) AMENDMENTS TO SECTION 727 OF TITLE 11,
17 U.S.C.—Section 727(d) of title 11, United States Code, is
18 amended—

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

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

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

24 “(4) the debtor has failed to explain
25 satisfactorily—

1 “(A) a material misstatement in an audit
2 referred to in section 586(f) of title 28; or

3 “(B) a failure to make available for inspec-
4 tion all necessary accounts, papers, documents,
5 financial records, files, and all other papers,
6 things, or property belonging to the debtor that
7 are requested for an audit referred to in section
8 586(f) of title 28.”

9 (e) *EFFECTIVE DATE.*—The amendments made by this
10 section shall take effect 18 months after the date of enact-
11 ment of this Act.

12 **SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY**
13 **OF BANKRUPTCY DATA.**

14 *It is the sense of Congress that—*

15 (1) *the national policy of the United States*
16 *should be that all data held by bankruptcy clerks in*
17 *electronic form, to the extent such data reflects only*
18 *public records (as defined in section 107 of title 11,*
19 *United States Code), should be released in a usable*
20 *electronic form in bulk to the public, subject to such*
21 *appropriate privacy concerns and safeguards as Con-*
22 *gress and the Judicial Conference of the United States*
23 *may determine; and*

24 (2) *there should be established a bankruptcy data*
25 *system in which—*

1 (A) a single set of data definitions and
2 forms are used to collect data nationwide; and

3 (B) data for any particular bankruptcy
4 case are aggregated in the same electronic record.

5 **TITLE VII—BANKRUPTCY TAX**
6 **PROVISIONS**

7 **SEC. 701. TREATMENT OF CERTAIN LIENS.**

8 (a) *TREATMENT OF CERTAIN LIENS.*—Section 724 of
9 title 11, United States Code, is amended—

10 (1) in subsection (b), in the matter preceding
11 paragraph (1), by inserting “(other than to the extent
12 that there is a properly perfected unavoidable tax lien
13 arising in connection with an ad valorem tax on real
14 or personal property of the estate)” after “under this
15 title”;

16 (2) in subsection (b)(2), by inserting “(except
17 that such expenses, other than claims for wages, sala-
18 ries, or commissions which arise after the filing of a
19 petition, shall be limited to expenses incurred under
20 chapter 7 of this title and shall not include expenses
21 incurred under chapter 11 of this title)” after
22 “507(a)(1)”; and

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

24 “(e) Before subordinating a tax lien on real or per-
25 sonal property of the estate, the trustee shall—

1 “(1) exhaust the unencumbered assets of the es-
2 tate; and

3 “(2) in a manner consistent with section 506(c),
4 recover from property securing an allowed secured
5 claim the reasonable, necessary costs and expenses of
6 preserving or disposing of that property.

7 “(f) Notwithstanding the exclusion of ad valorem tax
8 liens under this section and subject to the requirements of
9 subsection (e), the following may be paid from property of
10 the estate which secures a tax lien, or the proceeds of such
11 property:

12 “(1) Claims for wages, salaries, and commissions
13 that are entitled to priority under section 507(a)(4).

14 “(2) Claims for contributions to an employee
15 benefit plan entitled to priority under section
16 507(a)(5).”.

17 (b) DETERMINATION OF TAX LIABILITY.—Section
18 505(a)(2) of title 11, United States Code, is amended—

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

21 (2) in subparagraph (B), by striking the period
22 at the end and inserting “; or”; and

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

24 “(C) the amount or legality of any amount aris-
25 ing in connection with an ad valorem tax on real or

1 *personal property of the estate, if the applicable pe-*
2 *riod for contesting or redetermining that amount*
3 *under any law (other than a bankruptcy law) has ex-*
4 *pired.”.*

5 **SEC. 702. TREATMENT OF FUEL TAX CLAIMS.**

6 *Section 501 of title 11, United States Code, is amended*
7 *by adding at the end the following:*

8 “(e) *A claim arising from the liability of a debtor for*
9 *fuel use tax assessed consistent with the requirements of sec-*
10 *tion 31705 of title 49 may be filed by the base jurisdiction*
11 *designated pursuant to the International Fuel Tax Agree-*
12 *ment and, if so filed, shall be allowed as a single claim.”.*

13 **SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF**
14 **TAXES.**

15 *Section 505(b) of title 11, United States Code, is*
16 *amended—*

17 (1) *in the first sentence, by inserting “at the ad-*
18 *dress and in the manner designated in paragraph*
19 *(1)” after “determination of such tax”;*

20 (2) *by striking “(1) upon payment” and insert-*
21 *ing “(A) upon payment”;*

22 (3) *by striking “(A) such governmental unit”*
23 *and inserting “(i) such governmental unit”;*

24 (4) *by striking “(B) such governmental unit”*
25 *and inserting “(ii) such governmental unit”;*

1 (5) by striking “(2) upon payment” and insert-
2 ing “(B) upon payment”;

3 (6) by striking “(3) upon payment” and insert-
4 ing “(C) upon payment”;

5 (7) by striking “(b)” and inserting “(2)”; and

6 (8) by inserting before paragraph (2), as so des-
7 ignated, the following:

8 “(b)(1)(A) The clerk of each district shall maintain a
9 listing under which a Federal, State, or local governmental
10 unit responsible for the collection of taxes within the district
11 may—

12 “(i) designate an address for service of requests
13 under this subsection; and

14 “(ii) describe where further information con-
15 cerning additional requirements for filing such re-
16 quests may be found.

17 “(B) If a governmental unit referred to in subpara-
18 graph (A) does not designate an address and provide that
19 address to the clerk under that subparagraph, any request
20 made under this subsection may be served at the address
21 for the filing of a tax return or protest with the appropriate
22 taxing authority of that governmental unit.”.

1 **SEC. 704. RATE OF INTEREST ON TAX CLAIMS.**

2 (a) *IN GENERAL.*—Subchapter I of chapter 5 of title
3 11, United States Code, is amended by adding at the end
4 the following:

5 **“§ 511. Rate of interest on tax claims**

6 “(a) If any provision of this title requires the payment
7 of interest on a tax claim or on an administrative expense
8 tax, or the payment of interest to enable a creditor to receive
9 the present value of the allowed amount of a tax claim, the
10 rate of interest shall be the rate determined under applica-
11 ble nonbankruptcy law.

12 “(b) In the case of taxes paid under a confirmed plan
13 under this title, the rate of interest shall be determined as
14 of the calendar month in which the plan is confirmed.”.

15 (b) *CLERICAL AMENDMENT.*—The table of sections for
16 chapter 5 of title 11, United States Code, is amended by
17 inserting after the item relating to section 510 the following:
“511. Rate of interest on tax claims.”.

18 **SEC. 705. PRIORITY OF TAX CLAIMS.**

19 Section 507(a)(8) of title 11, United States Code, is
20 amended—

21 (1) in subparagraph (A)—

22 (A) in the matter preceding clause (i), by
23 inserting “for a taxable year ending on or before
24 the date of filing of the petition” after “gross re-
25 ceipts”;

1 (B) in clause (i), by striking “for a taxable
2 year ending on or before the date of filing of the
3 petition”; and

4 (C) by striking clause (ii) and inserting the
5 following:

6 “(ii) assessed within 240 days before
7 the date of the filing of the petition, exclu-
8 sive of—

9 “(I) any time during which an
10 offer in compromise with respect to
11 that tax was pending or in effect dur-
12 ing that 240-day period, plus 30 days;
13 and

14 “(II) any time during which a
15 stay of proceedings against collections
16 was in effect in a prior case under this
17 title during that 240-day period; plus
18 90 days.”; and

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

20 “An otherwise applicable time period specified in this
21 paragraph shall be suspended for (i) any period dur-
22 ing which a governmental unit is prohibited under
23 applicable nonbankruptcy law from collecting a tax
24 as a result of a request by the debtor for a hearing
25 and an appeal of any collection action taken or pro-

1 posed against the debtor, plus 90 days; plus (ii) any
2 time during which the stay of proceedings was in ef-
3 fect in a prior case under this title or during which
4 collection was precluded by the existence of 1 or more
5 confirmed plans under this title, plus 90 days.”.

6 **SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

7 Section 507(a)(8)(B) of title 11, United States Code,
8 is amended by striking “assessed” and inserting “in-
9 curred”.

10 **SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**

11 **TER 13.**

12 Section 1328(a)(2) of title 11, United States Code, as
13 amended by section 314 of this Act, is amended by striking
14 “paragraph” and inserting “section 507(a)(8)(C) or in
15 paragraph (1)(B), (1)(C),”.

16 **SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**

17 **TER 11.**

18 Section 1141(d) of title 11, United States Code, as
19 amended by this Act, is amended by adding at the end the
20 following:

21 “(6) Notwithstanding paragraph (1), the confirmation
22 of a plan does not discharge a debtor that is a corporation
23 from any debt described in subparagraph (A) or (B) of sec-
24 tion 523(a)(2) that is owed to a domestic governmental unit
25 or owed to a person as the result of an action filed under

1 *subchapter III of chapter 37 of title 31, United States Code,*
2 *or any similar State statute, or for a tax or customs duty*
3 *with respect to which the debtor—*

4 “(A) *made a fraudulent return; or*

5 “(B) *willfully attempted in any manner to evade*
6 *or defeat that tax or duty.*”.

7 **SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO**
8 **PREPETITION TAXES.**

9 *Section 362(a)(8) of title 11, United States Code, is*
10 *amended by striking “the debtor” and inserting “a cor-*
11 *porate debtor’s tax liability for a taxable period the bank-*
12 *ruptcy court may determine or concerning an individual*
13 *debtor’s tax liability for a taxable period ending before the*
14 *order for relief under this title”.*

15 **SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**
16 **CASES.**

17 *Section 1129(a)(9) of title 11, United States Code, is*
18 *amended—*

19 (1) *in subparagraph (B), by striking “and” at*
20 *the end;*

21 (2) *in subparagraph (C), by striking “deferred*
22 *cash payments,” and all that follows through the end*
23 *of the subparagraph, and inserting “regular install-*
24 *ment payments in cash—*

1 “(i) of a total value, as of the effective
2 date of the plan, equal to the allowed
3 amount of such claim;

4 “(ii) over a period ending not later
5 than 5 years after the date of the entry of
6 the order for relief under section 301, 302,
7 or 303; and

8 “(iii) in a manner not less favorable
9 than the most favored nonpriority unse-
10 cured claim provided for in the plan (other
11 than cash payments made to a class of
12 creditors under section 1122(b)); and”;
13 (3) by adding at the end the following:

14 “(D) with respect to a secured claim which
15 would otherwise meet the description of an unse-
16 cured claim of a governmental unit under sec-
17 tion 507(a)(8), but for the secured status of that
18 claim, the holder of that claim will receive on ac-
19 count of that claim, cash payments, in the same
20 manner and over the same period, as prescribed
21 in subparagraph (C).”.

22 **SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**
23 **ITED.**

24 Section 545(2) of title 11, United States Code, is
25 amended by inserting before the semicolon at the end the

1 following: “, except in any case in which a purchaser is
2 a purchaser described in section 6323 of the Internal Rev-
3 enue Code of 1986, or in any other similar provision of
4 State or local law”.

5 **SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
6 **NESS.**

7 (a) *PAYMENT OF TAXES REQUIRED.*—Section 960 of
8 title 28, United States Code, is amended—

9 (1) by inserting “(a)” before “Any”; and

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

11 “(b) A tax under subsection (a) shall be paid on or
12 before the due date of the tax under applicable nonbank-
13 ruptcy law, unless—

14 “(1) the tax is a property tax secured by a lien
15 against property that is abandoned within a reason-
16 able period of time after the lien attaches by the trust-
17 ee of a bankruptcy estate under section 554 of title 11;
18 or

19 “(2) payment of the tax is excused under a spe-
20 cific provision of title 11.

21 “(c) In a case pending under chapter 7 of title 11,
22 payment of a tax may be deferred until final distribution
23 is made under section 726 of title 11, if—

24 “(1) the tax was not incurred by a trustee duly
25 appointed under chapter 7 of title 11; or

1 “(2) before the due date of the tax, an order of
2 the court makes a finding of probable insufficiency of
3 funds of the estate to pay in full the administrative
4 expenses allowed under section 503(b) of title 11 that
5 have the same priority in distribution under section
6 726(b) of title 11 as the priority of that tax.”.

7 (b) *PAYMENT OF AD VALOREM TAXES REQUIRED.*—
8 Section 503(b)(1)(B)(i) of title 11, United States Code, is
9 amended by inserting “whether secured or unsecured, in-
10 cluding property taxes for which liability is in rem, in per-
11 sonam, or both,” before “except”.

12 (c) *REQUEST FOR PAYMENT OF ADMINISTRATIVE EX-*
13 *PENSE TAXES ELIMINATED.*—Section 503(b)(1) of title 11,
14 United States Code, is amended—

15 (1) in subparagraph (B), by striking “and” at
16 the end;

17 (2) in subparagraph (C), by adding “and” at the
18 end; and

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

20 “(D) notwithstanding the requirements of sub-
21 section (a), a governmental unit shall not be required
22 to file a request for the payment of an expense de-
23 scribed in subparagraph (B) or (C), as a condition of
24 its being an allowed administrative expense;”.

1 (d) *PAYMENT OF TAXES AND FEES AS SECURED*
2 *CLAIMS.*—Section 506 of title 11, United States Code, is
3 amended—

4 (1) in subsection (b), by inserting “or State stat-
5 ute” after “agreement”; and

6 (2) in subsection (c), by inserting “, including
7 the payment of all ad valorem property taxes with re-
8 spect to the property” before the period at the end.

9 **SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.**

10 Section 726(a)(1) of title 11, United States Code, is
11 amended by striking “before the date on which the trustee
12 commences distribution under this section;” and inserting
13 the following: “on or before the earlier of—

14 “(A) the date that is 10 days after the mail-
15 ing to creditors of the summary of the trustee’s
16 final report; or

17 “(B) the date on which the trustee com-
18 mences final distribution under this section;”.

19 **SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AU-**
20 **THORITIES.**

21 Section 523(a) of title 11, United States Code, as
22 amended by this Act, is amended—

23 (1) in paragraph (1)(B)—

1 (A) in the matter preceding clause (i), by
2 inserting “or equivalent report or notice,” after
3 “a return,”;

4 (B) in clause (i), by inserting “or given”
5 after “filed”; and

6 (C) in clause (ii)—

7 (i) by inserting “or given” after
8 “filed”; and

9 (ii) by inserting “, report, or notice”
10 after “return”; and

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

12 *“For purposes of this subsection, the term ‘return’ means*
13 *a return that satisfies the requirements of applicable non-*
14 *bankruptcy law (including applicable filing requirements).*
15 *Such term includes a return prepared pursuant to section*
16 *6020(a) of the Internal Revenue Code of 1986, or similar*
17 *State or local law, or a written stipulation to a judgment*
18 *or a final order entered by a nonbankruptcy tribunal, but*
19 *does not include a return made pursuant to section 6020(b)*
20 *of the Internal Revenue Code of 1986, or a similar State*
21 *or local law.”.*

1 **SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UN-**
2 **PAID TAXES.**

3 *Section 505(b)(2) of title 11, United States Code, as*
4 *amended by this Act, is amended by inserting "the estate,"*
5 *after "misrepresentation,".*

6 **SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CON-**
7 **FIRM CHAPTER 13 PLANS.**

8 *(a) FILING OF PREPETITION TAX RETURNS REQUIRED*
9 *FOR PLAN CONFIRMATION.—Section 1325(a) of title 11,*
10 *United States Code, as amended by this Act, is amended*
11 *by adding at the end the following:*

12 *"(9) the debtor has filed all applicable Federal,*
13 *State, and local tax returns as required by section*
14 *1308."*

15 *(b) ADDITIONAL TIME PERMITTED FOR FILING TAX*
16 *RETURNS.—*

17 *(1) IN GENERAL.—Subchapter I of chapter 13 of*
18 *title 11, United States Code, is amended by adding*
19 *at the end the following:*

20 **"§ 1308. Filing of prepetition tax returns**

21 *"(a) Not later than the day before the date on which*
22 *the meeting of the creditors is first scheduled to be held*
23 *under section 341(a), if the debtor was required to file a*
24 *tax return under applicable nonbankruptcy law, the debtor*
25 *shall file with appropriate tax authorities all tax returns*

1 *for all taxable periods ending during the 4-year period end-*
2 *ing on the date of the filing of the petition.*

3 “(b)(1) *Subject to paragraph (2), if the tax returns re-*
4 *quired by subsection (a) have not been filed by the date on*
5 *which the meeting of creditors is first scheduled to be held*
6 *under section 341(a), the trustee may hold open that meet-*
7 *ing for a reasonable period of time to allow the debtor an*
8 *additional period of time to file any unfiled returns, but*
9 *such additional period of time shall not extend beyond—*

10 “(A) *for any return that is past due as of the*
11 *date of the filing of the petition, the date that is 120*
12 *days after the date of that meeting; or*

13 “(B) *for any return that is not past due as of*
14 *the date of the filing of the petition, the later of—*

15 “(i) *the date that is 120 days after the date*
16 *of that meeting; or*

17 “(ii) *the date on which the return is due*
18 *under the last automatic extension of time for*
19 *filing that return to which the debtor is entitled,*
20 *and for which request is timely made, in accord-*
21 *ance with applicable nonbankruptcy law.*

22 “(2) *Upon notice and hearing, and order entered before*
23 *the tolling of any applicable filing period determined under*
24 *this subsection, if the debtor demonstrates by a preponder-*
25 *ance of the evidence that the failure to file a return as re-*

1 *quired under this subsection is attributable to circumstances*
2 *beyond the control of the debtor, the court may extend the*
3 *filing period established by the trustee under this subsection*
4 *for—*

5 “(A) *a period of not more than 30 days for re-*
6 *turns described in paragraph (1); and*

7 “(B) *a period not to extend after the applicable*
8 *extended due date for a return described in paragraph*
9 *(2).*

10 “(c) *For purposes of this section, the term ‘return’ in-*
11 *cludes a return prepared pursuant to subsection (a) or (b)*
12 *of section 6020 of the Internal Revenue Code of 1986, or*
13 *a similar State or local law, or a written stipulation to*
14 *a judgment or a final order entered by a nonbankruptcy*
15 *tribunal.”.*

16 (2) *CONFORMING AMENDMENT.—The table of sec-*
17 *tions at the beginning of chapter 13 of title 11,*
18 *United States Code, is amended by inserting after the*
19 *item relating to section 1307 the following:*

“1308. Filing of prepetition tax returns.”.

20 (c) *DISMISSAL OR CONVERSION ON FAILURE TO COM-*
21 *PLY.—Section 1307 of title 11, United States Code, is*
22 *amended—*

23 (1) *by redesignating subsections (e) and (f) as*
24 *subsections (f) and (g), respectively; and*

1 (2) by inserting after subsection (d) the fol-
2 lowing:

3 “(e) Upon the failure of the debtor to file a tax return
4 under section 1308, on request of a party in interest or the
5 United States trustee and after notice and a hearing, the
6 court shall dismiss a case or convert a case under this chap-
7 ter to a case under chapter 7 of this title, whichever is in
8 the best interest of the creditors and the estate.”.

9 (d) *TIMELY FILED CLAIMS*.—Section 502(b)(9) of title
10 11, United States Code, is amended by inserting before the
11 period at the end the following: “, and except that in a
12 case under chapter 13, a claim of a governmental unit for
13 a tax with respect to a return filed under section 1308 shall
14 be timely if the claim is filed on or before the date that
15 is 60 days after the date on which such return was filed
16 as required”.

17 (e) *RULES FOR OBJECTIONS TO CLAIMS AND TO CON-*
18 *FIRMATION*.—It is the sense of Congress that the Advisory
19 Committee on Bankruptcy Rules of the Judicial Conference
20 of the United States should, as soon as practicable after the
21 date of enactment of this Act, propose for adoption amended
22 Federal Rules of Bankruptcy Procedure which provide
23 that—

24 (1) notwithstanding the provisions of Rule
25 3015(f), in cases under chapter 13 of title 11, United

1 *States Code, an objection to the confirmation of a*
2 *plan filed by a governmental unit on or before the*
3 *date that is 60 days after the date on which the debtor*
4 *files all tax returns required under sections 1308 and*
5 *1325(a)(7) of title 11, United States Code, shall be*
6 *treated for all purposes as if such objection had been*
7 *timely filed before such confirmation; and*

8 *(2) in addition to the provisions of Rule 3007,*
9 *in a case under chapter 13 of title 11, United States*
10 *Code, no objection to a tax with respect to which a*
11 *return is required to be filed under section 1308 of*
12 *title 11, United States Code, shall be filed until such*
13 *return has been filed as required.*

14 **SEC. 717. STANDARDS FOR TAX DISCLOSURE.**

15 *Section 1125(a)(1) of title 11, United States Code, is*
16 *amended—*

17 *(1) by inserting “including a discussion of the*
18 *potential material Federal tax consequences of the*
19 *plan to the debtor, any successor to the debtor, and*
20 *a hypothetical investor typical of the holders of claims*
21 *or interests in the case,” after “records”; and*

22 *(2) by striking “a hypothetical reasonable inves-*
23 *tor typical of holders of claims or interests” and in-*
24 *serting “such a hypothetical investor”.*

1 **SEC. 718. SETOFF OF TAX REFUNDS.**

2 *Section 362(b) of title 11, United States Code, is*
3 *amended by inserting after paragraph (25), as added by*
4 *this Act, the following:*

5 *“(26) under subsection (a), of the setoff under*
6 *applicable nonbankruptcy law of an income tax re-*
7 *fund, by a governmental unit, with respect to a tax-*
8 *able period that ended before the order for relief*
9 *against an income tax liability for a taxable period*
10 *that also ended before the order for relief, except that*
11 *in any case in which the setoff of an income tax re-*
12 *fund is not permitted under applicable nonbank-*
13 *ruptcy law because of a pending action to determine*
14 *the amount or legality of a tax liability, the govern-*
15 *mental unit may hold the refund pending the resolu-*
16 *tion of the action, unless the court, upon motion of*
17 *the trustee and after notice and hearing, grants the*
18 *taxing authority adequate protection (within the*
19 *meaning of section 361) for the secured claim of that*
20 *authority in the setoff under section 506(a);”.*

21 **SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREAT-**
22 **MENT OF STATE AND LOCAL TAXES.**

23 *(a) IN GENERAL.—Section 346 of title 11, United*
24 *States Code, is amended to read as follows:*

1 **“§ 346. Special provisions related to the treatment of**
2 **State and local taxes**

3 *“(a) Whenever the Internal Revenue Code of 1986 pro-*
4 *vides that a separate taxable estate or entity is created in*
5 *a case concerning a debtor under this title, and the income,*
6 *gain, loss, deductions, and credits of such estate shall be*
7 *taxed to or claimed by the estate, a separate taxable estate*
8 *is also created for purposes of any State and local law im-*
9 *posing a tax on or measured by income and such income,*
10 *gain, loss, deductions, and credits shall be taxed to or*
11 *claimed by the estate and may not be taxed to or claimed*
12 *by the debtor. The preceding sentence shall not apply if the*
13 *case is dismissed. The trustee shall make tax returns of in-*
14 *come required under any such State or local law.*

15 *“(b) Whenever the Internal Revenue Code of 1986 pro-*
16 *vides that no separate taxable estate shall be created in a*
17 *case concerning a debtor under this title, and the income,*
18 *gain, loss, deductions, and credits of an estate shall be taxed*
19 *to or claimed by the debtor, such income, gain, loss, deduc-*
20 *tions, and credits shall be taxed to or claimed by the debtor*
21 *under a State or local law imposing a tax on or measured*
22 *by income and may not be taxed to or claimed by the estate.*
23 *The trustee shall make such tax returns of income of cor-*
24 *porations and of partnerships as are required under any*
25 *State or local law, but with respect to partnerships, shall*
26 *make said returns only to the extent such returns are also*

1 *required to be made under such Code. The estate shall be*
2 *liable for any tax imposed on such corporation or partner-*
3 *ship, but not for any tax imposed on partners or members.*

4 “(c) *With respect to a partnership or any entity treat-*
5 *ed as a partnership under a State or local law imposing*
6 *a tax on or measured by income that is a debtor in a case*
7 *under this title, any gain or loss resulting from a distribu-*
8 *tion of property from such partnership, or any distributive*
9 *share of any income, gain, loss, deduction, or credit of a*
10 *partner or member that is distributed, or considered distrib-*
11 *uted, from such partnership, after the commencement of the*
12 *case, is gain, loss, income, deduction, or credit, as the case*
13 *may be, of the partner or member, and if such partner or*
14 *member is a debtor in a case under this title, shall be subject*
15 *to tax in accordance with subsection (a) or (b).*

16 “(d) *For purposes of any State or local law imposing*
17 *a tax on or measured by income, the taxable period of a*
18 *debtor in a case under this title shall terminate only if and*
19 *to the extent that the taxable period of such debtor termi-*
20 *nates under the Internal Revenue Code of 1986.*

21 “(e) *The estate in any case described in subsection (a)*
22 *shall use the same accounting method as the debtor used*
23 *immediately before the commencement of the case, if such*
24 *method of accounting complies with applicable nonbank-*
25 *ruptcy tax law.*

1 “(f) For purposes of any State or local law imposing
2 a tax on or measured by income, a transfer of property
3 from the debtor to the estate or from the estate to the debtor
4 shall not be treated as a disposition for purposes of any
5 provision assigning tax consequences to a disposition, ex-
6 cept to the extent that such transfer is treated as a dispo-
7 sition under the Internal Revenue Code of 1986.

8 “(g) Whenever a tax is imposed pursuant to a State
9 or local law imposing a tax on or measured by income pur-
10 suant to subsection (a) or (b), such tax shall be imposed
11 at rates generally applicable to the same types of entities
12 under such State or local law.

13 “(h) The trustee shall withhold from any payment of
14 claims for wages, salaries, commissions, dividends, interest,
15 or other payments, or collect, any amount required to be
16 withheld or collected under applicable State or local tax
17 law, and shall pay such withheld or collected amount to
18 the appropriate governmental unit at the time and in the
19 manner required by such tax law, and with the same pri-
20 ority as the claim from which such amount was withheld
21 or collected was paid.

22 “(i)(1) To the extent that any State or local law im-
23 posing a tax on or measured by income provides for the
24 carryover of any tax attribute from one taxable period to
25 a subsequent taxable period, the estate shall succeed to such

1 *tax attribute in any case in which such estate is subject*
2 *to tax under subsection (a).*

3 “(2) *After such a case is closed or dismissed, the debtor*
4 *shall succeed to any tax attribute to which the estate suc-*
5 *ceeded under paragraph (1) to the extent consistent with*
6 *the Internal Revenue Code of 1986.*

7 “(3) *The estate may carry back any loss or tax at-*
8 *tribute to a taxable period of the debtor that ended before*
9 *the order for relief under this title to the extent that—*

10 “(A) *applicable State or local tax law provides*
11 *for a carryback in the case of the debtor; and*

12 “(B) *the same or a similar tax attribute may be*
13 *carried back by the estate to such a taxable period of*
14 *the debtor under the Internal Revenue Code of 1986.*

15 “(j)(1) *For purposes of any State or local law impos-*
16 *ing a tax on or measured by income, income is not realized*
17 *by the estate, the debtor, or a successor to the debtor by rea-*
18 *son of discharge of indebtedness in a case under this title,*
19 *except to the extent, if any, that such income is subject to*
20 *tax under the Internal Revenue Code of 1986.*

21 “(2) *Whenever the Internal Revenue Code of 1986 pro-*
22 *vides that the amount excluded from gross income in respect*
23 *of the discharge of indebtedness in a case under this title*
24 *shall be applied to reduce the tax attributes of the debtor*
25 *or the estate, a similar reduction shall be made under any*

1 *State or local law imposing a tax on or measured by income*
2 *to the extent such State or local law recognizes such at-*
3 *tributes. Such State or local law may also provide for the*
4 *reduction of other attributes to the extent that the full*
5 *amount of income from the discharge of indebtedness has*
6 *not been applied.*

7 “(k)(1) *Except as provided in this section and section*
8 *505, the time and manner of filing tax returns and the*
9 *items of income, gain, loss, deduction, and credit of any*
10 *taxpayer shall be determined under applicable nonbank-*
11 *ruptcy law.*

12 “(2) *For Federal tax purposes, the provisions of this*
13 *section are subject to the Internal Revenue Code of 1986*
14 *and other applicable Federal nonbankruptcy law.”.*

15 (b) *CONFORMING AMENDMENTS.—*

16 (1) *Section 728 of title 11, United States Code,*
17 *is repealed.*

18 (2) *Section 1146 of title 11, United States Code,*
19 *is amended—*

20 (A) *by striking subsections (a) and (b); and*

21 (B) *by redesignating subsections (c) and (d)*

22 *as subsections (a) and (b), respectively.*

23 (3) *Section 1231 of title 11, United States Code,*
24 *is amended—*

25 (A) *by striking subsections (a) and (b); and*

1 (B) by redesignating subsections (c) and (d)
2 as subsections (a) and (b), respectively.

3 **SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RE-**
4 **TURNS.**

5 Section 521 of title 11, United States Code, as amend-
6 ed by this Act, is amended by adding at the end the fol-
7 lowing:

8 “(k)(1) Notwithstanding any other provision of this
9 title, if the debtor fails to file a tax return that becomes
10 due after the commencement of the case or to properly ob-
11 tain an extension of the due date for filing such return,
12 the taxing authority may request that the court enter an
13 order converting or dismissing the case.

14 “(2) If the debtor does not file the required return or
15 obtain the extension referred to in paragraph (1) within
16 90 days after a request is filed by the taxing authority
17 under that paragraph, the court shall convert or dismiss
18 the case, whichever is in the best interests of creditors and
19 the estate.”.

20 **TITLE VIII—ANCILLARY AND**
21 **OTHER CROSS-BORDER CASES**

22 **SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**
23 **UNITED STATES CODE.**

24 (a) *IN GENERAL.*—Title 11, United States Code, is
25 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.*

“1516. *Presumptions concerning recognition.*

“1517. *Order granting recognition.*

“1518. *Subsequent information.*

“1519. *Relief that may be granted upon filing petition for recognition.*

“1520. *Effects of recognition of a foreign main proceeding.*

“1521. *Relief that may be granted upon recognition.*

“1522. *Protection of creditors and other interested persons.*

“1523. *Actions to avoid acts detrimental to creditors.*

“1524. *Intervention by a foreign representative.*

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND
 FOREIGN REPRESENTATIVES

“1525. *Cooperation and direct communication between the court and foreign
 courts or foreign representatives.*

“1526. *Cooperation and direct communication between the trustee and foreign
 courts or foreign representatives.*

“1527. *Forms of cooperation.*

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. *Commencement of a case under this title after recognition of a foreign
 main proceeding.*

“1529. *Coordination of a case under this title and a foreign proceeding.*

“1530. *Coordination of more than 1 foreign proceeding.*

“1531. Presumption of insolvency based on recognition of a foreign main proceeding.

“1532. Rule of payment in concurrent proceedings.

1 **“§ 1501. Purpose and scope of application**

2 “(a) *The purpose of this chapter is to incorporate the*
3 *Model Law on Cross-Border Insolvency so as to provide ef-*
4 *fective mechanisms for dealing with cases of cross-border in-*
5 *solvency with the objectives of—*

6 “(1) *cooperation between—*

7 “(A) *United States courts, United States*
8 *trustees, trustees, examiners, debtors, and debtors*
9 *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 invest-*
14 *ment;*

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 of*
20 *the debtor’s assets; and*

21 “(5) *facilitation of the rescue of financially trou-*
22 *bled businesses, thereby protecting investment and*
23 *preserving employment.*

24 “(b) *This chapter applies where—*

1 “(1) assistance is sought in the United States by
2 a foreign court or a foreign representative in connec-
3 tion 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, other
15 than a foreign insurance company, identified by ex-
16 clusion in section 109(b);

17 “(2) an individual, or to an individual and such
18 individual’s spouse, who have debts within the limits
19 specified in section 109(e) and who are citizens of the
20 United States or aliens lawfully admitted for perma-
21 nent residence in the United States; or

22 “(3) an entity subject to a proceeding under the
23 Securities Investor Protection Act of 1970, a stock-
24 broker subject to subchapter III of chapter 7 of this

1 *title, or a commodity broker subject to subchapter IV*
2 *of chapter 7 of this title.*

3 “(d) *The court may not grant relief under this chapter*
4 *with respect to any deposit, escrow, trust fund, or other se-*
5 *curity required or permitted under any applicable State in-*
6 *surance law or regulation for the benefit of claim holders*
7 *in the United States.*

8 “SUBCHAPTER I—GENERAL PROVISIONS

9 “§ 1502. **Definitions**

10 “*For the purposes of this chapter, the term—*

11 “(1) ‘debtor’ *means an entity that is the subject*
12 *of a foreign proceeding;*

13 “(2) ‘establishment’ *means any place of oper-*
14 *ations where the debtor carries out a nontransitory*
15 *economic activity;*

16 “(3) ‘foreign court’ *means a judicial or other au-*
17 *thority competent to control or supervise a foreign*
18 *proceeding;*

19 “(4) ‘foreign main proceeding’ *means a foreign*
20 *proceeding taking place in the country where the debt-*
21 *or has the center of its main interests;*

22 “(5) ‘foreign nonmain proceeding’ *means a for-*
23 *ign proceeding, other than a foreign main pro-*
24 *ceeding, taking place in a country where the debtor*
25 *has an establishment;*

1 “(6) ‘trustee’ includes a trustee, a debtor in pos-
2 session in a case under any chapter of this title, or
3 a debtor under chapter 9 of this title;

4 “(7) ‘recognition’ means the entry of an order
5 granting recognition of a foreign main proceeding or
6 foreign nonmain proceeding under this chapter; and

7 “(8) ‘within the territorial jurisdiction of the
8 United States’, when used with reference to property
9 of a debtor, refers to tangible property located within
10 the territory of the United States and intangible
11 property deemed under applicable nonbankruptcy law
12 to be located within that territory, including any
13 property subject to attachment or garnishment that
14 may properly be seized or garnished by an action in
15 a Federal or State court in the United States.

16 **“§ 1503. International obligations of the United States**

17 “To the extent that this chapter conflicts with an obli-
18 gation of the United States arising out of any treaty or
19 other form of agreement to which it is a party with one
20 or more other countries, the requirements of the treaty or
21 agreement prevail.

22 **“§ 1504. Commencement of ancillary case**

23 “A case under this chapter is commenced by the filing
24 of a petition for recognition of a foreign proceeding under
25 section 1515.

1 **“§ 1505. Authorization to act in a foreign country**

2 *“A trustee or another entity (including an examiner)*
3 *may be authorized by the court to act in a foreign country*
4 *on behalf of an estate created under section 541. An entity*
5 *authorized to act under this section may act in any way*
6 *permitted by the applicable foreign law.*

7 **“§ 1506. Public policy exception**

8 *“Nothing in this chapter prevents the court from refus-*
9 *ing to take an action governed by this chapter if the action*
10 *would be manifestly contrary to the public policy of the*
11 *United States.*

12 **“§ 1507. Additional assistance**

13 *“(a) Subject to the specific limitations stated elsewhere*
14 *in this chapter the court, if recognition is granted, may*
15 *provide additional assistance to a foreign representative*
16 *under this title or under other laws of the United States.*

17 *“(b) In determining whether to provide additional as-*
18 *sistance under this title or under other laws of the United*
19 *States, the court shall consider whether such additional as-*
20 *sistance, consistent with the principles of comity, will rea-*
21 *sonably assure—*

22 *“(1) just treatment of all holders of claims*
23 *against or interests in the debtor’s property;*

24 *“(2) protection of claim holders in the United*
25 *States against prejudice and inconvenience in the*
26 *processing of claims in such foreign proceeding;*

1 “(3) prevention of preferential or fraudulent dis-
2 positions of property of the debtor;

3 “(4) distribution of proceeds of the debtor’s prop-
4 erty substantially in accordance with the order pre-
5 scribed by this title; and

6 “(5) if appropriate, the provision of an oppor-
7 tunity for a fresh start for the individual that such
8 foreign proceeding concerns.

9 **“§ 1508. Interpretation**

10 *“In interpreting this chapter, the court shall consider*
11 *its international origin, and the need to promote an appli-*
12 *cation of this chapter that is consistent with the application*
13 *of similar statutes adopted by foreign jurisdictions.*

14 **“SUBCHAPTER II—ACCESS OF FOREIGN REP-**
15 **RESENTATIVES AND CREDITORS TO THE**
16 **COURT**

17 **“§ 1509. Right of direct access**

18 “(a) *A foreign representative may commence a case*
19 *under section 1504 by filing directly with the court a peti-*
20 *tion for recognition of a foreign proceeding under section*
21 *1515.*

22 “(b) *If the court grants recognition under section 1515,*
23 *and subject to any limitations that the court may impose*
24 *consistent with the policy of this chapter—*

1 “(1) the foreign representative has the capacity
2 to sue and be sued in a court in the United States;

3 “(2) the foreign representative may apply di-
4 rectly to a court in the United States for appropriate
5 relief in that court; and

6 “(3) a court in the United States shall grant
7 comity or cooperation to the foreign representative.

8 “(c) A request for comity or cooperation by a foreign
9 representative in a court in the United States other than
10 the court which granted recognition shall be accompanied
11 by a certified copy of an order granting recognition under
12 section 1517.

13 “(d) If the court denies recognition under this chapter,
14 the court may issue any appropriate order necessary to pre-
15 vent the foreign representative from obtaining comity or co-
16 operation from courts in the United States.

17 “(e) Whether or not the court grants recognition, and
18 subject to sections 306 and 1510, a foreign representative
19 is subject to applicable nonbankruptcy law.

20 “(f) Notwithstanding any other provision of this sec-
21 tion, the failure of a foreign representative to commence a
22 case or to obtain recognition under this chapter does not
23 affect any right the foreign representative may have to sue
24 in a court in the United States to collect or recover a claim
25 which is the property of the debtor.

1 **“§ 1510. Limited jurisdiction**

2 *“The sole fact that a foreign representative files a peti-*
3 *tion under section 1515 does not subject the foreign rep-*
4 *resentative to the jurisdiction of any court in the United*
5 *States for any other purpose.*

6 **“§ 1511. Commencement of case under section 301 or**
7 **303**

8 *“(a) Upon recognition, a foreign representative may*
9 *commence—*

10 *“(1) an involuntary case under section 303; or*

11 *“(2) a voluntary case under section 301 or 302,*
12 *if the foreign proceeding is a foreign main proceeding.*

13 *“(b) The petition commencing a case under subsection*
14 *(a) must be accompanied by a certified copy of an order*
15 *granting recognition. The court where the petition for rec-*
16 *ognition has been filed must be advised of the foreign rep-*
17 *resentative’s intent to commence a case under subsection (a)*
18 *prior to such commencement.*

19 **“§ 1512. Participation of a foreign representative in a**
20 **case under this title**

21 *“Upon recognition of a foreign proceeding, the foreign*
22 *representative in the recognized proceeding is entitled to*
23 *participate as a party in interest in a case regarding the*
24 *debtor under this title.*

1 **“§ 1513. Access of foreign creditors to a case under**
2 ***this title***

3 *“(a) Foreign creditors have the same rights regarding*
4 *the commencement of, and participation in, a case under*
5 *this title as domestic creditors.*

6 *“(b)(1) Subsection (a) does not change or codify*
7 *present law as to the priority of claims under section 507*
8 *or 726 of this title, except that the claim of a foreign cred-*
9 *itor under those sections shall not be given a lower priority*
10 *than that of general unsecured claims without priority sole-*
11 *ly because the holder of such claim is a foreign creditor.*

12 *“(2)(A) Subsection (a) and paragraph (1) do not*
13 *change or codify present law as to the allowability of foreign*
14 *revenue claims or other foreign public law claims in a pro-*
15 *ceeding under this title.*

16 *“(B) Allowance and priority as to a foreign tax claim*
17 *or other foreign public law claim shall be governed by any*
18 *applicable tax treaty of the United States, under the condi-*
19 *tions and circumstances specified therein.*

20 **“§ 1514. Notification to foreign creditors concerning a**
21 ***case under this title***

22 *“(a) Whenever in a case under this title notice is to*
23 *be given to creditors generally or to any class or category*
24 *of creditors, such notice shall also be given to the known*
25 *creditors generally, or to creditors in the notified class or*
26 *category, that do not have addresses in the United States.*

1 *The court may order that appropriate steps be taken with*
2 *a view to notifying any creditor whose address is not yet*
3 *known.*

4 “(b) *Such notification to creditors with foreign ad-*
5 *dresses described in subsection (a) shall be given individ-*
6 *ually, unless the court considers that, under the cir-*
7 *cumstances, some other form of notification would be more*
8 *appropriate. No letter or other formality is required.*

9 “(c) *When a notification of commencement of a case*
10 *is to be given to foreign creditors, the notification shall—*

11 “(1) *indicate the time period for filing proofs of*
12 *claim and specify the place for their filing;*

13 “(2) *indicate whether secured creditors need to*
14 *file their proofs of claim; and*

15 “(3) *contain any other information required to*
16 *be included in such a notification to creditors under*
17 *this title and the orders of the court.*

18 “(d) *Any rule of procedure or order of the court as*
19 *to notice or the filing of a claim shall provide such addi-*
20 *tional time to creditors with foreign addresses as is reason-*
21 *able under the circumstances.*

1 “SUBCHAPTER III—RECOGNITION OF A FOREIGN
2 PROCEEDING AND RELIEF

3 “§ 1515. *Application for recognition*

4 “(a) *A foreign representative applies to the court for*
5 *recognition of the foreign proceeding in which the foreign*
6 *representative has been appointed by filing a petition for*
7 *recognition.*

8 “(b) *A petition for recognition shall be accompanied*
9 *by—*

10 “(1) *a certified copy of the decision commencing*
11 *the foreign proceeding and appointing the foreign*
12 *representative;*

13 “(2) *a certificate from the foreign court affirm-*
14 *ing the existence of the foreign proceeding and of the*
15 *appointment of the foreign representative; or*

16 “(3) *in the absence of evidence referred to in*
17 *paragraphs (1) and (2), any other evidence acceptable*
18 *to the court of the existence of the foreign proceeding*
19 *and of the appointment of the foreign representative.*

20 “(c) *A petition for recognition shall also be accom-*
21 *panied by a statement identifying all foreign proceedings*
22 *with respect to the debtor that are known to the foreign rep-*
23 *resentative.*

24 “(d) *The documents referred to in paragraphs (1) and*
25 *(2) of subsection (b) shall be translated into English. The*

1 court may require a translation into English of additional
2 documents.

3 **“§ 1516. Presumptions concerning recognition**

4 “(a) If the decision or certificate referred to in section
5 1515(b) indicates that the foreign proceeding is a foreign
6 proceeding (as defined in section 101) and that the person
7 or body is a foreign representative (as defined in section
8 101), the court is entitled to so presume.

9 “(b) The court is entitled to presume that documents
10 submitted in support of the petition for recognition are au-
11 thentic, whether or not they have been legalized.

12 “(c) In the absence of evidence to the contrary, the
13 debtor’s registered office, or habitual residence in the case
14 of an individual, is presumed to be the center of the debtor’s
15 main interests.

16 **“§ 1517. Order granting recognition**

17 “(a) Subject to section 1506, after notice and a hear-
18 ing, an order recognizing a foreign proceeding shall be en-
19 tered if—

20 “(1) the foreign proceeding for which recognition
21 is sought is a foreign main proceeding or foreign
22 nonmain proceeding within the meaning of section
23 1502;

1 “(2) the foreign representative applying for rec-
2 ognition is a person or body as defined in section
3 101; and

4 “(3) the petition meets the requirements of sec-
5 tion 1515.

6 “(b) The foreign proceeding shall be recognized—

7 “(1) as a foreign main proceeding if it is taking
8 place in the country where the debtor has the center
9 of its main interests; or

10 “(2) as a foreign nonmain proceeding if the debt-
11 or has an establishment within the meaning of section
12 1502 in the foreign country where the proceeding is
13 pending.

14 “(c) A petition for recognition of a foreign proceeding
15 shall be decided upon at the earliest possible time. Entry
16 of an order recognizing a foreign proceeding constitutes rec-
17 ognition under this chapter.

18 “(d) The provisions of this subchapter do not prevent
19 modification or termination of recognition if it is shown
20 that the grounds for granting it were fully or partially lack-
21 ing or have ceased to exist, but in considering such action
22 the court shall give due weight to possible prejudice to par-
23 ties that have relied upon the order granting recognition.
24 The case under this chapter may be closed in the manner
25 prescribed under section 350.

1 **“§ 1518. Subsequent information**

2 *“From the time of filing the petition for recognition*
3 *of the foreign proceeding, the foreign representative shall file*
4 *with the court promptly a notice of change of status*
5 *concerning—*

6 *“(1) any substantial change in the status of the*
7 *foreign proceeding or the status of the foreign rep-*
8 *resentative’s appointment; and*

9 *“(2) any other foreign proceeding regarding the*
10 *debtor that becomes known to the foreign representa-*
11 *tive.*

12 **“§ 1519. Relief that may be granted upon filing peti-**
13 **tion for recognition**

14 *“(a) From the time of filing a petition for recognition*
15 *until the court rules on the petition, the court may, at the*
16 *request of the foreign representative, where relief is urgently*
17 *needed to protect the assets of the debtor or the interests*
18 *of the creditors, grant relief of a provisional nature,*
19 *including—*

20 *“(1) staying execution against the debtor’s assets;*

21 *“(2) entrusting the administration or realization*
22 *of all or part of the debtor’s assets located in the*
23 *United States to the foreign representative or another*
24 *person authorized by the court, including an exam-*
25 *iner, in order to protect and preserve the value of as-*
26 *sets that, by their nature or because of other cir-*

1 *cumstances, are perishable, susceptible to devaluation*
2 *or otherwise in jeopardy; and*

3 *“(3) any relief referred to in paragraph (3), (4),*
4 *or (7) of section 1521(a).*

5 *“(b) Unless extended under section 1521(a)(6), the re-*
6 *lief granted under this section terminates when the petition*
7 *for recognition is granted.*

8 *“(c) It is a ground for denial of relief under this sec-*
9 *tion that such relief would interfere with the administration*
10 *of a foreign main proceeding.*

11 *“(d) The court may not enjoin a police or regulatory*
12 *act of a governmental unit, including a criminal action or*
13 *proceeding, under this section.*

14 *“(e) The standards, procedures, and limitations appli-*
15 *cable to an injunction shall apply to relief under this sec-*
16 *tion.*

17 *“(f) The exercise of rights not subject to the stay aris-*
18 *ing under section 362(a) pursuant to paragraph (6), (7),*
19 *(17), or (27) of section 362(b) or pursuant to section 362(l)*
20 *shall not be stayed by any order of a court or administra-*
21 *tive agency in any proceeding under this chapter.*

22 **“§ 1520. Effects of recognition of a foreign main pro-**
23 **ceeding**

24 *“(a) Upon recognition of a foreign proceeding that is*
25 *a foreign main proceeding—*

1 “(1) sections 361 and 362 apply with respect to
2 the debtor and that property of the debtor that is
3 within the territorial jurisdiction of the United
4 States;

5 “(2) sections 363, 549, and 552 of this title
6 apply to a transfer of an interest of the debtor in
7 property that is within the territorial jurisdiction of
8 the United States to the same extent that the sections
9 would apply to property of an estate;

10 “(3) unless the court orders otherwise, the foreign
11 representative may operate the debtor’s business and
12 may exercise the rights and powers of a trustee under
13 and to the extent provided by sections 363 and 552;
14 and

15 “(4) section 552 applies to property of the debtor
16 that is within the territorial jurisdiction of the
17 United States.

18 “(b) Subsection (a) does not affect the right to com-
19 mence an individual action or proceeding in a foreign
20 country to the extent necessary to preserve a claim against
21 the debtor.

22 “(c) Subsection (a) does not affect the right of a foreign
23 representative or an entity to file a petition commencing
24 a case under this title or the right of any party to file
25 claims or take other proper actions in such a case.

1 **“§ 1521. Relief that may be granted upon recognition**

2 “(a) Upon recognition of a foreign proceeding, whether
3 main or nonmain, where necessary to effectuate the purpose
4 of this chapter and to protect the assets of the debtor or
5 the interests of the creditors, the court may, at the request
6 of the foreign representative, grant any appropriate relief,
7 including—

8 “(1) staying the commencement or continuation
9 of an individual action or proceeding concerning the
10 debtor’s assets, rights, obligations or liabilities to the
11 extent they have not been stayed under section
12 1520(a);

13 “(2) staying execution against the debtor’s assets
14 to the extent it has not been stayed under section
15 1520(a);

16 “(3) suspending the right to transfer, encumber
17 or otherwise dispose of any assets of the debtor to the
18 extent this right has not been suspended under section
19 1520(a);

20 “(4) providing for the examination of witnesses,
21 the taking of evidence or the delivery of information
22 concerning the debtor’s assets, affairs, rights, obliga-
23 tions or liabilities;

24 “(5) entrusting the administration or realization
25 of all or part of the debtor’s assets within the terri-
26 torial jurisdiction of the United States to the foreign

1 *representative or another person, including an exam-*
2 *iner, authorized by the court;*

3 *“(6) extending relief granted under section*
4 *1519(a); and*

5 *“(7) granting any additional relief that may be*
6 *available to a trustee, except for relief available under*
7 *sections 522, 544, 545, 547, 548, 550, and 724(a).*

8 *“(b) Upon recognition of a foreign proceeding, whether*
9 *main or nonmain, the court may, at the request of the for-*
10 *ign representative, entrust the distribution of all or part*
11 *of the debtor’s assets located in the United States to the for-*
12 *ign representative or another person, including an exam-*
13 *iner, authorized by the court, provided that the court is sat-*
14 *isfied that the interests of creditors in the United States*
15 *are sufficiently protected.*

16 *“(c) In granting relief under this section to a rep-*
17 *resentative of a foreign nonmain proceeding, the court must*
18 *be satisfied that the relief relates to assets that, under the*
19 *law of the United States, should be administered in the for-*
20 *ign nonmain proceeding or concerns information required*
21 *in that proceeding.*

22 *“(d) The court may not enjoin a police or regulatory*
23 *act of a governmental unit, including a criminal action or*
24 *proceeding, under this section.*

1 “(e) The standards, procedures, and limitations appli-
 2 cable to an injunction shall apply to relief under para-
 3 graphs (1), (2), (3), and (6) of subsection (a).

4 “(f) The exercise of rights not subject to the stay aris-
 5 ing under section 362(a) pursuant to paragraph (6), (7),
 6 (17), or (27) of section 362(b) or pursuant to section 362(l)
 7 shall not be stayed by any order of a court or administra-
 8 tive agency in any proceeding under this chapter.

9 **“§ 1522. Protection of creditors and other interested**
 10 **persons**

11 “(a) The court may grant relief under section 1519
 12 or 1521, or may modify or terminate relief under subsection
 13 (c), only if the interests of the creditors and other interested
 14 entities, including the debtor, are sufficiently protected.

15 “(b) The court may subject relief granted under section
 16 1519 or 1521, or the operation of the debtor’s business under
 17 section 1520(a)(3) of this title, to conditions it considers
 18 appropriate, including the giving of security or the filing
 19 of a bond.

20 “(c) The court may, at the request of the foreign rep-
 21 resentative or an entity affected by relief granted under sec-
 22 tion 1519 or 1521, or at its own motion, modify or termi-
 23 nate such relief.

24 “(d) Section 1104(d) shall apply to the appointment
 25 of an examiner under this chapter. Any examiner shall

1 *comply with the qualification requirements imposed on a*
2 *trustee by section 322.*

3 **“§ 1523. Actions to avoid acts detrimental to creditors**

4 “(a) *Upon recognition of a foreign proceeding, the for-*
5 *ign representative has standing in a case concerning the*
6 *debtor pending under another chapter of this title to initiate*
7 *actions under sections 522, 544, 545, 547, 548, 550, 553,*
8 *and 724(a).*

9 “(b) *When the foreign proceeding is a foreign nonmain*
10 *proceeding, the court must be satisfied that an action under*
11 *subsection (a) relates to assets that, under United States*
12 *law, should be administered in the foreign nonmain pro-*
13 *ceeding.*

14 **“§ 1524. Intervention by a foreign representative**

15 “*Upon recognition of a foreign proceeding, the foreign*
16 *representative may intervene in any proceedings in a State*
17 *or Federal court in the United States in which the debtor*
18 *is a party.*

1 “SUBCHAPTER IV—COOPERATION WITH FOR-
2 EIGN COURTS AND FOREIGN REPRESENTA-
3 TIVES

4 “§1525. *Cooperation and direct communication be-*
5 *tween the court and foreign courts or for-*
6 *eign representatives*

7 “(a) *Consistent with section 1501, the court shall co-*
8 *operate to the maximum extent possible with foreign courts*
9 *or foreign representatives, either directly or through the*
10 *trustee.*

11 “(b) *The court is entitled to communicate directly*
12 *with, or to request information or assistance directly from,*
13 *foreign courts or foreign representatives, subject to the rights*
14 *of parties in interest to notice and participation.*

15 “§1526. *Cooperation and direct communication be-*
16 *tween the trustee and foreign courts or*
17 *foreign representatives*

18 “(a) *Consistent with section 1501, the trustee or other*
19 *person, including an examiner, authorized by the court,*
20 *shall, subject to the supervision of the court, cooperate to*
21 *the maximum extent possible with foreign courts or foreign*
22 *representatives.*

23 “(b) *The trustee or other person, including an exam-*
24 *iner, authorized by the court is entitled, subject to the super-*

1 *vision of the court, to communicate directly with foreign*
2 *courts or foreign representatives.*

3 **“§ 1527. Forms of cooperation**

4 *“Cooperation referred to in sections 1525 and 1526*
5 *may be implemented by any appropriate means,*
6 *including—*

7 *“(1) appointment of a person or body, including*
8 *an examiner, to act at the direction of the court;*

9 *“(2) communication of information by any*
10 *means considered appropriate by the court;*

11 *“(3) coordination of the administration and su-*
12 *per vision of the debtor’s assets and affairs;*

13 *“(4) approval or implementation of agreements*
14 *concerning the coordination of proceedings; and*

15 *“(5) coordination of concurrent proceedings re-*
16 *garding the same debtor.*

17 **“SUBCHAPTER V—CONCURRENT PROCEEDINGS**

18 **“§ 1528. Commencement of a case under this title after**
19 ***recognition of a foreign main proceeding***

20 *“After recognition of a foreign main proceeding, a case*
21 *under another chapter of this title may be commenced only*
22 *if the debtor has assets in the United States. The effects of*
23 *such case shall be restricted to the assets of the debtor that*
24 *are within the territorial jurisdiction of the United States*
25 *and, to the extent necessary to implement cooperation and*

1 coordination under sections 1525, 1526, and 1527, to other
2 assets of the debtor that are within the jurisdiction of the
3 court under sections 541(a) of this title, and 1334(e) of title
4 28, to the extent that such other assets are not subject to
5 the jurisdiction and control of a foreign proceeding that has
6 been recognized under this chapter.

7 **“§ 1529. Coordination of a case under this title and a**
8 **foreign proceeding**

9 “If a foreign proceeding and a case under another
10 chapter of this title are taking place concurrently regarding
11 the same debtor, the court shall seek cooperation and coordi-
12 nation under sections 1525, 1526, and 1527, and the fol-
13 lowing shall apply:

14 “(1) If the case in the United States is taking
15 place at the time the petition for recognition of the
16 foreign proceeding is filed—

17 “(A) any relief granted under section 1519
18 or 1521 must be consistent with the relief grant-
19 ed in the case in the United States; and

20 “(B) even if the foreign proceeding is recog-
21 nized as a foreign main proceeding, section 1520
22 does not apply.

23 “(2) If a case in the United States under this
24 title commences after recognition, or after the filing of

1 *the petition for recognition, of the foreign*
2 *proceeding—*

3 “(A) *any relief in effect under section 1519*
4 *or 1521 shall be reviewed by the court and shall*
5 *be modified or terminated if inconsistent with*
6 *the case in the United States; and*

7 “(B) *if the foreign proceeding is a foreign*
8 *main proceeding, the stay and suspension re-*
9 *ferred to in section 1520(a) shall be modified or*
10 *terminated if inconsistent with the relief granted*
11 *in the case in the United States.*

12 “(3) *In granting, extending, or modifying relief*
13 *granted to a representative of a foreign nonmain pro-*
14 *ceeding, the court must be satisfied that the relief re-*
15 *lates to assets that, under the laws of the United*
16 *States, should be administered in the foreign nonmain*
17 *proceeding or concerns information required in that*
18 *proceeding.*

19 “(4) *In achieving cooperation and coordination*
20 *under sections 1528 and 1529, the court may grant*
21 *any of the relief authorized under section 305.*

22 **“§ 1530. Coordination of more than 1 foreign pro-**
23 **ceeding**

24 *“In matters referred to in section 1501, with respect*
25 *to more than 1 foreign proceeding regarding the debtor, the*

1 *court shall seek cooperation and coordination under sections*
2 *1525, 1526, and 1527, and the following shall apply:*

3 “(1) *Any relief granted under section 1519 or*
4 *1521 to a representative of a foreign nonmain pro-*
5 *ceeding after recognition of a foreign main proceeding*
6 *must be consistent with the foreign main proceeding.*

7 “(2) *If a foreign main proceeding is recognized*
8 *after recognition, or after the filing of a petition for*
9 *recognition, of a foreign nonmain proceeding, any re-*
10 *lief in effect under section 1519 or 1521 shall be re-*
11 *viewed by the court and shall be modified or termi-*
12 *nated if inconsistent with the foreign main pro-*
13 *ceeding.*

14 “(3) *If, after recognition of a foreign nonmain*
15 *proceeding, another foreign nonmain proceeding is*
16 *recognized, the court shall grant, modify, or terminate*
17 *relief for the purpose of facilitating coordination of*
18 *the proceedings.*

19 **“§ 1531. Presumption of insolvency based on recogni-**
20 **tion of a foreign main proceeding**

21 “*In the absence of evidence to the contrary, recognition*
22 *of a foreign main proceeding is, for the purpose of com-*
23 *mencing a proceeding under section 303, proof that the*
24 *debtor is generally not paying its debts as such debts become*
25 *due.*

1 **“§ 1532. Rule of payment in concurrent proceedings**

2 *“Without prejudice to secured claims or rights in rem,*
 3 *a creditor who has received payment with respect to its*
 4 *claim in a foreign proceeding pursuant to a law relating*
 5 *to insolvency may not receive a payment for the same claim*
 6 *in a case under any other chapter of this title regarding*
 7 *the debtor, so long as the payment to other creditors of the*
 8 *same class is proportionately less than the payment the*
 9 *creditor has already received.”.*

10 **(b) CLERICAL AMENDMENT.**—*The table of chapters for*
 11 *title 11, United States Code, is amended by inserting after*
 12 *the item relating to chapter 13 the following:*

“15. Ancillary and Other Cross-Border Cases 1501”.

13 **SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28,**
 14 **UNITED STATES CODE.**

15 **(a) APPLICABILITY OF CHAPTERS.**—*Section 103 of*
 16 *title 11, United States Code, is amended—*

17 **(1)** *in subsection (a), by inserting before the pe-*
 18 *riod the following: “, and this chapter, sections 307,*
 19 *362(l), 555 through 557, and 559 through 562 apply*
 20 *in a case under chapter 15”;* and

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

22 **(j)** *Chapter 15 applies only in a case under such*
 23 *chapter, except that—*

24 **(1)** *sections 1505, 1513, and 1514 apply in all*
 25 *cases under this title; and*

1 “(2) section 1509 applies whether or not a case
2 under this title is pending.”.

3 (b) *DEFINITIONS.*—Section 101 of title 11, United
4 States Code, is amended by striking paragraphs (23) and
5 (24) and inserting the following:

6 “(23) ‘foreign proceeding’ means a collective ju-
7 dicial or administrative proceeding in a foreign coun-
8 try, including an interim proceeding, under a law re-
9 lating to insolvency or adjustment of debt in which
10 proceeding the assets and affairs of the debtor are sub-
11 ject to control or supervision by a foreign court, for
12 the purpose of reorganization or liquidation;

13 “(24) ‘foreign representative’ means a person or
14 body, including a person or body appointed on an in-
15 terim basis, authorized in a foreign proceeding to ad-
16 minister the reorganization or the liquidation of the
17 debtor’s assets or affairs or to act as a representative
18 of the foreign proceeding;”.

19 (c) *AMENDMENTS TO TITLE 28, UNITED STATES*
20 *CODE.*—

21 (1) *PROCEDURES.*—Section 157(b)(2) of title 28,
22 United States Code, is amended—

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

1 (B) in subparagraph (O), by striking the
2 period at the end and inserting “; and”; and

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

4 “(P) recognition of foreign proceedings and other
5 matters under chapter 15 of title 11.”.

6 (2) *BANKRUPTCY CASES AND PROCEEDINGS.*—
7 Section 1334(c) of title 28, United States Code, is
8 amended by striking “Nothing in” and inserting “Ex-
9 cept with respect to a case under chapter 15 of title
10 11, nothing in”.

11 (3) *DUTIES OF TRUSTEES.*—Section 586(a)(3) of
12 title 28, United States Code, is amended by striking
13 “or 13” and inserting “13, or 15,”.

14 (4) *VENUE OF CASES ANCILLARY TO FOREIGN*
15 *PROCEEDINGS.*—Section 1410 of title 28, United
16 States Code, is amended to read as follows:

17 “**§1410. Venue of cases ancillary to foreign pro-**
18 **ceedings**

19 “A case under chapter 15 of title 11 may be com-
20 menced in the district court for the district—

21 “(1) in which the debtor has its principal place
22 of business or principal assets in the United States;

23 “(2) if the debtor does not have a place of busi-
24 ness or assets in the United States, in which there is

1 *pending against the debtor an action or proceeding in*
2 *a Federal or State court; or*

3 *“(3) in a case other than those specified in para-*
4 *graph (1) or (2), in which venue will be consistent*
5 *with the interests of justice and the convenience of the*
6 *parties, having regard to the relief sought by the for-*
7 *ign representative.”.*

8 *(d) OTHER SECTIONS OF TITLE 11.—*

9 *(1) Section 109(b)(3) of title 11, United States*
10 *Code, is amended to read as follows:*

11 *“(3)(A) a foreign insurance company, engaged*
12 *in such business in the United States; or*

13 *“(B) a foreign bank, savings bank, cooperative*
14 *bank, savings and loan association, building and loan*
15 *association, or credit union, that has a branch or*
16 *agency (as defined in section 1(b) of the International*
17 *Banking Act of 1978 (12 U.S.C. 3101) in the United*
18 *States.”.*

19 *(2) Section 303(k) of title 11, United States*
20 *Code, is repealed.*

21 *(3)(A) Section 304 of title 11, United States*
22 *Code, is repealed.*

23 *(B) The table of sections at the beginning of*
24 *chapter 3 of title 11, United States Code, is amended*
25 *by striking the item relating to section 304.*

1 (C) Section 306 of title 11, United States Code,
2 is amended by striking “, 304,” each place it appears.

3 (4) Section 305(a)(2) of title 11, United States
4 Code, is amended to read as follows:

5 “(2)(A) a petition under section 1515 of this title
6 for recognition of a foreign proceeding has been grant-
7 ed; and

8 “(B) the purposes of chapter 15 of this title
9 would be best served by such dismissal or suspen-
10 sion.”.

11 (5) Section 508 of title 11, United States Code,
12 is amended—

13 (A) by striking subsection (a); and

14 (B) in subsection (b), by striking “(b)”.

15 **TITLE IX—FINANCIAL CONTRACT**
16 **PROVISIONS**

17 **SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CON-**
18 **SERVATORS OR RECEIVERS OF INSURED DE-**
19 **POSITORY INSTITUTIONS.**

20 (a) *DEFINITION OF QUALIFIED FINANCIAL CON-*
21 *TRACT.*—Section 11(e)(8)(D)(i) of the Federal Deposit In-
22 surance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by in-
23 serting “, resolution, or order” after “any similar agree-
24 ment that the Corporation determines by regulation”.

1 (b) *DEFINITION OF SECURITIES CONTRACT.*—Section
2 *11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12*
3 *U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:*

4 “(i) *SECURITIES CONTRACT.*—The
5 *term ‘securities contract’—*

6 “(I) *means a contract for the pur-*
7 *chase, sale, or loan of a security, a cer-*
8 *tificate of deposit, a mortgage loan, or*
9 *any interest in a mortgage loan, a*
10 *group or index of securities, certificates*
11 *of deposit, or mortgage loans or inter-*
12 *ests therein (including any interest*
13 *therein or based on the value thereof)*
14 *or any option on any of the foregoing,*
15 *including any option to purchase or*
16 *sell any such security, certificate of de-*
17 *posit, mortgage loan, interest, group or*
18 *index, or option, and including any re-*
19 *purchase or reverse repurchase trans-*
20 *action on any such security, certificate*
21 *of deposit, mortgage loan, interest,*
22 *group or index, or option;*

23 “(II) *does not include any pur-*
24 *chase, sale, or repurchase obligation*
25 *under a participation in a commercial*

1 mortgage loan unless the Corporation
2 determines by regulation, resolution, or
3 order to include any such agreement
4 within the meaning of such term;

5 “(III) means any option entered
6 into on a national securities exchange
7 relating to foreign currencies;

8 “(IV) means the guarantee by or
9 to any securities clearing agency of
10 any settlement of cash, securities, cer-
11 tificates of deposit, mortgage loans or
12 interests therein, group or index of se-
13 curities, certificates of deposit, or mort-
14 gage loans or interests therein (includ-
15 ing any interest therein or based on
16 the value thereof) or option on any of
17 the foregoing, including any option to
18 purchase or sell any such security, cer-
19 tificate of deposit, mortgage loan, in-
20 terest, group or index, or option;

21 “(V) means any margin loan;

22 “(VI) means any other agreement
23 or transaction that is similar to any
24 agreement or transaction referred to in
25 this clause;

1 “(VII) means any combination of
2 the agreements or transactions referred
3 to in this clause;

4 “(VIII) means any option to enter
5 into any agreement or transaction re-
6 ferred to in this clause;

7 “(IX) means a master agreement
8 that provides for an agreement or
9 transaction referred to in subclause (I),
10 (III), (IV), (V), (VI), (VII), or (VIII),
11 together with all supplements to any
12 such master agreement, without regard
13 to whether the master agreement pro-
14 vides for an agreement or transaction
15 that is not a securities contract under
16 this clause, except that the master
17 agreement shall be considered to be a
18 securities contract under this clause
19 only with respect to each agreement or
20 transaction under the master agree-
21 ment that is referred to in subclause
22 (I), (III), (IV), (V), (VI), (VII), or
23 (VIII); and

24 “(X) means any security agree-
25 ment or arrangement or other credit

1 *enhancement related to any agreement*
2 *or transaction referred to in this clause*
3 *including any guarantee or reimburse-*
4 *ment obligation in connection with*
5 *any agreement or transaction referred*
6 *to in this clause.”.*

7 *(c) DEFINITION OF COMMODITY CONTRACT.—Section*
8 *11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12*
9 *U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:*

10 *“(iii) COMMODITY CONTRACT.—The*
11 *term ‘commodity contract’ means—*

12 *“(I) with respect to a futures com-*
13 *mission merchant, a contract for the*
14 *purchase or sale of a commodity for fu-*
15 *ture delivery on, or subject to the rules*
16 *of, a contract market or board of trade;*

17 *“(II) with respect to a foreign fu-*
18 *tures commission merchant, a foreign*
19 *future;*

20 *“(III) with respect to a leverage*
21 *transaction merchant, a leverage trans-*
22 *action;*

23 *“(IV) with respect to a clearing*
24 *organization, a contract for the pur-*
25 *chase or sale of a commodity for future*

1 *delivery on, or subject to the rules of,*
2 *a contract market or board of trade*
3 *that is cleared by such clearing organi-*
4 *zation, or commodity option traded on,*
5 *or subject to the rules of, a contract*
6 *market or board of trade that is*
7 *cleared by such clearing organization;*

8 *“(V) with respect to a commodity*
9 *options dealer, a commodity option;*

10 *“(VI) any other agreement or*
11 *transaction that is similar to any*
12 *agreement or transaction referred to in*
13 *this clause;*

14 *“(VII) any combination of the*
15 *agreements or transactions referred to*
16 *in this clause;*

17 *“(VIII) any option to enter into*
18 *any agreement or transaction referred*
19 *to in this clause;*

20 *“(IX) a master agreement that*
21 *provides for an agreement or trans-*
22 *action referred to in subclause (I), (II),*
23 *(III), (IV), (V), (VI), (VII), or (VIII),*
24 *together with all supplements to any*
25 *such master agreement, without regard*

1 to whether the master agreement pro-
2 vides for an agreement or transaction
3 that is not a commodity contract
4 under this clause, except that the mas-
5 ter agreement shall be considered to be
6 a commodity contract under this clause
7 only with respect to each agreement or
8 transaction under the master agree-
9 ment that is referred to in subclause
10 (I), (II), (III), (IV), (V), (VI), (VII), or
11 (VIII); or

12 “(X) any security agreement or
13 arrangement or other credit enhance-
14 ment related to any agreement or
15 transaction referred to in this clause
16 including any guarantee or reimburse-
17 ment obligation in connection with
18 any agreement or transaction referred
19 to in this clause.”.

20 (d) *DEFINITION OF FORWARD CONTRACT.*—Section
21 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
22 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

23 “(iv) *FORWARD CONTRACT.*—The term
24 ‘forward contract’ means—

1 “(I) a contract (other than a com-
2 modity contract) for the purchase, sale,
3 or transfer of a commodity or any
4 similar good, article, service, right, or
5 interest which is presently or in the fu-
6 ture becomes the subject of dealing in
7 the forward contract trade, or product
8 or byproduct thereof, with a maturity
9 date more than 2 days after the date
10 the contract is entered into, including,
11 a repurchase transaction, reverse re-
12 purchase transaction, consignment,
13 lease, swap, hedge transaction, deposit,
14 loan, option, allocated transaction,
15 unallocated transaction, or any other
16 similar agreement;

17 “(II) any combination of agree-
18 ments or transactions referred to in
19 subclauses (I) and (III);

20 “(III) any option to enter into
21 any agreement or transaction referred
22 to in subclause (I) or (II);

23 “(IV) a master agreement that
24 provides for an agreement or trans-
25 action referred to in subclauses (I),

1 (ii), or (iii), together with all supple-
2 ments to any such master agreement,
3 without regard to whether the master
4 agreement provides for an agreement
5 or transaction that is not a forward
6 contract under this clause, except that
7 the master agreement shall be consid-
8 ered to be a forward contract under
9 this clause only with respect to each
10 agreement or transaction under the
11 master agreement that is referred to in
12 subclause (i), (ii), or (iii); or

13 “(v) any security agreement or
14 arrangement or other credit enhance-
15 ment related to any agreement or
16 transaction referred to in subclause (i),
17 (ii), (iii), or (iv) including any guar-
18 antee or reimbursement obligation in
19 connection with any agreement or
20 transaction referred to in any such
21 subclause.”.

22 (e) *DEFINITION OF REPURCHASE AGREEMENT.*—Sec-
23 tion 11(e)(8)(D)(v) of the Federal Deposit Insurance Act
24 (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

1 “(v) *REPURCHASE AGREEMENT.*—*The*
2 *term ‘repurchase agreement’ (which defini-*
3 *tion also applies to a reverse repurchase*
4 *agreement)*—

5 “(I) *means an agreement, includ-*
6 *ing related terms, which provides for*
7 *the transfer of one or more certificates*
8 *of deposit, mortgage-related securities*
9 *(as such term is defined in the Securi-*
10 *ties Exchange Act of 1934), mortgage*
11 *loans, interests in mortgage-related se-*
12 *curities or mortgage loans, eligible*
13 *bankers’ acceptances, qualified foreign*
14 *government securities or securities that*
15 *are direct obligations of, or that are*
16 *fully guaranteed by, the United States*
17 *or any agency of the United States*
18 *against the transfer of funds by the*
19 *transferee of such certificates of de-*
20 *posit, eligible bankers’ acceptances, se-*
21 *curities, mortgage loans, or interests*
22 *with a simultaneous agreement by such*
23 *transferee to transfer to the transferor*
24 *thereof certificates of deposit, eligible*
25 *bankers’ acceptances, securities, mort-*

1 *gage loans, or interests as described*
2 *above, at a date certain not later than*
3 *1 year after such transfers or on de-*
4 *mand, against the transfer of funds, or*
5 *any other similar agreement;*

6 *“(II) does not include any repur-*
7 *chase obligation under a participation*
8 *in a commercial mortgage loan unless*
9 *the Corporation determines by regula-*
10 *tion, resolution, or order to include*
11 *any such participation within the*
12 *meaning of such term;*

13 *“(III) means any combination of*
14 *agreements or transactions referred to*
15 *in subclauses (I) and (IV);*

16 *“(IV) means any option to enter*
17 *into any agreement or transaction re-*
18 *ferred to in subclause (I) or (III);*

19 *“(V) means a master agreement*
20 *that provides for an agreement or*
21 *transaction referred to in subclause (I),*
22 *(III), or (IV), together with all supple-*
23 *ments to any such master agreement,*
24 *without regard to whether the master*
25 *agreement provides for an agreement*

1 *or transaction that is not a repurchase*
2 *agreement under this clause, except*
3 *that the master agreement shall be con-*
4 *sidered to be a repurchase agreement*
5 *under this subclause only with respect*
6 *to each agreement or transaction under*
7 *the master agreement that is referred to*
8 *in subclause (I), (III), or (IV); and*

9 *“(VI) means any security agree-*
10 *ment or arrangement or other credit*
11 *enhancement related to any agreement*
12 *or transaction referred to in subclause*
13 *(I), (III), (IV), or (V) including any*
14 *guarantee or reimbursement obligation*
15 *in connection with any agreement or*
16 *transaction referred to in any such*
17 *subclause.*

18 *For purposes of this clause, the term ‘quali-*
19 *fied foreign government security’ means a*
20 *security that is a direct obligation of, or*
21 *that is fully guaranteed by, the central gov-*
22 *ernment of a member of the Organization*
23 *for Economic Cooperation and Development*
24 *(as determined by regulation or order*

1 *adopted by the appropriate Federal banking*
2 *authority).”.*

3 (f) *DEFINITION OF SWAP AGREEMENT.*—Section
4 *11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12*
5 *U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:*

6 “(vi) *SWAP AGREEMENT.*—The term
7 ‘*swap agreement*’ means—

8 “(I) *any agreement, including the*
9 *terms and conditions incorporated by*
10 *reference in any such agreement, which*
11 *is an interest rate swap, option, future,*
12 *or forward agreement, including a rate*
13 *floor, rate cap, rate collar, cross-cur-*
14 *rency rate swap, and basis swap; a*
15 *spot, same day-tomorrow, tomorrow-*
16 *next, forward, or other foreign ex-*
17 *change or precious metals agreement; a*
18 *currency swap, option, future, or for-*
19 *ward agreement; an equity index or eq-*
20 *uity swap, option, future, or forward*
21 *agreement; a debt index or debt swap,*
22 *option, future, or forward agreement; a*
23 *total return, credit spread or credit*
24 *swap, option, future, or forward agree-*
25 *ment; a commodity index or com-*

1 *modity swap, option, future, or for-*
2 *ward agreement; or a weather swap,*
3 *weather derivative, or weather option;*

4 *“(II) any agreement or trans-*
5 *action that is similar to any other*
6 *agreement or transaction referred to in*
7 *this clause and that is of a type that*
8 *has been, is presently, or in the future*
9 *becomes, the subject of recurrent deal-*
10 *ings in the swap markets (including*
11 *terms and conditions incorporated by*
12 *reference in such agreement) and that*
13 *is a forward, swap, future, or option*
14 *on one or more rates, currencies, com-*
15 *modities, equity securities or other eq-*
16 *uity instruments, debt securities or*
17 *other debt instruments, quantitative*
18 *measures associated with an occur-*
19 *rence, extent of an occurrence, or con-*
20 *tingency associated with a financial,*
21 *commercial, or economic consequence,*
22 *or economic or financial indices or*
23 *measures of economic or financial risk*
24 *or value;*

1 “(III) any combination of agree-
2 ments or transactions referred to in
3 this clause;

4 “(IV) any option to enter into
5 any agreement or transaction referred
6 to in this clause;

7 “(V) a master agreement that pro-
8 vides for an agreement or transaction
9 referred to in subclause (I), (II), (III),
10 or (IV), together with all supplements
11 to any such master agreement, without
12 regard to whether the master agreement
13 contains an agreement or transaction
14 that is not a swap agreement under
15 this clause, except that the master
16 agreement shall be considered to be a
17 swap agreement under this clause only
18 with respect to each agreement or
19 transaction under the master agree-
20 ment that is referred to in subclause
21 (I), (II), (III), or (IV); and

22 “(VI) any security agreement or
23 arrangement or other credit enhance-
24 ment related to any agreements or
25 transactions referred to in subclause

1 (I), (II), (III), (IV), or (V) including
2 any guarantee or reimbursement obli-
3 gation in connection with any agree-
4 ment or transaction referred to in any
5 such subclause.

6 Such term is applicable for purposes of this
7 title only and shall not be construed or ap-
8 plied so as to challenge or affect the charac-
9 terization, definition, or treatment of any
10 swap agreement under any other statute,
11 regulation, or rule, including the Securities
12 Act of 1933, the Securities Exchange Act of
13 1934, the Public Utility Holding Company
14 Act of 1935, the Trust Indenture Act of
15 1939, the Investment Company Act of 1940,
16 the Investment Advisers Act of 1940, the Se-
17 curities Investor Protection Act of 1970, the
18 Commodity Exchange Act, the Gramm-
19 Leach-Bliley Act, and the Legal Certainty
20 for Bank Products Act of 2000.”.

21 (g) DEFINITION OF TRANSFER.—Section
22 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12
23 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

24 “(viii) TRANSFER.—The term ‘trans-
25 fer’ means every mode, direct or indirect,

1 *absolute or conditional, voluntary or invol-*
2 *untary, of disposing of or parting with*
3 *property or with an interest in property,*
4 *including retention of title as a security in-*
5 *terest and foreclosure of the depository insti-*
6 *tution's equity of redemption."*

7 (h) *TREATMENT OF QUALIFIED FINANCIAL CON-*
8 *TRACTS.—Section 11(e)(8) of the Federal Deposit Insurance*
9 *Act (12 U.S.C. 1821(e)(8)) is amended—*

10 (1) *in subparagraph (A)—*

11 (A) *by striking "paragraph (10)" and in-*
12 *serting "paragraphs (9) and (10)";*

13 (B) *in clause (i), by striking "to cause the*
14 *termination or liquidation" and inserting "such*
15 *person has to cause the termination, liquidation,*
16 *or acceleration"; and*

17 (C) *by striking clause (ii) and inserting the*
18 *following:*

19 *"(ii) any right under any security*
20 *agreement or arrangement or other credit*
21 *enhancement related to one or more quali-*
22 *fied financial contracts described in clause*
23 *(i);"; and*

24 (2) *in subparagraph (E), by striking clause (ii)*
25 *and inserting the following:*

1 “(i) any right under any security
2 agreement or arrangement or other credit
3 enhancement related to one or more quali-
4 fied financial contracts described in clause
5 (i);”.

6 (i) AVOIDANCE OF TRANSFERS.—Section
7 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12
8 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section
9 5242 of the Revised Statutes of the United States (12 U.S.C.
10 91) or any other Federal or State law relating to the avoid-
11 ance of preferential or fraudulent transfers,” before “the
12 Corporation”.

13 **SEC. 902. AUTHORITY OF THE CORPORATION WITH RE-**
14 **SPECT TO FAILED AND FAILING INSTITU-**
15 **TIONS.**

16 (a) IN GENERAL.—Section 11(e)(8) of the Federal De-
17 posit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

18 (1) in subparagraph (E), by striking “other than
19 paragraph (12) of this subsection, subsection (d)(9)”
20 and inserting “other than subsections (d)(9) and
21 (e)(10)”; and

22 (2) by adding at the end the following new sub-
23 paragraphs:

24 “(F) CLARIFICATION.—No provision of law
25 shall be construed as limiting the right or power

1 *of the Corporation, or authorizing any court or*
2 *agency to limit or delay, in any manner, the*
3 *right or power of the Corporation to transfer any*
4 *qualified financial contract in accordance with*
5 *paragraphs (9) and (10) of this subsection or to*
6 *disaffirm or repudiate any such contract in ac-*
7 *cordance with subsection (e)(1) of this section.*

8 “(G) *WALKAWAY CLAUSES NOT EFFEC-*
9 *TIVE.—*

10 “(i) *IN GENERAL.—Notwithstanding*
11 *the provisions of subparagraphs (A) and*
12 *(E), and sections 403 and 404 of the Fed-*
13 *eral Deposit Insurance Corporation Im-*
14 *provement Act of 1991, no walkaway clause*
15 *shall be enforceable in a qualified financial*
16 *contract of an insured depository institu-*
17 *tion in default.*

18 “(ii) *WALKAWAY CLAUSE DEFINED.—*
19 *For purposes of this subparagraph, the term*
20 *‘walkaway clause’ means a provision in a*
21 *qualified financial contract that, after cal-*
22 *culatation of a value of a party’s position or*
23 *an amount due to or from 1 of the parties*
24 *in accordance with its terms upon termi-*
25 *nation, liquidation, or acceleration of the*

1 *qualified financial contract, either does not*
2 *create a payment obligation of a party or*
3 *extinguishes a payment obligation of a*
4 *party in whole or in part solely because of*
5 *such party's status as a nondefaulting*
6 *party.”.*

7 **(b) TECHNICAL AND CONFORMING AMENDMENT.**—*Sec-*
8 *tion 11(e)(12)(A) of the Federal Deposit Insurance Act (12*
9 *U.S.C. 1821(e)(12)(A)) is amended by inserting “or the ex-*
10 *ercise of rights or powers by” after “the appointment of”.*

11 **SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF**
12 **QUALIFIED FINANCIAL CONTRACTS.**

13 **(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS**
14 **TO FINANCIAL INSTITUTIONS.**—*Section 11(e)(9) of the Fed-*
15 *eral Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is*
16 *amended to read as follows:*

17 **“(9) TRANSFER OF QUALIFIED FINANCIAL CON-**
18 **TRACTS.—**

19 **“(A) IN GENERAL.**—*In making any transfer*
20 *of assets or liabilities of a depository institution*
21 *in default which includes any qualified financial*
22 *contract, the conservator or receiver for such de-*
23 *pository institution shall either—*

24 **“(i) transfer to one financial institu-**
25 **tion, other than a financial institution for**

1 *which a conservator, receiver, trustee in*
2 *bankruptcy, or other legal custodian has*
3 *been appointed or which is otherwise the*
4 *subject of a bankruptcy or insolvency*
5 *proceeding—*

6 *“(I) all qualified financial con-*
7 *tracts between any person or any affil-*
8 *iate of such person and the depository*
9 *institution in default;*

10 *“(II) all claims of such person or*
11 *any affiliate of such person against*
12 *such depository institution under any*
13 *such contract (other than any claim*
14 *which, under the terms of any such*
15 *contract, is subordinated to the claims*
16 *of general unsecured creditors of such*
17 *institution);*

18 *“(III) all claims of such deposi-*
19 *tory institution against such person or*
20 *any affiliate of such person under any*
21 *such contract; and*

22 *“(IV) all property securing or any*
23 *other credit enhancement for any con-*
24 *tract described in subclause (I) or any*

1 *claim described in subclause (II) or*
2 *(III) under any such contract; or*

3 “(i) *transfer none of the qualified fi-*
4 *nancial contracts, claims, property or other*
5 *credit enhancement referred to in clause (i)*
6 *(with respect to such person and any affil-*
7 *iate of such person).*

8 “(B) *TRANSFER TO FOREIGN BANK, FOR-*
9 *EIGN FINANCIAL INSTITUTION, OR BRANCH OR*
10 *AGENCY OF A FOREIGN BANK OR FINANCIAL IN-*
11 *STITUTION.—In transferring any qualified fi-*
12 *nancial contracts and related claims and prop-*
13 *erty under subparagraph (A)(i), the conservator*
14 *or receiver for the depository institution shall*
15 *not make such transfer to a foreign bank, finan-*
16 *cial institution organized under the laws of a*
17 *foreign country, or a branch or agency of a for-*
18 *ign bank or financial institution unless, under*
19 *the law applicable to such bank, financial insti-*
20 *tution, branch or agency, to the qualified finan-*
21 *cial contracts, and to any netting contract, any*
22 *security agreement or arrangement or other cred-*
23 *it enhancement related to one or more qualified*
24 *financial contracts, the contractual rights of the*
25 *parties to such qualified financial contracts, net-*

1 *ting contracts, security agreements or arrange-*
2 *ments, or other credit enhancements are enforce-*
3 *able substantially to the same extent as per-*
4 *mitted under this section.*

5 “(C) *TRANSFER OF CONTRACTS SUBJECT TO*
6 *THE RULES OF A CLEARING ORGANIZATION.—In*
7 *the event that a conservator or receiver transfers*
8 *any qualified financial contract and related*
9 *claims, property, and credit enhancements pur-*
10 *suant to subparagraph (A)(i) and such contract*
11 *is cleared by or subject to the rules of a clearing*
12 *organization, the clearing organization shall not*
13 *be required to accept the transferee as a member*
14 *by virtue of the transfer.*

15 “(D) *DEFINITIONS.—For purposes of this*
16 *paragraph, the term ‘financial institution’*
17 *means a broker or dealer, a depository institu-*
18 *tion, a futures commission merchant, or any*
19 *other institution, as determined by the Corpora-*
20 *tion by regulation to be a financial institution,*
21 *and the term ‘clearing organization’ has the*
22 *same meaning as in section 402 of the Federal*
23 *Deposit Insurance Corporation Improvement Act*
24 *of 1991.”.*

1 (b) *NOTICE TO QUALIFIED FINANCIAL CONTRACT*
 2 *COUNTERPARTIES.*—Section 11(e)(10)(A) of the Federal
 3 *Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A))* is
 4 *amended in the material immediately following clause (i)*
 5 *by striking “the conservator” and all that follows through*
 6 *the period and inserting the following: “the conservator or*
 7 *receiver shall notify any person who is a party to any such*
 8 *contract of such transfer by 5:00 p.m. (eastern time) on the*
 9 *business day following the date of the appointment of the*
 10 *receiver in the case of a receivership, or the business day*
 11 *following such transfer in the case of a conservatorship.”.*

12 (c) *RIGHTS AGAINST RECEIVER AND TREATMENT OF*
 13 *BRIDGE BANKS.*—Section 11(e)(10) of the Federal Deposit
 14 *Insurance Act (12 U.S.C. 1821(e)(10))* is amended—

15 (1) *by redesignating subparagraph (B) as sub-*
 16 *paragraph (D); and*

17 (2) *by inserting after subparagraph (A) the fol-*
 18 *lowing new subparagraphs:*

19 “(B) *CERTAIN RIGHTS NOT ENFORCE-*
 20 *ABLE.*—

21 “(i) *RECEIVERSHIP.*—A person who is
 22 a party to a qualified financial contract
 23 with an insured depository institution may
 24 not exercise any right that such person has
 25 to terminate, liquidate, or net such contract

1 *under paragraph (8)(A) of this subsection*
2 *or section 403 or 404 of the Federal Deposit*
3 *Insurance Corporation Improvement Act of*
4 *1991, solely by reason of or incidental to the*
5 *appointment of a receiver for the depository*
6 *institution (or the insolvency or financial*
7 *condition of the depository institution for*
8 *which the receiver has been appointed)—*

9 *“(I) until 5:00 p.m. (eastern time)*
10 *on the business day following the date*
11 *of the appointment of the receiver; or*

12 *“(II) after the person has received*
13 *notice that the contract has been trans-*
14 *ferred pursuant to paragraph (9)(A).*

15 *“(ii) CONSERVATORSHIP.—A person*
16 *who is a party to a qualified financial con-*
17 *tract with an insured depository institution*
18 *may not exercise any right that such person*
19 *has to terminate, liquidate, or net such con-*
20 *tract under paragraph (8)(E) of this sub-*
21 *section or sections 403 or 404 of the Federal*
22 *Deposit Insurance Corporation Improve-*
23 *ment Act of 1991, solely by reason of or in-*
24 *cidental to the appointment of a conservator*
25 *for the depository institution (or the insol-*

1 *vency or financial condition of the deposi-*
2 *tory institution for which the conservator*
3 *has been appointed).*

4 “(iii) NOTICE.—For purposes of this
5 *paragraph, the Corporation as receiver or*
6 *conservator of an insured depository insti-*
7 *tution shall be deemed to have notified a*
8 *person who is a party to a qualified finan-*
9 *cial contract with such depository insti-*
10 *tution if the Corporation has taken steps rea-*
11 *sonably calculated to provide notice to such*
12 *person by the time specified in subpara-*
13 *graph (A).*

14 “(C) TREATMENT OF BRIDGE BANKS.—The
15 *following institutions shall not be considered to*
16 *be a financial institution for which a conser-*
17 *vator, receiver, trustee in bankruptcy, or other*
18 *legal custodian has been appointed or which is*
19 *otherwise the subject of a bankruptcy or insol-*
20 *veny proceeding for purposes of paragraph (9):*

21 “(i) *A bridge bank.*

22 “(ii) *A depository institution orga-*
23 *nized by the Corporation, for which a con-*
24 *servator is appointed either—*

1 “(I) immediately upon the organi-
2 zation of the institution; or

3 “(II) at the time of a purchase
4 and assumption transaction between
5 the depository institution and the Cor-
6 poration as receiver for a depository
7 institution in default.”.

8 **SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR**
9 **REPUDIATION OF QUALIFIED FINANCIAL**
10 **CONTRACTS.**

11 Section 11(e) of the Federal Deposit Insurance Act (12
12 U.S.C. 1821(e)) is amended—

13 (1) by redesignating paragraphs (11) through
14 (15) as paragraphs (12) through (16), respectively;

15 (2) by inserting after paragraph (10) the fol-
16 lowing new paragraph:

17 “(11) **DISAFFIRMANCE OR REPUDIATION OF**
18 **QUALIFIED FINANCIAL CONTRACTS.**—In exercising the
19 rights of disaffirmance or repudiation of a conser-
20 vator or receiver with respect to any qualified finan-
21 cial contract to which an insured depository institu-
22 tion is a party, the conservator or receiver for such
23 institution shall either—

24 “(A) disaffirm or repudiate all qualified fi-
25 nancial contracts between—

1 “(i) any person or any affiliate of such
2 person; and

3 “(ii) the depository institution in de-
4 fault; or

5 “(B) disaffirm or repudiate none of the
6 qualified financial contracts referred to in sub-
7 paragraph (A) (with respect to such person or
8 any affiliate of such person).”; and

9 (3) by including at the end of section 11(e) the
10 following new paragraph:

11 “(17) SAVINGS CLAUSE.—The meaning of terms
12 used in this subsection (e) are applicable for purposes
13 of this subsection (e) only, and shall not be construed
14 or applied so as to challenge or affect the character-
15 ization, definition, or treatment of any similar terms
16 under any other statute, regulation, or rule, including
17 the Gramm-Leach-Bliley Act, the Legal Certainty for
18 Bank Products Act of 2000, the securities law (as that
19 term is defined in section 3(a)(47) of the Securities
20 Exchange Act of 1934), and the Commodity Exchange
21 Act.”.

1 **SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER**
2 **AGREEMENTS.**

3 *Section 11(e)(8)(D)(vii) of the Federal Deposit Insur-*
4 *ance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read*
5 *as follows:*

6 *“(vii) TREATMENT OF MASTER AGREE-*
7 *MENT AS ONE AGREEMENT.—Any master*
8 *agreement for any contract or agreement de-*
9 *scribed in any preceding clause of this sub-*
10 *paragraph (or any master agreement for*
11 *such master agreement or agreements), to-*
12 *gether with all supplements to such master*
13 *agreement, shall be treated as a single*
14 *agreement and a single qualified financial*
15 *contract. If a master agreement contains*
16 *provisions relating to agreements or trans-*
17 *actions that are not themselves qualified fi-*
18 *nancial contracts, the master agreement*
19 *shall be deemed to be a qualified financial*
20 *contract only with respect to those trans-*
21 *actions that are themselves qualified finan-*
22 *cial contracts.”.*

1 **SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IM-**
2 **PROVEMENT ACT OF 1991.**

3 (a) *DEFINITIONS.*—Section 402 of the Federal Deposit
4 Insurance Corporation Improvement Act of 1991 (12 U.S.C.
5 4402) is amended—

6 (1) in paragraph (2)—

7 (A) in subparagraph (A)(ii), by inserting
8 before the semicolon “, or is exempt from such
9 registration by order of the Securities and Ex-
10 change Commission”; and

11 (B) in subparagraph (B), by inserting be-
12 fore the period “, that has been granted an ex-
13emption under section 4(c)(1) of the Commodity
14 Exchange Act, or that is a multilateral clearing
15 organization (as defined in section 408 of this
16 Act)”;

17 (2) in paragraph (6)—

18 (A) by redesignating subparagraphs (B)
19 through (D) as subparagraphs (C) through (E),
20 respectively;

21 (B) by inserting after subparagraph (A) the
22 following new subparagraph:

23 “(B) an uninsured national bank or an un-
24insured State bank that is a member of the Fed-
25eral Reserve System, if the national bank or
26 State member bank is not eligible to make appli-

1 *cation to become an insured bank under section*
2 *5 of the Federal Deposit Insurance Act;”;* and

3 *(C) by amending subparagraph (C) (as re-*
4 *designated) to read as follows:*

5 *“(C) a branch or agency of a foreign bank,*
6 *a foreign bank and any branch or agency of the*
7 *foreign bank, or the foreign bank that established*
8 *the branch or agency, as those terms are defined*
9 *in section 1(b) of the International Banking Act*
10 *of 1978;”;*

11 *(3) in paragraph (11), by inserting before the pe-*
12 *riod “and any other clearing organization with which*
13 *such clearing organization has a netting contract”;*

14 *(4) by amending paragraph (14)(A)(i) to read as*
15 *follows:*

16 *“(i) means a contract or agreement be-*
17 *tween 2 or more financial institutions,*
18 *clearing organizations, or members that*
19 *provides for netting present or future pay-*
20 *ment obligations or payment entitlements*
21 *(including liquidation or closeout values re-*
22 *lating to such obligations or entitlements)*
23 *among the parties to the agreement; and”;*
24 *and*

1 (5) *by adding at the end the following new para-*
2 *graph:*

3 “(15) *PAYMENT.*—*The term ‘payment’ means a*
4 *payment of United States dollars, another currency,*
5 *or a composite currency, and a noncash delivery, in-*
6 *cluding a payment or delivery to liquidate an*
7 *unmatured obligation.”.*

8 (b) *ENFORCEABILITY OF BILATERAL NETTING CON-*
9 *TRACTS.*—*Section 403 of the Federal Deposit Insurance*
10 *Corporation Improvement Act of 1991 (12 U.S.C. 4403) is*
11 *amended—*

12 (1) *by striking subsection (a) and inserting the*
13 *following:*

14 “(a) *GENERAL RULE.*—*Notwithstanding any other*
15 *provision of State or Federal law (other than paragraphs*
16 *(8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal*
17 *Deposit Insurance Act or any order authorized under sec-*
18 *tion 5(b)(2) of the Securities Investor Protection Act of*
19 *1970), the covered contractual payment obligations and the*
20 *covered contractual payment entitlements between any 2 fi-*
21 *nancial institutions shall be netted in accordance with, and*
22 *subject to the conditions of, the terms of any applicable net-*
23 *ting contract (except as provided in section 561(b)(2) of*
24 *title 11, United States Code).”;* and

1 (2) by adding at the end the following new sub-
2 section:

3 “(f) *ENFORCEABILITY OF SECURITY AGREEMENTS.*—
4 *The provisions of any security agreement or arrangement*
5 *or other credit enhancement related to one or more netting*
6 *contracts between any 2 financial institutions shall be en-*
7 *forceable in accordance with their terms (except as provided*
8 *in section 561(b)(2) of title 11, United States Code), and*
9 *shall not be stayed, avoided, or otherwise limited by any*
10 *State or Federal law (other than paragraphs (8)(E), (8)(F),*
11 *and (10)(B) of section 11(e) of the Federal Deposit Insur-*
12 *ance Act and section 5(b)(2) of the Securities Investor Pro-*
13 *tection Act of 1970).”.*

14 (c) *ENFORCEABILITY OF CLEARING ORGANIZATION*
15 *NETTING CONTRACTS.*—*Section 404 of the Federal Deposit*
16 *Insurance Corporation Improvement Act of 1991 (12 U.S.C.*
17 *4404) is amended—*

18 (1) by striking subsection (a) and inserting the
19 following:

20 “(a) *GENERAL RULE.*—*Notwithstanding any other*
21 *provision of State or Federal law (other than paragraphs*
22 *(8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal*
23 *Deposit Insurance Act and any order authorized under sec-*
24 *tion 5(b)(2) of the Securities Investor Protection Act of*
25 *1970), the covered contractual payment obligations and the*

1 covered contractual payment entitlements of a member of
2 a clearing organization to and from all other members of
3 a clearing organization shall be netted in accordance with
4 and subject to the conditions of any applicable netting con-
5 tract (except as provided in section 561(b)(2) of title 11,
6 United States Code).”; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(h) *ENFORCEABILITY OF SECURITY AGREEMENTS.—*
10 *The provisions of any security agreement or arrangement*
11 *or other credit enhancement related to one or more netting*
12 *contracts between any 2 members of a clearing organization*
13 *shall be enforceable in accordance with their terms (except*
14 *as provided in section 561(b)(2) of title 11, United States*
15 *Code), and shall not be stayed, avoided, or otherwise limited*
16 *by any State or Federal law (other than paragraphs (8)(E),*
17 *(8)(F), and (10)(B) of section 11(e) of the Federal Deposit*
18 *Insurance Act and section 5(b)(2) of the Securities Investor*
19 *Protection Act of 1970).”.*

20 (d) *ENFORCEABILITY OF CONTRACTS WITH UNIN-*
21 *SURED NATIONAL BANKS, UNINSURED FEDERAL*
22 *BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE*
23 *MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The*
24 *Federal Deposit Insurance Corporation Improvement Act*
25 *of 1991 (12 U.S.C. 4401 et seq.) is amended—*

1 (1) by redesignating section 407 as section 407A;

2 and

3 (2) by inserting after section 406 the following

4 new section:

5 **“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED**
6 **NATIONAL BANKS, UNINSURED FEDERAL**
7 **BRANCHES AND AGENCIES, CERTAIN UNIN-**
8 **SURED STATE MEMBER BANKS, AND EDGE**
9 **ACT CORPORATIONS.**

10 “(a) *IN GENERAL.*—Notwithstanding any other provi-
11 sion of law, paragraphs (8), (9), (10), and (11) of section
12 11(e) of the Federal Deposit Insurance Act shall apply to
13 an uninsured national bank or uninsured Federal branch
14 or Federal agency, a corporation chartered under section
15 25A of the Federal Reserve Act, or an uninsured State mem-
16 ber bank which operates, or operates as, a multilateral
17 clearing organization pursuant to section 409 of this Act,
18 except that for such purpose—

19 “(1) any reference to the ‘Corporation as re-
20 ceiver’ or ‘the receiver or the Corporation’ shall refer
21 to the receiver appointed by the Comptroller of the
22 Currency in the case of an uninsured national bank
23 or uninsured Federal branch or agency, or to the re-
24 ceiver appointed by the Board of Governors of the
25 Federal Reserve System in the case of a corporation

1 chartered under section 25A of the Federal Reserve
2 Act or an uninsured State member bank;

3 “(2) any reference to the ‘Corporation’ (other
4 than in section 11(e)(8)(D) of such Act), the ‘Corpora-
5 tion, whether acting as such or as conservator or re-
6 ceiver’, a ‘receiver’, or a ‘conservator’ shall refer to the
7 receiver or conservator appointed by the Comptroller
8 of the Currency in the case of an uninsured national
9 bank or uninsured Federal branch or agency, or to
10 the receiver or conservator appointed by the Board of
11 Governors of the Federal Reserve System in the case
12 of a corporation chartered under section 25A of the
13 Federal Reserve Act or an uninsured State member
14 bank; and

15 “(3) any reference to an ‘insured depository in-
16 stitution’ or ‘depository institution’ shall refer to an
17 uninsured national bank, an uninsured Federal
18 branch or Federal agency, a corporation chartered
19 under section 25A of the Federal Reserve Act, or an
20 uninsured State member bank which operates, or op-
21 erates as, a multilateral clearing organization pursu-
22 ant to section 409 of this Act.

23 “(b) *LIABILITY.*—The liability of a receiver or conser-
24 vator of an uninsured national bank, uninsured Federal
25 branch or agency, a corporation chartered under section

1 *25A of the Federal Reserve Act, or an uninsured State mem-*
2 *ber bank which operates, or operates as, a multilateral*
3 *clearing organization pursuant to section 409 of this Act,*
4 *shall be determined in the same manner and subject to the*
5 *same limitations that apply to receivers and conservators*
6 *of insured depository institutions under section 11(e) of the*
7 *Federal Deposit Insurance Act.*

8 “(c) *REGULATORY AUTHORITY.*—

9 “(1) *IN GENERAL.*—*The Comptroller of the Cur-*
10 *rency in the case of an uninsured national bank or*
11 *uninsured Federal branch or agency and the Board of*
12 *Governors of the Federal Reserve System in the case*
13 *of a corporation chartered under section 25A of the*
14 *Federal Reserve Act, or an uninsured State member*
15 *bank that operates, or operates as, a multilateral*
16 *clearing organization pursuant to section 409 of the*
17 *Act, in consultation with the Federal Deposit Insur-*
18 *ance Corporation, may each promulgate regulations*
19 *solely to implement this section.*

20 “(2) *SPECIFIC REQUIREMENT.*—*In promulgating*
21 *regulations, limited solely to implementing para-*
22 *graphs (8), (9), (10), and (11) of section 11(e) of the*
23 *Federal Deposit Insurance Act, the Comptroller of the*
24 *Currency and the Board of Governors of the Federal*
25 *Reserve System each shall ensure that their regula-*

1 *tions generally are consistent with the regulations*
2 *and policies of the Federal Deposit Insurance Cor-*
3 *poration adopted pursuant to the Federal Deposit In-*
4 *surance Act.*

5 *“(d) DEFINITIONS.—For purposes of this section, the*
6 *terms ‘Federal branch’, ‘Federal agency’, and ‘foreign bank’*
7 *have the same meanings as in section 1(b) of the Inter-*
8 *national Banking Act of 1978.”.*

9 **SEC. 907. BANKRUPTCY CODE AMENDMENTS.**

10 *(a) DEFINITIONS OF FORWARD CONTRACT, REPUR-*
11 *CHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP*
12 *AGREEMENT, COMMODITY CONTRACT, AND SECURITIES*
13 *CONTRACT.—Title 11, United States Code, is amended—*

14 *(1) in section 101—*

15 *(A) in paragraph (25)—*

16 *(i) by striking “means a contract” and*
17 *inserting “means—*

18 *“(A) a contract”;*

19 *(ii) by striking “, or any combination*
20 *thereof or option thereon;” and inserting “,*
21 *or any other similar agreement;”; and*

22 *(iii) by adding at the end the fol-*
23 *lowing:*

1 “(B) any combination of agreements or
2 transactions referred to in subparagraphs (A)
3 and (C);

4 “(C) any option to enter into an agreement
5 or transaction referred to in subparagraph (A)
6 or (B);

7 “(D) a master agreement that provides for
8 an agreement or transaction referred to in sub-
9 paragraph (A), (B), or (C), together with all
10 supplements to any such master agreement, with-
11 out regard to whether such master agreement
12 provides for an agreement or transaction that is
13 not a forward contract under this paragraph, ex-
14 cept that such master agreement shall be consid-
15 ered to be a forward contract under this para-
16 graph only with respect to each agreement or
17 transaction under such master agreement that is
18 referred to in subparagraph (A), (B), or (C); or

19 “(E) any security agreement or arrange-
20 ment, or other credit enhancement related to any
21 agreement or transaction referred to in subpara-
22 graph (A), (B), (C), or (D) including any guar-
23 antee or reimbursement obligation by or to a for-
24 ward contract merchant or financial participant
25 in connection with any agreement or transaction

1 *referred to in any such subparagraph, but not to*
2 *exceed the damages in connection with any such*
3 *agreement or transaction, measured in accord-*
4 *ance with section 562;”;*

5 *(B) in paragraph (46), by striking “on any*
6 *day during the period beginning 90 days before*
7 *the date of” and inserting “at any time before”;*

8 *(C) by amending paragraph (47) to read as*
9 *follows:*

10 *“(47) ‘repurchase agreement’ (which definition*
11 *also applies to a reverse repurchase agreement)—*

12 *“(A) means—*

13 *“(i) an agreement, including related*
14 *terms, which provides for the transfer of one*
15 *or more certificates of deposit, mortgage re-*
16 *lated securities (as defined in section 3 of*
17 *the Securities Exchange Act of 1934), mort-*
18 *gage loans, interests in mortgage related se-*
19 *curities or mortgage loans, eligible bankers’*
20 *acceptances, qualified foreign government*
21 *securities (defined as a security that is a di-*
22 *rect obligation of, or that is fully guaran-*
23 *teed by, the central government of a member*
24 *of the Organization for Economic Coopera-*
25 *tion and Development), or securities that*

1 are direct obligations of, or that are fully
2 guaranteed by, the United States or any
3 agency of the United States against the
4 transfer of funds by the transferee of such
5 certificates of deposit, eligible bankers' ac-
6 ceptances, securities, mortgage loans, or in-
7 terests, with a simultaneous agreement by
8 such transferee to transfer to the transferor
9 thereof certificates of deposit, eligible bank-
10 ers' acceptance, securities, mortgage loans,
11 or interests of the kind described in this
12 clause, at a date certain not later than 1
13 year after such transfer or on demand,
14 against the transfer of funds;

15 “(ii) any combination of agreements or
16 transactions referred to in clauses (i) and
17 (iii);

18 “(iii) an option to enter into an agree-
19 ment or transaction referred to in clause (i)
20 or (ii);

21 “(iv) a master agreement that provides
22 for an agreement or transaction referred to
23 in clause (i), (ii), or (iii), together with all
24 supplements to any such master agreement,
25 without regard to whether such master

1 *agreement provides for an agreement or*
2 *transaction that is not a repurchase agree-*
3 *ment under this paragraph, except that*
4 *such master agreement shall be considered*
5 *to be a repurchase agreement under this*
6 *paragraph only with respect to each agree-*
7 *ment or transaction under the master agree-*
8 *ment that is referred to in clause (i), (ii),*
9 *or (iii); or*

10 *“(v) any security agreement or ar-*
11 *rangement or other credit enhancement re-*
12 *lated to any agreement or transaction re-*
13 *ferred to in clause (i), (ii), (iii), or (iv) in-*
14 *cluding any guarantee or reimbursement*
15 *obligation by or to a repo participant or fi-*
16 *nancial participant in connection with any*
17 *agreement or transaction referred to in any*
18 *such clause, but not to exceed the damages*
19 *in connection with any such agreement or*
20 *transaction, measured in accordance with*
21 *section 562; and*

22 *“(B) does not include a repurchase obliga-*
23 *tion under a participation in a commercial*
24 *mortgage loan;”;*

1 (D) in paragraph (48), by inserting “, or
2 exempt from such registration under such section
3 pursuant to an order of the Securities and Ex-
4 change Commission,” after “1934”; and

5 (E) by amending paragraph (53B) to read
6 as follows:

7 “(53B) ‘swap agreement’—

8 “(A) means—

9 “(i) any agreement, including the
10 terms and conditions incorporated by ref-
11 erence in such agreement, which is—

12 “(I) an interest rate swap, option,
13 future, or forward agreement, includ-
14 ing a rate floor, rate cap, rate collar,
15 cross-currency rate swap, and basis
16 swap;

17 “(II) a spot, same day-tomorrow,
18 tomorrow-next, forward, or other for-
19 eign exchange or precious metals agree-
20 ment;

21 “(III) a currency swap, option,
22 future, or forward agreement;

23 “(IV) an equity index or equity
24 swap, option, future, or forward agree-
25 ment;

1 “(V) a debt index or debt swap,
2 option, future, or forward agreement;

3 “(VI) a total return, credit spread
4 or credit swap, option, future, or for-
5 ward agreement;

6 “(VII) a commodity index or a
7 commodity swap, option, future, or
8 forward agreement; or

9 “(VIII) a weather swap, weather
10 derivative, or weather option;

11 “(ii) any agreement or transaction
12 that is similar to any other agreement or
13 transaction referred to in this paragraph
14 and that—

15 “(I) is of a type that has been, is
16 presently, or in the future becomes, the
17 subject of recurrent dealings in the
18 swap markets (including terms and
19 conditions incorporated by reference
20 therein); and

21 “(II) is a forward, swap, future,
22 or option on one or more rates, cur-
23 rencies, commodities, equity securities,
24 or other equity instruments, debt secu-
25 rities or other debt instruments, quan-

1 *titative measures associated with an*
2 *occurrence, extent of an occurrence, or*
3 *contingency associated with a finan-*
4 *cial, commercial, or economic con-*
5 *sequence, or economic or financial in-*
6 *dices or measures of economic or finan-*
7 *cial risk or value;*

8 *“(iii) any combination of agreements*
9 *or transactions referred to in this subpara-*
10 *graph;*

11 *“(iv) any option to enter into an*
12 *agreement or transaction referred to in this*
13 *subparagraph;*

14 *“(v) a master agreement that provides*
15 *for an agreement or transaction referred to*
16 *in clause (i), (ii), (iii), or (iv), together*
17 *with all supplements to any such master*
18 *agreement, and without regard to whether*
19 *the master agreement contains an agree-*
20 *ment or transaction that is not a swap*
21 *agreement under this paragraph, except*
22 *that the master agreement shall be consid-*
23 *ered to be a swap agreement under this*
24 *paragraph only with respect to each agree-*
25 *ment or transaction under the master agree-*

1 *ment that is referred to in clause (i), (ii),*
2 *(iii), or (iv); or*

3 “*(vi) any security agreement or ar-*
4 *rangement or other credit enhancement re-*
5 *lated to any agreements or transactions re-*
6 *ferred to in clause (i) through (v) including*
7 *any guarantee or reimbursement obligation*
8 *by or to a swap participant or financial*
9 *participant in connection with any agree-*
10 *ment or transaction referred to in any such*
11 *clause, but not to exceed the damages in*
12 *connection with any such agreement or*
13 *transaction, measured in accordance with*
14 *section 562; and*

15 “*(B) is applicable for purposes of this title*
16 *only, and shall not be construed or applied so as*
17 *to challenge or affect the characterization, defini-*
18 *tion, or treatment of any swap agreement under*
19 *any other statute, regulation, or rule, including*
20 *the Securities Act of 1933, the Securities Ex-*
21 *change Act of 1934, the Public Utility Holding*
22 *Company Act of 1935, the Trust Indenture Act*
23 *of 1939, the Investment Company Act of 1940,*
24 *the Investment Advisers Act of 1940, the Securi-*
25 *ties Investor Protection Act of 1970, the Com-*

1 *modity Exchange Act, the Gramm-Leach-Bliley*
2 *Act, and the Legal Certainty for Bank Products*
3 *Act of 2000.”;*

4 *(2) in section 741(7), by striking paragraph (7)*
5 *and inserting the following:*

6 “(7) ‘*securities contract*’—

7 “(A) *means—*

8 “(i) *a contract for the purchase, sale,*
9 *or loan of a security, a certificate of deposit,*
10 *a mortgage loan or any interest in a mort-*
11 *gage loan, a group or index of securities,*
12 *certificates of deposit, or mortgage loans or*
13 *interests therein (including an interest*
14 *therein or based on the value thereof), or op-*
15 *tion on any of the foregoing, including an*
16 *option to purchase or sell any such security,*
17 *certificate of deposit, mortgage loan, inter-*
18 *est, group or index, or option, and includ-*
19 *ing any repurchase or reverse repurchase*
20 *transaction on any such security, certificate*
21 *of deposit, mortgage loan, interest, group or*
22 *index, or option;*

23 “(ii) *any option entered into on a na-*
24 *tional securities exchange relating to foreign*
25 *currencies;*

1 “(iii) the guarantee by or to any secu-
2 rities clearing agency of a settlement of
3 cash, securities, certificates of deposit, mort-
4 gage loans or interests therein, group or
5 index of securities, or mortgage loans or in-
6 terests therein (including any interest there-
7 in or based on the value thereof), or option
8 on any of the foregoing, including an option
9 to purchase or sell any such security, cer-
10 tificate of deposit, mortgage loan, interest,
11 group or index, or option;

12 “(iv) any margin loan;

13 “(v) any other agreement or trans-
14 action that is similar to an agreement or
15 transaction referred to in this subpara-
16 graph;

17 “(vi) any combination of the agree-
18 ments or transactions referred to in this
19 subparagraph;

20 “(vii) any option to enter into any
21 agreement or transaction referred to in this
22 subparagraph;

23 “(viii) a master agreement that pro-
24 vides for an agreement or transaction re-
25 ferred to in clause (i), (ii), (iii), (iv), (v),

1 *(vi), or (vii), together with all supplements*
2 *to any such master agreement, without re-*
3 *gard to whether the master agreement pro-*
4 *vides for an agreement or transaction that*
5 *is not a securities contract under this sub-*
6 *paragraph, except that such master agree-*
7 *ment shall be considered to be a securities*
8 *contract under this subparagraph only with*
9 *respect to each agreement or transaction*
10 *under such master agreement that is re-*
11 *ferred to in clause (i), (ii), (iii), (iv), (v),*
12 *(vi), or (vii); or*

13 *“(ix) any security agreement or ar-*
14 *rangement or other credit enhancement re-*
15 *lated to any agreement or transaction re-*
16 *ferred to in this subparagraph including*
17 *any guarantee or reimbursement obligation*
18 *by or to a stockbroker, securities clearing*
19 *agency, financial institution, or financial*
20 *participant in connection with any agree-*
21 *ment or transaction referred to in this sub-*
22 *paragraph, but not to exceed the damages in*
23 *connection with any such agreement or*
24 *transaction, measured in accordance with*
25 *section 562; and*

1 “(B) does not include any purchase, sale, or
2 repurchase obligation under a participation in a
3 commercial mortgage loan.”; and

4 (3) in section 761(4)—

5 (A) by striking “or” at the end of subpara-
6 graph (D); and

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

8 “(F) any other agreement or transaction
9 that is similar to an agreement or transaction
10 referred to in this paragraph;

11 “(G) any combination of the agreements or
12 transactions referred to in this paragraph;

13 “(H) any option to enter into an agreement
14 or transaction referred to in this paragraph;

15 “(I) a master agreement that provides for
16 an agreement or transaction referred to in sub-
17 paragraph (A), (B), (C), (D), (E), (F), (G), or
18 (H), together with all supplements to such mas-
19 ter agreement, without regard to whether the
20 master agreement provides for an agreement or
21 transaction that is not a commodity contract
22 under this paragraph, except that the master
23 agreement shall be considered to be a commodity
24 contract under this paragraph only with respect
25 to each agreement or transaction under the mas-

1 *ter agreement that is referred to in subparagraph*
2 *(A), (B), (C), (D), (E), (F), (G), or (H); or*

3 *“(J) any security agreement or arrange-*
4 *ment or other credit enhancement related to any*
5 *agreement or transaction referred to in this*
6 *paragraph including any guarantee or reim-*
7 *bursement obligation by or to a commodity*
8 *broker or financial participant in connection*
9 *with any agreement or transaction referred to in*
10 *this paragraph, but not to exceed the damages in*
11 *connection with any such agreement or trans-*
12 *action, measured in accordance with section*
13 *562;”.*

14 *(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINAN-*
15 *CIAL PARTICIPANT, AND FORWARD CONTRACT MER-*
16 *CHANT.—Section 101 of title 11, United States Code, is*
17 *amended—*

18 *(1) by striking paragraph (22) and inserting the*
19 *following:*

20 *“(22) ‘financial institution’ means—*

21 *“(A) a Federal reserve bank, or an entity*
22 *(domestic or foreign) that is a commercial or*
23 *savings bank, industrial savings bank, savings*
24 *and loan association, trust company, or receiver*
25 *or conservator for such entity and, when any*

1 *such Federal reserve bank, receiver, conservator*
2 *or entity is acting as agent or custodian for a*
3 *customer in connection with a securities con-*
4 *tract, as defined in section 741, such customer;*
5 *or*

6 *“(B) in connection with a securities con-*
7 *tract, as defined in section 741, an investment*
8 *company registered under the Investment Com-*
9 *pany Act of 1940;”;*

10 *(2) by inserting after paragraph (22) the fol-*
11 *lowing:*

12 *“(22A) ‘financial participant’ means—*

13 *“(A) an entity that, at the time it enters*
14 *into a securities contract, commodity contract,*
15 *swap agreement, repurchase agreement, or for-*
16 *ward contract, or at the time of the filing of the*
17 *petition, has one or more agreements or trans-*
18 *actions described in paragraph (1), (2), (3), (4),*
19 *(5), or (6) of section 561(a) with the debtor or*
20 *any other entity (other than an affiliate) of a*
21 *total gross dollar value of not less than*
22 *\$1,000,000,000 in notional or actual principal*
23 *amount outstanding on any day during the pre-*
24 *vious 15-month period, or has gross mark-to-*
25 *market positions of not less than \$100,000,000*

1 *(aggregated across counterparties) in one or*
2 *more such agreements or transactions with the*
3 *debtor or any other entity (other than an affil-*
4 *iate) on any day during the previous 15-month*
5 *period; or*

6 *“(B) a clearing organization (as that term*
7 *is defined in section 402 of the Federal Deposit*
8 *Insurance Corporation Improvement Act of*
9 *1991);”;* and

10 *(3) by striking paragraph (26) and inserting the*
11 *following:*

12 *“(26) ‘forward contract merchant’ means a Fed-*
13 *eral reserve bank, or an entity the business of which*
14 *consists in whole or in part of entering into forward*
15 *contracts as or with merchants in a commodity, as*
16 *defined in section 761 or any similar good, article,*
17 *service, right, or interest which is presently or in the*
18 *future becomes the subject of dealing in the forward*
19 *contract trade;”.*

20 *(c) DEFINITION OF MASTER NETTING AGREEMENT*
21 *AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-*
22 *tion 101 of title 11, United States Code, is amended by in-*
23 *serting after paragraph (38) the following new paragraphs:*

24 *“(38A) ‘master netting agreement’—*

1 “(A) means an agreement providing for the
2 exercise of rights, including rights of netting,
3 setoff, liquidation, termination, acceleration, or
4 closeout, under or in connection with one or
5 more contracts that are described in any one or
6 more of paragraphs (1) through (5) of section
7 561(a), or any security agreement or arrange-
8 ment or other credit enhancement related to one
9 or more of the foregoing, including any guar-
10 antee or reimbursement obligation related to 1 or
11 more of the foregoing; and

12 “(B) if the agreement contains provisions
13 relating to agreements or transactions that are
14 not contracts described in paragraphs (1)
15 through (5) of section 561(a), shall be deemed to
16 be a master netting agreement only with respect
17 to those agreements or transactions that are de-
18 scribed in any one or more of paragraphs (1)
19 through (5) of section 561(a);

20 “(38B) ‘master netting agreement participant’
21 means an entity that, at any time before the filing of
22 the petition, is a party to an outstanding master net-
23 ting agreement with the debtor;”.

24 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,
25 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-

1 CHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS
2 UNDER THE AUTOMATIC-STAY.—

3 (1) IN GENERAL.—Section 362(b) of title 11,
4 United States Code, as amended by this Act, is
5 amended—

6 (A) in paragraph (6), by inserting
7 “, pledged to and under the control of,” after
8 “held by”;

9 (B) in paragraph (7), by inserting
10 “, pledged to and under the control of,” after
11 “held by”;

12 (C) by striking paragraph (17) and insert-
13 ing the following:

14 “(17) under subsection (a), of the setoff by a
15 swap participant or financial participant of a mu-
16 tual debt and claim under or in connection with one
17 or more swap agreements that constitutes the setoff of
18 a claim against the debtor for any payment or other
19 transfer of property due from the debtor under or in
20 connection with any swap agreement against any
21 payment due to the debtor from the swap participant
22 or financial participant under or in connection with
23 any swap agreement or against cash, securities, or
24 other property held by, pledged to and under the con-
25 trol of, or due from such swap participant or finan-

1 *cial participant to margin, guarantee, secure, or settle*
2 *any swap agreement;”*; and

3 *(D) by inserting after paragraph (26), as*
4 *added by this Act, the following new paragraph:*

5 *“(27) under subsection (a), of the setoff by a*
6 *master netting agreement participant of a mutual*
7 *debt and claim under or in connection with one or*
8 *more master netting agreements or any contract or*
9 *agreement subject to such agreements that constitutes*
10 *the setoff of a claim against the debtor for any pay-*
11 *ment or other transfer of property due from the debtor*
12 *under or in connection with such agreements or any*
13 *contract or agreement subject to such agreements*
14 *against any payment due to the debtor from such*
15 *master netting agreement participant under or in*
16 *connection with such agreements or any contract or*
17 *agreement subject to such agreements or against cash,*
18 *securities, or other property held by, pledged to and*
19 *under the control of, or due from such master netting*
20 *agreement participant to margin, guarantee, secure,*
21 *or settle such agreements or any contract or agree-*
22 *ment subject to such agreements, to the extent that*
23 *such participant is eligible to exercise such offset*
24 *rights under paragraph (6), (7), or (17) for each indi-*

1 *vidual contract covered by the master netting agree-*
2 *ment in issue; or”.*

3 (2) *LIMITATION.*—*Section 362 of title 11, United*
4 *States Code, as amended by this Act, is amended by*
5 *adding at the end the following:*

6 “(m) *LIMITATION.*—*The exercise of rights not subject*
7 *to the stay arising under subsection (a) pursuant to para-*
8 *graph (6), (7), (17), or (27) of subsection (b) shall not be*
9 *stayed by any order of a court or administrative agency*
10 *in any proceeding under this title.”.*

11 (e) *LIMITATION OF AVOIDANCE POWERS UNDER MAS-*
12 *TER NETTING AGREEMENT.*—*Section 546 of title 11, United*
13 *States Code, as amended by this Act, is amended—*

14 (1) *in subsection (g) (as added by section 103 of*
15 *Public Law 101–311)—*

16 (A) *by striking “under a swap agreement”;*

17 (B) *by striking “in connection with a swap*
18 *agreement” and inserting “under or in connec-*
19 *tion with any swap agreement”; and*

20 (C) *by inserting “or financial participant”*
21 *after “swap participant” each place that term*
22 *appears; and*

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

24 “(k) *Notwithstanding sections 544, 545, 547,*
25 *548(a)(1)(B), and 548(b) the trustee may not avoid a trans-*

1 *fer made by or to a master netting agreement participant*
2 *under or in connection with any master netting agreement*
3 *or any individual contract covered thereby that is made be-*
4 *fore the commencement of the case, except under section*
5 *548(a)(1)(A) and except to the extent that the trustee could*
6 *otherwise avoid such a transfer made under an individual*
7 *contract covered by such master netting agreement.”.*

8 (f) *FRAUDULENT TRANSFERS OF MASTER NETTING*
9 *AGREEMENTS.*—Section 548(d)(2) of title 11, United States
10 Code, is amended—

11 (1) *in subparagraph (C), by striking “and” at*
12 *the end;*

13 (2) *in subparagraph (D), by striking the period*
14 *and inserting “; and”; and*

15 (3) *by adding at the end the following new sub-*
16 *paragraph:*

17 “(E) *a master netting agreement participant*
18 *that receives a transfer in connection with a master*
19 *netting agreement or any individual contract covered*
20 *thereby takes for value to the extent of such transfer,*
21 *except that, with respect to a transfer under any indi-*
22 *vidual contract covered thereby, to the extent that*
23 *such master netting agreement participant otherwise*
24 *did not take (or is otherwise not deemed to have*
25 *taken) such transfer for value.”.*

1 (g) *TERMINATION OR ACCELERATION OF SECURITIES*
2 *CONTRACTS.*—Section 555 of title 11, United States Code,
3 *is amended—*

4 (1) *by amending the section heading to read as*
5 *follows:*

6 **“§555. Contractual right to liquidate, terminate, or**
7 **accelerate a securities contract”;**

8 *and*

9 (2) *in the first sentence, by striking “liquida-*
10 *tion” and inserting “liquidation, termination, or ac-*
11 *celeration”.*

12 (h) *TERMINATION OR ACCELERATION OF COMMOD-*
13 *ITIES OR FORWARD CONTRACTS.*—Section 556 of title 11,
14 *United States Code, is amended—*

15 (1) *by amending the section heading to read as*
16 *follows:*

17 **“§556. Contractual right to liquidate, terminate, or**
18 **accelerate a commodities contract or for-**
19 **ward contract”;**

20 (2) *in the first sentence, by striking “liquida-*
21 *tion” and inserting “liquidation, termination, or ac-*
22 *celeration”;* *and*

23 (3) *in the second sentence, by striking “As used”*
24 *and all that follows through “right,” and inserting*
25 *“As used in this section, the term ‘contractual right’*

1 *includes a right set forth in a rule or bylaw of a de-*
2 *derivatives clearing organization (as defined in the*
3 *Commodity Exchange Act), a multilateral clearing*
4 *organization (as defined in the Federal Deposit In-*
5 *surance Corporation Improvement Act of 1991), a na-*
6 *tional securities exchange, a national securities asso-*
7 *ciation, a securities clearing agency, a contract mar-*
8 *ket designated under the Commodity Exchange Act, a*
9 *derivatives transaction execution facility registered*
10 *under the Commodity Exchange Act, or a board of*
11 *trade (as defined in the Commodity Exchange Act) or*
12 *in a resolution of the governing board thereof and a*
13 *right.”.*

14 *(i) TERMINATION OR ACCELERATION OF REPURCHASE*
15 *AGREEMENTS.—Section 559 of title 11, United States Code,*
16 *is amended—*

17 *(1) by amending the section heading to read as*
18 *follows:*

19 **“§559. Contractual right to liquidate, terminate, or**
20 **accelerate a repurchase agreement”;**

21 *(2) in the first sentence, by striking “liquida-*
22 *tion” and inserting “liquidation, termination, or ac-*
23 *celeration”;* and

24 *(3) in the third sentence, by striking “As used”*
25 *and all that follows through “right,” and inserting*

1 *“As used in this section, the term ‘contractual right’*
2 *includes a right set forth in a rule or bylaw of a de-*
3 *derivatives clearing organization (as defined in the*
4 *Commodity Exchange Act), a multilateral clearing*
5 *organization (as defined in the Federal Deposit In-*
6 *surance Corporation Improvement Act of 1991), a na-*
7 *tional securities exchange, a national securities asso-*
8 *ciation, a securities clearing agency, a contract mar-*
9 *ket designated under the Commodity Exchange Act, a*
10 *derivatives transaction execution facility registered*
11 *under the Commodity Exchange Act, or a board of*
12 *trade (as defined in the Commodity Exchange Act) or*
13 *in a resolution of the governing board thereof and a*
14 *right.”.*

15 *(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF*
16 *SWAP AGREEMENTS.—Section 560 of title 11, United States*
17 *Code, is amended—*

18 *(1) by amending the section heading to read as*
19 *follows:*

20 ***“§560. Contractual right to liquidate, terminate, or***
21 ***accelerate a swap agreement”;***

22 *(2) in the first sentence, by striking “termi-*
23 *nation of a swap agreement” and inserting “liquida-*
24 *tion, termination, or acceleration of one or more swap*
25 *agreements”;*

1 (3) by striking “in connection with any swap
2 agreement” and inserting “in connection with the ter-
3 mination, liquidation, or acceleration of one or more
4 swap agreements”; and

5 (4) in the second sentence, by striking “As used”
6 and all that follows through “right,” and inserting
7 “*As used in this section, the term ‘contractual right’*
8 *includes a right set forth in a rule or bylaw of a de-*
9 *rivatives clearing organization (as defined in the*
10 *Commodity Exchange Act), a multilateral clearing*
11 *organization (as defined in the Federal Deposit In-*
12 *surance Corporation Improvement Act of 1991), a na-*
13 *tional securities exchange, a national securities asso-*
14 *ciation, a securities clearing agency, a contract mar-*
15 *ket designated under the Commodity Exchange Act, a*
16 *derivatives transaction execution facility registered*
17 *under the Commodity Exchange Act, or a board of*
18 *trade (as defined in the Commodity Exchange Act) or*
19 *in a resolution of the governing board thereof and a*
20 *right,”.*

21 (k) *LIQUIDATION, TERMINATION, ACCELERATION, OR*
22 *OFFSET UNDER A MASTER NETTING AGREEMENT AND*
23 *ACROSS CONTRACTS.—*

1 (1) *IN GENERAL.*—Title 11, United States Code,
2 is amended by inserting after section 560 the fol-
3 lowing:

4 “**§561. Contractual right to terminate, liquidate, ac-**
5 **celerate, or offset under a master netting**
6 **agreement and across contracts; pro-**
7 **ceedings under chapter 15**

8 “(a) *IN GENERAL.*—Subject to subsection (b), the exer-
9 cise of any contractual right, because of a condition of the
10 kind specified in section 365(e)(1), to cause the termination,
11 liquidation, or acceleration of or to offset or net termination
12 values, payment amounts, or other transfer obligations aris-
13 ing under or in connection with one or more (or the termi-
14 nation, liquidation, or acceleration of one or more)—

15 “(1) securities contracts, as defined in section
16 741(7);

17 “(2) commodity contracts, as defined in section
18 761(4);

19 “(3) forward contracts;

20 “(4) repurchase agreements;

21 “(5) swap agreements; or

22 “(6) master netting agreements,

23 shall not be stayed, avoided, or otherwise limited by oper-
24 ation of any provision of this title or by any order of a

1 *court or administrative agency in any proceeding under*
2 *this title.*

3 “(b) *EXCEPTION.*—

4 “(1) *IN GENERAL.*—*A party may exercise a con-*
5 *tractual right described in subsection (a) to termi-*
6 *nate, liquidate, or accelerate only to the extent that*
7 *such party could exercise such a right under section*
8 *555, 556, 559, or 560 for each individual contract*
9 *covered by the master netting agreement in issue.*

10 “(2) *COMMODITY BROKERS.*—*If a debtor is a*
11 *commodity broker subject to subchapter IV of chapter*
12 *7—*

13 “(A) *a party may not net or offset an obli-*
14 *gation to the debtor arising under, or in connec-*
15 *tion with, a commodity contract traded on or*
16 *subject to the rules of a contract market des-*
17 *ignated under the Commodity Exchange Act or*
18 *a derivatives transaction execution facility reg-*
19 *istered under the Commodity Exchange Act*
20 *against any claim arising under, or in connec-*
21 *tion with, other instruments, contracts, or agree-*
22 *ments listed in subsection (a) except to the extent*
23 *that the party has positive net equity in the*
24 *commodity accounts at the debtor, as calculated*
25 *under that subchapter IV; and*

1 “(B) another commodity broker may not net
2 or offset an obligation to the debtor arising
3 under, or in connection with, a commodity con-
4 tract entered into or held on behalf of a customer
5 of the debtor and traded on or subject to the rules
6 of a contract market designated under the Com-
7 modity Exchange Act or a derivatives trans-
8 action execution facility registered under the
9 Commodity Exchange Act against any claim
10 arising under, or in connection with, other in-
11 struments, contracts, or agreements listed in sub-
12 section (a).

13 “(3) CONSTRUCTION.—No provision of subpara-
14 graph (A) or (B) of paragraph (2) shall prohibit the
15 offset of claims and obligations that arise under—

16 “(A) a cross-margining agreement or simi-
17 lar arrangement that has been approved by the
18 Commodity Futures Trading Commission or
19 submitted to the Commodity Futures Trading
20 Commission under paragraph (1) or (2) of sec-
21 tion 5c(c) of the Commodity Exchange Act and
22 has not been abrogated or rendered ineffective by
23 the Commodity Futures Trading Commission; or

24 “(B) any other netting agreement between a
25 clearing organization, as defined in section 761,

1 *and another entity that has been approved by the*
2 *Commodity Futures Trading Commission.*

3 “(c) *DEFINITION.—As used in this section, the term*
4 *‘contractual right’ includes a right set forth in a rule or*
5 *bylaw of a derivatives clearing organization (as defined in*
6 *the Commodity Exchange Act), a multilateral clearing or-*
7 *ganization (as defined in the Federal Deposit Insurance*
8 *Corporation Improvement Act of 1991), a national securi-*
9 *ties exchange, a national securities association, a securities*
10 *clearing agency, a contract market designated under the*
11 *Commodity Exchange Act, a derivatives transaction execu-*
12 *tion facility registered under the Commodity Exchange Act,*
13 *or a board of trade (as defined in the Commodity Exchange*
14 *Act) or in a resolution of the governing board thereof, and*
15 *a right, whether or not evidenced in writing, arising under*
16 *common law, under law merchant, or by reason of normal*
17 *business practice.*

18 “(d) *CASES ANCILLARY TO FOREIGN PROCEEDINGS.—*
19 *Any provisions of this title relating to securities contracts,*
20 *commodity contracts, forward contracts, repurchase agree-*
21 *ments, swap agreements, or master netting agreements shall*
22 *apply in a case under chapter 15 of this title, so that en-*
23 *forcement of contractual provisions of such contracts and*
24 *agreements in accordance with their terms will not be*
25 *stayed or otherwise limited by operation of any provision*

1 *of this title or by order of a court in any case under this*
2 *title, and to limit avoidance powers to the same extent as*
3 *in a proceeding under chapter 7 or 11 of this title (such*
4 *enforcement not to be limited based on the presence or ab-*
5 *sence of assets of the debtor in the United States).”.*

6 (2) *CONFORMING AMENDMENT.—The table of sec-*
7 *tions for chapter 5 of title 11, United States Code, is*
8 *amended by inserting after the item relating to sec-*
9 *tion 560 the following:*

“561. Contractual right to terminate, liquidate, accelerate, or offset under a mas-
ter netting agreement and across contracts; proceedings under
chapter 15.”.

10 (l) *COMMODITY BROKER LIQUIDATIONS.—Title 11,*
11 *United States Code, is amended by inserting after section*
12 *766 the following:*

13 **“§767. Commodity broker liquidation and forward**
14 **contract merchants, commodity brokers,**
15 **stockbrokers, financial institutions, fi-**
16 **ancial participants, securities clearing**
17 **agencies, swap participants, repo partici-**
18 **pants, and master netting agreement par-**
19 **ticipants**

20 *“Notwithstanding any other provision of this title, the*
21 *exercise of rights by a forward contract merchant, com-*
22 *modity broker, stockbroker, financial institution, financial*
23 *participant, securities clearing agency, swap participant,*
24 *repo participant, or master netting agreement participant*

1 *under this title shall not affect the priority of any unsecured*
2 *claim it may have after the exercise of such rights.”.*

3 (m) *STOCKBROKER LIQUIDATIONS.—Title 11, United*
4 *States Code, is amended by inserting after section 752 the*
5 *following:*

6 **“§ 753. Stockbroker liquidation and forward contract**
7 **merchants, commodity brokers, stock-**
8 **brokers, financial institutions, financial**
9 **participants, securities clearing agencies,**
10 **swap participants, repo participants, and**
11 **master netting agreement participants**

12 *“Notwithstanding any other provision of this title, the*
13 *exercise of rights by a forward contract merchant, com-*
14 *modity broker, stockbroker, financial institution, securities*
15 *clearing agency, swap participant, repo participant, finan-*
16 *cial participant, or master netting agreement participant*
17 *under this title shall not affect the priority of any unsecured*
18 *claim it may have after the exercise of such rights.”.*

19 (n) *SETOFF.—Section 553 of title 11, United States*
20 *Code, is amended—*

21 (1) *in subsection (a)(2)(B)(ii), by inserting be-*
22 *fore the semicolon the following: “(except for a setoff*
23 *of a kind described in section 362(b)(6), 362(b)(7),*
24 *362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)”;*

1 (2) *in subsection (a)(3)(C), by inserting before*
2 *the period the following: “(except for a setoff of a kind*
3 *described in section 362(b)(6), 362(b)(7), 362(b)(17),*
4 *362(b)(27), 555, 556, 559, 560, or 561 of this title)”;*
5 *and*

6 (3) *in subsection (b)(1), by striking*
7 *“362(b)(14),” and inserting “362(b)(17), 362(b)(27),*
8 *555, 556, 559, 560, 561”.*

9 (o) *SECURITIES CONTRACTS, COMMODITY CONTRACTS,*
10 *AND FORWARD CONTRACTS.—Title 11, United States Code,*
11 *is amended—*

12 (1) *in section 362(b)(6), by striking “financial*
13 *institutions,” each place such term appears and in-*
14 *serting “financial institution, financial participant,”;*

15 (2) *in sections 362(b)(7) and 546(f), by inserting*
16 *“or financial participant” after “repo participant”*
17 *each place that term appears;*

18 (3) *in section 546(e), by inserting “financial*
19 *participant,” after “financial institution,”;*

20 (4) *in section 548(d)(2)(B), by inserting “finan-*
21 *cial participant,” after “financial institution,”;*

22 (5) *in section 548(d)(2)(C), by inserting “or fi-*
23 *nancial participant” after “repo participant”;*

24 (6) *in section 548(d)(2)(D), by inserting “or fi-*
25 *nancial participant” after “swap participant”;*

1 (7) in section 555—

2 (A) by inserting “financial participant,”
3 after “financial institution,”; and

4 (B) by striking the second sentence and in-
5 serting the following: “As used in this section,
6 the term ‘contractual right’ includes a right set
7 forth in a rule or bylaw of a derivatives clearing
8 organization (as defined in the Commodity Ex-
9 change Act), a multilateral clearing organization
10 (as defined in the Federal Deposit Insurance
11 Corporation Improvement Act of 1991), a na-
12 tional securities exchange, a national securities
13 association, a securities clearing agency, a con-
14 tract market designated under the Commodity
15 Exchange Act, a derivatives transaction execu-
16 tion facility registered under the Commodity Ex-
17 change Act, or a board of trade (as defined in the
18 Commodity Exchange Act), or in a resolution of
19 the governing board thereof, and a right, whether
20 or not in writing, arising under common law,
21 under law merchant, or by reason of normal
22 business practice”;

23 (8) in section 556, by inserting “, financial par-
24 ticipant,” after “commodity broker”;

1 (9) in section 559, by inserting “or financial
2 participant” after “repo participant” each place that
3 term appears; and

4 (10) in section 560, by inserting “or financial
5 participant” after “swap participant”.

6 (p) *CONFORMING AMENDMENTS.*—*Title 11, United*
7 *States Code, is amended—*

8 (1) *in the table of sections for chapter 5—*

9 (A) *by amending the items relating to sec-*
10 *tions 555 and 556 to read as follows:*

“555. *Contractual right to liquidate, terminate, or accelerate a securities contract.*

“556. *Contractual right to liquidate, terminate, or accelerate a commodities con-*
tract or forward contract.”;

11 *and*

12 (B) *by amending the items relating to sec-*
13 *tions 559 and 560 to read as follows:*

“559. *Contractual right to liquidate, terminate, or accelerate a repurchase agree-*
ment.

“560. *Contractual right to liquidate, terminate, or accelerate a swap agreement.”;*

14 *and*

15 (2) *in the table of sections for chapter 7—*

16 (A) *by inserting after the item relating to*
17 *section 766 the following:*

“767. *Commodity broker liquidation and forward contract merchants, commodity*
brokers, stockbrokers, financial institutions, financial partici-
pants, securities clearing agencies, swap participants, repo partici-
pants, and master netting agreement participants.”;

18 *and*

19 (B) *by inserting after the item relating to*
20 *section 752 the following:*

“753. *Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.*”.

1 **SEC. 907A. SECURITIES BROKER/COMMODITY BROKER LIQ-**
 2 **UIDATION.**

3 *The Securities and Exchange Commission and the*
 4 *Commodity Futures Trading Commission may consult with*
 5 *each other with respect to whether, under what cir-*
 6 *cumstances, and the extent to which security futures prod-*
 7 *ucts will be treated as commodity contracts or securities*
 8 *in a liquidation of a person that is both a securities broker*
 9 *and a commodity broker, and with respect to the treatment*
 10 *in such a liquidation of accounts in which both commodity*
 11 *contracts and securities are carried.*

12 **SEC. 908. RECORDKEEPING REQUIREMENTS.**

13 *Section 11(e)(8) of the Federal Deposit Insurance Act*
 14 *(12 U.S.C. 1821(e)(8)) is amended by adding at the end*
 15 *the following new subparagraph:*

16 *“(H) RECORDKEEPING REQUIREMENTS.—*
 17 *The Corporation, in consultation with the appro-*
 18 *priate Federal banking agencies, may by regula-*
 19 *tion require more detailed recordkeeping by any*
 20 *insured depository institution with respect to*
 21 *qualified financial contracts (including market*
 22 *valuations) only if such insured depository insti-*
 23 *tution is in a troubled condition (as such term*

1 *is defined by the Corporation pursuant to 12*
2 *U.S.C. 1831i).”;*

3 **SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECU-**
4 **TION REQUIREMENT.**

5 *Section 13(e)(2) of the Federal Deposit Insurance Act*
6 *(12 U.S.C. 1823(e)(2)) is amended to read as follows:*

7 “(2) *EXEMPTIONS FROM CONTEMPORANEOUS*
8 *EXECUTION REQUIREMENT.—An agreement to provide*
9 *for the lawful collateralization of—*

10 “(A) *deposits of, or other credit extension*
11 *by, a Federal, State, or local governmental enti-*
12 *ty, or of any depositor referred to in section*
13 *11(a)(2), including an agreement to provide col-*
14 *lateral in lieu of a surety bond;*

15 “(B) *bankruptcy estate funds pursuant to*
16 *section 345(b)(2) of title 11, United States Code;*

17 “(C) *extensions of credit, including any*
18 *overdraft, from a Federal reserve bank or Federal*
19 *home loan bank; or*

20 “(D) *one or more qualified financial con-*
21 *tracts, as defined in section 11(e)(8)(D),*

22 *shall not be deemed invalid pursuant to paragraph*
23 *(1)(B) solely because such agreement was not executed*
24 *contemporaneously with the acquisition of the collat-*
25 *eral or because of pledges, delivery, or substitution of*

1 *the collateral made in accordance with such agree-*
2 *ment.”.*

3 **SEC. 910. DAMAGE MEASURE.**

4 (a) *IN GENERAL.*—Title 11, United States Code, is
5 amended—

6 (1) *by inserting after section 561, as added by*
7 *this Act, the following:*

8 **“§562. Damage measure in connection with swap**
9 **agreements, securities contracts, forward**
10 **contracts, commodity contracts, repur-**
11 **chase agreements, or master netting**
12 **agreements**

13 *“If the trustee rejects a swap agreement, securities con-*
14 *tract (as defined in section 741), forward contract, com-*
15 *modity contract (as defined in section 761), repurchase*
16 *agreement, or master netting agreement pursuant to section*
17 *365(a), or if a forward contract merchant, stockbroker, fi-*
18 *nancial institution, securities clearing agency, repo partici-*
19 *pant, financial participant, master netting agreement par-*
20 *ticipant, or swap participant liquidates, terminates, or ac-*
21 *celerates such contract or agreement, damages shall be*
22 *measured as of the earlier of—*

23 *“(1) the date of such rejection; or*

24 *“(2) the date of such liquidation, termination, or*
25 *acceleration.”; and*

1 (2) *in the table of sections for chapter 5, by in-*
 2 *serting after the item relating to section 561 (as*
 3 *added by this Act) the following:*

*“562. Damage measure in connection with swap agreements, securities contracts,
 forward contracts, commodity contracts, repurchase agreements,
 or master netting agreements.”.*

4 (b) *CLAIMS ARISING FROM REJECTION.*—Section
 5 *502(g) of title 11, United States Code, is amended—*

6 (1) *by inserting “(1)” after “(g)”;* and

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

8 *“(2) A claim for damages calculated in accordance*
 9 *with section 562 of this title shall be allowed under sub-*
 10 *section (a), (b), or (c), or disallowed under subsection (d)*
 11 *or (e), as if such claim had arisen before the date of the*
 12 *filing of the petition.”.*

13 **SEC. 911. SIPC STAY.**

14 Section 5(b)(2) of the Securities Investor Protection
 15 Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding
 16 at the end the following new subparagraph:

17 “(C) *EXCEPTION FROM STAY.*—

18 “(i) *Notwithstanding section 362 of*
 19 *title 11, United States Code, neither the fil-*
 20 *ing of an application under subsection*
 21 *(a)(3) nor any order or decree obtained by*
 22 *SIPC from the court shall operate as a stay*
 23 *of any contractual rights of a creditor to*
 24 *liquidate, terminate, or accelerate a securi-*

1 *ties contract, commodity contract, forward*
2 *contract, repurchase agreement, swap agree-*
3 *ment, or master netting agreement, as those*
4 *terms are defined in sections 101, 741, and*
5 *761 of title 11, United States Code, to offset*
6 *or net termination values, payment*
7 *amounts, or other transfer obligations aris-*
8 *ing under or in connection with one or*
9 *more of such contracts or agreements, or to*
10 *foreclose on any cash collateral pledged by*
11 *the debtor, whether or not with respect to*
12 *one or more of such contracts or agreements.*

13 *“(ii) Notwithstanding clause (i), such*
14 *application, order, or decree may operate as*
15 *a stay of the foreclosure on, or disposition*
16 *of, securities collateral pledged by the debt-*
17 *or, whether or not with respect to one or*
18 *more of such contracts or agreements, secu-*
19 *rities sold by the debtor under a repurchase*
20 *agreement, or securities lent under a securi-*
21 *ties lending agreement.*

22 *“(iii) As used in this subparagraph,*
23 *the term ‘contractual right’ includes a right*
24 *set forth in a rule or bylaw of a national*
25 *securities exchange, a national securities as-*

1 *sociation, or a securities clearing agency, a*
2 *right set forth in a bylaw of a clearing or-*
3 *ganization or contract market or in a reso-*
4 *lution of the governing board thereof, and a*
5 *right, whether or not in writing, arising*
6 *under common law, under law merchant, or*
7 *by reason of normal business practice.”.*

8 **SEC. 912. ASSET-BACKED SECURITIZATIONS.**

9 *Section 541 of title 11, United States Code, is*
10 *amended—*

11 *(1) in subsection (b), by inserting after para-*
12 *graph (7), as added by this Act, the following:*

13 *“(8) any eligible asset (or proceeds thereof), to*
14 *the extent that such eligible asset was transferred by*
15 *the debtor, before the date of commencement of the*
16 *case, to an eligible entity in connection with an asset-*
17 *backed securitization, except to the extent such asset*
18 *(or proceeds or value thereof) may be recovered by the*
19 *trustee under section 550 by virtue of avoidance*
20 *under section 548(a);”;* and

21 *(2) by adding at the end the following new sub-*
22 *section:*

23 *“(f) For purposes of this section—*

24 *“(1) the term ‘asset-backed securitization’ means*
25 *a transaction in which eligible assets transferred to*

1 *an eligible entity are used as the source of payment*
2 *on securities, including, without limitation, all secu-*
3 *rities issued by governmental units, at least one class*
4 *or tranche of which was rated investment grade by*
5 *one or more nationally recognized securities rating*
6 *organizations, when the securities were initially*
7 *issued by an issuer;*

8 *“(2) the term ‘eligible asset’ means—*

9 *“(A) financial assets (including interests*
10 *therein and proceeds thereof), either fixed or re-*
11 *volving, whether or not the same are in existence*
12 *as of the date of the transfer, including residen-*
13 *tial and commercial mortgage loans, consumer*
14 *receivables, trade receivables, assets of govern-*
15 *mental units, including payment obligations re-*
16 *lating to taxes, receipts, fines, tickets, and other*
17 *sources of revenue, and lease receivables, that, by*
18 *their terms, convert into cash within a finite*
19 *time period, plus any residual interest in prop-*
20 *erty subject to receivables included in such finan-*
21 *cial assets plus any rights or other assets de-*
22 *signed to assure the servicing or timely distribu-*
23 *tion of proceeds to security holders;*

24 *“(B) cash; and*

1 “(C) securities, including without limita-
2 tion, all securities issued by governmental units;

3 “(3) the term ‘eligible entity’ means—

4 “(A) an issuer; or

5 “(B) a trust, corporation, partnership, gov-
6 ernmental unit, limited liability company (in-
7 cluding a single member limited liability com-
8 pany), or other entity engaged exclusively in the
9 business of acquiring and transferring eligible
10 assets directly or indirectly to an issuer and tak-
11 ing actions ancillary thereto;

12 “(4) the term ‘issuer’ means a trust, corporation,
13 partnership, governmental unit, limited liability com-
14 pany (including a single member limited liability
15 company), or other entity engaged exclusively in the
16 business of acquiring and holding eligible assets,
17 issuing securities backed by eligible assets, and taking
18 actions ancillary thereto; and

19 “(5) the term ‘transferred’ means the debtor,
20 under a written agreement, represented and war-
21 ranted that eligible assets were sold, contributed, or
22 otherwise conveyed with the intention of removing
23 them from the estate of the debtor pursuant to sub-
24 section (b)(8) (whether or not reference is made to this

1 *title or any section hereof), irrespective and without*
2 *limitation of—*

3 “(A) *whether the debtor directly or indi-*
4 *rectly obtained or held an interest in the issuer*
5 *or in any securities issued by the issuer;*

6 “(B) *whether the debtor had an obligation*
7 *to repurchase or to service or supervise the serv-*
8 *icing of all or any portion of such eligible assets;*
9 *or*

10 “(C) *the characterization of such sale, con-*
11 *tribution, or other conveyance for tax, account-*
12 *ing, regulatory reporting, or other purposes.”.*

13 **SEC. 913. EFFECTIVE DATE; APPLICATION OF AMEND-**
14 **MENTS.**

15 (a) *EFFECTIVE DATE.*—*This title shall take effect on*
16 *the date of enactment of this Act.*

17 (b) *APPLICATION OF AMENDMENTS.*—*The amendments*
18 *made by this title shall apply with respect to cases com-*
19 *menced or appointments made under any Federal or State*
20 *law on or after the date of enactment of this Act, but shall*
21 *not apply with respect to cases commenced or appointments*
22 *made under any Federal or State law before the date of*
23 *enactment of this Act.*

1 **SEC. 914. SAVINGS CLAUSE.**

2 *The meaning of terms used in this title are applicable*
3 *for purposes of this title only, and shall not be construed*
4 *or applied so as to challenge or affect the characterization,*
5 *definition, or treatment of any similar terms under any*
6 *other statute, regulation, or rule, including the Gramm-*
7 *Leach-Bliley Act, the Legal Certainty for Bank Products*
8 *Act of 2000, the securities laws (as that term is defined in*
9 *section 3(a)(47) of the Securities Exchange Act of 1934),*
10 *and the Commodity Exchange Act.*

11 **TITLE X—PROTECTION OF FAM-**
12 **ILY FARMERS AND FAMILY**
13 **FISHERMEN**

14 **SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.**

15 *(a) REENACTMENT.—*

16 *(1) IN GENERAL.—Chapter 12 of title 11, United*
17 *States Code, as reenacted by section 149 of division*
18 *C of the Omnibus Consolidated and Emergency Sup-*
19 *plemental Appropriations Act, 1999 (Public Law*
20 *105–277, 112 Stat. 2681-610), and amended by this*
21 *Act, is reenacted.*

22 *(2) EFFECTIVE DATE.—Subsection (a) shall be*
23 *deemed to have taken effect on July 1, 2000.*

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 (a) *IN GENERAL.*—Section 104(b) of title 11, United
5 States Code, is amended by adding at the end the following:

6 “(4) The dollar amount in section 101(18) shall be ad-
7 justed at the same times and in the same manner as the
8 dollar amounts in paragraph (1) of this subsection.”.

9 (b) *EFFECTIVE DATE.*—The first adjustment required
10 by section 104(b)(4) of title 11, United States Code, as
11 added by subsection (a) of this section, shall occur on the
12 later of—

13 (1) April 1, 2001; or

14 (2) 60 days after the date of enactment of this
15 Act.

16 **SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL**
17 **UNITS.**

18 (a) *CONTENTS OF PLAN.*—Section 1222(a)(2) of title
19 11, United States Code, is amended to read as follows:

20 “(2) provide for the full payment, in deferred
21 cash payments, of all claims entitled to priority
22 under section 507, unless—

23 “(A) the claim is a claim owed to a govern-
24 mental unit that arises as a result of the sale,
25 transfer, exchange, or other disposition of any

1 *farm asset used in the debtor’s farming oper-*
2 *ation, in which case the claim shall be treated as*
3 *an unsecured claim that is not entitled to pri-*
4 *ority under section 507, but the debt shall be*
5 *treated in such manner only if the debtor re-*
6 *ceives a discharge; or*

7 *“(B) the holder of a particular claim agrees*
8 *to a different treatment of that claim;”.*

9 **(b) SPECIAL NOTICE PROVISIONS.**—*Section 1231(b) of*
10 *title 11, United States Code, as so designated by this Act,*
11 *is amended by striking “a State or local governmental*
12 *unit” and inserting “any governmental unit”.*

13 **SEC. 1004. DEFINITION OF FAMILY FARMER.**

14 *Section 101(18) of title 11, United States Code, is*
15 *amended—*

16 *(1) in subparagraph (A)—*

17 *(A) by striking “\$1,500,000” and inserting*
18 *“\$3,000,000”; and*

19 *(B) by striking “80” and inserting “50”;*
20 *and*

21 *(2) in subparagraph (B)(ii)—*

22 *(A) by striking “\$1,500,000” and inserting*
23 *“\$3,000,000”; and*

24 *(B) by striking “80” and inserting “50”.*

1 **SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY**
2 **FARMER AND SPOUSE RECEIVE OVER 50 PER-**
3 **CENT OF INCOME FROM FARMING OPER-**
4 **ATION IN YEAR PRIOR TO BANKRUPTCY.**

5 *Section 101(18)(A) of title 11, United States Code, is*
6 *amended by striking “the taxable year preceding the taxable*
7 *year” and inserting “at least 1 of the 3 calendar years pre-*
8 *ceding the year”.*

9 **SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF**
10 **DISPOSABLE INCOME.**

11 *(a) IN GENERAL.—Section 1225(b) of title 11, United*
12 *States Code, is amended by adding at the end the following:*

13 *“(3) If the plan provides for specific amounts of*
14 *property to be distributed on account of allowed unse-*
15 *cured claims as required by paragraph (1)(B), those*
16 *amounts equal or exceed the debtor’s projected dispos-*
17 *able income for that period, and the plan meets the*
18 *requirements for confirmation other than those of this*
19 *subsection, the plan shall be confirmed.”.*

20 *(b) MODIFICATION.—Section 1229 of title 11, United*
21 *States Code, is amended by adding at the end the following:*

22 *“(d)(1) A modification of the plan under this section*
23 *may not increase the amount of payments that were due*
24 *prior to the date of the order modifying the plan.*

25 *“(2) A modification of the plan under this section to*
26 *increase payments based on an increase in the debtor’s dis-*

1 *posable income may not require payments to unsecured*
2 *creditors in any particular month greater than the debtor's*
3 *disposable income for that month, unless the debtor proposes*
4 *such a modification.*

5 “(3) *A modification of the plan in the last year of the*
6 *plan shall not require payments that would leave the debtor*
7 *with insufficient funds to carry on the farming operation*
8 *after the plan is completed, unless the debtor proposes such*
9 *a modification.*”.

10 **SEC. 1007. FAMILY FISHERMEN.**

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

13 (1) *by inserting after paragraph (7) the fol-*
14 *lowing:*

15 “(7A) *‘commercial fishing operation’ includes—*

16 “(A) *the catching or harvesting of fish,*
17 *shrimp, lobsters, urchins, seaweed, shellfish, or*
18 *other aquatic species or products;*

19 “(B) *for purposes of section 109 and chap-*
20 *ter 12, aquaculture activities consisting of rais-*
21 *ing for market any species or product described*
22 *in subparagraph (A); and*

23 “(C) *the transporting by vessel of a pas-*
24 *senger for hire (as defined in section 2101 of title*
25 *46) who is engaged in recreational fishing;*

1 “(7B) ‘commercial fishing vessel’ means a vessel
2 used by a fisherman to carry out a commercial fish-
3 ing operation;”;

4 (2) by inserting after paragraph (19) the fol-
5 lowing:

6 “(19A) ‘family fisherman’ means—

7 “(A) an individual or individual and
8 spouse engaged in a commercial fishing oper-
9 ation (including aquaculture for purposes of
10 chapter 12)—

11 “(i) whose aggregate debts do not ex-
12 ceed \$1,500,000 and not less than 80 per-
13 cent of whose aggregate noncontingent, liq-
14 uidated debts (excluding a debt for the prin-
15 cipal residence of such individual or such
16 individual and spouse, unless such debt
17 arises out of a commercial fishing oper-
18 ation), on the date the case is filed, arise
19 out of a commercial fishing operation
20 owned or operated by such individual or
21 such individual and spouse; and

22 “(ii) who receive from such commercial
23 fishing operation more than 50 percent of
24 such individual’s or such individual’s and
25 spouse’s gross income for the taxable year

1 preceding the taxable year in which the case
2 concerning such individual or such indi-
3 vidual and spouse was filed; or

4 “(B) a corporation or partnership—

5 “(i) in which more than 50 percent of
6 the outstanding stock or equity is held by—

7 “(I) 1 family that conducts the
8 commercial fishing operation; or

9 “(II) 1 family and the relatives of
10 the members of such family, and such
11 family or such relatives conduct the
12 commercial fishing operation; and

13 “(ii)(I) more than 80 percent of the
14 value of its assets consists of assets related
15 to the commercial fishing operation;

16 “(II) its aggregate debts do not exceed
17 \$1,500,000 and not less than 80 percent of
18 its aggregate noncontingent, liquidated
19 debts (excluding a debt for 1 dwelling which
20 is owned by such corporation or partner-
21 ship and which a shareholder or partner
22 maintains as a principal residence, unless
23 such debt arises out of a commercial fishing
24 operation), on the date the case is filed,
25 arise out of a commercial fishing operation

1 owned or operated by such corporation or
2 such partnership; and

3 “(III) if such corporation issues stock,
4 such stock is not publicly traded;”; and

5 (3) by inserting after paragraph (19A) the fol-
6 lowing:

7 “(19B) ‘family fisherman with regular annual
8 income’ means a family fisherman whose annual in-
9 come is sufficiently stable and regular to enable such
10 family fisherman to make payments under a plan
11 under chapter 12 of this title;”.

12 (b) *WHO MAY BE A DEBTOR*.—Section 109(f) of title
13 11, United States Code, is amended by inserting “or family
14 fisherman” after “family farmer”.

15 (c) *CHAPTER 12*.—Chapter 12 of title 11, United
16 States Code, is amended—

17 (1) in the chapter heading, by inserting “**OR**
18 **FISHERMAN**” after “**FAMILY FARMER**”;

19 (2) in section 1201, by adding at the end the fol-
20 lowing:

21 “(e)(1) Notwithstanding any other provision of law,
22 for purposes of this subsection, a guarantor of a claim of
23 a creditor under this section shall be treated in the same
24 manner as a creditor with respect to the operation of a stay
25 under this section.

1 “(2) For purposes of a claim that arises from the own-
2 ership or operation of a commercial fishing operation, a
3 co-maker of a loan made by a creditor under this section
4 shall be treated in the same manner as a creditor with re-
5 spect to the operation of a stay under this section.”;

6 (3) in section 1203, by inserting “or commercial
7 fishing operation” after “farm”;

8 (4) in section 1206, by striking “if the property
9 is farmland or farm equipment” and inserting “if the
10 property is farmland, farm equipment, or property of
11 a commercial fishing operation (including a commer-
12 cial fishing vessel)”; and

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

14 **“§ 1232. Additional provisions relating to family fish-**
15 **ermen**

16 “(a)(1) Notwithstanding any other provision of law,
17 except as provided in subsection (c), with respect to any
18 commercial fishing vessel of a family fisherman, the debts
19 of that family fisherman shall be treated in the manner pre-
20 scribed in paragraph (2).

21 “(2)(A) For purposes of this chapter, a claim for a
22 lien described in subsection (b) for a commercial fishing ves-
23 sel of a family fisherman that could, but for this subsection,
24 be subject to a lien under otherwise applicable maritime
25 law, shall be treated as an unsecured claim.

1 “(B) Subparagraph (A) applies to a claim for a lien
2 resulting from a debt of a family fisherman incurred on
3 or after the date of enactment of this chapter.

4 “(b) A lien described in this subsection is—

5 “(1) a maritime lien under subchapter III of
6 chapter 313 of title 46 without regard to whether that
7 lien is recorded under section 31343 of title 46; or

8 “(2) a lien under applicable State law (or the
9 law of a political subdivision thereof).

10 “(c) Subsection (a) shall not apply to—

11 “(1) a claim made by a member of a crew or a
12 seaman including a claim made for—

13 “(A) wages, maintenance, or cure; or

14 “(B) personal injury; or

15 “(2) a preferred ship mortgage that has been per-
16 fected under subchapter II of chapter 313 of title 46.

17 “(d) For purposes of this chapter, a mortgage described
18 in subsection (c)(2) shall be treated as a secured claim.”.

19 (d) CLERICAL AMENDMENTS.—

20 (1) TABLE OF CHAPTERS.—In the table of chap-
21 ters for title 11, United States Code, the item relating
22 to chapter 12, is amended to read as follows:

**“12. Adjustments of Debts of a Family Farmer or Family
Fisherman with Regular Annual Income 1201”.**

1 (2) *TABLE OF SECTIONS.*—*The table of sections*
 2 *for chapter 12 of title 11, United States Code, is*
 3 *amended by adding at the end the following new item:*

 “1232. *Additional provisions relating to family fishermen.*”

4 *(e) Applicability.*—

5 *Nothing in this section shall change, affect, or*
 6 *amend the Fishery Conservation and Management*
 7 *Act of 1976 (16 U.S.C. 1801, et seq.).*

8 ***TITLE XI—HEALTH CARE AND***
 9 ***EMPLOYEE BENEFITS***

10 ***SEC. 1101. DEFINITIONS.***

11 *(a) HEALTH CARE BUSINESS DEFINED.*—*Section 101*
 12 *of title 11, United States Code, is amended—*

13 *(1) by redesignating paragraph (27A), as added*
 14 *by this Act, as paragraph (27B); and*

15 *(2) by inserting after paragraph (27) the fol-*
 16 *lowing:*

17 “*(27A) ‘health care business’—*

18 “*(A) means any public or private entity*
 19 *(without regard to whether that entity is orga-*
 20 *nized for profit or not for profit) that is pri-*
 21 *marily engaged in offering to the general public*
 22 *facilities and services for—*

23 “*(i) the diagnosis or treatment of in-*
 24 *jury, deformity, or disease; and*

1 “(i) surgical, drug treatment, psy-
2 chiatric, or obstetric care; and
3 “(B) includes—
4 “(i) any—
5 “(I) general or specialized hos-
6 pital;
7 “(II) ancillary ambulatory, emer-
8 gency, or surgical treatment facility;
9 “(III) hospice;
10 “(IV) home health agency; and
11 “(V) other health care institution
12 that is similar to an entity referred to
13 in subclause (I), (II), (III), or (IV);
14 and
15 “(ii) any long-term care facility, in-
16 cluding any—
17 “(I) skilled nursing facility;
18 “(II) intermediate care facility;
19 “(III) assisted living facility;
20 “(IV) home for the aged;
21 “(V) domiciliary care facility;
22 and
23 “(VI) health care institution that
24 is related to a facility referred to in
25 subclause (I), (II), (III), (IV), or (V),

1 *if that institution is primarily engaged*
2 *in offering room, board, laundry, or*
3 *personal assistance with activities of*
4 *daily living and incidentals to activi-*
5 *ties of daily living;”.*

6 **(b) PATIENT AND PATIENT RECORDS DEFINED.**—*Sec-*
7 *tion 101 of title 11, United States Code, is amended by in-*
8 *serting after paragraph (40) the following:*

9 “(40A) ‘patient’ means any person who obtains
10 or receives services from a health care business;

11 “(40B) ‘patient records’ means any written doc-
12 ument relating to a patient or a record recorded in
13 a magnetic, optical, or other form of electronic me-
14 dium;”.

15 **(c) RULE OF CONSTRUCTION.**—*The amendments made*
16 *by subsection (a) of this section shall not affect the interpre-*
17 *tation of section 109(b) of title 11, United States Code.*

18 **SEC. 1102. DISPOSAL OF PATIENT RECORDS.**

19 **(a) IN GENERAL.**—*Subchapter III of chapter 3 of title*
20 *11, United States Code, is amended by adding at the end*
21 *the following:*

22 **“§ 351. Disposal of patient records**

23 *“If a health care business commences a case under*
24 *chapter 7, 9, or 11, and the trustee does not have a sufficient*
25 *amount of funds to pay for the storage of patient records*

1 *in the manner required under applicable Federal or State*
2 *law, the following requirements shall apply:*

3 “(1) *The trustee shall—*

4 “(A) *promptly publish notice, in 1 or more*
5 *appropriate newspapers, that if patient records*
6 *are not claimed by the patient or an insurance*
7 *provider (if applicable law permits the insurance*
8 *provider to make that claim) by the date that is*
9 *365 days after the date of that notification, the*
10 *trustee will destroy the patient records; and*

11 “(B) *during the first 180 days of the 365-*
12 *day period described in subparagraph (A),*
13 *promptly attempt to notify directly each patient*
14 *that is the subject of the patient records and ap-*
15 *propriate insurance carrier concerning the pa-*
16 *tient records by mailing to the last known ad-*
17 *dress of that patient, or a family member or con-*
18 *tact person for that patient, and to the appro-*
19 *priate insurance carrier an appropriate notice*
20 *regarding the claiming or disposing of patient*
21 *records.*

22 “(2) *If, after providing the notification under*
23 *paragraph (1), patient records are not claimed dur-*
24 *ing the 365-day period described under that para-*
25 *graph, the trustee shall mail, by certified mail, at the*

1 *end of such 365-day period a written request to each*
2 *appropriate Federal agency to request permission*
3 *from that agency to deposit the patient records with*
4 *that agency, except that no Federal agency is required*
5 *to accept patient records under this paragraph.*

6 *“(3) If, following the 365-day period described in*
7 *paragraph (2) and after providing the notification*
8 *under paragraph (1), patient records are not claimed*
9 *by a patient or insurance provider, or request is not*
10 *granted by a Federal agency to deposit such records*
11 *with that agency, the trustee shall destroy those*
12 *records by—*

13 *“(A) if the records are written, shredding or*
14 *burning the records; or*

15 *“(B) if the records are magnetic, optical, or*
16 *other electronic records, by otherwise destroying*
17 *those records so that those records cannot be re-*
18 *trieved.”.*

19 *(b) CLERICAL AMENDMENT.—The table of sections for*
20 *chapter 3 of title 11, United States Code, is amended by*
21 *inserting after the item relating to section 350 the following:*

“351. Disposal of patient records.”.

1 **SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF**
2 **CLOSING A HEALTH CARE BUSINESS AND**
3 **OTHER ADMINISTRATIVE EXPENSES.**

4 *Section 503(b) of title 11, United States Code, as*
5 *amended by this Act, is amended by adding at the end the*
6 *following:*

7 *“(8) the actual, necessary costs and expenses of*
8 *closing a health care business incurred by a trustee or*
9 *by a Federal agency (as that term is defined in sec-*
10 *tion 551(1) of title 5) or a department or agency of*
11 *a State or political subdivision thereof, including any*
12 *cost or expense incurred—*

13 *“(A) in disposing of patient records in ac-*
14 *cordance with section 351; or*

15 *“(B) in connection with transferring pa-*
16 *tients from the health care business that is in the*
17 *process of being closed to another health care*
18 *business;*

19 *“(9) with respect to a nonresidential real prop-*
20 *erty lease previously assumed under section 365, and*
21 *subsequently rejected, a sum equal to all monetary ob-*
22 *ligations due, excluding those arising from or related*
23 *to a failure to operate or penalty provisions, for the*
24 *period of 2 years following the later of the rejection*
25 *date or date of actual turnover of the premises, with-*
26 *out reduction or setoff for any reason whatsoever ex-*

1 *cept for sums actually received or to be received from*
2 *a nondebtor, and the claim for remaining sums due*
3 *for the balance of the term of the lease shall be a*
4 *claim under section 502(b)(6); and”.*

5 **SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PA-**
6 **TIENT ADVOCATE.**

7 *(a) IN GENERAL.—*

8 *(1) APPOINTMENT OF OMBUDSMAN.—Subchapter*
9 *II of chapter 3 of title 11, United States Code, is*
10 *amended by inserting after section 331 the following:*

11 **“§ 332. Appointment of ombudsman**

12 *“(a) IN GENERAL.—*

13 *“(1) AUTHORITY TO APPOINT.—Not later than*
14 *30 days after a case is commenced by a health care*
15 *business under chapter 7, 9, or 11, the court shall*
16 *order the appointment of an ombudsman to monitor*
17 *the quality of patient care to represent the interests*
18 *of the patients of the health care business, unless the*
19 *court finds that the appointment of the ombudsman*
20 *is not necessary for the protection of patients under*
21 *the specific facts of the case.*

22 *“(2) QUALIFICATIONS.—If the court orders the*
23 *appointment of an ombudsman, the United States*
24 *trustee shall appoint 1 disinterested person, other*
25 *than the United States trustee, to serve as an ombuds-*

1 *man. If the health care business is a long-term care*
2 *facility, the trustee may appoint a person who is*
3 *serving as a State Long-Term Care Ombudsman ap-*
4 *pointed under title III or VII of the Older Americans*
5 *Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.).*

6 *In the event that the trustee does not appoint the State*
7 *Long-Term Care Ombudsman to monitor the quality of pa-*
8 *tient care in a long-term care facility, the court shall notify*
9 *the individual who serves as the State Long-Term Care Om-*
10 *budsman of the name and address of the individual who*
11 *is appointed.*

12 *“(b) DUTIES.—An ombudsman appointed under sub-*
13 *section (a) shall—*

14 *“(1) monitor the quality of patient care, to the*
15 *extent necessary under the circumstances, including*
16 *interviewing patients and physicians;*

17 *“(2) not later than 60 days after the date of ap-*
18 *pointment, and not less frequently than every 60 days*
19 *thereafter, report to the court, at a hearing or in*
20 *writing, regarding the quality of patient care at the*
21 *health care business involved; and*

22 *“(3) if the ombudsman determines that the qual-*
23 *ity of patient care is declining significantly or is oth-*
24 *erwise being materially compromised, notify the court*
25 *by motion or written report, with notice to appro-*

1 *prate parties in interest, immediately upon making*
2 *that determination.*

3 “(c) *CONFIDENTIALITY.*—*An ombudsman shall main-*
4 *tain any information obtained by the ombudsman under*
5 *this section that relates to patients (including information*
6 *relating to patient records) as confidential information. The*
7 *ombudsman may not review confidential patient records,*
8 *unless the court provides prior approval, with restrictions*
9 *on the ombudsman to protect the confidentiality of patient*
10 *records. If the individual appointed as ombudsman is a*
11 *person who is also serving as a State Long-Term Care Om-*
12 *budsman appointed under title III or title VII of the Older*
13 *Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et*
14 *seq.), that person shall have access to patient records, con-*
15 *sistent with authority spelled out in the Older Americans*
16 *Act and State laws governing the State Long-Term Care*
17 *Ombudsman program.”.*

18 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
19 *tions for chapter 3 of title 11, United States Code, is*
20 *amended by inserting after the item relating to sec-*
21 *tion 331 the following:*

 “332. *Appointment of ombudsman.*”.

22 (b) *COMPENSATION OF OMBUDSMAN.*—*Section*
23 *330(a)(1) of title 11, United States Code, is amended—*

1 (1) *in the matter preceeding subparagraph (A),*
2 *by inserting “an ombudsman appointed under section*
3 *331, or” before “a professional person”; and*

4 (2) *in subparagraph (A), by inserting “ombuds-*
5 *man,” before “professional person”.*

6 **SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO**
7 **TRANSFER PATIENTS.**

8 (a) *IN GENERAL.*—Section 704(a) of title 11, United
9 States Code, as amended by this Act, is amended by adding
10 *at the end the following:*

11 “(11) *use all reasonable and best efforts to trans-*
12 *fer patients from a health care business that is in the*
13 *process of being closed to an appropriate health care*
14 *business that—*

15 “(A) *is in the vicinity of the health care*
16 *business that is closing;*

17 “(B) *provides the patient with services that*
18 *are substantially similar to those provided by the*
19 *health care business that is in the process of*
20 *being closed; and*

21 “(C) *maintains a reasonable quality of*
22 *care.”.*

23 (b) *CONFORMING AMENDMENT.*—Section 1106(a)(1) of
24 *title 11, United States Code, is amended by striking “sec-*
25 *tions 704(2), 704(5), 704(7), 704(8), and 704(9)” and in-*

1 *serting “paragraphs (2), (5), (7), (8), (9), and (11) of sec-*
 2 *tion 704(a)”.*

3 **SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION**

4 **NOT SUBJECT TO AUTOMATIC STAY.**

5 *Section 362(b) of title 11, United States Code, is*
 6 *amended by inserting after paragraph (27), as added by*
 7 *this Act, the following:*

8 *“(28) under subsection (a), of the exclusion by*
 9 *the Secretary of Health and Human Services of the*
 10 *debtor from participation in the medicare program or*
 11 *any other Federal health care program (as defined in*
 12 *section 1128B(f) of the Social Security Act (42 U.S.C.*
 13 *1320a–7b(f)) pursuant to title XI of such Act (42*
 14 *U.S.C. 1301 et seq.) or title XVIII of such Act (42*
 15 *U.S.C. 1395 et seq.).”.*

16 **TITLE XII—TECHNICAL**
 17 **AMENDMENTS**

18 **SEC. 1201. DEFINITIONS.**

19 *Section 101 of title 11, United States Code, as amend-*
 20 *ed by this Act, is amended—*

21 *(1) by striking “In this title—” and inserting*
 22 *“In this title, the following definitions shall apply:”;*

23 *(2) in each paragraph, by inserting “The term”*
 24 *after the paragraph designation;*

1 (3) in paragraph (35)(B), by striking “para-
2 graphs (21B) and (33)(A)” and inserting “para-
3 graphs (23) and (35)”;

4 (4) in each of paragraphs (35A) and (38), by
5 striking “; and” at the end and inserting a period;

6 (5) in paragraph (51B)—

7 (A) by inserting “who is not a family farm-
8 er” after “debtor” the first place it appears; and

9 (B) by striking “thereto having aggregate”
10 and all that follows through the end of the para-
11 graph;

12 (6) by striking paragraph (54) and inserting the
13 following:

14 “(54) The term ‘transfer’ means—

15 “(A) the creation of a lien;

16 “(B) the retention of title as a security in-
17 terest;

18 “(C) the foreclosure of a debtor’s equity of
19 redemption; or

20 “(D) each mode, direct or indirect, absolute
21 or conditional, voluntary or involuntary, of dis-
22 posing of or parting with—

23 “(i) property; or

24 “(ii) an interest in property.”; and

1 (7) in each of paragraphs (1) through (35), in
2 each of paragraphs (36) and (37), and in each of
3 paragraphs (40) through (55), by striking the semi-
4 colon at the end and inserting a period.

5 **SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.**

6 Section 104 of title 11, United States Code, as amend-
7 ed by section 308 of this Act, is amended by inserting
8 “522(f)(3),” after “522(d),” each place it appears.

9 **SEC. 1203. EXTENSION OF TIME.**

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

13 **SEC. 1204. TECHNICAL AMENDMENTS.**

14 Title 11, United States Code, is amended—

15 (1) in section 109(b)(2), by striking “subsection
16 (c) or (d) of”; and

17 (2) in section 552(b)(1), by striking “product”
18 each place it appears and inserting “products”.

19 **SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
20 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
21 **TITIONS.**

22 Section 110(j)(4) of title 11, United States Code, as
23 so designated by this Act, is amended by striking “attor-
24 ney’s” and inserting “attorneys”.

1 **SEC. 1206. LIMITATION ON COMPENSATION OF PROFES-**
2 **SIONAL PERSONS.**

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

6 **SEC. 1207. EFFECT OF CONVERSION.**

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

10 **SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

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

14 **SEC. 1209. EXCEPTIONS TO DISCHARGE.**

15 *Section 523 of title 11, United States Code, as amend-*
16 *ed by this Act, is amended—*

17 *(1) by transferring paragraph (15), as added by*
18 *section 304(e) of Public Law 103–394 (108 Stat.*
19 *4133), so as to insert such paragraph after subsection*
20 *(a)(14);*

21 *(2) in subsection (a)(9), by striking “motor vehi-*
22 *cle” and inserting “motor vehicle, vessel, or aircraft”;*
23 *and*

24 *(3) in subsection (e), by striking “a insured”*
25 *and inserting “an insured”.*

1 **SEC. 1210. EFFECT OF DISCHARGE.**

2 *Section 524(a)(3) of title 11, United States Code, is*
3 *amended by striking “section 523” and all that follows*
4 *through “or that” and inserting “section 523, 1228(a)(1),*
5 *or 1328(a)(1), or that”.*

6 **SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREAT-**
7 **MENT.**

8 *Section 525(c) of title 11, United States Code, is*
9 *amended—*

10 *(1) in paragraph (1), by inserting “student” be-*
11 *fore “grant” the second place it appears; and*

12 *(2) in paragraph (2), by striking “the program*
13 *operated under part B, D, or E of” and inserting*
14 *“any program operated under”.*

15 **SEC. 1212. PROPERTY OF THE ESTATE.**

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

18 **SEC. 1213. PREFERENCES.**

19 *(a) IN GENERAL.—Section 547 of title 11, United*
20 *States Code, as amended by this Act, is amended—*

21 *(1) in subsection (b), by striking “subsection (c)”*
22 *and inserting “subsections (c) and (i)”;* and

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

24 *“(i) If the trustee avoids under subsection (b) a trans-*
25 *fer made between 90 days and 1 year before the date of*
26 *the filing of the petition, by the debtor to an entity that*

1 *is not an insider for the benefit of a creditor that is an*
2 *insider, such transfer shall be considered to be avoided*
3 *under this section only with respect to the creditor that is*
4 *an insider.”.*

5 (b) *APPLICABILITY.—The amendments made by this*
6 *section shall apply to any case that is pending or com-*
7 *menced on or after the date of enactment of this Act.*

8 **SEC. 1214. POSTPETITION TRANSACTIONS.**

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

11 (1) *by inserting “an interest in” after “transfer*
12 *of” each place it appears;*

13 (2) *by striking “such property” and inserting*
14 *“such real property”; and*

15 (3) *by striking “the interest” and inserting*
16 *“such interest”.*

17 **SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.**

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

20 **SEC. 1216. GENERAL PROVISIONS.**

21 *Section 901(a) of title 11, United States Code, as*
22 *amended by this Act, is amended by inserting “1123(d),”*
23 *after “1123(b).”.*

1 **SEC. 1217. ABANDONMENT OF RAILROAD LINE.**

2 *Section 1170(e)(1) of title 11, United States Code, is*
3 *amended by striking “section 11347” and inserting “section*
4 *11326(a)”.*

5 **SEC. 1218. CONTENTS OF PLAN.**

6 *Section 1172(c)(1) of title 11, United States Code, is*
7 *amended by striking “section 11347” and inserting “section*
8 *11326(a)”.*

9 **SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.**

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

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

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

16 **SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
17 **RULE.**

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

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

21 *(A) by inserting “(1) the term” before*
22 *“bankruptcy”;* and

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

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

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

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

5 **SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE**
6 **CORPORATIONS.**

7 (a) *SALE OF PROPERTY OF ESTATE.*—Section 363(d)
8 of title 11, United States Code, is amended by striking
9 “only” and all that follows through the end of the subsection
10 and inserting “only—

11 “(1) in accordance with applicable nonbank-
12 ruptcy law that governs the transfer of property by
13 a corporation or trust that is not a moneyed, busi-
14 ness, or commercial corporation or trust; and

15 “(2) to the extent not inconsistent with any relief
16 granted under subsection (c), (d), (e), or (f) of section
17 362.”.

18 (b) *CONFIRMATION OF PLAN FOR REORGANIZATION.*—
19 Section 1129(a) of title 11, United States Code, as amended
20 by this Act, is amended by adding at the end the following:

21 “(16) All transfers of property of the plan shall
22 be made in accordance with any applicable provisions
23 of nonbankruptcy law that govern the transfer of
24 property by a corporation or trust that is not a

1 *moneyed, business, or commercial corporation or*
2 *trust.”.*

3 (c) *TRANSFER OF PROPERTY.*—*Section 541 of title 11,*
4 *United States Code, as amended by this Act, is amended*
5 *by adding at the end the following:*

6 *“(g) Notwithstanding any other provision of this title,*
7 *property that is held by a debtor that is a corporation de-*
8 *scribed in section 501(c)(3) of the Internal Revenue Code*
9 *of 1986 and exempt from tax under section 501(a) of such*
10 *Code may be transferred to an entity that is not such a*
11 *corporation, but only under the same conditions as would*
12 *apply if the debtor had not filed a case under this title.”.*

13 (d) *APPLICABILITY.*—*The amendments made by this*
14 *section shall apply to a case pending under title 11, United*
15 *States Code, on the date of enactment of this Act, or filed*
16 *under that title on or after that date of enactment, except*
17 *that the court shall not confirm a plan under chapter 11*
18 *of title 11, United States Code, without considering whether*
19 *this section would substantially affect the rights of a party*
20 *in interest who first acquired rights with respect to the debt-*
21 *or after the date of the petition. The parties who may ap-*
22 *pear and be heard in a proceeding under this section in-*
23 *clude the attorney general of the State in which the debtor*
24 *is incorporated, was formed, or does business.*

1 (e) *RULE OF CONSTRUCTION.*—*Nothing in this section*
2 *shall be construed to require the court in which a case under*
3 *chapter 11 of title 11, United States Code, is pending to*
4 *remand or refer any proceeding, issue, or controversy to any*
5 *other court or to require the approval of any other court*
6 *for the transfer of property.*

7 **SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECU-**
8 **RITY INTERESTS.**

9 Section 547(c)(3)(B) of title 11, United States Code,
10 *is amended by striking “20” and inserting “30”.*

11 **SEC. 1223. BANKRUPTCY JUDGESHIPS.**

12 (a) *SHORT TITLE.*—*This section may be cited as the*
13 *“Bankruptcy Judgeship Act of 2001”.*

14 (b) *TEMPORARY JUDGESHIPS.*—

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

20 (A) *One additional bankruptcy judgeship*
21 *for the eastern district of California.*

22 (B) *Four additional bankruptcy judgeships*
23 *for the central district of California.*

24 (C) *One additional bankruptcy judgeship*
25 *for the district of Delaware.*

1 (D) *Two additional bankruptcy judgeships*
2 *for the southern district of Florida.*

3 (E) *One additional bankruptcy judgeship*
4 *for the southern district of Georgia.*

5 (F) *Three additional bankruptcy judgeships*
6 *for the district of Maryland.*

7 (G) *One additional bankruptcy judgeship*
8 *for the eastern district of Michigan.*

9 (H) *One additional bankruptcy judgeship*
10 *for the southern district of Mississippi.*

11 (I) *One additional bankruptcy judgeship for*
12 *the district of New Jersey.*

13 (J) *One additional bankruptcy judgeship*
14 *for the eastern district of New York.*

15 (K) *One additional bankruptcy judgeship*
16 *for the northern district of New York.*

17 (L) *One additional bankruptcy judgeship*
18 *for the southern district of New York.*

19 (M) *One additional bankruptcy judgeship*
20 *for the eastern district of North Carolina.*

21 (N) *One additional bankruptcy judgeship*
22 *for the eastern district of Pennsylvania.*

23 (O) *One additional bankruptcy judgeship*
24 *for the middle district of Pennsylvania.*

1 (P) *One additional bankruptcy judgeship*
2 *for the district of Puerto Rico.*

3 (Q) *One additional bankruptcy judgeship*
4 *for the western district of Tennessee.*

5 (R) *One additional bankruptcy judgeship*
6 *for the eastern district of Virginia.*

7 (S) *One additional bankruptcy judgeship*
8 *for the district of South Carolina.*

9 (T) *One additional bankruptcy judgeship*
10 *for the district of Nevada, and one for the dis-*
11 *trict of Delaware.*

12 (2) *VACANCIES.—The first vacancy occurring in*
13 *the office of a bankruptcy judge in each of the judicial*
14 *districts set forth in paragraph (1) shall not be filled*
15 *if the vacancy—*

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 appointed*
20 *under paragraph (1).*

21 (c) *EXTENSIONS.—*

22 (1) *IN GENERAL.—The temporary bankruptcy*
23 *judgeship positions authorized for the northern dis-*
24 *trict of Alabama, the district of Delaware, the district*
25 *of Puerto Rico, and the eastern district of Tennessee*

1 *under paragraphs (1), (3), (7), and (9) of section 3(a)*
2 *of the Bankruptcy Judgeship Act of 1992 (28 U.S.C.*
3 *152 note) are extended until the first vacancy occur-*
4 *ring in the office of a bankruptcy judge in the appli-*
5 *cable district resulting from the death, retirement, res-*
6 *ignation, or removal of a bankruptcy judge and*
7 *occurring—*

8 *(A) 11 years or more after November 8,*
9 *1993, with respect to the northern district of Ala-*
10 *bama;*

11 *(B) 13 years or more after October 28,*
12 *1993, with respect to the district of Delaware;*

13 *(C) 11 years or more after August 29, 1994,*
14 *with respect to the district of Puerto Rico; and*

15 *(D) 11 years or more after November 23,*
16 *1993, with respect to the eastern district of Ten-*
17 *nessee.*

18 *(2) APPLICABILITY OF OTHER PROVISIONS.—All*
19 *other provisions of section 3 of the Bankruptcy Judge-*
20 *ship Act of 1992 (28 U.S.C. 152 note) remain appli-*
21 *cable to temporary judgeship positions referred to in*
22 *this subsection.*

23 *(d) TECHNICAL AMENDMENTS.—Section 152(a) of title*
24 *28, United States Code, is amended—*

1 (1) *in paragraph (1), by striking the first sen-*
 2 *tence and inserting the following: “Each bankruptcy*
 3 *judge to be appointed for a judicial district, as pro-*
 4 *vided in paragraph (2), shall be appointed by the*
 5 *United States court of appeals for the circuit in*
 6 *which such district is located.”; and*

7 (2) *in paragraph (2)—*

8 (A) *in the item relating to the middle dis-*
 9 *trict of Georgia, by striking “2” and inserting*
 10 *“3”; and*

11 (B) *in the collective item relating to the*
 12 *middle and southern districts of Georgia, by*
 13 *striking “Middle and Southern 1”.*

14 (e) *EFFECTIVE DATE.—The amendments made by this*
 15 *section shall take effect on the date of enactment of this Act.*

16 **SEC. 1224. COMPENSATING TRUSTEES.**

17 *Section 1326 of title 11, United States Code, is*
 18 *amended—*

19 (1) *in subsection (b)—*

20 (A) *in paragraph (1), by striking “and”;*

21 (B) *in paragraph (2), by striking the period*
 22 *at the end and inserting “; and”; and*

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

24 “(3) *if a chapter 7 trustee has been allowed com-*
 25 *penensation due to the conversion or dismissal of the*

1 debtor's prior case pursuant to section 707(b), and
2 some portion of that compensation remains unpaid in
3 a case converted to this chapter or in the case dis-
4 missed under section 707(b) and refiled under this
5 chapter, the amount of any such unpaid compensa-
6 tion, which shall be paid monthly—

7 “(A) by prorating such amount over the re-
8 maining duration of the plan; and

9 “(B) by monthly payments not to exceed the
10 greater of—

11 “(i) \$25; or

12 “(ii) the amount payable to unsecured
13 nonpriority creditors, as provided by the
14 plan, multiplied by 5 percent, and the re-
15 sult divided by the number of months in the
16 plan.”; and

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

18 “(d) Notwithstanding any other provision of this
19 title—

20 “(1) compensation referred to in subsection
21 (b)(3) is payable and may be collected by the trustee
22 under that paragraph, even if such amount has been
23 discharged in a prior proceeding under this title; and

1 “(2) such compensation is payable in a case
2 under this chapter only to the extent permitted by
3 subsection (b)(3).”.

4 **SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11,**
5 **UNITED STATES CODE.**

6 Section 362(b)(18) of title 11, United States Code, is
7 amended to read as follows:

8 “(18) under subsection (a) of the creation or per-
9 fection of a statutory lien for an ad valorem property
10 tax, or a special tax or special assessment on real
11 property whether or not ad valorem, imposed by a
12 governmental unit, if such tax or assessment comes
13 due after the filing of the petition;”.

14 **SEC. 1226. JUDICIAL EDUCATION.**

15 The Director of the Federal Judicial Center, in con-
16 sultation with the Director of the Executive Office for
17 United States Trustees, shall develop materials and conduct
18 such training as may be useful to courts in implementing
19 this Act and the amendments made by this Act, including
20 the requirements relating to the means test and reaffirma-
21 tions under section 707(b) of title 11, United States Code,
22 as amended by this Act.

1 **SEC. 1227. RECLAMATION.**

2 (a) *RIGHTS AND POWERS OF THE TRUSTEE.*—Section
3 546(c) of title 11, United States Code, is amended to read
4 as follows:

5 “(c)(1) *Except as provided in subsection (d) of this sec-*
6 *tion and subsection (c) of section 507, and subject to the*
7 *prior rights of holders of security interests in such goods*
8 *or the proceeds thereof, the rights and powers of the trustee*
9 *under sections 544(a), 545, 547, and 549 are subject to the*
10 *right of a seller of goods that has sold goods to the debtor,*
11 *in the ordinary course of such seller’s business, to reclaim*
12 *such goods if the debtor has received such goods while insol-*
13 *vent, not later than 45 days prior to the date of the com-*
14 *mencement of a case under this title, but such seller may*
15 *not reclaim such goods unless such seller demands in writ-*
16 *ing reclamation of such goods—*

17 “(A) *not later than 45 days after the date of re-*
18 *ceipt of such goods by the debtor; or*

19 “(B) *not later than 20 days after the date of*
20 *commencement of the case, if the 45-day period ex-*
21 *pires after the commencement of the case.*

22 “(2) *If a seller of goods fails to provide notice in the*
23 *manner described in paragraph (1), the seller still may as-*
24 *sert the rights contained in section 503(b)(7).”.*

1 (b) *ADMINISTRATIVE EXPENSES.*—Section 503(b) of
2 title 11, United States Code, as amended by this Act, is
3 amended by adding at the end the following:

4 “(10) the value of any goods received by the debt-
5 or not later than 20 days prior to the date of com-
6 mencement of a case under this title in which the
7 goods have been sold to the debtor in the ordinary
8 course of such debtor’s business.”.

9 **SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO**
10 **THE COURT.**

11 (a) *CHAPTER 7 CASES.*—The court shall not grant a
12 discharge in the case of an individual seeking bankruptcy
13 under chapter 7 of title 11, United States Code, unless re-
14 quested tax documents have been provided to the court.

15 (b) *CHAPTER 11 AND CHAPTER 13 CASES.*—The court
16 shall not confirm a plan of reorganization in the case of
17 an individual under chapter 11 or 13 of title 11, United
18 States Code, unless requested tax documents have been filed
19 with the court.

20 (c) *DOCUMENT RETENTION.*—The court shall destroy
21 documents submitted in support of a bankruptcy claim not
22 sooner than 3 years after the date of the conclusion of a
23 bankruptcy case filed by an individual under chapter 7,
24 11, or 13 of title 11, United States Code. In the event of
25 a pending audit or enforcement action, the court may ex-

1 *tend the time for destruction of such requested tax docu-*
2 *ments.*

3 **SEC. 1229. ENCOURAGING CREDITWORTHINESS.**

4 (a) *SENSE OF THE CONGRESS.*—*It is the sense of the*
5 *Congress that—*

6 (1) *certain lenders may sometimes offer credit to*
7 *consumers indiscriminately, without taking steps to*
8 *ensure that consumers are capable of repaying the re-*
9 *sulting debt, and in a manner which may encourage*
10 *certain consumers to accumulate additional debt; and*

11 (2) *resulting consumer debt may increasingly be*
12 *a major contributing factor to consumer insolvency.*

13 (b) *STUDY REQUIRED.*—*The Board of Governors of the*
14 *Federal Reserve System (hereafter in this section referred*
15 *to as the “Board”) shall conduct a study of—*

16 (1) *consumer credit industry practices of solici-*
17 *ting and extending credit—*

18 (A) *indiscriminately;*

19 (B) *without taking steps to ensure that con-*
20 *sumers are capable of repaying the resulting*
21 *debt; and*

22 (C) *in a manner that encourages consumers*
23 *to accumulate additional debt; and*

24 (2) *the effects of such practices on consumer debt*
25 *and insolvency.*

1 (c) *REPORT AND REGULATIONS.*—Not later than 12
2 months after the date of enactment of this Act, the Board—

3 (1) shall make public a report on its findings
4 with respect to the indiscriminate solicitation and ex-
5 tension of credit by the credit industry;

6 (2) may issue regulations that would require ad-
7 ditional disclosures to consumers; and

8 (3) may take any other actions, consistent with
9 its existing statutory authority, that the Board finds
10 necessary to ensure responsible industrywide practices
11 and to prevent resulting consumer debt and insol-
12 vency.

13 **SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMP-**
14 **TION.**

15 Section 541(b) of title 11, United States Code, is
16 amended by inserting after paragraph (8), as added by this
17 Act, the following:

18 “(9) subject to subchapter III of chapter 5, any
19 interest of the debtor in property where the debtor
20 pledged or sold tangible personal property (other than
21 securities or written or printed evidences of indebted-
22 ness or title) as collateral for a loan or advance of
23 money given by a person licensed under law to make
24 such loans or advances, where—

1 “(A) the tangible personal property is in the
2 possession of the pledgee or transferee;

3 “(B) the debtor has no obligation to repay
4 the money, redeem the collateral, or buy back the
5 property at a stipulated price; and

6 “(C) neither the debtor nor the trustee have
7 exercised any right to redeem provided under the
8 contract or State law, in a timely manner as
9 provided under State law and section 108(b) of
10 this title; or”.

11 **SEC. 1231. TRUSTEES.**

12 (a) *SUSPENSION AND TERMINATION OF PANEL TRUST-*
13 *EES AND STANDING TRUSTEES.*—Section 586(d) of title 28,
14 *United States Code, is amended—*

15 (1) *by inserting “(1)” after “(d)”;* and

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

17 “(2) *A trustee whose appointment under subsection*
18 *(a)(1) or under subsection (b) is terminated or who ceases*
19 *to be assigned to cases filed under title 11, United States*
20 *Code, may obtain judicial review of the final agency deci-*
21 *sion by commencing an action in the United States district*
22 *court for the district for which the panel to which the trustee*
23 *is appointed under subsection (a)(1), or in the United*
24 *States district court for the district in which the trustee*
25 *is appointed under subsection (b) resides, after first ex-*

1 *hausting all available administrative remedies, which if the*
2 *trustee so elects, shall also include an administrative hear-*
3 *ing on the record. Unless the trustee elects to have an ad-*
4 *ministrative hearing on the record, the trustee shall be*
5 *deemed to have exhausted all administrative remedies for*
6 *purposes of this paragraph if the agency fails to make a*
7 *final agency decision within 90 days after the trustee re-*
8 *quests administrative remedies. The Attorney General shall*
9 *prescribe procedures to implement this paragraph. The de-*
10 *cision of the agency shall be affirmed by the district court*
11 *unless it is unreasonable and without cause based on the*
12 *administrative record before the agency.”.*

13 **(b) EXPENSES OF STANDING TRUSTEES.**—Section
14 586(e) of title 28, United States Code, is amended by add-
15 ing at the end the following:

16 “(3) After first exhausting all available administrative
17 remedies, an individual appointed under subsection (b)
18 may obtain judicial review of final agency action to deny
19 a claim of actual, necessary expenses under this subsection
20 by commencing an action in the United States district
21 court in the district where the individual resides. The deci-
22 sion of the agency shall be affirmed by the district court
23 unless it is unreasonable and without cause based upon the
24 administrative record before the agency.

1 “(4) *The Attorney General shall prescribe procedures*
2 *to implement this subsection.*”.

3 **SEC. 1232. BANKRUPTCY FORMS.**

4 *Section 2075 of title 28, United States Code, is amend-*
5 *ed by adding at the end the following:*

6 *“The bankruptcy rules promulgated under this section shall*
7 *prescribe a form for the statement required under section*
8 *707(b)(2)(C) of title 11 and may provide general rules on*
9 *the content of such statement.*”.

10 **SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES TO**
11 **COURTS OF APPEALS.**

12 (a) *APPEALS.*—*Section 158 of title 28, United States*
13 *Code, is amended—*

14 (1) *in subsection (c)(1), by striking “Subject to*
15 *subsection (b),” and inserting “Subject to subsections*
16 *(b) and (d)(2),”; and*

17 (2) *in subsection (d)—*

18 (A) *by inserting “(1)” after “(d)”;* and

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

20 “(2)(A) *A court of appeals that would have jurisdic-*
21 *tion of a subsequent appeal under paragraph (1) or other*
22 *law may authorize an immediate appeal of an order or de-*
23 *creed, not otherwise appealable, that is entered in a case or*
24 *proceeding pending under section 157 or is entered by the*
25 *district court or bankruptcy appellate panel exercising ju-*

1 jurisdiction under subsection (a) or (b), if the bankruptcy
2 court, district court, bankruptcy appellate panel, or the
3 parties acting jointly certify that—

4 “(i) the order or decree involves—

5 “(I) a substantial question of law;

6 “(II) a question of law requiring resolution
7 of conflicting decisions; or

8 “(III) a matter of public importance; and

9 “(ii) an immediate appeal from the order or de-
10 cree may materially advance the progress of the case
11 or proceeding.

12 “(B) An appeal under this paragraph does not stay
13 proceedings in the court from which the order or decree
14 originated, unless the originating court or the court of ap-
15 peals orders such a stay.”.

16 (b) *PROCEDURAL RULES.*—

17 (1) *TEMPORARY APPLICATION.*—A provision of
18 this subsection shall apply to appeals under section
19 158(d)(2) of title 28, United States Code, as added by
20 subsection (a) of this section, until a rule of practice
21 and procedure relating to such provision and appeal
22 is promulgated or amended under chapter 131 of such
23 title.

24 (2) *CERTIFICATION.*—A district court, bank-
25 ruptcy court, or bankruptcy appellate panel may

1 *enter a certification as described in section 158(d)(2)*
2 *of title 28, United States Code, during proceedings*
3 *pending before that court or panel.*

4 (3) *PROCEDURE.*—*Subject to the other provisions*
5 *of this subsection, an appeal by permission under sec-*
6 *tion 158(d)(2) of title 28, United States Code, shall*
7 *be taken in the manner prescribed in rule 5 of the*
8 *Federal Rules of Appellate Procedure.*

9 (4) *FILING PETITION.*—*When permission to ap-*
10 *peal is requested on the basis of a certification of the*
11 *parties, a district court, bankruptcy court, or bank-*
12 *ruptcy appellate panel, the petition shall be filed*
13 *within 10 days after the certification is entered or*
14 *filed.*

15 (5) *ATTACHMENT.*—*When permission to appeal*
16 *is requested on the basis of a certification of a district*
17 *court, bankruptcy court, or bankruptcy appellate*
18 *panel, a copy of the certification shall be attached to*
19 *the petition.*

20 (6) *PANEL AND CLERK.*—*In a case pending be-*
21 *fore a bankruptcy appellate panel in which permis-*
22 *sion to appeal is requested, the terms “district court”*
23 *and “district clerk”, as used in rule 5 of the Federal*
24 *Rules of Appellate Procedure, mean “bankruptcy ap-*

1 *pellate panel” and “clerk of the bankruptcy appellate*
2 *panel”, respectively.*

3 (7) *APPLICATION OF RULES.—In a case pending*
4 *before a district court, bankruptcy court, or bank-*
5 *ruptcy appellate panel in which a court of appeals*
6 *grants permission to appeal, the Federal Rules of Ap-*
7 *pellate Procedure apply to the proceedings in the*
8 *court of appeals, to the extent relevant, as if the ap-*
9 *peal were taken from a final judgment, order, or de-*
10 *gree of a district court, bankruptcy court, or bank-*
11 *ruptcy appellate panel exercising appellate jurisdic-*
12 *tion under subsection (a) or (b) of section 158 of title*
13 *28, United States Code.*

14 **SEC. 1234. EXEMPTIONS.**

15 *Section 522(g)(2) of title 11, United States Code, is*
16 *amended by striking “subsection (f)(2)” and inserting “sub-*
17 *section (f)(1)(B)”.*

18 **SEC. 1235. INVOLUNTARY CASES.**

19 *Section 303 of title 11, United States Code, is*
20 *amended—*

21 (1) *in subsection (b)(1), by—*

22 (A) *inserting “as to liability or amount”*
23 *after “bona fide dispute”; and*

24 (B) *striking “if such claims” and inserting*
25 *“if such undisputed claims”; and*

1 (2) in subsection (h)(1), by inserting before the
2 semicolon the following: “as to liability or amount”.

3 **SEC. 1236. FEDERAL ELECTION LAW FINES AND PENALTIES**
4 **AS NONDISCHARGEABLE DEBT.**

5 Section 523(a) of title 11, United States Code, is
6 amended by inserting after paragraph (14A) (as added by
7 this Act) the following:

8 “(14B) incurred to pay fines or penalties im-
9 posed under Federal election law;”.

10 **SEC. 1237. NO BANKRUPTCY FOR INSOLVENT POLITICAL**
11 **COMMITTEES.**

12 Section 105 of title 11, United States Code, is amended
13 by adding at the end the following:

14 “(e) A political committee subject to the jurisdiction
15 of the Federal Election Commission under Federal election
16 laws may not file for bankruptcy under this title.”.

17 **TITLE XIII—CONSUMER CREDIT**
18 **DISCLOSURE**

19 **SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END**
20 **CREDIT PLAN.**

21 (a) *MINIMUM PAYMENT DISCLOSURES.*—Section
22 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b))
23 is amended by adding at the end the following:

24 “(11)(A) In the case of an open end credit plan
25 that requires a minimum monthly payment of not

1 *more than 4 percent of the balance on which finance*
2 *charges are accruing, the following statement, located*
3 *on the front of the billing statement, disclosed clearly*
4 *and conspicuously: ‘Minimum Payment Warning:*
5 *Making only the minimum payment will increase the*
6 *interest you pay and the time it takes to repay your*
7 *balance. For example, making only the typical 2%*
8 *minimum monthly payment on a balance of \$1,000*
9 *at an interest rate of 17% would take 88 months to*
10 *repay the balance in full. For an estimate of the time*
11 *it would take to repay your balance, making only*
12 *minimum payments, call this toll-free number:*
13 *_____.’ (the blank space to be filled in by the*
14 *creditor).*

15 *“(B) In the case of an open end credit plan that*
16 *requires a minimum monthly payment of more than*
17 *4 percent of the balance on which finance charges are*
18 *accruing, the following statement, in a prominent lo-*
19 *cation on the front of the billing statement, disclosed*
20 *clearly and conspicuously: ‘Minimum Payment*
21 *Warning: Making only the required minimum pay-*
22 *ment will increase the interest you pay and the time*
23 *it takes to repay your balance. Making a typical 5%*
24 *minimum monthly payment on a balance of \$300 at*
25 *an interest rate of 17% would take 24 months to*

1 *repay the balance in full. For an estimate of the time*
2 *it would take to repay your balance, making only*
3 *minimum monthly payments, call this toll-free num-*
4 *ber: _____.’ (the blank space to be filled in*
5 *by the creditor).*

6 *“(C) Notwithstanding subparagraphs (A) and*
7 *(B), in the case of a creditor with respect to which*
8 *compliance with this title is enforced by the Federal*
9 *Trade Commission, the following statement, in a*
10 *prominent location on the front of the billing state-*
11 *ment, disclosed clearly and conspicuously: ‘Minimum*
12 *Payment Warning: Making only the required min-*
13 *imum payment will increase the interest you pay and*
14 *the time it takes to repay your balance. For example,*
15 *making only the typical 5% minimum monthly pay-*
16 *ment on a balance of \$300 at an interest rate of 17%*
17 *would take 24 months to repay the balance in full.*
18 *For an estimate of the time it would take to repay*
19 *your balance, making only minimum monthly pay-*
20 *ments, call the Federal Trade Commission at this toll-*
21 *free number: _____.’ (the blank space to be*
22 *filled in by the creditor). A creditor who is subject to*
23 *this subparagraph shall not be subject to subpara-*
24 *graph (A) or (B).*

1 “(D) Notwithstanding subparagraph (A), (B), or
2 (C), in complying with any such subparagraph, a
3 creditor may substitute an example based on an in-
4 terest rate that is greater than 17 percent. Any cred-
5 itor that is subject to subparagraph (B) may elect to
6 provide the disclosure required under subparagraph
7 (A) in lieu of the disclosure required under subpara-
8 graph (B).

9 “(E) The Board shall, by rule, periodically recal-
10 culate, as necessary, the interest rate and repayment
11 period under subparagraphs (A), (B), and (C).

12 “(F)(i) The toll-free telephone number disclosed
13 by a creditor or the Federal Trade Commission under
14 subparagraph (A), (B), or (G), as appropriate, may
15 be a toll-free telephone number established and main-
16 tained by the creditor or the Federal Trade Commis-
17 sion, as appropriate, or may be a toll-free telephone
18 number established and maintained by a third party
19 for use by the creditor or multiple creditors or the
20 Federal Trade Commission, as appropriate. The toll-
21 free telephone number may connect consumers to an
22 automated device through which consumers may ob-
23 tain information described in subparagraph (A), (B),
24 or (C), by inputting information using a touch-tone
25 telephone or similar device, if consumers whose tele-

1 *phones are not equipped to use such automated device*
2 *are provided the opportunity to be connected to an in-*
3 *dividual from whom the information described in sub-*
4 *paragraph (A), (B), or (C), as applicable, may be ob-*
5 *tained. A person that receives a request for informa-*
6 *tion described in subparagraph (A), (B), or (C) from*
7 *an obligor through the toll-free telephone number dis-*
8 *closed under subparagraph (A), (B), or (C), as appli-*
9 *cable, shall disclose in response to such request only*
10 *the information set forth in the table promulgated by*
11 *the Board under subparagraph (H)(i).*

12 *“(i)(I) The Board shall establish and maintain*
13 *for a period not to exceed 24 months following the ef-*
14 *fective date of the Bankruptcy Reform Act of 2001, a*
15 *toll-free telephone number, or provide a toll-free tele-*
16 *phone number established and maintained by a third*
17 *party, for use by creditors that are depository institu-*
18 *tions (as defined in section 3 of the Federal Deposit*
19 *Insurance Act), including a Federal credit union or*
20 *State credit union (as defined in section 101 of the*
21 *Federal Credit Union Act (12 U.S.C. 1752)), with*
22 *total assets not exceeding \$250,000,000. The toll-free*
23 *telephone number may connect consumers to an auto-*
24 *mated device through which consumers may obtain*
25 *information described in subparagraph (A) or (B), as*

1 *applicable, by inputting information using a touch-*
2 *tone telephone or similar device, if consumers whose*
3 *telephones are not equipped to use such automated de-*
4 *vice are provided the opportunity to be connected to*
5 *an individual from whom the information described*
6 *in subparagraph (A) or (B), as applicable, may be*
7 *obtained. A person that receives a request for infor-*
8 *mation described in subparagraph (A) or (B) from an*
9 *obligor through the toll-free telephone number dis-*
10 *closed under subparagraph (A) or (B), as applicable,*
11 *shall disclose in response to such request only the in-*
12 *formation set forth in the table promulgated by the*
13 *Board under subparagraph (H)(i). The dollar amount*
14 *contained in this subclause shall be adjusted accord-*
15 *ing to an indexing mechanism established by the*
16 *Board.*

17 *“(II) Not later than 6 months prior to the expi-*
18 *ration of the 24-month period referenced in subclause*
19 *(I), the Board shall submit to the Committee on*
20 *Banking, Housing, and Urban Affairs of the Senate*
21 *and the Committee on Financial Services of the*
22 *House of Representatives a report on the program de-*
23 *scribed in subclause (I).*

24 *“(G) The Federal Trade Commission shall estab-*
25 *lish and maintain a toll-free number for the purpose*

1 of providing to consumers the information required to
2 be disclosed under subparagraph (C).

3 “(H) The Board shall—

4 “(i) establish a detailed table illustrating
5 the approximate number of months that it would
6 take to repay an outstanding balance if a con-
7 sumer pays only the required minimum monthly
8 payments and if no other advances are made,
9 which table shall clearly present standardized in-
10 formation to be used to disclose the information
11 required to be disclosed under subparagraph (A),
12 (B), or (C), as applicable;

13 “(ii) establish the table required under
14 clause (i) by assuming—

15 “(I) a significant number of different
16 annual percentage rates;

17 “(II) a significant number of different
18 account balances;

19 “(III) a significant number of different
20 minimum payment amounts; and

21 “(IV) that only minimum monthly
22 payments are made and no additional ex-
23 tensions of credit are obtained; and

24 “(iii) promulgate regulations that provide
25 instructional guidance regarding the manner in

1 *which the information contained in the table es-*
2 *tablished under clause (i) should be used in re-*
3 *sponding to the request of an obligor for any in-*
4 *formation required to be disclosed under sub-*
5 *paragraph (A), (B), or (C).*

6 “(I) *The disclosure requirements of this para-*
7 *graph do not apply to any charge card account, the*
8 *primary purpose of which is to require payment of*
9 *charges in full each month.*

10 “(J) *A creditor that maintains a toll-free tele-*
11 *phone number for the purpose of providing customers*
12 *with the actual number of months that it will take to*
13 *repay the customer’s outstanding balance is not sub-*
14 *ject to the requirements of subparagraph (A) or (B).*

15 “(K) *A creditor that maintains a toll-free tele-*
16 *phone number for the purpose of providing customers*
17 *with the actual number of months that it will take to*
18 *repay an outstanding balance shall include the fol-*
19 *lowing statement on each billing statement: ‘Making*
20 *only the minimum payment will increase the interest*
21 *you pay and the time it takes to repay your balance.*
22 *For more information, call this toll-free number:*
23 *_____.’ (the blank space to be filled in by the*
24 *creditor).”.*

25 **(b) REGULATORY IMPLEMENTATION.—**

1 (1) *IN GENERAL.*—*The Board of Governors of the*
2 *Federal Reserve System (hereafter in this title re-*
3 *ferred to as the “Board”)* shall promulgate regula-
4 *tions implementing the requirements of section*
5 *127(b)(11) of the Truth in Lending Act, as added by*
6 *subsection (a) of this section.*

7 (2) *EFFECTIVE DATE.*—*Section 127(b)(11) of the*
8 *Truth in Lending Act, as added by subsection (a) of*
9 *this section, and the regulations issued under para-*
10 *graph (1) of this subsection shall not take effect until*
11 *the later of—*

12 (A) *18 months after the date of enactment*
13 *of this Act; or*

14 (B) *12 months after the publication of such*
15 *final regulations by the Board.*

16 (c) *STUDY OF FINANCIAL DISCLOSURES.*—

17 (1) *IN GENERAL.*—*The Board may conduct a*
18 *study to determine the types of information available*
19 *to potential borrowers from consumer credit lending*
20 *institutions regarding factors qualifying potential*
21 *borrowers for credit, repayment requirements, and the*
22 *consequences of default.*

23 (2) *FACTORS FOR CONSIDERATION.*—*In con-*
24 *ducting a study under paragraph (1), the Board*
25 *should, in consultation with the other Federal bank-*

1 *ing agencies (as defined in section 3 of the Federal*
2 *Deposit Insurance Act), the National Credit Union*
3 *Administration, and the Federal Trade Commission,*
4 *consider the extent to which—*

5 *(A) consumers, in establishing new credit*
6 *arrangements, are aware of their existing pay-*
7 *ment obligations, the need to consider those obli-*
8 *gations in deciding to take on new credit, and*
9 *how taking on excessive credit can result in fi-*
10 *nancial difficulty;*

11 *(B) minimum periodic payment features of-*
12 *fered in connection with open end credit plans*
13 *impact consumer default rates;*

14 *(C) consumers make only the required min-*
15 *imum payment under open end credit plans;*

16 *(D) consumers are aware that making only*
17 *required minimum payments will increase the*
18 *cost and repayment period of an open end credit*
19 *obligation; and*

20 *(E) the availability of low minimum pay-*
21 *ment options is a cause of consumers experi-*
22 *encing financial difficulty.*

23 *(3) REPORT TO CONGRESS.—Findings of the*
24 *Board in connection with any study conducted under*
25 *this subsection shall be submitted to Congress. Such*

1 (2) *CREDIT ADVERTISEMENTS.—Section 147(b)*
2 *of the Truth in Lending Act (15 U.S.C. 1665b(b)) is*
3 *amended—*

4 (A) *by striking “If any” and inserting the*
5 *following:*

6 “*(1) IN GENERAL.—If any*”; and

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

8 “*(2) CREDIT IN EXCESS OF FAIR MARKET*
9 *VALUE.—Each advertisement described in subsection*
10 *(a) that relates to an extension of credit that may ex-*
11 *ceed the fair market value of the dwelling, and which*
12 *advertisement is disseminated in paper form to the*
13 *public or through the Internet, as opposed to by radio*
14 *or television, shall include a clear and conspicuous*
15 *statement that—*

16 “*(A) the interest on the portion of the credit*
17 *extension that is greater than the fair market*
18 *value of the dwelling is not tax deductible for*
19 *Federal income tax purposes; and*

20 “*(B) the consumer should consult a tax ad-*
21 *viser for further information regarding the de-*
22 *ductibility of interest and charges.*”.

23 (b) *NON-OPEN END CREDIT EXTENSIONS.—*

24 (1) *CREDIT APPLICATIONS.—Section 128 of the*
25 *Truth in Lending Act (15 U.S.C. 1638) is amended—*

1 (A) in subsection (a), by adding at the end
2 the following:

3 “(15) In the case of a consumer credit trans-
4 action that is secured by the principal dwelling of the
5 consumer, in which the extension of credit may exceed
6 the fair market value of the dwelling, a clear and con-
7 spicuous statement that—

8 “(A) the interest on the portion of the credit
9 extension that is greater than the fair market
10 value of the dwelling is not tax deductible for
11 Federal income tax purposes; and

12 “(B) the consumer should consult a tax ad-
13 viser for further information regarding the de-
14 ductibility of interest and charges.”; and

15 (B) in subsection (b), by adding at the end
16 the following:

17 “(3) In the case of a credit transaction described in
18 paragraph (15) of subsection (a), disclosures required by
19 that paragraph shall be made to the consumer at the time
20 of application for such extension of credit.”.

21 (2) CREDIT ADVERTISEMENTS.—Section 144 of
22 the Truth in Lending Act (15 U.S.C. 1664) is amend-
23 ed by adding at the end the following:

24 “(e) Each advertisement to which this section applies
25 that relates to a consumer credit transaction that is secured

1 *by the principal dwelling of a consumer in which the exten-*
2 *sion of credit may exceed the fair market value of the dwell-*
3 *ing, and which advertisement is disseminated in paper*
4 *form to the public or through the Internet, as opposed to*
5 *by radio or television, shall clearly and conspicuously state*
6 *that—*

7 “(1) *the interest on the portion of the credit ex-*
8 *tension that is greater than the fair market value of*
9 *the dwelling is not tax deductible for Federal income*
10 *tax purposes; and*

11 “(2) *the consumer should consult a tax adviser*
12 *for further information regarding the deductibility of*
13 *interest and charges.”.*

14 (c) *REGULATORY IMPLEMENTATION.—*

15 (1) *IN GENERAL.—The Board shall promulgate*
16 *regulations implementing the amendments made by*
17 *this section.*

18 (2) *EFFECTIVE DATE.—Regulations issued under*
19 *paragraph (1) shall not take effect until the later of—*

20 (A) *12 months after the date of enactment*
21 *of this Act; or*

22 (B) *12 months after the date of publication*
23 *of such final regulations by the Board.*

1 **SEC. 1303. DISCLOSURES RELATED TO “INTRODUCTORY**
2 **RATES”.**

3 (a) *INTRODUCTORY RATE DISCLOSURES.*—Section
4 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is
5 amended by adding at the end the following:

6 “(6) *ADDITIONAL NOTICE CONCERNING ‘INTRO-*
7 *DUCTORY RATES’.*—

8 “(A) *IN GENERAL.*—Except as provided in
9 subparagraph (B), an application or solicitation
10 to open a credit card account and all pro-
11 motional materials accompanying such applica-
12 tion or solicitation for which a disclosure is re-
13 quired under paragraph (1), and that offers a
14 temporary annual percentage rate of interest,
15 shall—

16 “(i) use the term ‘introductory’ in im-
17 mediate proximity to each listing of the
18 temporary annual percentage rate applica-
19 ble to such account, which term shall ap-
20 pear clearly and conspicuously;

21 “(ii) if the annual percentage rate of
22 interest that will apply after the end of the
23 temporary rate period will be a fixed rate,
24 state in a clear and conspicuous manner in
25 a prominent location closely proximate to
26 the first listing of the temporary annual

1 percentage rate (other than a listing of the
2 temporary annual percentage rate in the
3 tabular format described in section 122(c)),
4 the time period in which the introductory
5 period will end and the annual percentage
6 rate that will apply after the end of the in-
7 troductory period; and

8 “(iii) if the annual percentage rate
9 that will apply after the end of the tem-
10 porary rate period will vary in accordance
11 with an index, state in a clear and con-
12 spicuous manner in a prominent location
13 closely proximate to the first listing of the
14 temporary annual percentage rate (other
15 than a listing in the tabular format pre-
16 scribed by section 122(c)), the time period
17 in which the introductory period will end
18 and the rate that will apply after that,
19 based on an annual percentage rate that
20 was in effect within 60 days before the date
21 of mailing the application or solicitation.

22 “(B) EXCEPTION.—Clauses (ii) and (iii) of
23 subparagraph (A) do not apply with respect to
24 any listing of a temporary annual percentage
25 rate on an envelope or other enclosure in which

1 *an application or solicitation to open a credit*
2 *card account is mailed.*

3 “(C) *CONDITIONS FOR INTRODUCTORY*
4 *RATES.—An application or solicitation to open a*
5 *credit card account for which a disclosure is re-*
6 *quired under paragraph (1), and that offers a*
7 *temporary annual percentage rate of interest*
8 *shall, if that rate of interest is revocable under*
9 *any circumstance or upon any event, clearly and*
10 *conspicuously disclose, in a prominent manner*
11 *on or with such application or solicitation—*

12 “(i) *a general description of the cir-*
13 *cumstances that may result in the revoca-*
14 *tion of the temporary annual percentage*
15 *rate; and*

16 “(ii) *if the annual percentage rate that*
17 *will apply upon the revocation of the tem-*
18 *porary annual percentage rate—*

19 “(I) *will be a fixed rate, the an-*
20 *nual percentage rate that will apply*
21 *upon the revocation of the temporary*
22 *annual percentage rate; or*

23 “(II) *will vary in accordance with*
24 *an index, the rate that will apply after*
25 *the temporary rate, based on an an-*

1 *nual percentage rate that was in effect*
2 *within 60 days before the date of mail-*
3 *ing the application or solicitation.*

4 “(D) *DEFINITIONS.—In this paragraph—*

5 *“(i) the terms ‘temporary annual per-*
6 *centage rate of interest’ and ‘temporary an-*
7 *nual percentage rate’ mean any rate of in-*
8 *terest applicable to a credit card account for*
9 *an introductory period of less than 1 year,*
10 *if that rate is less than an annual percent-*
11 *age rate that was in effect within 60 days*
12 *before the date of mailing the application or*
13 *solicitation; and*

14 *“(ii) the term ‘introductory period’*
15 *means the maximum time period for which*
16 *the temporary annual percentage rate may*
17 *be applicable.*

18 “(E) *RELATION TO OTHER DISCLOSURE RE-*
19 *QUIREMENTS.—Nothing in this paragraph may*
20 *be construed to supersede subsection (a) of sec-*
21 *tion 122, or any disclosure required by para-*
22 *graph (1) or any other provision of this sub-*
23 *section.”.*

24 (b) *REGULATORY IMPLEMENTATION.—*

1 (1) *IN GENERAL.*—*The Board shall promulgate*
2 *regulations implementing the requirements of section*
3 *127(c)(6) of the Truth in Lending Act, as added by*
4 *this section.*

5 (2) *EFFECTIVE DATE.*—*Section 127(c)(6) of the*
6 *Truth in Lending Act, as added by this section, and*
7 *regulations issued under paragraph (1) of this sub-*
8 *section shall not take effect until the later of—*

9 (A) *12 months after the date of enactment*
10 *of this Act; or*

11 (B) *12 months after the date of publication*
12 *of such final regulations by the Board.*

13 **SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.**

14 (a) *INTERNET-BASED APPLICATIONS AND SOLICITA-*
15 *TIONS.*—*Section 127(c) of the Truth in Lending Act (15*
16 *U.S.C. 1637(c)) is amended by adding at the end the fol-*
17 *lowing:*

18 “(7) *INTERNET-BASED APPLICATIONS AND SO-*
19 *LICITATIONS.*—

20 “(A) *IN GENERAL.*—*In any solicitation to*
21 *open a credit card account for any person under*
22 *an open end consumer credit plan using the*
23 *Internet or other interactive computer service,*
24 *the person making the solicitation shall clearly*
25 *and conspicuously disclose—*

1 “(i) the information described in sub-
2 paragraphs (A) and (B) of paragraph (1);
3 and

4 “(ii) the information described in
5 paragraph (6).

6 “(B) *FORM OF DISCLOSURE.*—The disclo-
7 sures required by subparagraph (A) shall be—

8 “(i) readily accessible to consumers in
9 close proximity to the solicitation to open a
10 credit card account; and

11 “(ii) updated regularly to reflect the
12 current policies, terms, and fee amounts ap-
13 plicable to the credit card account.

14 “(C) *DEFINITIONS.*—For purposes of this
15 paragraph—

16 “(i) the term ‘Internet’ means the
17 international computer network of both
18 Federal and non-Federal interoperable
19 packet switched data networks; and

20 “(ii) the term ‘interactive computer
21 service’ means any information service, sys-
22 tem, or access software provider that pro-
23 vides or enables computer access by multiple
24 users to a computer server, including spe-
25 cifically a service or system that provides

1 *access to the Internet and such systems op-*
2 *erated or services offered by libraries or edu-*
3 *cational institutions.”.*

4 **(b) REGULATORY IMPLEMENTATION.—**

5 **(1) IN GENERAL.—***The Board shall promulgate*
6 *regulations implementing the requirements of section*
7 *127(c)(7) of the Truth in Lending Act, as added by*
8 *this section.*

9 **(2) EFFECTIVE DATE.—***The amendment made by*
10 *subsection (a) and the regulations issued under para-*
11 *graph (1) of this subsection shall not take effect until*
12 *the later of—*

13 **(A)** *12 months after the date of enactment*
14 *of this Act; or*

15 **(B)** *12 months after the date of publication*
16 *of such final regulations by the Board.*

17 **SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT**
18 **DEADLINES AND PENALTIES.**

19 **(a) DISCLOSURES RELATED TO LATE PAYMENT DEAD-**
20 **LINES AND PENALTIES.—***Section 127(b) of the Truth in*
21 *Lending Act (15 U.S.C. 1637(b)) is amended by adding at*
22 *the end the following:*

23 *“(12) If a late payment fee is to be imposed due*
24 *to the failure of the obligor to make payment on or*
25 *before a required payment due date, the following*

1 *shall be stated clearly and conspicuously on the bill-*
2 *ing statement:*

3 “(A) *The date on which that payment is*
4 *due or, if different, the earliest date on which a*
5 *late payment fee may be charged.*”

6 “(B) *The amount of the late payment fee to*
7 *be imposed if payment is made after such date.*”.

8 (b) *REGULATORY IMPLEMENTATION.*—

9 (1) *IN GENERAL.*—*The Board shall promulgate*
10 *regulations implementing the requirements of section*
11 *127(b)(12) of the Truth in Lending Act, as added by*
12 *this section.*

13 (2) *EFFECTIVE DATE.*—*The amendment made by*
14 *subsection (a) and regulations issued under para-*
15 *graph (1) of this subsection shall not take effect until*
16 *the later of—*

17 (A) *12 months after the date of enactment*
18 *of this Act; or*

19 (B) *12 months after the date of publication*
20 *of such final regulations by the Board.*

21 **SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAIL-**
22 **URE TO INCUR FINANCE CHARGES.**

23 (a) *PROHIBITION ON CERTAIN ACTIONS FOR FAILURE*
24 *TO INCUR FINANCE CHARGES.*—*Section 127 of the Truth*

1 *in Lending Act (15 U.S.C. 1637) is amended by adding*
2 *at the end the following:*

3 “(h) *PROHIBITION ON CERTAIN ACTIONS FOR FAILURE*
4 *TO INCUR FINANCE CHARGES.*—A creditor of an account
5 *under an open end consumer credit plan may not terminate*
6 *an account prior to its expiration date solely because the*
7 *consumer has not incurred finance charges on the account.*
8 *Nothing in this subsection shall prohibit a creditor from*
9 *terminating an account for inactivity in 3 or more consec-*
10 *utive months.”.*

11 (b) *REGULATORY IMPLEMENTATION.*—

12 (1) *IN GENERAL.*—The Board shall promulgate
13 *regulations implementing the requirements of section*
14 *127(h) of the Truth in Lending Act, as added by this*
15 *section.*

16 (2) *EFFECTIVE DATE.*—The amendment made by
17 *subsection (a) and regulations issued under para-*
18 *graph (1) of this subsection shall not take effect until*
19 *the later of—*

20 (A) *12 months after the date of enactment*
21 *of this Act; or*

22 (B) *12 months after the date of publication*
23 *of such final regulations by the Board.*

1 **SEC. 1307. DUAL USE DEBIT CARD.**

2 (a) *REPORT.*—*The Board may conduct a study of, and*
3 *present to Congress a report containing its analysis of, con-*
4 *sumer protections under existing law to limit the liability*
5 *of consumers for unauthorized use of a debit card or similar*
6 *access device. Such report, if submitted, shall include rec-*
7 *ommendations for legislative initiatives, if any, of the*
8 *Board, based on its findings.*

9 (b) *CONSIDERATIONS.*—*In preparing a report under*
10 *subsection (a), the Board may include—*

11 (1) *the extent to which section 909 of the Elec-*
12 *tronic Fund Transfer Act (15 U.S.C. 1693g), as in ef-*
13 *fect at the time of the report, and the implementing*
14 *regulations promulgated by the Board to carry out*
15 *that section provide adequate unauthorized use liabil-*
16 *ity protection for consumers;*

17 (2) *the extent to which any voluntary industry*
18 *rules have enhanced or may enhance the level of pro-*
19 *tection afforded consumers in connection with such*
20 *unauthorized use liability; and*

21 (3) *whether amendments to the Electronic Fund*
22 *Transfer Act (15 U.S.C. 1693 et seq.), or revisions to*
23 *regulations promulgated by the Board to carry out*
24 *that Act, are necessary to further address adequate*
25 *protection for consumers concerning unauthorized use*
26 *liability.*

1 **SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**
2 **TENDED TO DEPENDENT STUDENTS.**

3 (a) *STUDY.*—

4 (1) *IN GENERAL.*—*The Board shall conduct a*
5 *study regarding the impact that the extension of cred-*
6 *it described in paragraph (2) has on the rate of bank-*
7 *ruptcy cases filed under title 11, United States Code.*

8 (2) *EXTENSION OF CREDIT.*—*The extension of*
9 *credit described in this paragraph is the extension of*
10 *credit to individuals who are—*

11 (A) *claimed as dependents for purposes of*
12 *the Internal Revenue Code of 1986; and*

13 (B) *enrolled within 1 year of successfully*
14 *completing all required secondary education re-*
15 *quirements and on a full-time basis, in postsec-*
16 *ondary educational institutions.*

17 (b) *REPORT.*—*Not later than 1 year after the date of*
18 *enactment of this Act, the Board shall submit to the Senate*
19 *and the House of Representatives a report summarizing the*
20 *results of the study conducted under subsection (a).*

21 **SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.**

22 (a) *REGULATIONS.*—*Not later than 6 months after the*
23 *date of enactment of this Act, the Board, in consultation*
24 *with the other Federal banking agencies (as defined in sec-*
25 *tion 3 of the Federal Deposit Insurance Act), the National*
26 *Credit Union Administration Board, and the Federal*

1 *Trade Commission, shall promulgate regulations to provide*
2 *guidance regarding the meaning of the term “clear and con-*
3 *spicuous”, as used in subparagraphs (A), (B), and (C) of*
4 *section 127(b)(11) and clauses (ii) and (iii) of section*
5 *127(c)(6)(A) of the Truth in Lending Act.*

6 **(b) EXAMPLES.**—*Regulations promulgated under sub-*
7 *section (a) shall include examples of clear and conspicuous*
8 *model disclosures for the purposes of disclosures required*
9 *by the provisions of the Truth in Lending Act referred to*
10 *in subsection (a).*

11 **(c) STANDARDS.**—*In promulgating regulations under*
12 *this section, the Board shall ensure that the clear and con-*
13 *spicuous standard required for disclosures made under the*
14 *provisions of the Truth in Lending Act referred to in sub-*
15 *section (a) can be implemented in a manner which results*
16 *in disclosures which are reasonably understandable and de-*
17 *signed to call attention to the nature and significance of*
18 *the information in the notice.*

19 **TITLE XIV—EMERGENCY ENERGY**
20 **ASSISTANCE AND CONSERVA-**
21 **TION MEASURES**

22 **SEC. 1401. SHORT TITLE.**

23 *This title may be cited as the “Energy Emergency Re-*
24 *sponse Act of 2001”.*

1 **SEC. 1402. FINDINGS AND PURPOSES.**

2 (a) *FINDINGS.*—*The Congress finds that—*

3 (1) *high energy costs are causing hardship for*
4 *families;*

5 (2) *restructured energy markets have increased*
6 *the need for a higher and more consistent level of*
7 *funding for low-income energy assistance programs;*

8 (3) *conservation programs implemented by the*
9 *States and the low-income weatherization program*
10 *reduce costs and need for additional energy supplies;*

11 (4) *energy conservation is a cornerstone of na-*
12 *tional energy security policy;*

13 (5) *the Federal Government is the largest con-*
14 *sumer of energy in the economy of the United States;*
15 *and*

16 (6) *many opportunities exist for significant en-*
17 *ergy cost savings within the Federal Government.*

18 (b) *PURPOSES.*—*The purposes of this title are to pro-*
19 *vide assistance to those individuals most affected by high*
20 *energy prices and to promote and accelerate energy con-*
21 *servation investments in private and Federal facilities.*

22 **SEC. 1403. INCREASED FUNDING FOR LIHEAP, WEATHERIZA-**
23 **TION AND STATE ENERGY GRANTS.**

24 (a) *LIHEAP.*—(1) *Section 2602(b) of the Low-Income*
25 *Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b))*
26 *is amended by striking the first sentence and inserting the*

1 following: “There are authorized to be appropriated to carry
2 out the provisions of this title (other than section 2607A),
3 \$3,400,000,000 for each of fiscal years 2001 through 2005.”.

4 (2) Section 2605(b)(2) of the Low-Income Home En-
5 ergy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)) is
6 amended by adding at the end the following: “and except
7 that during fiscal year 2001, a State may make payments
8 under this title to households with incomes up to and in-
9 cluding 200 percent of the poverty level for such State”.

10 (b) WEATHERIZATION ASSISTANCE.—Section 422 of
11 the Energy Conservation and Production Act (42 U.S.C.
12 6872) is amended by striking “For fiscal years 1999
13 through 2003 such sums as may be necessary” and insert-
14 ing: “\$310,000,000 for fiscal years 2001 and 2002,
15 \$325,000,000 for fiscal year 2003, \$400,000,000 for fiscal
16 year 2004, and \$500,000,000 for fiscal year 2005.”.

17 (c) STATE ENERGY CONSERVATION GRANTS.—Section
18 365(f) of the Energy Policy and Conservation Act (42
19 U.S.C. 6325(f)) is amended by striking “for fiscal years
20 1999 through 2003 such sums as may be necessary” and
21 inserting: “\$75,000,000 for each of fiscal years 2001
22 through 2005”.

1 **SEC. 1404. FEDERAL ENERGY MANAGEMENT REVIEWS.**

2 *Section 543 of the National Energy Conservation Pol-*
3 *icy Act (42 U.S.C. 8253) is amended by adding at the end*
4 *the following:*

5 “(e) **PRIORITY RESPONSE REVIEWS.**—Each agency
6 shall—

7 “(1) not later than October 1, 2001, undertake a
8 comprehensive review of all practicable measures
9 for—

10 “(A) increasing energy and water conserva-
11 tion; and

12 “(B) using renewable energy sources; and

13 “(2) not later than 180 days after completing the
14 review, implement measures to achieve not less than
15 50 percent of the potential efficiency and renewable
16 savings identified in the review.”.

17 **SEC. 1405. COST SAVINGS FROM REPLACEMENT FACILITIES.**

18 *Section 801(a) of the National Energy Conservation*
19 *Policy Act (42 U.S.C. 8287(a)) is amended by adding at*
20 *the end the following:*

21 “(3)(A) In the case of an energy savings contract or
22 energy savings performance contract providing for energy
23 savings through the construction and operation of one or
24 more buildings or facilities to replace one or more existing
25 buildings or facilities, benefits ancillary to the purpose of
26 such contract under paragraph (1) may include savings re-

1 *sulting from reduced costs of operation and maintenance*
2 *at such replacement buildings or facilities when compared*
3 *with costs of operation and maintenance at the buildings*
4 *or facilities being replaced.*

5 “(B) Notwithstanding paragraph (2)(B), aggregate
6 annual payments by an agency under an energy savings
7 contract or energy savings performance contract referred to
8 in subparagraph (A) may take into account (through the
9 procedures developed pursuant to this section) savings re-
10 sulting from reduced costs of operation and maintenance
11 as described in subparagraph (A).”.

12 **SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE**

13 **CONTRACT SUNSET.**

14 Section 801(c) of the National Energy Conservation
15 Policy Act (42 U.S.C. 8287(c)) is repealed.

16 **SEC. 1407. ENERGY SAVINGS PERFORMANCE CONTRACT**

17 **DEFINITIONS.**

18 (a) *ENERGY SAVINGS.*—Section 804(2) of the National
19 Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is
20 amended to read as follows:

21 “(2) The term ‘energy savings’ means a reduction in
22 the cost of energy, water, or wastewater treatment from a
23 base cost established through a methodology set forth in the
24 contract, used by either—

1 “(A) an existing federally owned building or
2 buildings or other federally owned facilities as a re-
3 sult of—

4 “(i) the lease or purchase of operating
5 equipment, improvements, altered operation and
6 maintenance, or technical services;

7 “(ii) more efficient use of existing energy
8 sources by cogeneration or heat recovery, exclud-
9 ing any cogeneration process for other than a
10 federally owned building or buildings or other
11 federally owned facilities; or

12 “(iii) more efficient use of water at an exist-
13 ing federally owned building or buildings, in ei-
14 ther interior or exterior applications; or

15 “(B) a replacement facility under section
16 801(a)(3).”.

17 (b) *ENERGY SAVINGS CONTRACT*.—Section 804(3) of
18 the National Energy Conservation Policy Act (42 U.S.C.
19 8287c(3)) is amended to read as follows:

20 “(3) The terms ‘energy savings contract’ and ‘energy
21 savings performance contract’ mean a contract which pro-
22 vides for—

23 “(A) the performance of services for the design,
24 acquisition, installation, testing, operation, and,
25 where appropriate, maintenance and repair, of an

1 *identified energy, water conservation, or wastewater*
2 *treatment measure or series of measures at one or*
3 *more locations; or*

4 *“(B) energy savings through the construction*
5 *and operation of one or more buildings or facilities*
6 *to replace one or more existing buildings or facili-*
7 *ties.”.*

8 *(c) ENERGY OR WATER CONSERVATION MEASURE.—*
9 *Section 804(4) of the National Energy Conservation Policy*
10 *Act (42 U.S.C. 8287c(4)) is amended to read as follows:*

11 *“(4) The term ‘energy or water conservation*
12 *measure’ means—*

13 *“(A) an energy conservation measure, as de-*
14 *finied in section 551(4) (42 U.S.C. 8259(4)); or*

15 *“(B) a water conservation measure that im-*
16 *proves the efficiency of water use, is life cycle*
17 *cost effective, and involves water conservation,*
18 *water recycling or reuse, improvements in oper-*
19 *ation or maintenance efficiencies, retrofit activi-*
20 *ties or other related activities, not affecting the*
21 *power generating operations at a federally owned*
22 *hydroelectric dam.”.*

23 **SEC. 1408. EFFECTIVE DATE.**

24 *This title and the amendments made by this title shall*
25 *take effect upon the date of enactment of this title.*

1 **TITLE XV—GENERAL EFFECTIVE**
2 **DATE; APPLICATION OF**
3 **AMENDMENTS**

4 **SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMEND-**
5 **MENTS.**

6 (a) *EFFECTIVE DATE.*—*Except as otherwise provided*
7 *in this Act, this Act and the amendments made by this Act*
8 *shall take effect 180 days after the date of enactment of this*
9 *Act.*

10 (b) *APPLICATION OF AMENDMENTS.*—*Except as other-*
11 *wise provided in this Act, the amendments made by this*
12 *Act shall not apply with respect to cases commenced under*
13 *title 11, United States Code, before the effective date of this*
14 *Act.*

15 **TITLE XVI—MISCELLANEOUS**
16 **PROVISIONS**

17 **SEC. 1601. REIMBURSEMENT OF RESEARCH, DEVELOPMENT,**
18 **AND MAINTENANCE COSTS.**

19 (a) *IN GENERAL.*—*Not later August 1, 2001, the Fed-*
20 *eral Crop Insurance Corporation shall promulgate final*
21 *regulations to carry out section 522(b) of the Federal Crop*
22 *Insurance Act (7 U.S.C. 522(b)), without regard to—*

23 (1) *the notice and comment provisions of section*
24 *553 of title 5, United States Code;*

1 *the number of such plans that are successfully*
2 *completed; and*

3 *(C) the cost of filing for bankruptcy under*
4 *chapter 7 and chapter 13 of title 11, United*
5 *States Code, in each State;*

6 *(2) the effect of the enactment of this Act on—*

7 *(A) the availability and marketing of cred-*
8 *it; and*

9 *(B) the price and terms of credit for con-*
10 *sumers; and*

11 *(3) the extent to which this Act and the amend-*
12 *ments made by this Act impact the ability of debtors*
13 *below median income to obtain bankruptcy relief.*

14 *(b) REPORT TO CONGRESS.—Not later than 2 years*
15 *after the effective date of this Act, the GAO shall submit*
16 *a report to the Congress on the results of the study con-*
17 *ducted under subsection (a).*

18 *(c) DATA COLLECTION BY UNITED STATES TRUST-*
19 *EES.—*

20 *(1) IN GENERAL.—The Director of the Executive*
21 *Office for United States Trustees shall collect data on*
22 *the number of reaffirmations by debtors under title*
23 *11, United States Code, the identity of the creditors*
24 *in such reaffirmations, and the type of debt that is*
25 *reaffirmed.*

1 (2) *AVAILABILITY.*—*Periodically, but not less*
2 *than annually, the Director shall make available to*
3 *the public the data described in paragraph (1) in*
4 *such manner as the Director may determine.*

Attest:

Secretary.

107TH CONGRESS
1ST SESSION

H. R. 333

AMENDMENT

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HR 333 EAS/PP—3

HR 333 EAS/PP—4

HR 333 EAS/PP—5

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