

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H.R. 5116

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IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, SEPTEMBER 12), 1994

Received

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## AN ACT

To amend title 11 of the United States Code.

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

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Bankruptcy Reform Act of 1994”.

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

Sec. 1. Short title.

#### TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

- Sec. 101. Expedited hearing on automatic stay.
- Sec. 102. Jurisdiction to review interlocutory orders increasing or reducing certain time periods for filing plan.
- Sec. 103. Expedited procedure for reaffirmation of debts.
- Sec. 104. Powers of bankruptcy courts.
- Sec. 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
- Sec. 106. Definition relating to eligibility to serve on chapter 11 committees.
- Sec. 107. Increased incentive compensation for trustees.
- Sec. 108. Dollar adjustments.
- Sec. 109. Premerger notification.
- Sec. 110. Allowance of creditor committee expenses.
- Sec. 111. Supplemental injunctions.
- Sec. 112. Authority of bankruptcy judges to conduct jury trials in civil proceedings.
- Sec. 113. Sovereign immunity.
- Sec. 114. Service of process in bankruptcy proceedings on an insured depository institution.
- Sec. 115. Meetings of creditors and equity security holders.
- Sec. 116. Tax assessment.
- Sec. 117. Additional trustee compensation.

#### TITLE II—COMMERCIAL BANKRUPTCY ISSUES

- Sec. 201. Aircraft equipment and vessels; rolling stock equipment.
- Sec. 202. Limitation on liability of non-insider transferee for avoided transfer.
- Sec. 203. Perfection of purchase-money security interest.
- Sec. 204. Continued perfection.
- Sec. 205. Rejection of unexpired leases of real property or timeshare interests.
- Sec. 206. Contents of plan.
- Sec. 207. Priority for independent sales representatives.
- Sec. 208. Exclusion from the estate of interests in liquid and gaseous hydrocarbons transferred by the debtor pursuant to production payment agreements.
- Sec. 209. Seller's right to reclaim goods.
- Sec. 210. Investment of money of the estate.
- Sec. 211. Election of trustee under chapter 11.
- Sec. 212. Rights of partnership trustee against general partners.
- Sec. 213. Impairment of claims and interests.
- Sec. 214. Protection of security interest in post-petition rents and lodging payments.
- Sec. 215. Amendment to definition of swap agreement.
- Sec. 216. Limitation on avoiding powers.
- Sec. 217. Small businesses.
- Sec. 218. Single asset real estate.
- Sec. 219. Leases of personal property.
- Sec. 220. Exemption for small business investment companies.
- Sec. 221. Payment of taxes with borrowed funds.
- Sec. 222. Return of goods.
- Sec. 223. Proceeds of money order agreements.
- Sec. 224. Trustee duties; professional fees.
- Sec. 225. Notices to creditors.

## TITLE III—CONSUMER BANKRUPTCY ISSUES

- Sec. 301. Period for curing default relating to principal residence.
- Sec. 302. Nondischargeability of fine under chapter 13.
- Sec. 303. Impairment of exemptions.
- Sec. 304. Protection of child support and alimony.
- Sec. 305. Interest on interest.
- Sec. 306. Exception to discharge.
- Sec. 307. Payments under chapter 13.
- Sec. 308. Bankruptcy petition preparers.
- Sec. 309. Fairness to condominium and cooperative owners.
- Sec. 310. Nonavoidability of fixing of lien on tools and implements of trade, animals, and crops.
- Sec. 311. Conversion of case under chapter 13.
- Sec. 312. Bankruptcy fraud.
- Sec. 313. Protection against discriminatory treatment of applications for student loans.

## TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

- Sec. 401. Exception from automatic stay for post-petition property taxes.
- Sec. 402. Municipal bankruptcy.

## TITLE V—TECHNICAL CORRECTIONS

- Sec. 501. Amendments to bankruptcy definitions, necessitated by enactment of Public Law 101-647.
- Sec. 502. Title 28 of the United States Code.

## TITLE VI—BANKRUPTCY REVIEW COMMISSION

- Sec. 601. Short title.
- Sec. 602. Establishment.
- Sec. 603. Duties of the commission.
- Sec. 604. Membership.
- Sec. 605. Compensation of the commission.
- Sec. 606. Staff of commission; experts and consultants.
- Sec. 607. Powers of the commission.
- Sec. 608. Report.
- Sec. 609. Termination.
- Sec. 610. Authorization of appropriations.

## TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

- Sec. 701. Severability.
- Sec. 702. Effective date; application of amendments.

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

3                   **SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.**

4                   The last sentence of section 362(e) of title 11, United  
5 States Code, is amended—

6                   (1) by striking “commenced” and inserting  
7 “concluded”, and

8                   (2) by inserting before the period at the end the  
9 following:

10 “, unless the 30-day period is extended with the consent  
11 of the parties in interest or for a specific time which the  
12 court finds is required by compelling circumstances”.

13                   **SEC. 102. JURISDICTION TO REVIEW INTERLOCUTORY OR-**  
14                                   **DERS INCREASING OR REDUCING CERTAIN**  
15                                   **TIME PERIODS FOR FILING PLAN.**

16                   Section 158(a) of title 28, United States Code, is  
17 amended by striking “from” the first place it appears and  
18 all that follows through “decrees,”, and inserting the fol-  
19 lowing:

20                   “(1) from final judgments, orders, and decrees;

21                   “(2) from interlocutory orders and decrees is-  
22 sued under section 1121(d) of title 11 increasing or  
23 reducing the time periods referred to in section 1121  
24 of such title; and

1 “(3) with leave of the court, from other inter-  
2 locutory orders and decrees;”.

3 **SEC. 103. EXPEDITED PROCEDURE FOR REAFFIRMATION**  
4 **OF DEBTS.**

5 (a) REAFFIRMATION.—Section 524(c) of title 11,  
6 United States Code, is amended—

7 (1) in paragraph (2)—

8 (A) by inserting “(A)” after “(2)”,

9 (B) by adding “and” at the end, and

10 (C) by inserting after subparagraph (A),

11 as so designated, the following:

12 “(B) such agreement contains a clear and  
13 conspicuous statement which advises the debtor  
14 that such agreement is not required under this  
15 title, under nonbankruptcy law, or under any  
16 agreement not in accordance with the provisions  
17 of this subsection;”, and

18 (2) in paragraph (3)—

19 (A) in the matter preceding subparagraph

20 (A) by striking “such agreement” the last place  
21 it appears,

22 (B) in subparagraph (A)—

23 (i) by inserting “such agreement”  
24 after “(A)”, and

25 (ii) by striking “and” at the end,

1 (C) in subparagraph (B)—

2 (i) by inserting “such agreement”  
3 after “(B)”, and

4 (ii) by adding “and” at the end, and  
5 (3) by adding at the end the following:

6 “(C) the attorney fully advised the debtor  
7 of the legal effect and consequences of—

8 “(i) an agreement of the kind speci-  
9 fied in this subsection; and

10 “(ii) any default under such an agree-  
11 ment;”.

12 (b) EFFECT OF DISCHARGE.—The third sentence of  
13 section 524(d) of title 11, United States Code, is amended  
14 in the matter preceding paragraph (1) by inserting “and  
15 was not represented by an attorney during the course of  
16 negotiating such agreement” after “this section”.

17 **SEC. 104. POWERS OF BANKRUPTCY COURTS.**

18 (a) STATUS CONFERENCES.—Section 105 of title 11,  
19 United States Code, is amended by adding at the end the  
20 following:

21 “(d) The court, on its own motion or on the request  
22 of a party in interest, may—

23 “(1) hold a status conference regarding any  
24 case or proceeding under this title after notice to the  
25 parties in interest; and

1           “(2) unless inconsistent with another provision  
2 of this title or with applicable Federal Rules of  
3 Bankruptcy Procedure, issue an order at any such  
4 conference prescribing such limitations and condi-  
5 tions as the court deems appropriate to ensure that  
6 the case is handled expeditiously and economically,  
7 including an order that—

8           “(A) sets the date by which the trustee  
9 must assume or reject an executory contract or  
10 unexpired lease; or

11           “(B) in a case under chapter 11 of this  
12 title—

13           “(i) sets a date by which the debtor,  
14 or trustee if one has been appointed, shall  
15 file a disclosure statement and plan;

16           “(ii) sets a date by which the debtor,  
17 or trustee if one has been appointed, shall  
18 solicit acceptances of a plan;

19           “(iii) sets the date by which a party  
20 in interest other than a debtor may file a  
21 plan;

22           “(iv) sets a date by which a proponent  
23 of a plan, other than the debtor, shall so-  
24 licit acceptances of such plan;

1           “(v) fixes the scope and format of the  
2           notice to be provided regarding the hearing  
3           on approval of the disclosure statement; or

4           “(vi) provides that the hearing on ap-  
5           proval of the disclosure statement may be  
6           combined with the hearing on confirmation  
7           of the plan.”.

8           (b) ABSTENTION.—Section 1334 of title 28, United  
9 States Code, is amended—

10           (1) by redesignating subsection (d) as sub-  
11           section (e), and

12           (2) in the second sentence of subsection  
13           (c)(2)—

14           (A) by inserting “(other than a decision  
15           not to abstain in a proceeding described in sub-  
16           section (c)(2))” after “subsection”, and

17           (B) by striking “Any” and inserting the  
18           following:

19           “(d) Any”.

20           (c) ESTABLISHMENT, OPERATION, AND TERMI-  
21 NATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—  
22 Section 158(b) of title 28, United States Code, is amend-  
23 ed—

24           (1) by striking paragraphs (3) and (4),

1           (2) by redesignating paragraph (2) as para-  
2           graph (4),

3           (3) by striking paragraph (1) and inserting the  
4           following:

5           “(1) The judicial council of a circuit shall establish  
6 a bankruptcy appellate panel service composed of bank-  
7 ruptcy judges of the districts in the circuit who are ap-  
8 pointed by the judicial council in accordance with para-  
9 graph (3), to hear and determine, with the consent of all  
10 the parties, appeals under subsection (a) unless the judi-  
11 cial council finds that—

12           “(A) there are insufficient judicial resources  
13           available in the circuit; or

14           “(B) establishment of such service would result  
15           in undue delay or increased cost to parties in cases  
16           under title 11.

17 Not later than 90 days after making the finding, the judi-  
18 cial council shall submit to the Judicial Conference of the  
19 United States a report containing the factual basis of such  
20 finding.

21           “(2)(A) A judicial council may reconsider, at any  
22 time, the finding described in paragraph (1).

23           “(B) On the request of a majority of the district  
24 judges in a circuit for which a bankruptcy appellate panel  
25 service is established under paragraph (1), made after the

1 expiration of the 1-year period beginning on the date such  
2 service is established, the judicial council of the circuit  
3 shall determine whether a circumstance specified in sub-  
4 paragraph (A) or (B) of such paragraph exists.

5       “(C) On its own motion, after the expiration of the  
6 3-year period beginning on the date a bankruptcy appel-  
7 late panel service is established under paragraph (1), the  
8 judicial council of the circuit may determine whether a cir-  
9 cumstance specified in subparagraph (A) or (B) of such  
10 paragraph exists.

11       “(D) If the judicial council finds that either of such  
12 circumstances exists, the judicial council may provide for  
13 the completion of the appeals then pending before such  
14 service and the orderly termination of such service.

15       “(3) Bankruptcy judges appointed under paragraph  
16 (1) shall be appointed and may be reappointed under such  
17 paragraph.”, and

18               (4) by inserting after paragraph (4), as so re-  
19 designated, the following:

20       “(5) An appeal to be heard under this subsection  
21 shall be heard by a panel of 3 members of the bankruptcy  
22 appellate panel service, except that a member of such serv-  
23 ice may not hear an appeal originating in the district for  
24 which such member is appointed or designated under sec-  
25 tion 152 of this title.

1       “(6) Appeals may not be heard under this subsection  
2 by a panel of the bankruptcy appellate panel service unless  
3 the district judges for the district in which the appeals  
4 occur, by majority vote, have authorized such service to  
5 hear and determine appeals originating in such district.”.

6       (d) APPEALS TO BE HEARD BY BANKRUPTCY AP-  
7 PELLATE PANEL SERVICE.—Section 158 of title 28, Unit-  
8 ed States Code, is amended—

9           (1) in subsection (c) by striking “(c)” and in-  
10       serting “(2)”, and

11           (2) by inserting after subsection (b) the follow-  
12       ing:

13       “(c)(1) Subject to subsection (b), each appeal under  
14 subsection (a) shall be heard by a 3-judge panel of the  
15 bankruptcy appellate panel service established under sub-  
16 section (b)(1) unless—

17           “(A) the appellant elects at the time of filing  
18       the appeal; or

19           “(B) any other party elects, not later than 30  
20       days after service of notice of the appeal;  
21 to have such appeal heard by the district court.”.

22       (e) RULES OF PROCEDURE AND EVIDENCE; METHOD  
23 OF PRESCRIBING.—Section 2073 of title 28, United  
24 States Code, is amended—

1 (1) in subsection (a)(2) by striking “section  
2 2072” and inserting “sections 2072 and 2075”, and  
3 (2) in subsections (d) and (e) by inserting “or  
4 2075” after “2072” each place it appears.

5 (f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The  
6 third undesignated paragraph of section 2075 of title 28,  
7 United States Code, is amended to read as follows:

8 “The Supreme Court shall transmit to Congress not  
9 later than May 1 of the year in which a rule prescribed  
10 under this section is to become effective a copy of the pro-  
11 posed rule. The rule shall take effect no earlier than De-  
12 cember 1 of the year in which it is transmitted to Congress  
13 unless otherwise provided by law.”.

14 **SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINIS-**  
15 **TRATOR AT MEETINGS OF CREDITORS AND**  
16 **EQUITY SECURITY HOLDERS.**

17 (a) PRESIDING OFFICER.—A bankruptcy adminis-  
18 trator appointed under section 302(d)(3)(I) of the Bank-  
19 ruptcy Judges, United States Trustees, and Family Farm-  
20 er Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public  
21 Law 99–554; 100 Stat. 3123), as amended by section  
22 317(a) of the Federal Courts Study Committee Implemen-  
23 tation Act of 1990 (Public Law 101–650; 104 Stat. 5115),  
24 or the bankruptcy administrator’s designee may preside  
25 at the meeting of creditors convened under section 341(a)

1 of title 11, United States Code. The bankruptcy adminis-  
2 trator or the bankruptcy administrator’s designee may  
3 preside at any meeting of equity security holders convened  
4 under section 341(b) of title 11, United States Code.

5 (b) EXAMINATION OF THE DEBTOR.—The bank-  
6 ruptcy administrator or the bankruptcy administrator’s  
7 designee may examine the debtor at the meeting of credi-  
8 tors and may administer the oath required under section  
9 343 of title 11, United States Code.

10 **SEC. 106. DEFINITION RELATING TO ELIGIBILITY TO SERVE**  
11 **ON CHAPTER 11 COMMITTEES.**

12 Section 101(41) of title 11, United States Code, is  
13 amended to read as follows:

14 “(41) ‘person’ includes individual, partnership,  
15 and corporation, but does not include governmental  
16 unit, except that a governmental unit that—

17 “(A) acquires an asset from a person—

18 “(i) as a result of the operation of a  
19 loan guarantee agreement; or

20 “(ii) as receiver or liquidating agent  
21 of a person;

22 “(B) is a guarantor of a pension benefit  
23 payable by or on behalf of the debtor or an af-  
24 filiate of the debtor; or

1           “(C) is the legal or beneficial owner of an  
2           asset of—

3                   “(i) an employee pension benefit plan  
4                   that is a governmental plan, as defined in  
5                   section 414(d) of the Internal Revenue  
6                   Code of 1986; or

7                   “(ii) an eligible deferred compensation  
8                   plan, as defined in section 457(b) of the  
9                   Internal Revenue Code of 1986;

10          shall be considered, for purposes of section 1102 of  
11          this title, to be a person with respect to such asset  
12          or such benefit;”.

13   **SEC. 107. INCREASED INCENTIVE COMPENSATION FOR**  
14                   **TRUSTEES.**

15          Section 326(a) of title 11, United States Code, is  
16          amended by striking “fifteen” and all that follows through  
17          “\$3,000” the last place it appears, and inserting the fol-  
18          lowing:

19          “25 percent on the first \$5,000 or less, 10 percent on any  
20          amount in excess of \$5,000 but not in excess of \$50,000,  
21          5 percent on any amount in excess of \$50,000 but not  
22          in excess of \$1,000,000, and reasonable compensation not  
23          to exceed 3 percent of such moneys in excess of  
24          \$1,000,000”.

1 **SEC. 108. DOLLAR ADJUSTMENTS.**

2 (a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—

3 Section 109(e) of title 11, United States Code,  
4 is amended—

5 (1) by striking “\$100,000” each place it ap-  
6 pears and inserting “\$250,000”, and

7 (2) by striking “\$350,000” each place it ap-  
8 pears and inserting “\$750,000”.

9 (b) INVOLUNTARY CASES.—Section 303(b) of title  
10 11, United States Code, is amended—

11 (1) in paragraph (1) by striking “\$5,000” and  
12 inserting “\$10,000”, and

13 (2) in paragraph (2) by striking “\$5,000” and  
14 inserting “\$10,000”.

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

17 (1) in paragraph (4)(B)(i) by striking “\$2,000”  
18 and inserting “\$4,000”,

19 (2) in paragraph (5) by striking “\$2,000” and  
20 inserting “\$4,000”, and

21 (3) in paragraph (6) by striking “\$900” and in-  
22 serting “\$1,800”.

23 (d) EXEMPTIONS.—Section 522(d) of title 11, United  
24 States Code, is amended—

25 (1) in paragraph (1) by striking “\$7,500” and  
26 inserting “\$15,000”,

1           (2) in paragraph (2) by striking “\$1,200” and  
2 inserting “\$2,400”,

3           (3) in paragraph (3)—

4                 (A) by striking “\$200” and inserting  
5 “\$400”, and

6                 (B) by striking “\$4,000” and inserting  
7 “\$8,000”,

8           (4) in paragraph (4) by striking “\$500” and in-  
9 serting “\$1,000”,

10          (5) in paragraph (5)—

11                 (A) by striking “\$400” and inserting  
12 “\$800”, and

13                 (B) by striking “\$3,750” and inserting  
14 “\$7,500”,

15          (6) in paragraph (6) by striking “\$750” and in-  
16 serting “\$1,500”,

17          (7) in paragraph (8) by striking “\$4,000” and  
18 inserting “\$8,000”, and

19          (8) in paragraph (11)(D) by striking “\$7,500”  
20 and inserting “\$15,000”.

21          (e) FUTURE ADJUSTMENTS.—Section 104 of title 11,  
22 United States Code, is amended—

23                 (1) by inserting “(a)” before “The”, and

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

1       “(b)(1) On April 1, 1998, and at each 3-year interval  
2 ending on April 1 thereafter, each dollar amount in effect  
3 under sections 109(e), 303(b), 507(a), 522(d), and  
4 523(a)(2)(C) immediately before such April 1 shall be ad-  
5 justed—

6           “(A) to reflect the change in the Consumer  
7 Price Index for All Urban Consumers, published by  
8 the Department of Labor, for the most recent 3-year  
9 period ending immediately before January 1 preced-  
10 ing such April 1, and

11           “(B) to round to the nearest \$25 the dollar  
12 amount that represents such change.

13       “(2) Not later than March 1, 1998, and at each 3-  
14 year interval ending on March 1 thereafter, the Judicial  
15 Conference of the United States shall publish in the Fed-  
16 eral Register the dollar amounts that will become effective  
17 on such April 1 under sections 109(e), 303(b), 507(a),  
18 522(d), and 523(a)(2)(C) of this title.

19       “(3) Adjustments made in accordance with para-  
20 graph (1) shall not apply with respect to cases commenced  
21 before the date of such adjustments.”.

22 **SEC. 109. PREMERGER NOTIFICATION.**

23       Subparagraphs (A) and (B) of section 363(b)(2) of  
24 title 11, United States Code, are amended to read as fol-  
25 lows:

1           “(A) notwithstanding subsection (a) of  
2 such section, the notification required by such  
3 subsection to be given by the debtor shall be  
4 given by the trustee; and

5           “(B) notwithstanding subsection (b) of  
6 such section, the required waiting period shall  
7 end on the 15th day after the date of the re-  
8 ceipt, by the Federal Trade Commission and  
9 the Assistant Attorney General in charge of the  
10 Antitrust Division of the Department of Jus-  
11 tice, of the notification required under such  
12 subsection (a), unless such waiting period is ex-  
13 tended—

14           “(i) pursuant to subsection (e)(2) of  
15 such section, in the same manner as such  
16 subsection (e)(2) applies to a cash tender  
17 offer;

18           “(ii) pursuant to subsection (g)(2) of  
19 such section; or

20           “(iii) by the court after notice and a  
21 hearing.”.

22 **SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EX-**  
23 **PENSES.**

24           Section 503(b)(3) of title 11, United States Code, is  
25 amended—

1 (1) in subparagraph (D) by striking “or” at the  
2 end,

3 (2) in subparagraph (E) by inserting “or” at  
4 the end, and

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

6 “(F) a member of a committee appointed  
7 under section 1102 of this title, if such ex-  
8 penses are incurred in the performance of the  
9 duties of such committee;”.

10 **SEC. 111. SUPPLEMENTAL INJUNCTIONS.**

11 (a) SUPPLEMENTAL INJUNCTIONS.—Section 524 of  
12 title 11, United States Code, is amended by adding at the  
13 end the following:

14 “(g)(1)(A) After notice and hearing, a court that en-  
15 ters an order confirming a plan of reorganization under  
16 chapter 11 may issue, in connection with such order, an  
17 injunction in accordance with this subsection to supple-  
18 ment the injunctive effect of a discharge under this sec-  
19 tion.

20 “(B) An injunction may be issued under subpara-  
21 graph (A) to enjoin entities from taking legal action for  
22 the purpose of directly or indirectly collecting, recovering,  
23 or receiving payment or recovery with respect to any claim  
24 or demand that, under a plan of reorganization, is to be  
25 paid in whole or in part by a trust described in paragraph

1 (2)(B)(i), except such legal actions as are expressly al-  
2 lowed by the injunction, the confirmation order, or the  
3 plan of reorganization.

4 “(2)(A) Subject to subsection (h), if the requirements  
5 of subparagraph (B) are met at the time an injunction  
6 described in paragraph (1) is entered, then after entry of  
7 such injunction, any proceeding that involves the validity,  
8 application, construction, or modification of such injunc-  
9 tion, or of this subsection with respect to such injunction,  
10 may be commenced only in the district court in which such  
11 injunction was entered, and such court shall have exclusive  
12 jurisdiction over any such proceeding without regard to  
13 the amount in controversy.

14 “(B) The requirements of this subparagraph are  
15 that—

16 “(i) the injunction is to be implemented in con-  
17 nection with a trust that, pursuant to the plan of re-  
18 organization—

19 “(I) is to assume the liabilities of a debtor  
20 which at the time of entry of the order for relief  
21 has been named as a defendant in personal in-  
22 jury, wrongful death, or property-damage ac-  
23 tions seeking recovery for damages allegedly  
24 caused by the presence of, or exposure to, as-  
25 bestos or asbestos-containing products;

1           “(II) is to be funded in whole or in part  
2           by the securities of 1 or more debtors involved  
3           in such plan and by the obligation of such debt-  
4           or or debtors to make future payments, includ-  
5           ing dividends;

6           “(III) is to own, or by the exercise of  
7           rights granted under such plan would be enti-  
8           tled to own if specified contingencies occur, a  
9           majority of the voting shares of—

10                   “(aa) each such debtor;

11                   “(bb) the parent corporation of each  
12                   such debtor; or

13                   “(cc) a subsidiary of each such debtor  
14                   that is also a debtor; and

15           “(IV) is to use its assets or income to pay  
16           claims and demands; and

17           “(ii) subject to subsection (h), the court deter-  
18           mines that—

19                   “(I) the debtor is likely to be subject to  
20                   substantial future demands for payment arising  
21                   out of the same or similar conduct or events  
22                   that gave rise to the claims that are addressed  
23                   by the injunction;

1           “(II) the actual amounts, numbers, and  
2 timing of such future demands cannot be deter-  
3 mined;

4           “(III) pursuit of such demands outside the  
5 procedures prescribed by such plan is likely to  
6 threaten the plan’s purpose to deal equitably  
7 with claims and future demands;

8           “(IV) as part of the process of seeking  
9 confirmation of such plan—

10           “(aa) the terms of the injunction pro-  
11 posed to be issued under paragraph (1)(A),  
12 including any provisions barring actions  
13 against third parties pursuant to para-  
14 graph (4)(A), are set out in such plan and  
15 in any disclosure statement supporting the  
16 plan; and

17           “(bb) a separate class or classes of  
18 the claimants whose claims are to be ad-  
19 dressed by a trust described in clause (i) is  
20 established and votes, by at least 75 per-  
21 cent of those voting, in favor of the plan;  
22 and

23           “(V) subject to subsection (h), pursuant to  
24 court orders or otherwise, the trust will operate  
25 through mechanisms such as structured, peri-

1           odic, or supplemental payments, pro rata dis-  
2           tributions, matrices, or periodic review of esti-  
3           mates of the numbers and values of present  
4           claims and future demands, or other com-  
5           parable mechanisms, that provide reasonable  
6           assurance that the trust will value, and be in a  
7           financial position to pay, present claims and fu-  
8           ture demands that involve similar claims in sub-  
9           stantially the same manner.

10          “(3)(A) If the requirements of paragraph (2)(B) are  
11 met and the order confirming the plan of reorganization  
12 was issued or affirmed by the district court that has juris-  
13 diction over the reorganization case, then after the time  
14 for appeal of the order that issues or affirms the plan—

15           “(i) the injunction shall be valid and enforce-  
16           able and may not be revoked or modified by any  
17           court except through appeal in accordance with  
18           paragraph (6);

19           “(ii) no entity that pursuant to such plan or  
20           thereafter becomes a direct or indirect transferee of,  
21           or successor to any assets of, a debtor or trust that  
22           is the subject of the injunction shall be liable with  
23           respect to any claim or demand made against such  
24           entity by reason of its becoming such a transferee or  
25           successor; and

1           “(iii) no entity that pursuant to such plan or  
2 thereafter makes a loan to such a debtor or trust or  
3 to such a successor or transferee shall, by reason of  
4 making the loan, be liable with respect to any claim  
5 or demand made against such entity, nor shall any  
6 pledge of assets made in connection with such a loan  
7 be upset or impaired for that reason;

8           “(B) Subparagraph (A) shall not be construed to—

9           “(i) imply that an entity described in subpara-  
10 graph (A) (ii) or (iii) would, if this paragraph were  
11 not applicable, necessarily be liable to any entity by  
12 reason of any of the acts described in subparagraph  
13 (A);

14           “(ii) relieve any such entity of the duty to com-  
15 ply with, or of liability under, any Federal or State  
16 law regarding the making of a fraudulent convey-  
17 ance in a transaction described in subparagraph (A)  
18 (ii) or (iii); or

19           “(iii) relieve a debtor of the debtor’s obligation  
20 to comply with the terms of the plan of reorganiza-  
21 tion, or affect the power of the court to exercise its  
22 authority under sections 1141 and 1142 to compel  
23 the debtor to do so.

1       “(4)(A)(i) Subject to subparagraph (B), an injunc-  
2 tion described in paragraph (1) shall be valid and enforce-  
3 able against all entities that it addresses.

4       “(ii) Notwithstanding the provisions of section  
5 524(e), such an injunction may bar any action directed  
6 against a third party who is identifiable from the terms  
7 of such injunction (by name or as part of an identifiable  
8 group) and is alleged to be directly or indirectly liable for  
9 the conduct of, claims against, or demands on the debtor  
10 to the extent such alleged liability of such third party  
11 arises by reason of—

12           “(I) the third party’s ownership of a financial  
13 interest in the debtor, a past or present affiliate of  
14 the debtor, or a predecessor in interest of the debtor;

15           “(II) the third party’s involvement in the man-  
16 agement of the debtor or a predecessor in interest  
17 of the debtor, or service as an officer, director or  
18 employee of the debtor or a related party;

19           “(III) the third party’s provision of insurance  
20 to the debtor or a related party; or

21           “(IV) the third party’s involvement in a trans-  
22 action changing the corporate structure, or in a loan  
23 or other financial transaction affecting the financial  
24 condition, of the debtor or a related party, including  
25 but not limited to—

1           “(aa) involvement in providing financing  
2           (debt or equity), or advice to an entity involved  
3           in such a transaction; or

4           “(bb) acquiring or selling a financial inter-  
5           est in an entity as part of such a transaction.

6           “(iii) As used in this subparagraph, the term ‘related  
7 party’ means—

8           “(I) a past or present affiliate of the debtor;

9           “(II) a predecessor in interest of the debtor; or

10          “(III) any entity that owned a financial interest  
11          in—

12                  “(aa) the debtor;

13                  “(bb) a past or present affiliate of the  
14                  debtor; or

15                  “(cc) a predecessor in interest of the debt-  
16                  or.

17          “(B) Subject to subsection (h), if, under a plan of  
18 reorganization, a kind of demand described in such plan  
19 is to be paid in whole or in part by a trust described in  
20 paragraph (2)(B)(i) in connection with which an injunc-  
21 tion described in paragraph (1) is to be implemented, then  
22 such injunction shall be valid and enforceable with respect  
23 to a demand of such kind made, after such plan is con-  
24 firmed, against the debtor or debtors involved, or against  
25 a third party described in subparagraph (A)(ii), if—

1           “(i) as part of the proceedings leading to issu-  
2           ance of such injunction, the court appoints a legal  
3           representative for the purpose of protecting the  
4           rights of persons that might subsequently assert de-  
5           mands of such kind, and

6           “(ii) the court determines, before entering the  
7           order confirming such plan, that identifying such  
8           debtor or debtors, or such third party (by name or  
9           as part of an identifiable group), in such injunction  
10          with respect to such demands for purposes of this  
11          subparagraph is fair and equitable with respect to  
12          the persons that might subsequently assert such de-  
13          mands, in light of the benefits provided, or to be  
14          provided, to such trust on behalf of such debtor or  
15          debtors or such third party.

16          “(5) In this subsection, the term ‘demand’ means a  
17          demand for payment, present or future, that—

18                 “(A) was not a claim during the proceedings  
19                 leading to the confirmation of a plan of reorganiza-  
20                 tion;

21                 “(B) arises out of the same or similar conduct  
22                 or events that gave rise to the claims addressed by  
23                 the injunction issued under paragraph (1); and

24                 “(C) pursuant to the plan, is to be paid by a  
25                 trust described in paragraph (2)(B)(i).

1       “(6) Paragraph (3)(A)(i) does not bar an action  
2 taken by or at the direction of an appellate court on appeal  
3 of an injunction issued under paragraph (1) or of the  
4 order of confirmation that relates to the injunction.

5       “(7) This subsection does not affect the operation of  
6 section 1144 or the power of the district court to refer  
7 a proceeding under section 157 of title 28 or any reference  
8 of a proceeding made prior to the date of the enactment  
9 of this subsection.

10       “(h) APPLICATION TO EXISTING INJUNCTIONS.—For  
11 purposes of subsection (g)—

12               “(1) subject to paragraph (2), if an injunction  
13 of the kind described in subsection (g)(1)(B) was is-  
14 sued before the date of the enactment of this Act,  
15 as part of a plan of reorganization confirmed by an  
16 order entered before such date, then the injunction  
17 shall be considered to meet the requirements of sub-  
18 section (g)(2)(B) for purposes of subsection  
19 (g)(2)(A), and to satisfy subsection (g)(4)(A)(ii),  
20 if—

21                       “(A) the court determined at the time the  
22 plan was confirmed that the plan was fair and  
23 equitable in accordance with the requirements  
24 of section 1129(b);

1           “(B) as part of the proceedings leading to  
2           issuance of such injunction and confirmation of  
3           such plan, the court had appointed a legal rep-  
4           resentative for the purpose of protecting the  
5           rights of persons that might subsequently assert  
6           demands described in subsection (g)(4)(B) with  
7           respect to such plan; and

8           “(C) such legal representative did not ob-  
9           ject to confirmation of such plan or issuance of  
10          such injunction; and

11          “(2) for purposes of paragraph (1), if a trust  
12          described in subsection (g)(2)(B)(i) is subject to a  
13          court order on the date of the enactment of this Act  
14          staying such trust from settling or paying further  
15          claims—

16                 “(A) the requirements of subsection  
17                 (g)(2)(B)(ii)(V) shall not apply with respect to  
18                 such trust until such stay is lifted or dissolved;  
19                 and

20                 “(B) if such trust meets such requirements  
21                 on the date such stay is lifted or dissolved, such  
22                 trust shall be considered to have met such re-  
23                 quirements continuously from the date of the  
24                 enactment of this Act.”.

1 (b) RULE OF CONSTRUCTION.—Nothing in sub-  
2 section (a), or in the amendments made by subsection (a),  
3 shall be construed to modify, impair, or supersede any  
4 other authority the court has to issue injunctions in con-  
5 nection with an order confirming a plan of reorganization.

6 **SEC. 112. AUTHORITY OF BANKRUPTCY JUDGES TO CON-**  
7 **DUCT JURY TRIALS IN CIVIL PROCEEDINGS.**

8 Section 157 of title 28, United States Code, is  
9 amended by adding at the end the following:

10 “(e) If the right to a jury trial applies in a proceeding  
11 that may be heard under this section by a bankruptcy  
12 judge, the bankruptcy judge may conduct the jury trial  
13 if specially designated to exercise such jurisdiction by the  
14 district court and with the express consent of all the par-  
15 ties.”.

16 **SEC. 113. SOVEREIGN IMMUNITY.**

17 Section 106 of title 11, United States Code, is  
18 amended to read as follows:

19 **“§ 106. Waiver of sovereign immunity**

20 “(a) Notwithstanding an assertion of sovereign im-  
21 munity, sovereign immunity is abrogated as to a govern-  
22 mental unit to the extent set forth in this section with  
23 respect to the following:

24 “(1) Sections 105, 106, 107, 108, 303, 346,  
25 362, 363, 364, 365, 366, 502, 503, 505, 506, 510,

1 522, 523, 524, 525, 542, 543, 544, 545, 546, 547,  
2 548, 549, 550, 551, 552, 553, 722, 724, 726, 728,  
3 744, 749, 764, 901, 922, 926, 928, 929, 944, 1107,  
4 1141, 1142, 1143, 1146, 1201, 1203, 1205, 1206,  
5 1227, 1231, 1301, 1303, 1305, and 1327 of this  
6 title.

7 “(2) The court may hear and determine any  
8 issue arising with respect to the application of such  
9 sections to governmental units.

10 “(3) The court may issue against a govern-  
11 mental unit an order, process, or judgment under  
12 such sections or the Federal Rules of Bankruptcy  
13 Procedure, including an order or judgment awarding  
14 a money recovery, but not including an award of pu-  
15 nitive damages. Such order or judgment for costs or  
16 fees under this title or the Federal Rules of Bank-  
17 ruptcy Procedure against any governmental unit  
18 shall be consistent with the provisions and limita-  
19 tions of section 2412(d)(2)(A) of title 28.

20 “(4) The enforcement of any such order, proc-  
21 ess, or judgment against any governmental unit shall  
22 be consistent with appropriate nonbankruptcy law  
23 applicable to such governmental unit and, in the  
24 case of a money judgment against the United States,

1 shall be paid as if it is a judgment rendered by a  
2 district court of the United States.

3 “(5) Nothing in this section shall create any  
4 substantive claim for relief or cause of action not  
5 otherwise existing under this title, the Federal Rules  
6 of Bankruptcy Procedure, or nonbankruptcy law.

7 “(b) A governmental unit that has filed a proof of  
8 claim in the case is deemed to have waived sovereign im-  
9 munity with respect to a claim against such governmental  
10 unit that is property of the estate and that arose out of  
11 the same transaction or occurrence out of which the claim  
12 of such governmental unit arose.

13 “(c) Notwithstanding any assertion of sovereign im-  
14 munity by a governmental unit, there shall be offset  
15 against a claim or interest of a governmental unit any  
16 claim against such governmental unit that is property of  
17 the estate.”.

18 **SEC. 114. SERVICE OF PROCESS IN BANKRUPTCY PROCEED-**  
19 **INGS ON AN INSURED DEPOSITORY INSTITU-**  
20 **TION.**

21 Rule 7004 of the Federal Rules of Bankruptcy Proce-  
22 dure is amended—

23 (1) in subdivision (b) by striking “In addition”  
24 and inserting “Except as provided in subdivision (h),  
25 in addition”, and

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

2 “(h) SERVICE OF PROCESS ON AN INSURED DEPOSI-  
3 TORY INSTITUTION.—Service on an insured depository in-  
4 stitution (as defined in section 3 of the Federal Deposit  
5 Insurance Act) in a contested matter or adversary pro-  
6 ceeding shall be made by certified mail addressed to an  
7 officer of the institution unless—

8 “(1) the institution has appeared by its attor-  
9 ney, in which case the attorney shall be served by  
10 first class mail;

11 “(2) the court orders otherwise after service  
12 upon the institution by certified mail of notice of an  
13 application to permit service on the institution by  
14 first class mail sent to an officer of the institution  
15 designated by the institution; or

16 “(3) the institution has waived in writing its  
17 entitlement to service by certified mail by designat-  
18 ing an officer to receive service.”.

19 **SEC. 115. MEETINGS OF CREDITORS AND EQUITY SECURITY**  
20 **HOLDERS.**

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

23 “(d) Prior to the conclusion of the meeting of credi-  
24 tors or equity security holders, the trustee shall orally ex-

1 amine the debtor to ensure that the debtor in a case under  
2 chapter 7 of this title is aware of—

3 “(1) the potential consequences of seeking a  
4 discharge in bankruptcy, including the effects on  
5 credit history;

6 “(2) the debtor’s ability to file a petition under  
7 a different chapter of this title;

8 “(3) the effect of receiving a discharge of debts  
9 under this title; and

10 “(4) the effect of reaffirming a debt, including  
11 the debtor’s knowledge of the provisions of section  
12 524(d) of this title.”.

13 **SEC. 116. TAX ASSESSMENT.**

14 Section 362(b)(9) of title 11, United States Code, is  
15 amended to read as follows:

16 “(9) under subsection (a), of—

17 “(A) an audit by a governmental unit to  
18 determine tax liability;

19 “(B) the issuance to the debtor by a gov-  
20 ernmental unit of a notice of tax deficiency;

21 “(C) a demand for tax returns; or

22 “(D) the making of an assessment for any  
23 tax and issuance of a notice and demand for  
24 payment of such an assessment (but any tax  
25 lien that would otherwise attach to property of

1 the estate by reason of such an assessment  
2 shall not take effect unless such tax is a debt  
3 of the debtor that will not be discharged in the  
4 case and such property or its proceeds are  
5 transferred out of the estate to, or otherwise  
6 revested in, the debtor).”.

7 **SEC. 117. ADDITIONAL TRUSTEE COMPENSATION.**

8 Section 330(b) of title 11, United States Code, is  
9 amended—

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

11 (2) by adding at the end thereof the following:

12 “(2) The Judicial Conference of the United States—

13 “(A) shall prescribe additional fees of the same  
14 kind as prescribed under section 1914(b) of title 28;  
15 and

16 “(B) may prescribe notice of appearance fees  
17 and fees charged against distributions in cases under  
18 this title;

19 to pay \$15 to trustees serving in cases after such trustees’  
20 services are rendered. Beginning 1 year after the date of  
21 the enactment of the Bankruptcy Reform Act of 1994,  
22 such \$15 shall be paid in addition to the amount paid  
23 under paragraph (1).”.

1                   **TITLE II—COMMERCIAL**  
2                   **BANKRUPTCY ISSUES**

3   **SEC. 201. AIRCRAFT EQUIPMENT AND VESSELS; ROLLING**  
4                   **STOCK EQUIPMENT.**

5           (a) AMENDMENT OF SECTION 1110.—Section 1110  
6 of title 11, United States Code, is amended to read as  
7 follows:

8   **“§ 1110. Aircraft equipment and vessels**

9           “(a)(1) The right of a secured party with a security  
10 interest in equipment described in paragraph (2) or of a  
11 lessor or conditional vendor of such equipment to take pos-  
12 session of such equipment in compliance with a security  
13 agreement, lease, or conditional sale contract is not af-  
14 fected by section 362, 363, or 1129 or by any power of  
15 the court to enjoin the taking of possession unless—

16           “(A) before the date that is 60 days after the  
17 date of the order for relief under this chapter, the  
18 trustee, subject to the court’s approval, agrees to  
19 perform all obligations of the debtor that become  
20 due on or after the date of the order under such se-  
21 curity agreement, lease, or conditional sale contract;  
22 and

23           “(B) any default, other than a default of a kind  
24 specified in section 365(b)(2), under such security  
25 agreement, lease, or conditional sale contract—

1           “(i) that occurs before the date of the  
2           order is cured before the expiration of such 60-  
3           day period; and

4           “(ii) that occurs after the date of the order  
5           is cured before the later of—

6                   “(I) the date that is 30 days after the  
7                   date of the default; or

8                   “(II) the expiration of such 60-day  
9                   period.

10          “(2) Equipment is described in this paragraph if it  
11          is—

12                   “(A) an aircraft, aircraft engine, propeller, ap-  
13                   pliance, or spare part (as defined in section 40102  
14                   of title 49) that is subject to a security interest  
15                   granted by, leased to, or conditionally sold to a debt-  
16                   or that is a citizen of the United States (as defined  
17                   in 40102 of title 49) holding an air carrier operating  
18                   certificate issued by the Secretary of Transportation  
19                   pursuant to chapter 447 of title 49 for aircraft capa-  
20                   ble of carrying 10 or more individuals or 6,000  
21                   pounds or more of cargo; or

22                   “(B) a documented vessel (as defined in section  
23                   30101(1) of title 46) that is subject to a security in-  
24                   terest granted by, leased to, or conditionally sold to  
25                   a debtor that is a water carrier that holds a certifi-

1       cate of public convenience and necessity or permit is-  
2       sued by the Interstate Commerce Commission.

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

6       “(b) The trustee and the secured party, lessor, or  
7 conditional vendor whose right to take possession is pro-  
8 tected under subsection (a) may agree, subject to the  
9 court’s approval, to extend the 60-day period specified in  
10 subsection (a)(1).

11       “(c) With respect to equipment first placed in service  
12 on or prior to the date of enactment of this subsection,  
13 for purposes of this section—

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

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

22       (b) AMENDMENT OF SECTION 1168.—Section 1168  
23 of title 11, United States Code, is amended to read as  
24 follows:

1 **“§ 1168. Rolling stock equipment**

2       “(a)(1) The right of a secured party with a security  
3 interest in or of a lessor or conditional vendor of equip-  
4 ment described in paragraph (2) to take possession of such  
5 equipment in compliance with an equipment security  
6 agreement, lease, or conditional sale contract is not af-  
7 fected by section 362, 363, or 1129 or by any power of  
8 the court to enjoin the taking of possession, unless—

9               “(A) before the date that is 60 days after the  
10 date of commencement of a case under this chapter,  
11 the trustee, subject to the court’s approval, agrees to  
12 perform all obligations of the debtor that become  
13 due on or after the date of commencement of the  
14 case under such security agreement, lease, or condi-  
15 tional sale contract; and

16               “(B) any default, other than a default of a kind  
17 described in section 365(b)(2), under such security  
18 agreement, lease, or conditional sale contract—

19                       “(i) that occurs before the date of com-  
20 mencement of the case and is an event of de-  
21 fault therewith is cured before the expiration of  
22 such 60-day period; and

23                       “(ii) that occurs or becomes an event of  
24 default after the date of commencement of the  
25 case is cured before the later of—

1                   “(I) the date that is 30 days after the  
2                   date of the default or event of default; or

3                   “(II) the expiration of such 60-day  
4                   period.

5           “(2) Equipment is described in this paragraph if it  
6 is rolling stock equipment or accessories used on such  
7 equipment, including superstructures and racks, that is  
8 subject to a security interest granted by, leased to, or con-  
9 ditionally sold to the debtor.

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

13           “(b) The trustee and the secured party, lessor, or  
14 conditional vendor whose right to take possession is pro-  
15 tected under subsection (a) may agree, subject to the  
16 court’s approval, to extend the 60-day period specified in  
17 subsection (a)(1).

18           “(c) With respect to equipment first placed in service  
19 on or prior to the date of enactment of this subsection,  
20 for purposes of this section—

21                   “(1) the term ‘lease’ includes any written agree-  
22                   ment with respect to which the lessor and the debt-  
23                   or, as lessee, have expressed in the agreement or in  
24                   a substantially contemporaneous writing that the

1 agreement is to be treated as a lease for Federal in-  
2 come tax purposes; and

3 “(2) the term ‘security interest’ means a pur-  
4 chase-money equipment security interest.

5 “(d) With respect to equipment first placed in service  
6 after the date of enactment of this subsection, for pur-  
7 poses of this section, the term ‘rolling stock equipment’  
8 includes rolling stock equipment that is substantially re-  
9 built and accessories used on such equipment.”.

10 **SEC. 202. LIMITATION ON LIABILITY OF NON-INSIDER**  
11 **TRANSFeree FOR AVOIDED TRANSFER.**

12 Section 550 of title 11, United States Code, is  
13 amended—

14 (1) by redesignating subsections (c), (d), and  
15 (e) as subsections (d), (e), and (f), respectively, and

16 (2) by inserting after subsection (b) the follow-  
17 ing:

18 “(c) If a transfer made between 90 days and one year  
19 before the filing of the petition—

20 “(1) is avoided under section 547(b) of this  
21 title; and

22 “(2) was made for the benefit of a creditor that  
23 at the time of such transfer was an insider;

24 the trustee may not recover under subsection (a) from a  
25 transferee that is not an insider.”.

1 **SEC. 203. PERFECTION OF PURCHASE-MONEY SECURITY IN-**  
2 **TEREST.**

3 Section 547 of title 11, United States Code, is  
4 amended—

5 (1) in subsection (c)(3)(B) by striking “10”  
6 and inserting “20”, and

7 (2) in subsection (e)(2)(A) by inserting “, ex-  
8 cept as provided in subsection (c)(3)(B)” before the  
9 semicolon at the end.

10 **SEC. 204. CONTINUED PERFECTION.**

11 (a) **AUTOMATIC STAY.**—Section 362(b)(3) of title 11,  
12 United States Code, is amended by inserting “, or to  
13 maintain or continue the perfection of,” after “to perfect”.

14 (b) **LIMITATIONS ON AVOIDING POWERS.**—Section  
15 546(b) of title 11, United States Code, is amended to read  
16 as follows:

17 “(b)(1) The rights and powers of a trustee under sec-  
18 tions 544, 545, and 549 of this title are subject to any  
19 generally applicable law that—

20 “(A) permits perfection of an interest in prop-  
21 erty to be effective against an entity that acquires  
22 rights in such property before the date of perfection;  
23 or

24 “(B) provides for the maintenance or continu-  
25 ation of perfection of an interest in property to be  
26 effective against an entity that acquires rights in

1 such property before the date on which action is  
2 taken to effect such maintenance or continuation.

3 “(2) If—

4 “(A) a law described in paragraph (1) requires  
5 seizure of such property or commencement of an ac-  
6 tion to accomplish such perfection, or maintenance  
7 or continuation of perfection of an interest in prop-  
8 erty; and

9 “(B) such property has not been seized or such  
10 an action has not been commenced before the date  
11 of the filing of the petition;

12 such interest in such property shall be perfected, or perfec-  
13 tion of such interest shall be maintained or continued, by  
14 giving notice within the time fixed by such law for such  
15 seizure or such commencement.”.

16 **SEC. 205. REJECTION OF UNEXPIRED LEASES OF REAL**  
17 **PROPERTY OR TIMESHARE INTERESTS.**

18 (a) AMENDMENT TO SECTION 365.—Section 365(h)  
19 of title 11, United States Code, is amended to read as  
20 follows:

21 “(h)(1)(A) If the trustee rejects an unexpired lease  
22 of real property under which the debtor is the lessor and—

23 “(i) if the rejection by the trustee amounts to  
24 such a breach as would entitle the lessee to treat  
25 such lease as terminated by virtue of its terms, ap-

1 plicable nonbankruptcy law, or any agreement made  
2 by the lessee, then the lessee under such lease may  
3 treat such lease as terminated by the rejection; or

4 “(ii) if the term of such lease has commenced,  
5 the lessee may retain its rights under such lease (in-  
6 cluding rights such as those relating to the amount  
7 and timing of payment of rent and other amounts  
8 payable by the lessee and any right of use, posses-  
9 sion, quiet enjoyment, subletting, assignment, or  
10 hypothecation) that are in or appurtenant to the real  
11 property for the balance of the term of such lease  
12 and for any renewal or extension of such rights to  
13 the extent that such rights are enforceable under ap-  
14 plicable nonbankruptcy law.

15 “(B) If the lessee retains its rights under subpara-  
16 graph (A)(ii), the lessee may offset against the rent re-  
17 served under such lease for the balance of the term after  
18 the date of the rejection of such lease and for the term  
19 of any renewal or extension of such lease, the value of any  
20 damage caused by the nonperformance after the date of  
21 such rejection, of any obligation of the debtor under such  
22 lease, but the lessee shall not have any other right against  
23 the estate or the debtor on account of any damage occur-  
24 ring after such date caused by such nonperformance.

1       “(C) The rejection of a lease of real property in a  
2 shopping center with respect to which the lessee elects to  
3 retain its rights under subparagraph (A)(ii) does not af-  
4 fect the enforceability under applicable nonbankruptcy law  
5 of any provision in the lease pertaining to radius, location,  
6 use, exclusivity, or tenant mix or balance.

7       “(D) In this paragraph, ‘lessee’ includes any succes-  
8 sor, assign, or mortgagee permitted under the terms of  
9 such lease.

10       “(2)(A) If the trustee rejects a timeshare interest  
11 under a timeshare plan under which the debtor is the  
12 timeshare interest seller and—

13               “(i) if the rejection amounts to such a breach  
14 as would entitle the timeshare interest purchaser to  
15 treat the timeshare plan as terminated under its  
16 terms, applicable nonbankruptcy law, or any agree-  
17 ment made by timeshare interest purchaser, the  
18 timeshare interest purchaser under the timeshare  
19 plan may treat the timeshare plan as terminated by  
20 such rejection; or

21               “(ii) if the term of such timeshare interest has  
22 commenced, then the timeshare interest purchaser  
23 may retain its rights in such timeshare interest for  
24 the balance of such term and for any term of re-  
25 newal or extension of such timeshare interest to the

1 extent that such rights are enforceable under appli-  
2 cable nonbankruptcy law.

3 “(B) If the timeshare interest purchaser retains its  
4 rights under subparagraph (A), such timeshare interest  
5 purchaser may offset against the moneys due for such  
6 timeshare interest for the balance of the term after the  
7 date of the rejection of such timeshare interest, and the  
8 term of any renewal or extension of such timeshare inter-  
9 est, the value of any damage caused by the nonperform-  
10 ance after the date of such rejection, of any obligation of  
11 the debtor under such timeshare plan, but the timeshare  
12 interest purchaser shall not have any right against the es-  
13 tate or the debtor on account of any damage occurring  
14 after such date caused by such nonperformance.”.

15 (b) TECHNICAL AMENDMENT.—Section 553(b)(1) of  
16 title 11, United States Code, is amended by striking  
17 “365(h)(2)” and inserting “365(h)”.

18 **SEC. 206. CONTENTS OF PLAN.**

19 Section 1123(b) of title 11, United States Code, is  
20 amended—

21 (1) in paragraph (4) by striking “and” at the  
22 end,

23 (2) by redesignating paragraph (5) as para-  
24 graph (6), and

1 (3) by inserting after paragraph (4) the follow-  
2 ing:

3 “(5) modify the rights of holders of secured  
4 claims, other than a claim secured only by a security  
5 interest in real property that is the debtor’s prin-  
6 cipal residence, or of holders of unsecured claims, or  
7 leave unaffected the rights of holders of any class of  
8 claims; and”.

9 **SEC. 207. PRIORITY FOR INDEPENDENT SALES REPRESENT-**  
10 **ATIVES.**

11 Section 507(a)(3) of title 11, United States Code, is  
12 amended to read as follows:

13 “(3) Third, allowed unsecured claims, but only  
14 to the extent of \$4,000 for each individual or cor-  
15 poration, as the case may be, earned within 90 days  
16 before the date of the filing of the petition or the  
17 date of the cessation of the debtor’s business, which-  
18 ever occurs first, for—

19 “(A) wages, salaries, or commissions, in-  
20 cluding vacation, severance, and sick leave pay  
21 earned by an individual; or

22 “(B) sales commissions earned by an indi-  
23 vidual or by a corporation with only 1 employee,  
24 acting as an independent contractor in the sale  
25 of goods or services for the debtor in the ordi-

1 nary course of the debtor's business if, and only  
2 if, during the 12 months preceding that date, at  
3 least 75 percent of the amount that the individ-  
4 ual or corporation earned by acting as an inde-  
5 pendent contractor in the sale of goods or serv-  
6 ices was earned from the debtor;”.

7 **SEC. 208. EXCLUSION FROM THE ESTATE OF INTERESTS IN**  
8 **LIQUID AND GASEOUS HYDROCARBONS**  
9 **TRANSFERRED BY THE DEBTOR PURSUANT**  
10 **TO PRODUCTION PAYMENT AGREEMENTS.**

11 (a) DEFINITION.—Section 101 of title 11, United  
12 States Code, is amended—

13 (1) by inserting after paragraph (42) the fol-  
14 lowing:

15 “(42A) ‘production payment’ means a term  
16 overriding royalty satisfiable in cash or in kind—

17 “(A) contingent on the production of a liq-  
18 uid or gaseous hydrocarbon from particular real  
19 property; and

20 “(B) from a specified volume, or a speci-  
21 fied value, from the liquid or gaseous hydro-  
22 carbon produced from such property, and deter-  
23 mined without regard to production costs;”, and

24 (2) by inserting after the first paragraph (56)  
25 the following:

1           “(56A) ‘term overriding royalty’ means an in-  
2           terest in liquid or gaseous hydrocarbons in place or  
3           to be produced from particular real property that  
4           entitles the owner thereof to a share of production,  
5           or the value thereof, for a term limited by time,  
6           quantity, or value realized;”.

7           (b) PROPERTY OF THE ESTATE.—Section 541(b)(4)  
8 of title 11, United States Code, is amended—

9           (1) in subparagraph (A) by striking “(A)” and  
10          inserting “(A)(i)”,

11          (2) in subparagraph (B)—

12                 (A) by striking “(B)” and inserting “(ii),

13                 (B) by striking “such interest” and insert-  
14                 ing “the interest referred to in clause (i)”, and

15                 (C) by striking the period at the end and  
16                 inserting “; or”, and

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

18                 “(B)(i) the debtor has transferred such in-  
19                 terest pursuant to a written conveyance of a  
20                 production payment to an entity that does not  
21                 participate in the operation of the property  
22                 from which such production payment is trans-  
23                 ferred; and

24                 “(ii) but for the operation of this para-  
25                 graph, the estate could include the interest re-

1           ferred to in clause (i) only by virtue of section  
2           542 of this title;”.

3 **SEC. 209. SELLER'S RIGHT TO RECLAIM GOODS.**

4           Section 546(c)(1) of title 11, United States Code, is  
5 amended to read as follows:

6           “(1) such a seller may not reclaim any such  
7 goods unless such seller demands in writing reclama-  
8 tion of such goods—

9                   “(A) before 10 days after receipt of such  
10 goods by the debtor; or

11                   “(B) if such 10-day period expires after  
12 the commencement of the case, before 20 days  
13 after receipt of such goods by the debtor; and”.

14 **SEC. 210. INVESTMENT OF MONEY OF THE ESTATE.**

15           Section 345(b) of title 11, United States Code, is  
16 amended—

17           (1) in paragraph (2) by striking the period at  
18 the end and inserting a semicolon, and

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

20 “unless the court for cause orders otherwise.”.

21 **SEC. 211. ELECTION OF TRUSTEE UNDER CHAPTER 11.**

22           (a) ELECTION AUTHORIZED.—Section 1104 of title  
23 11 of the United States Code is amended—

24           (1) by redesignating subsections (b) and (c) as  
25 subsections (c) and (d), respectively, and

1           (2) by inserting after subsection (a) the follow-  
2           ing:

3           “(b) Except as provided in section 1163 of this title,  
4 on the request of a party in interest made not later than  
5 30 days after the court orders the appointment of a trust-  
6 ee under subsection (a), the United States trustee shall  
7 convene a meeting of creditors for the purpose of electing  
8 one disinterested person to serve as trustee in the case.  
9 The election of a trustee shall be conducted in the manner  
10 provided in subsections (a), (b), and (c) of section 702  
11 of this title.”.

12           (b) CONFORMING AMENDMENT.—Section 1106(b) of  
13 title 11, United States Code, is amended by striking  
14 “1104(c)” and inserting “1104(d)”.

15 **SEC. 212. RIGHTS OF PARTNERSHIP TRUSTEE AGAINST**  
16 **GENERAL PARTNERS.**

17           Section 723(a) of title 11, United States Code, is  
18 amended by striking “for the full amount of the defi-  
19 ciency” and inserting “to the extent that under applicable  
20 nonbankruptcy law such general partner is personally lia-  
21 ble for such deficiency”.

22 **SEC. 213. IMPAIRMENT OF CLAIMS AND INTERESTS.**

23           (a) OBJECTION TO CLAIMS FILED UNTIMELY.—Sec-  
24 tion 502(b) of title 11, United States Code, is amended—

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

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

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

6           “(9) proof of such claim is not timely filed, ex-  
7           cept to the extent tardily filed as permitted under  
8           paragraph (1), (2), or (3) of section 726(a) of this  
9           title or under the Federal Rules of Bankruptcy Pro-  
10          cedure, except that a claim of a governmental unit  
11          shall be timely filed if it is filed before 180 days  
12          after the date of the order for relief or such later  
13          time as the Federal Rules of Bankruptcy Procedure  
14          may provide.”.

15          (b) TARDILY FILED PRIORITY CLAIMS.—Section  
16          726(a)(1) of title 11, United States Code, is amended by  
17          adding before the semicolon the following: “, proof of  
18          which is timely filed under section 501 of this title or tar-  
19          dily filed before the date on which the trustee commences  
20          distribution under this section”.

21          (c) FILING OF REQUEST FOR ADMINISTRATIVE EX-  
22          PENSES.—Section 503(a) of title 11, United States Code,  
23          is amended—

24                 (1) by inserting “timely” after “may”, and

1           (2) by inserting “, or may tardily file such re-  
2           quest if permitted by the court for cause” before the  
3           period at the end.

4           (d) IMPAIRMENT OF CLAIMS OR INTERESTS.—Sec-  
5           tion 1124 of title 11, United States Code, is amended—

6           (1) in paragraph (1) by inserting “or” at the  
7           end,

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

10          (3) by striking paragraph (3).

11 **SEC. 214. PROTECTION OF SECURITY INTEREST IN POST-**  
12 **PETITION RENTS AND LODGING PAYMENTS.**

13          (a) POSTPETITION EFFECT OF SECURITY INTER-  
14          EST.—Section 552(b) of title 11, United States Code, is  
15          amended—

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

17          (2) by striking “rents,” each place it appears,  
18          and

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

20          “(2) Except as provided in sections 363, 506(c), 522,  
21          544, 545, 547, and 548 of this title, and notwithstanding  
22          section 546(b) of this title, if the debtor and an entity  
23          entered into a security agreement before the commence-  
24          ment of the case and if the security interest created by  
25          such security agreement extends to property of the debtor

1 acquired before the commencement of the case and to  
2 amounts paid as rents of such property or the fees,  
3 charges, accounts, or other payments for the use or occu-  
4 pancy of rooms and other public facilities in hotels, motels,  
5 or other lodging properties, then such security interest ex-  
6 tends to such rents and such fees, charges, accounts, or  
7 other payments acquired by the estate after the com-  
8 mencement of the case to the extent provided in such secu-  
9 rity agreement, except to any extent that the court, after  
10 notice and a hearing and based on the equities of the case,  
11 orders otherwise.”.

12 (b) USE SALE, OR LEASE OF PROPERTY.—Section  
13 363(a) of title 11, United States Code, is amended by in-  
14 serting: “and the fees, charges, accounts or other pay-  
15 ments for the use or occupancy of rooms and other public  
16 facilities in hotels, motels, or other lodging properties”  
17 after “property”.

18 **SEC. 215. AMENDMENT TO DEFINITION OF SWAP AGREE-**  
19 **MENT.**

20 Subparagraph (A) of the first paragraph (55) of sec-  
21 tion 101 of title 11, United States Code, is amended by  
22 inserting “spot foreign exchange agreement,” after “for-  
23 ward foreign exchange agreement,”.

1 **SEC. 216. LIMITATION ON AVOIDING POWERS.**

2 Section 546(a)(1) of title 11, United States Code, is  
3 amended to read as follows:

4 “(1) the later of—

5 “(A) 2 years after the entry of the order  
6 for relief; or

7 “(B) 1 year after the appointment or elec-  
8 tion of the first trustee under section 702,  
9 1104, 1163, 1202, or 1302 of this title if such  
10 appointment or such election occurs before the  
11 expiration of the period specified in subpara-  
12 graph (A); or”.

13 **SEC. 217. SMALL BUSINESSES.**

14 (a) DEFINITION.—Section 101 of title 11, United  
15 States Code, is amended by inserting after paragraph (51)  
16 the following:

17 “(51C) ‘small business’ means a person en-  
18 gaged in commercial or business activities (but does  
19 not include a person whose primary activity is the  
20 business of owning or operating real property and  
21 activities incidental thereto) whose aggregate  
22 noncontingent liquidated secured and unsecured  
23 debts as of the date of the petition do not exceed  
24 \$2,000,000;”.

25 (b) CREDITORS’ COMMITTEES.—Section 1102(a) of  
26 title 11, United States Code, is amended—

1           (1) in paragraph (1) by striking “As” and in-  
2           serting “Except as provided in paragraph (3), as”;  
3           and

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

5           “(3) On request of a party in interest in a case in  
6           which the debtor is a small business and for cause, the  
7           court may order that a committee of creditors not be ap-  
8           pointed.”.

9           (c) CONVERSION OR DISMISSAL.—Section 1112(b) of  
10          title 11, United States Code, is amended by inserting “or  
11          bankruptcy administrator” after “United States trustee”.

12          (d) WHO MAY FILE A PLAN.—Section 1121 of title  
13          11, United States Code, is amended by adding at the end  
14          the following:

15          “(e) In a case in which the debtor is a small business  
16          and elects to be considered a small business—

17                 “(1) only the debtor may file a plan until after  
18                 100 days after the date of the order for relief under  
19                 this chapter;

20                 “(2) all plans shall be filed within 160 days  
21                 after the date of the order for relief; and

22                 “(3) on request of a party in interest made  
23                 within the respective periods specified in paragraphs  
24                 (1) and (2) and after notice and a hearing, the court  
25                 may—

1           “(A) reduce the 100-day period or the  
2           160-day period specified in paragraph (1) or  
3           (2) for cause; and

4           “(B) increase the 100-day period specified  
5           in paragraph (1) if the debtor shows that the  
6           need for an increase is caused by circumstances  
7           for which the debtor should not be held ac-  
8           countable.”.

9           (e) POSTPETITION DISCLOSURE.—Section 1125 of  
10          title 11, United States Code, is amended by adding at the  
11          end the following:

12          “(f) Notwithstanding subsection (b), in a case in  
13          which the debtor has elected under section 1121(e) to be  
14          considered a small business—

15                 “(1) the court may conditionally approve a dis-  
16                 closure statement subject to final approval after no-  
17                 tice and a hearing;

18                 “(2) acceptances and rejections of a plan may  
19                 be solicited based on a conditionally approved disclo-  
20                 sure statement as long as the debtor provides ade-  
21                 quate information to each holder of a claim or inter-  
22                 est that is solicited, but a conditionally approved dis-  
23                 closure statement shall be mailed at least 10 days  
24                 prior to the date of the hearing on confirmation of  
25                 the plan; and

1           “(3) a hearing on the disclosure statement may  
2           be combined with a hearing on confirmation of a  
3           plan.”.

4 **SEC. 218. SINGLE ASSET REAL ESTATE.**

5           (a) DEFINITION.—Section 101 of title 11, United  
6 States Code, is amended by inserting after paragraph (51)  
7 the following:

8           “(51B) ‘single asset real estate’ means real  
9           property constituting a single property or project,  
10           other than residential real property with fewer than  
11           4 residential units, which generates substantially all  
12           of the gross income of a debtor and on which no  
13           substantial business is being conducted by a debtor  
14           other than the business of operating the real prop-  
15           erty and activities incidental thereto having aggre-  
16           gate noncontingent, liquidated secured debts in an  
17           amount no more than \$4,000,000;”.

18           (b) AUTOMATIC STAY.—Section 362(d) of title 11,  
19 United States Code, is amended—

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

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

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

1           “(3) with respect to a stay of an act against  
2           single asset real estate under subsection (a), by a  
3           creditor whose claim is secured by an interest in  
4           such real estate, unless, not later than the date that  
5           is 90 days after the entry of the order for relief (or  
6           such later date as the court may determine for cause  
7           by order entered within that 90-day period)—

8                   “(A) the debtor has filed a plan of reorga-  
9                   nization that has a reasonable possibility of  
10                   being confirmed within a reasonable time; or

11                   “(B) the debtor has commenced monthly  
12                   payments to each creditor whose claim is se-  
13                   cured by such real estate (other than a claim  
14                   secured by a judgment lien or by an unmatured  
15                   statutory lien), which payments are in an  
16                   amount equal to interest at a current fair mar-  
17                   ket rate on the value of the creditor’s interest  
18                   in the real estate.”.

19 **SEC. 219. LEASES OF PERSONAL PROPERTY.**

20           (a) ASSUMPTION.—Section 365(b)(2) of title 11,  
21 United States Code is amended—

22                   (1) in subparagraph (B) by striking “or” at the  
23                   end,

24                   (2) in subparagraph (C) by striking the period  
25                   and inserting “; or”,

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

2 “(D) the satisfaction of any penalty rate or pro-  
3 vision relating to a default arising from any failure  
4 by the debtor to perform nonmonetary obligations  
5 under the executory contract or unexpired lease.”.

6 (b) PERFORMANCE.—Section 365(d) of title 11,  
7 United States Code is amended by adding at the end the  
8 following:

9 “(10) The trustee shall timely perform all of  
10 the obligations of the debtor, except those specified  
11 in section 365(b)(2), first arising from or after 60  
12 days after the order for relief in a case under chap-  
13 ter 11 of this title under an unexpired lease of per-  
14 sonal property (other than personal property leased  
15 to an individual primarily for personal, family, or  
16 household purposes), until such lease is assumed or  
17 rejected notwithstanding section 503(b)(1) of this  
18 title, unless the court, after notice and a hearing and  
19 based on the equities of the case, orders otherwise  
20 with respect to the obligations or timely performance  
21 thereof. This subsection shall not be deemed to af-  
22 fect the trustee’s obligations under the provisions of  
23 subsection (b) or (f). Acceptance of any such per-  
24 formance does not constitute waiver or relinquish-

1       ment of the lessor’s rights under such lease or under  
2       this title.”.

3       (c) LIMITATION.—Section 363(e) of title 11, United  
4 States Code is amended by adding at the end the follow-  
5 ing:

6       “This subsection also applies to property that is subject  
7 to any unexpired lease of personal property (to the exclu-  
8 sion of such property being subject to an order to grant  
9 relief from the stay under section 362).”.

10 **SEC. 220. EXEMPTION FOR SMALL BUSINESS INVESTMENT**  
11 **COMPANIES.**

12       Section 109(b)(2) of title 11, United States Code, is  
13 amended by inserting after “homestead association,” the  
14 following: “a small business investment company licensed  
15 by the Small Business Administration under subsection  
16 (c) or (d) of section 301 of the Small Business Investment  
17 Act of 1958,”.

18 **SEC. 221. PAYMENT OF TAXES WITH BORROWED FUNDS.**

19       Section 523(a) of title 11, United States Code is  
20 amended—

21               (1) in paragraph (13) by striking the period at  
22 the end and inserting a semicolon, and

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

1           “(14) incurred to pay a tax to the United  
2 States that would be nondischargeable pursuant to  
3 paragraph (1);”.

4 **SEC. 222. RETURN OF GOODS.**

5           (a) LIMITATION ON AVOIDING POWERS.—Section  
6 546 of title 11, United States Code, is amended by adding  
7 at the end the following:

8           “(g) Notwithstanding the rights and powers of a  
9 trustee under sections 544(a), 545, 547, 549, and 553,  
10 if the court determines on a motion by the trustee made  
11 not later than 120 days after the date of the order for  
12 relief in a case under chapter 11 of this title and after  
13 notice and a hearing, that a return is in the best interests  
14 of the estate, the debtor, with the consent of a creditor,  
15 may return goods shipped to the debtor by the creditor  
16 before the commencement of the case, and the creditor  
17 may offset the purchase price of such goods against any  
18 claim of the creditor against the debtor that arose before  
19 the commencement of the case.”.

20           (b) SETOFF.—Section 553(b)(1) is amended by in-  
21 serting “546(h),” after “365(h),”.

22 **SEC. 223. PROCEEDS OF MONEY ORDER AGREEMENTS.**

23           Section 541(b) of title 11, United States Code is  
24 amended—

1 (1) in paragraph (3) by striking “or” at the  
2 end and inserting a semicolon,

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

5 (3) by inserting after paragraph (4) the follow-  
6 ing:

7 “(5) any interest in cash or cash equivalents  
8 that constitute proceeds of a sale by the debtor of  
9 a money order that is made—

10 “(A) on or after the date that is 14 days  
11 prior to the date on which the petition is filed;  
12 and

13 “(B) under an agreement with a money  
14 order issuer that prohibits the commingling of  
15 such proceeds with property of the debtor (not-  
16 withstanding that, contrary to the agreement,  
17 the proceeds may have been commingled with  
18 property of the debtor),

19 unless the money order issuer had not taken action,  
20 prior to the filing of the petition, to require compli-  
21 ance with the prohibition.”.

22 **SEC. 224. TRUSTEE DUTIES; PROFESSIONAL FEES.**

23 (a) TRUSTEE’S DUTIES.—Section 586(a)(3)(A) of  
24 title 28, United States Code, is amended to read as fol-  
25 lows:

1           “(A)(i) reviewing, in accordance with pro-  
2           cedural guidelines adopted by the Executive Of-  
3           fice of the United States Trustee (which guide-  
4           lines shall be applied uniformly by the United  
5           States trustee except when circumstances war-  
6           rant different treatment), applications filed for  
7           compensation and reimbursement under section  
8           330 of title 11; and

9           “(ii) filing with the court comments with  
10          respect to such application and, if the United  
11          States Trustee considers it to be appropriate,  
12          objections to such application.”.

13          (b) PROFESSIONAL FEES.—Section 330(a) of title  
14 11, United States Code, is amended to read as follows:

15          “(a)(1) After notice to the parties in interest and the  
16          United States trustee and a hearing, and subject to sec-  
17          tions 326, 328, and 329, the court may award to a trustee,  
18          an examiner, a professional person employed under section  
19          327 or 1103—

20                 “(A) reasonable compensation for actual, nec-  
21                 essary services rendered by the trustee, examiner,  
22                 professional person, or attorney and by any para-  
23                 professional person employed by any such person;  
24                 and

1           “(B) reimbursement for actual, necessary ex-  
2           penses.

3           “(2) The court may, on its own motion or on the mo-  
4           tion of the United States Trustee, the United States  
5           Trustee for the District or Region, the trustee for the es-  
6           tate, or any other party in interest, award compensation  
7           that is less than the amount of compensation that is re-  
8           quested.

9           “(3)(A) In determining the amount of reasonable  
10           compensation to be awarded, the court shall consider the  
11           nature, the extent, and the value of such services, taking  
12           into account all relevant factors, including—

13                   “(A) the time spent on such services;

14                   “(B) the rates charged for such services;

15                   “(C) whether the services were necessary to the  
16           administration of, or beneficial at the time at which  
17           the service was rendered toward the completion of,  
18           a case under this title;

19                   “(D) whether the services were performed with-  
20           in a reasonable amount of time commensurate with  
21           the complexity, importance, and nature of the prob-  
22           lem, issue, or task addressed; and

23                   “(E) whether the compensation is reasonable  
24           based on the customary compensation charged by

1 comparably skilled practitioners in cases other than  
2 cases under this title.

3 “(4)(A) Except as provided in subparagraph (B), the  
4 court shall not allow compensation for—

5 “(i) unnecessary duplication of services; or

6 “(ii) services that were not—

7 “(I) reasonably likely to benefit the debt-  
8 or’s estate; or

9 “(II) necessary to the administration of  
10 the case.

11 “(B) In a chapter 12 or chapter 13 case in which  
12 the debtor is an individual, the court may allow reasonable  
13 compensation to the debtor’s attorney for representing the  
14 interests of the debtor in connection with the bankruptcy  
15 case based on a consideration of the benefit and necessity  
16 of such services to the debtor and the other factors set  
17 forth in this section.

18 “(5) The court shall reduce the amount of compensa-  
19 tion awarded under this section by the amount of any in-  
20 terim compensation awarded under section 331, and, if the  
21 amount of such interim compensation exceeds the amount  
22 of compensation awarded under this section, may order  
23 the return of the excess to the estate.

1       “(6) Any compensation awarded for the preparation  
2 of a fee application shall be based on the level and skill  
3 reasonably required to prepare the application.”.

4 **SEC. 225. NOTICES TO CREDITORS.**

5       Section 342 of title 11, United States Code, is  
6 amended by adding at the end the following:

7       “(c) If notice is required to be given by the debtor  
8 to a creditor under this title, any rule, any applicable law,  
9 or any order of the court, such notice shall contain the  
10 name, address, and taxpayer identification number of the  
11 debtor, but the failure of such notice to contain such infor-  
12 mation shall not invalidate the legal effect of such notice.”.

13                   **TITLE III—CONSUMER**  
14                   **BANKRUPTCY ISSUES**

15 **SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO**  
16                   **PRINCIPAL RESIDENCE.**

17       Section 1322 of title 11, United States Code, is  
18 amended—

19               (1) by redesignating subsection (c) as sub-  
20               section (d), and

21               (2) by inserting after subsection (b) the follow-  
22               ing:

23       “(c) Notwithstanding subsection (b)(2) and applica-  
24 ble nonbankruptcy law—

1           “(1) a default with respect to, or that gave rise  
2 to, a lien on the debtor’s principal residence may be  
3 cured under paragraph (3) or (5) of subsection (b)  
4 until such residence is sold at a foreclosure sale that  
5 is conducted in accordance with applicable  
6 nonbankruptcy law; and

7           “(2) in a case in which the last payment on the  
8 original payment schedule for a claim secured only  
9 by a security interest in real property that is the  
10 debtor’s principal residence is due before the date on  
11 which the final payment under the plan is due, the  
12 plan may provide for the payment of the claim as  
13 modified pursuant to section 1325(a)(5) of this  
14 title.”.

15 **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**  
16 **TER 13.**

17           Section 1328(a)(3) of title 11, United States Code,  
18 is amended by inserting “, or a criminal fine,” after “res-  
19 titution”.

20 **SEC. 303. IMPAIRMENT OF EXEMPTIONS.**

21           Section 522(f) of title 11, United States Code, is  
22 amended—

23           (1) in paragraph (2)—

1 (A) by redesignating subparagraphs (A),  
2 (B), and (C) as clauses (i), (ii), and (iii), re-  
3 spectively, and

4 (B) by striking “(2)” and inserting “(B),  
5 (2) by redesignating paragraph (1) as subpara-  
6 graph (A),

7 (3) by inserting “(1)” before “Notwithstand-  
8 ing”, and

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

10 “(2)(A) For the purposes of this subsection, a lien  
11 shall be considered to impair an exemption to the extent  
12 that the sum of—

13 “(i) the lien,

14 “(ii) all other liens on the property; and

15 “(iii) the amount of the exemption that the  
16 debtor could claim if there were no liens on the  
17 property;

18 exceeds the value that the debtor’s interest in the property  
19 would have in the absence of any liens.

20 “(B) In the case of a property subject to more than  
21 1 lien, a lien that has been avoided shall not be considered  
22 in making the calculation under subparagraph (A) with  
23 respect to other liens.

24 “(C) This paragraph shall not apply with respect to  
25 a judgment arising out of a mortgage foreclosure.”.

1 **SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

2 (a) DEFINITION.—Section 101 of title 11, United  
3 States Code, is amended by inserting after paragraph (12)  
4 the following:

5 “(12A) ‘debt for child support’ means a debt of  
6 a kind specified in section 523(a)(5) of this title for  
7 maintenance or support of a child of the debtor;”.

8 (b) RELIEF FROM AUTOMATIC STAY.—Section  
9 362(b)(2) of title 11, United States Code, is amended to  
10 read as follows:

11 “(2) under subsection (a) of this section—

12 “(A) of the commencement or continuation  
13 of an action or proceeding for—

14 “(i) the establishment of paternity; or

15 “(ii) the establishment or modification  
16 of an order for alimony, maintenance, or  
17 support; or

18 “(B) of the collection of alimony, mainte-  
19 nance, or support from property that is not  
20 property of the estate;”.

21 (c) PRIORITY OF CLAIMS.—Section 507(a) of title 11,  
22 United States Code, is amended—

23 (1) in paragraph (8) by striking “(8) Eighth”  
24 and inserting “(9) Ninth”,

25 (2) in paragraph (7) by striking “(7) Seventh”  
26 and inserting “(8) Eighth”, and

1           (3) by inserting after paragraph (6) the follow-  
2           ing:

3           “(7) Seventh, allowed claims for debts to a  
4           spouse, former spouse, or child of the debtor, for ali-  
5           mony to, maintenance for, or support of such spouse  
6           or child, in connection with a separation agreement,  
7           divorce decree or other order of a court of record,  
8           determination made in accordance with State or ter-  
9           ritorial law by a governmental unit, or property set-  
10          tlement agreement, but not to the extent that such  
11          debt—

12                   “(A) is assigned to another entity, volun-  
13                   tarily, by operation of law, or otherwise; or

14                   “(B) includes a liability designated as ali-  
15                   mony, maintenance, or support, unless such li-  
16                   ability is actually in the nature of alimony,  
17                   maintenance or support.”.

18          (d) PROTECTION OF LIENS.—Section 522(f)(1)(A) of  
19          title 11, United States Code, as amended by section 303,  
20          is amended by inserting after “lien” the following:

21          “, other than a judicial lien that secures a debt—

22                   “(i) to a spouse, former spouse, or child of  
23                   the debtor, for alimony to, maintenance for, or  
24                   support of such spouse or child, in connection  
25                   with a separation agreement, divorce decree or

1 other order of a court of record, determination  
2 made in accordance with State or territorial law  
3 by a governmental unit, or property settlement  
4 agreement; and

5 “(ii) to the extent that such debt—

6 “(I) is not assigned to another entity,  
7 voluntarily, by operation of law, or other-  
8 wise; and

9 “(II) includes a liability designated as  
10 alimony, maintenance, or support, unless  
11 such liability is actually in the nature of al-  
12 imony, maintenance or support.”.

13 (e) EXCEPTION TO DISCHARGE.—Section 523 of title  
14 11, United States Code, as amended by section 221, is  
15 amended by adding at the end the following:

16 “(15) not of the kind described in paragraph  
17 (5) that is incurred by the debtor in the course of  
18 a divorce or separation or in connection with a sepa-  
19 ration agreement, divorce decree or other order of a  
20 court of record, a determination made in accordance  
21 with State or territorial law by a governmental unit  
22 unless—

23 “(A) the debtor does not have the ability  
24 to pay such debt from income or property of the  
25 debtor not reasonably necessary to be expended

1 for the maintenance or support of the debtor or  
2 a dependent of the debtor and, if the debtor is  
3 engaged in a business, for the payment of ex-  
4 penditures necessary for the continuation, pres-  
5 ervation, and operation of such business; or

6 “(B) discharging such debt would result in  
7 a benefit to the debtor that outweighs the det-  
8 rimental consequences to a spouse, former  
9 spouse, or child of the debtor;”, and

10 (2) in subsection (c)(1) by striking “or (6)”  
11 each place it appears and inserting “(6), or (15)”.

12 (f) PROTECTION AGAINST TRUSTEE AVOIDANCE.—  
13 Section 547(c) of title 11, United States Code, is  
14 amended—

15 (1) in paragraph (6) by striking “or” at the  
16 end,

17 (2) by redesignating paragraph (7) as para-  
18 graph (8), and

19 (3) by inserting after paragraph (6) the follow-  
20 ing:

21 “(7) to the extent such transfer was a bona fide  
22 payment of a debt to a spouse, former spouse, or  
23 child of the debtor, for alimony to, maintenance for,  
24 or support of such spouse or child, in connection  
25 with a separation agreement, divorce decree or other

1 order of a court of record, determination made in  
2 accordance with State or territorial law by a govern-  
3 mental unit, or property settlement agreement, but  
4 not to the extent that such debt—

5 “(A) is assigned to another entity, volun-  
6 tarily, by operation of law, or otherwise; or

7 “(B) includes a liability designated as ali-  
8 mony, maintenance, or support, unless such li-  
9 ability is actually in the nature of alimony,  
10 maintenance or support; or”.

11 (g) APPEARANCE BEFORE COURT.—Child support  
12 creditors or their representatives shall be permitted to ap-  
13 pear and intervene without charge, and without meeting  
14 any special local court rule requirement for attorney ap-  
15 pearances, in any bankruptcy case or proceeding in any  
16 bankruptcy court or district court of the United States  
17 if such creditors or representatives file a form in such  
18 court that contains information detailing the child support  
19 debt, its status, and other characteristics.

20 (h) CONFORMING AMENDMENTS—Title 11 of the  
21 United States Code is amended—

22 (1) in section 502(i) by striking “507(a)(7)”  
23 and inserting “507(a)(8)”,

24 (2) in section 503(b)(1)(B)(i) by striking  
25 “507(a)(7)” and inserting “507(a)(8)”,

1           (3) in section 523(a)(1)(A) by striking  
2           “507(a)(7)” and inserting “507(a)(8)”,

3           (4) in section 724(b)(2) by striking “or  
4           507(a)(6)” and inserting “507(a)(6), or 507(a)(7)”,

5           (5) in section 726(b) by striking “or (7)” and  
6           inserting “, (7), or (8)”,

7           (6) in section 1123(a)(1) by striking  
8           “507(a)(7)” and inserting “507(a)(8)”,

9           (7) in section 1129(a)(9)—

10           (i) in subparagraph (B) by striking “or  
11           507(a)(6)” and inserting “, 507(a)(6), or  
12           507(a)(7)”, and

13           (ii) in subparagraph (C) by striking  
14           “507(a)(7)” and inserting “507(a)(8)”.

15 **SEC. 305. INTEREST ON INTEREST.**

16           (a) CHAPTER 11.—Section 1123 of title 11, United  
17 States Code, is amended by adding at the end the follow-  
18 ing:

19           “(d) Notwithstanding subsection (a) of this section  
20 and sections 506(b), 1129(a)(7), and 1129(b) of this title,  
21 if it is proposed in a plan to cure a default the amount  
22 necessary to cure the default shall be determined in ac-  
23 cordance with the underlying agreement and applicable  
24 nonbankruptcy law.”.

1 (b) CHAPTER 12.—Section 1222 of title 11, United  
2 States Code, is amended by adding at the end the follow-  
3 ing:

4 “(d) Notwithstanding subsection (b)(2) of this sec-  
5 tion and sections 506(b) and 1225(a)(5) of this title, if  
6 it is proposed in a plan to cure a default, the amount nec-  
7 essary to cure the default, shall be determined in accord-  
8 ance with the underlying agreement and applicable  
9 nonbankruptcy law.”.

10 (c) CHAPTER 13.—Section 1322 of title 11, United  
11 States Code, is amended by adding at the end the follow-  
12 ing:

13 “(e) Notwithstanding subsection (b)(2) of this section  
14 and sections 506(b) and 1325(a)(5) of this title, if it is  
15 proposed in a plan to cure a default, the amount necessary  
16 to cure the default, shall be determined in accordance with  
17 the underlying agreement and applicable nonbankruptcy  
18 law.”.

19 **SEC. 306. EXCEPTION TO DISCHARGE.**

20 Section 523(a)(2)(C) of title 11, United States Code,  
21 is amended—

- 22 (1) by striking “\$500” and inserting “\$1,000”,
- 23 (2) by striking “forty” and inserting “60”, and
- 24 (3) by striking “twenty” and inserting “60”.

1 **SEC. 307. PAYMENTS UNDER CHAPTER 13.**

2 Section 1326(a)(2) of title 11, United States Code,  
3 is amended in the second sentence by striking the period  
4 and inserting “as soon as practicable.”.

5 **SEC. 308. BANKRUPTCY PETITION PREPARERS.**

6 (a) AMENDMENT OF CHAPTER 1.—Chapter 1 of title  
7 11, United States Code, is amended by adding at the end  
8 the following:

9 **“§ 110. Penalty for persons who negligently or fraud-**  
10 **ulently prepare bankruptcy petitions**

11 “(a) In this section—

12 “(1) ‘bankruptcy petition preparer’ means a  
13 person, other than an attorney or an employee of an  
14 attorney, who prepares for compensation a document  
15 for filing; and

16 “(2) ‘document for filing’ means a petition or  
17 any other document prepared for filing by a debtor  
18 in a United States bankruptcy court or a United  
19 States district court in connection with a case under  
20 this title.

21 “(b)(1) A bankruptcy petition preparer who prepares  
22 a document for filing shall sign the document and print  
23 on the document the preparer’s name and address.

24 “(2) A bankruptcy petition preparer who fails to com-  
25 ply with paragraph (1) may be fined not more than \$500

1 for each such failure unless the failure is due to reasonable  
2 cause.

3 “(c)(1) A bankruptcy petition preparer who prepares  
4 a document for filing shall place on the document, after  
5 the preparer’s signature, an identifying number that iden-  
6 tifies individuals who prepared the document.

7 “(2) For purposes of this section, the identifying  
8 number of a bankruptcy petition preparer shall be the So-  
9 cial Security account number of each individual who pre-  
10 pared the document or assisted in its preparation.

11 “(3) A bankruptcy petition preparer who fails to com-  
12 ply with paragraph (1) may be fined not more than \$500  
13 for each such failure unless the failure is due to reasonable  
14 cause.

15 “(d)(1) A bankruptcy petition preparer shall, not  
16 later than the time at which a document for filing is pre-  
17 sented for the debtor’s signature, furnish to the debtor  
18 a copy of the document.

19 “(2) A bankruptcy petition preparer who fails to com-  
20 ply with paragraph (1) may be fined not more than \$500  
21 for each such failure unless the failure is due to reasonable  
22 cause.

23 “(e)(1) A bankruptcy petition preparer shall not exe-  
24 cute any document on behalf of a debtor.

1       “(2) A bankruptcy petition preparer may be fined not  
2 more than \$500 for each document executed in violation  
3 of paragraph (1).

4       “(f)(1) A bankruptcy petition preparer shall not use  
5 the word ‘legal’ or any similar term in any advertisements,  
6 or advertise under any category that includes the word  
7 ‘legal’ or any similar term.

8       “(2) A bankruptcy petition preparer shall be fined  
9 not more than \$500 for each violation of paragraph (1).

10       “(g)(1) A bankruptcy petition preparer shall not col-  
11 lect or receive any payment from the debtor or on behalf  
12 of the debtor for the court fees in connection with filing  
13 the petition.

14       “(2) A bankruptcy petition preparer shall be fined  
15 not more than \$500 for each violation of paragraph (1).

16       “(h)(1) Within 10 days after the date of the filing  
17 of a petition, a bankruptcy petition preparer shall file a  
18 declaration under penalty of perjury disclosing any fee re-  
19 ceived from or on behalf of the debtor within 12 months  
20 immediately prior to the filing of the case, and any unpaid  
21 fee charged to the debtor.

22       “(2) The court shall disallow and order the imme-  
23 diate turnover to the bankruptcy trustee of any fee re-  
24 ferred to in paragraph (1) found to be in excess of the  
25 value of services rendered for the documents prepared. An

1 individual debtor may exempt any funds so recovered  
2 under section 522(b).

3 “(3) The debtor, the trustee, a creditor, or the United  
4 States trustee may file a motion for an order under para-  
5 graph (2).

6 “(4) A bankruptcy petition preparer shall be fined  
7 not more than \$500 for each failure to comply with a court  
8 order to turn over funds within 30 days of service of such  
9 order.

10 “(i)(1) If a bankruptcy case or related proceeding is  
11 dismissed because of the failure to file bankruptcy papers,  
12 including papers specified in section 521(1) of this title,  
13 the negligence or intentional disregard of this title or the  
14 Federal Rules of Bankruptcy Procedure by a bankruptcy  
15 petition preparer, or if a bankruptcy petition preparer vio-  
16 lates this section or commits any fraudulent, unfair, or  
17 deceptive act, the bankruptcy court shall certify that fact  
18 to the district court, and the district court, on motion of  
19 the debtor, the trustee, or a creditor and after a hearing,  
20 shall order the bankruptcy petition preparer to pay to the  
21 debtor—

22 “(A) the debtor’s actual damages;

23 “(B) the greater of—

24 “(i) \$2,000; or

1           “(ii) twice the amount paid by the debtor  
2           to the bankruptcy petition preparer for the pre-  
3           parer’s services; and

4           “(C) reasonable attorneys’ fees and costs in  
5           moving for damages under this subsection.

6           “(2) If the trustee or creditor moves for damages on  
7           behalf of the debtor under this subsection, the bankruptcy  
8           petition preparer shall be ordered to pay the movant the  
9           additional amount of \$1,000 plus reasonable attorneys’  
10          fees and costs incurred.

11          “(j)(1) A debtor for whom a bankruptcy petition pre-  
12          parer has prepared a document for filing, the trustee, a  
13          creditor, or the United States trustee in the district in  
14          which the bankruptcy petition preparer resides, has con-  
15          ducted business, or the United States trustee in any other  
16          district in which the debtor resides may bring a civil action  
17          to enjoin a bankruptcy petition preparer from engaging  
18          in any conduct in violation of this section or from further  
19          acting as a bankruptcy petition preparer.

20          “(2)(A) In an action under paragraph (1), if the  
21          court finds that—

22                  “(i) a bankruptcy petition preparer has—

23                          “(I) engaged in conduct in violation of this  
24                          section or of any provision of this title a viola-

1           tion of which subjects a person to criminal pen-  
2           alty;

3           “(II) misrepresented the preparer’s experi-  
4           ence or education as a bankruptcy petition pre-  
5           parer; or

6           “(III) engaged in any other fraudulent, un-  
7           fair, or deceptive conduct; and

8           “(ii) injunctive relief is appropriate to prevent  
9           the recurrence of such conduct,

10          the court may enjoin the bankruptcy petition preparer  
11          from engaging in such conduct.

12          “(B) If the court finds that a bankruptcy petition  
13          preparer has continually engaged in conduct described in  
14          subclause (I), (II), or (III) of clause (i) and that an in-  
15          junction prohibiting such conduct would not be sufficient  
16          to prevent such person’s interference with the proper ad-  
17          ministration of this title, or has not paid a penalty im-  
18          posed under this section, the court may enjoin the person  
19          from acting as a bankruptcy petition preparer.

20          “(3) The court shall award to a debtor, trustee, or  
21          creditor that brings a successful action under this sub-  
22          section reasonable attorney’s fees and costs of the action,  
23          to be paid by the bankruptcy petition preparer.

24          “(k) Nothing in this section shall be construed to per-  
25          mit activities that are otherwise prohibited by law, includ-

1 ing rules and laws that prohibit the unauthorized practice  
2 of law.”.

3 (b) The chapter analysis for chapter 1 of title 11,  
4 United States Code, is amended by adding at the end the  
5 following new item:

*“110. Penalty for persons who negligently or fraudulently prepare bankruptcy pe-  
titions.”.*

6 **SEC. 309. FAIRNESS TO CONDOMINIUM AND COOPERATIVE**  
7 **OWNERS.**

8 *Section 523(a) of title 11, United States Code, as*  
9 *amended by sections 221 and 304, is amended by adding*  
10 *at the end the following:*

11 *“(16) for a fee or assessment that becomes due*  
12 *and payable after the order for relief to a membership*  
13 *association with respect to the debtor’s interest in a*  
14 *dwelling unit that has condominium ownership or in*  
15 *a share of a cooperative housing corporation, but only*  
16 *if such fee or assessment is payable for a period dur-*  
17 *ing which—*

18 *“(A) the debtor physically occupied a dwell-*  
19 *ing unit in the condominium or cooperative*  
20 *project; or*

21 *“(B) the debtor rented the dwelling unit to*  
22 *a tenant and received payments from the tenant*  
23 *for such period,*

1 but nothing in this paragraph shall except from dis-  
2 charge the debt of a debtor for a membership asso-  
3 ciation fee or assessment for a period arising before  
4 entry of the order for relief in a pending or subse-  
5 quent bankruptcy case.”.

6 **SEC. 310. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS**  
7 **AND IMPLEMENTS OF TRADE, ANIMALS, AND**  
8 **CROPS.**

9 Section 522(f) of title 11, United States Code, as  
10 amended by sections 303 and 304, is amended—

11 (1) in paragraph (1) by inserting “but subject  
12 to paragraph (3)” after “waiver of exemptions”, and

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

14 “(3) In a case in which State law that is applicable  
15 to the debtor—

16 “(A) permits a person to voluntarily waive a  
17 right to claim exemptions under subsection (d) or  
18 prohibits a debtor from claiming exemptions under  
19 subsection (d); and

20 “(B) either permits the debtor to claim exemp-  
21 tions under State law without limitation in amount,  
22 except to the extent that the debtor has permitted  
23 the fixing of a consensual lien on any property or  
24 prohibits avoidance of a consensual lien on property  
25 otherwise eligible to be claimed as exempt property;

1 the debtor may not avoid the fixing of a lien on an interest  
2 of the debtor or a dependent of the debtor in property  
3 if the lien is a nonpossessory, nonpurchase-money security  
4 interest in implements, professional books, or tools of the  
5 trade of the debtor or a dependent of the debtor or farm  
6 animals or crops of the debtor or a dependent of the debt-  
7 or to the extent the value of such implements, professional  
8 books, tools of the trade, animals, and crops exceeds  
9 \$5,000.”.

10 **SEC. 311. CONVERSION OF CASE UNDER CHAPTER 13.**

11 Section 348 of title 11, United States Code, is  
12 amended by adding at the end the following:

13 “(f)(1) Except as provided in paragraph (2), when  
14 a case under chapter 13 of this title is converted to a case  
15 under another chapter under this title—

16 “(A) property of the estate in the converted  
17 case shall consist of property of the estate, as of the  
18 date of filing of the petition, that remains in the  
19 possession of or is under the control of the debtor  
20 on the date of conversion; and

21 “(B) valuations of property and of allowed se-  
22 cured claims in the chapter 13 case shall apply in  
23 the converted case, with allowed secured claims re-  
24 duced to the extent that they have been paid in ac-  
25 cordance with the chapter 13 plan.

1       “(2) If the debtor converts a case under chapter 13  
2 of this title to a case under another chapter under this  
3 title in bad faith, the property in the converted case shall  
4 consist of the property of the estate as of the date of con-  
5 version.”.

6 **SEC. 312. BANKRUPTCY FRAUD.**

7       (a) IN GENERAL.—

8           (1) OFFENSES.—Chapter 9 of title 18, United  
9 States Code, is amended—

10                   (A) by amending sections 152, 153, and  
11                   154 to read as follows:

12 **“§ 152. Concealment of assets; false oaths and claims;  
13                   bribery**

14       “A person who—

15           “(1) knowingly and fraudulently conceals from  
16 a custodian, trustee, marshal, or other officer of the  
17 court charged with the control or custody of prop-  
18 erty, or, in connection with a case under title 11,  
19 from creditors or the United States Trustee, any  
20 property belonging to the estate of a debtor;

21           “(2) knowingly and fraudulently makes a false  
22 oath or account in or in relation to any case under  
23 title 11;

24           “(3) knowingly and fraudulently makes a false  
25 declaration, certificate, verification, or statement

1 under penalty of perjury as permitted under section  
2 1746 of title 28, in or in relation to any case under  
3 title 11;

4 “(4) knowingly and fraudulently presents any  
5 false claim for proof against the estate of a debtor,  
6 or uses any such claim in any case under title 11,  
7 in a personal capacity or as or through an agent,  
8 proxy, or attorney;

9 “(5) knowingly and fraudulently receives any  
10 material amount of property from a debtor after the  
11 filing of a case under title 11, with intent to defeat  
12 the provisions of title 11;

13 “(6) knowingly and fraudulently gives, offers,  
14 receives, or attempts to obtain any money or prop-  
15 erty, remuneration, compensation, reward, advan-  
16 tage, or promise thereof for acting or forbearing to  
17 act in any case under title 11;

18 “(7) in a personal capacity or as an agent or  
19 officer of any person or corporation, in contempla-  
20 tion of a case under title 11 by or against the person  
21 or any other person or corporation, or with intent to  
22 defeat the provisions of title 11, knowingly and  
23 fraudulently transfers or conceals any of his prop-  
24 erty or the property of such other person or corpora-  
25 tion;

1           “(8) after the filing of a case under title 11 or  
2           in contemplation thereof, knowingly and fraudulently  
3           conceals, destroys, mutilates, falsifies, or makes a  
4           false entry in any recorded information (including  
5           books, documents, records, and papers) relating to  
6           the property or financial affairs of a debtor; or

7           “(9) after the filing of a case under title 11,  
8           knowingly and fraudulently withholds from a custo-  
9           dian, trustee, marshal, or other officer of the court  
10          or a United States Trustee entitled to its possession,  
11          any recorded information (including books, docu-  
12          ments, records, and papers) relating to the property  
13          or financial affairs of a debtor,

14 shall be fined not more than \$5,000, imprisoned not more  
15 than 5 years, or both.

16 **“§ 153. Embezzlement against estate**

17          “(a) OFFENSE.—A person described in subsection (b)  
18 who knowingly and fraudulently appropriates to the per-  
19 son’s own use, embezzles, spends, or transfers any prop-  
20 erty or secretes or destroys any document belonging to the  
21 estate of a debtor shall be fined not more than \$5,000,  
22 imprisoned not more than 5 years, or both.

23          “(b) PERSON TO WHOM SECTION APPLIES.—A per-  
24 son described in this subsection is one who has access to  
25 property or documents belonging to an estate by virtue

1 of the person's participation in the administration of the  
2 estate as a trustee, custodian, marshal, attorney, or other  
3 officer of the court or as an agent, employee, or other per-  
4 son engaged by such an officer to perform a service with  
5 respect to the estate.

6 **“§ 154. Adverse interest and conduct of officers**

7 “A person who, being a custodian, trustee, marshal,  
8 or other officer of the court—

9 “(1) knowingly purchases, directly or indirectly,  
10 any property of the estate of which the person is  
11 such an officer in a case under title 11;

12 “(2) knowingly refuses to permit a reasonable  
13 opportunity for the inspection by parties in interest  
14 of the documents and accounts relating to the af-  
15 fairs of estates in the person's charge by parties  
16 when directed by the court to do so; or

17 “(3) knowingly refuses to permit a reasonable  
18 opportunity for the inspection by the United States  
19 Trustee of the documents and accounts relating to  
20 the affairs of an estate in the person's charge,

21 shall be fined not more than \$5,000 and shall forfeit the  
22 person's office, which shall thereupon become vacant.”;  
23 and

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

1 **“§ 156. Knowing disregard of bankruptcy law or rule**

2 “(a) DEFINITIONS.—In this section—

3 “‘bankruptcy petition preparer’ means a per-  
4 son, other than the debtor’s attorney or an employee  
5 of such an attorney, who prepares for compensation  
6 a document for filing.

7 “‘document for filing’ means a petition or any  
8 other document prepared for filing by a debtor in a  
9 United States bankruptcy court or a United States  
10 district court in connection with a case under this  
11 title.

12 “(b) OFFENSE.—If a bankruptcy case or related pro-  
13 ceeding is dismissed because of a knowing attempt by a  
14 bankruptcy petition preparer in any manner to disregard  
15 the requirements of title 11, United States Code, or the  
16 Federal Rules of Bankruptcy Procedure, the bankruptcy  
17 petition preparer shall be fined under this title, imprisoned  
18 not more than 1 year, or both.

19 **“§ 157. Bankruptcy fraud**

20 “A person who, having devised or intending to devise  
21 a scheme or artifice to defraud and for the purpose of exe-  
22 cuting or concealing such a scheme or artifice or attempt-  
23 ing to do so—

24 “(1) files a petition under title 11;

25 “(2) files a document in a proceeding under  
26 title 11; or

1           “(3) makes a false or fraudulent representation,  
2           claim, or promise concerning or in relation to a pro-  
3           ceeding under title 11, at any time before or after  
4           the filing of the petition, or in relation to a proceed-  
5           ing falsely asserted to be pending under such title,  
6           shall be fined under this title, imprisoned not more than  
7           5 years, or both.”.

8           (2) TECHNICAL AMENDMENTS.—The chapter  
9           analysis for chapter 9 of title 18, United States  
10          Code, is amended—

11                   (A) by amending the item relating to sec-  
12                   tion 153 to read as follows:

“Sec. 153. Embezzlement against estate.”;

13                   and

14                   (B) by adding at the end the following new  
15                   items:

“Sec. 156. Knowing disregard of bankruptcy law or rule.

“Sec. 157. Bankruptcy fraud.”.

16          (b) RICO.—Section 1961(1)(D) of title 18, United  
17          States Code, is amended by inserting “(except a case  
18          under section 157 of that title)” after “title 11”.

19          **SEC. 313. PROTECTION AGAINST DISCRIMINATORY TREAT-**  
20                                   **MENT OF APPLICATIONS FOR STUDENT**  
21                                   **LOANS.**

22          Section 525 of title 11, United States Code, is  
23          amended by adding at the end the following:

1       “(c)(1) A governmental unit that operates a student  
2 grant or loan program and a person engaged in a business  
3 that includes the making of loans guaranteed or insured  
4 under a student loan program may not deny a grant, loan,  
5 loan guarantee, or loan insurance to a person that is or  
6 has been a debtor under this title or a bankrupt or debtor  
7 under the Bankruptcy Act, or another person with whom  
8 the debtor or bankrupt has been associated, because the  
9 debtor or bankrupt is or has been a debtor under this title  
10 or a bankrupt or debtor under the Bankruptcy Act, has  
11 been insolvent before the commencement of a case under  
12 this title or during the pendency of the case but before  
13 the debtor is granted or denied a discharge, or has not  
14 paid a debt that is dischargeable in the case under this  
15 title or that was discharged under the Bankruptcy Act.

16       “(2) In this section, ‘student loan program’ means  
17 the program operated under part B, D, or E of title IV  
18 of the Higher Education Act of 1965 or a similar program  
19 operated under State or local law.”.

20       **TITLE IV—GOVERNMENTAL**  
21       **BANKRUPTCY ISSUES**

22       **SEC. 401. EXCEPTION FROM AUTOMATIC STAY FOR POST-**  
23       **PETITION PROPERTY TAXES.**

24       Section 362(b) of title 11, United States Code, is  
25 amended by inserting after paragraph (16) the following:

1 “(18) under subsection (a) of the creation or  
2 perfection of a statutory lien for an ad valorem  
3 property tax imposed by the District of Columbia, or  
4 a political subdivision of a State, if such tax comes  
5 due after the filing of the petition.”.

6 **SEC. 402. MUNICIPAL BANKRUPTCY.**

7 Section 109(c)(2) of title 11, United States Code, is  
8 amended by striking “generally authorized” and inserting  
9 “specifically authorized, in its capacity as a municipality  
10 or by name,”.

11 **TITLE V—TECHNICAL**  
12 **CORRECTIONS**

13 **SEC. 501. AMENDMENTS TO BANKRUPTCY DEFINITIONS,**  
14 **NECESSITATED BY ENACTMENT OF PUBLIC**  
15 **LAW 101-647.**

16 (a) ALPHABETIZING AND REDESIGNATING DEFINI-  
17 TIONS.—Section 101 of title 11 of the United States Code,  
18 as amended by sections 208, 217, 218, and 304, is amend-  
19 ed—

20 (1) by redesignating paragraph (3) as para-  
21 graph (21B) and transferring such paragraph so as  
22 to insert it after paragraph (21A),

23 (2) by redesignating paragraph (39) as para-  
24 graph (51A) and transferring such paragraph so as  
25 to insert it after paragraph (51),

1           (3) by redesignating paragraphs (54) through  
2           (57), as so redesignated by section 2522(e) of Public  
3           Law 101–647, as paragraphs (53A) through (53D),  
4           respectively,

5           (4) by redesignating paragraph (56) as in effect  
6           immediately before the enactment of Public Law  
7           101–647, as paragraph (35A) and transferring such  
8           paragraph so as to insert it after paragraph (35),  
9           and

10          (5) by redesignating paragraph (57), as in ef-  
11          fect immediately before the enactment of Public Law  
12          101–647, as paragraph (39) and transferring such  
13          paragraph so as to insert it after paragraph (38).

14          (b) CONFORMING AND RELATED AMENDMENTS TO  
15          TITLE 11 OF THE UNITED STATES CODE, BASED ON RE-  
16          DESIGNATED DEFINITIONS.—(1) Section 101 of title 11  
17          of the United States Code, as amended by subsection (a),  
18          is amended—

19                (A) in paragraph (6) by striking “section  
20                761(9)” and inserting “section 761”,

21                (B) in paragraph (22) by striking “section  
22                741(7)” and inserting “section 741”,

23                (C) in paragraph (35)(B) by striking “para-  
24                graphs (3)” and inserting “paragraphs (21B)”,

1 (D) in paragraph (49)(B)(ii) by striking “sec-  
2 tion 761(13)” and inserting “section 761”, and

3 (E) in paragraph (53A)(A), as so redesignated,  
4 by striking “section 741(2)” and inserting “section  
5 741”.

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

8 (A) in paragraph (6)—

9 (i) by striking “section 761(4)” and insert-  
10 ing “section 761”,

11 (ii) by striking “section 741(7)” and in-  
12 serting “section 741”,

13 (iii) by striking “section 101(34), 741(5),  
14 or 761(15)” and inserting “section 101, 741, or  
15 761”, and

16 (iv) by striking “section 101(35) or  
17 741(8)” and inserting “section 101 or 741”,  
18 and

19 (B) in paragraph (7)—

20 (i) by striking “section 741(5) or 761(15)”  
21 and inserting “section 741 or 761”, and

22 (ii) by striking “section 741(8)” and in-  
23 serting “section 741”.

24 (3) Section 507(a)(5) of title 11, United States Code,  
25 is amended—

1 (A) by striking “section 557(b)(1)” and insert-  
2 ing “section 557(b)”, and

3 (B) by striking “section 557(b)(2)” and insert-  
4 ing “section 557(b)”.

5 (4) Section 546 of title 11, United States Code, is  
6 amended—

7 (A) in subsection (e)—

8 (i) by striking “section 101(34), 741(5), or  
9 761(15)” and inserting “section 101, 741, or  
10 761”, and

11 (ii) by striking “section 101(35) or  
12 741(8)” and inserting “section 101 or 741”,  
13 and

14 (B) in subsection (f)—

15 (i) by striking “section 741(5) or 761(15)”  
16 and inserting “section 741 or 761”, and

17 (ii) by striking “section 741(8)” and in-  
18 serting “section 741”.

19 (5) Section 548(d)(2) of title 11, United States Code,  
20 is amended—

21 (A) in subparagraph (B)—

22 (i) by striking “section 101(34), 741(5) or  
23 761(15)” and inserting “section 101, 741, or  
24 761”, and

1           (ii) by striking “section 101(35) or  
2           741(8)” and inserting “section 101 or 741”,  
3           and

4           (B) in subparagraph (C)—

5           (i) by striking “section 741(5) or 761(15)”  
6           and inserting “section 741 or 761”, and

7           (ii) by striking “section 741(8)” and in-  
8           serting “section 741”.

9           (6) Section 555 of title 11, United States Code, is  
10          amended by striking “section 741(7)” and inserting “sec-  
11          tion 741 of this title”.

12          (7) Section 556 of title 11, United States Code, is  
13          amended by striking “section 761(4)” and inserting “sec-  
14          tion 761 of this title”.

15          (c) CONFORMING AMENDMENTS TO OTHER LAWS  
16          BASED ON REDESIGNATED DEFINITIONS.—(1) Section  
17          207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C.  
18          1787(c)(8)(D)) is amended—

19               (A) in clause (ii)(I) by striking “section  
20               741(7)” and inserting “section 741”,

21               (B) in clause (iii) by striking “section 101(24)”  
22               and inserting “section 101”,

23               (C) in clause (iv)(I) by striking “section  
24               101(41)” and inserting “section 101”, and

1 (D) in clause (v) by striking “section 101(50)”  
2 and inserting “section 101”.

3 (2) Section 11(e)(8)(D) of the Federal Deposit Insur-  
4 ance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

5 (A) in clause (ii)(I) by striking “section  
6 741(7)” and inserting “section 741”,

7 (B) in clause (iii) by striking “section 761(4)”  
8 and inserting “section 761”,

9 (C) in clause (iv) by striking “section 101(24)”  
10 and inserting “section 101”,

11 (D) in clause (v)(I) by striking “section  
12 101(41)” and inserting “section 101”, and

13 (E) in clause (viii) by striking “section  
14 101(50)” and inserting “section 101”.

15 (d) OTHER TECHNICAL AMENDMENTS.—Title 11 of  
16 the United States Code is amended—

17 (1) in section 101—

18 (A) in paragraph (33)—

19 (i) in subparagraph (A) by striking  
20 “(12 U.S.C. 1813(u))”, and

21 (ii) in subparagraph (B) by striking  
22 “(12 U.S.C. 1786(r))”,

23 (B) in paragraph (34) by striking “(12  
24 U.S.C. 1752(7))”,

1 (C) in paragraph (35)(A) by striking “(12  
2 U.S.C. 1813(c)(2))”,

3 (D) in paragraph (48)—

4 (i) by striking “(15 U.S.C. 78q-1)”,

5 and

6 (ii) by striking “(15 U.S.C.  
7 78c(12))”,

8 (E) in paragraph (49)—

9 (i) in subparagraph (A)(xii)—

10 (I) by striking “(15 U.S.C. 77a  
11 et seq.)”, and

12 (II) by striking “(15 U.S.C.  
13 77c(b))”, and

14 (ii) in subparagraph (B)(vi) by strik-  
15 ing “(15 U.S.C. 77c(b))”, and

16 (F) in paragraph (53D), as so redesign-  
17 nated by subsection (a), by striking the period  
18 at the end and inserting a semicolon,

19 (2) in section 109(b)(2) by striking “(12 U.S.C.  
20 1813(h))”,

21 (3) in section 322(a) by striking “1302, or  
22 1202” and inserting “1202, or 1302”,

23 (4) in section 346—

24 (A) in subsection (a) by striking “Internal  
25 Revenue Code of 1954 (26 U.S.C. 1 et seq.)”

1 and inserting “Internal Revenue Code of  
2 1986”, and

3 (B) in subsection (g)(1)(C) by striking  
4 “Internal Revenue Code of 1954 (26 U.S.C.  
5 371)” and inserting “Internal Revenue Code of  
6 1986”,

7 (5) in section 348—

8 (A) in subsection (b) by striking “1301(a),  
9 1305(a), 1201(a), 1221, and 1228(a)” and in-  
10 sserting “1201(a), 1221, 1228(a), 1301(a), and  
11 1305(a)”, and

12 (B) in subsections (b), (c), (d), and (e) by  
13 striking “1307, or 1208” each place it appears  
14 and inserting “1208, or 1307”,

15 (6) in section 349(a) by striking “109(f)” and  
16 inserting “109(g)”,

17 (7) in section 362—

18 (A) in subsection (a) by striking “(15  
19 U.S.C. 78eee(a)(3))”, and

20 (B) in subsection (b)—

21 (i) by striking “(15 U.S.C.  
22 78eee(a)(3))”,

23 (ii) in paragraph (10) by striking  
24 “or” at the end,

25 (iii) in paragraph (12)—

1 (I) by striking “the Ship Mort-  
2 gage Act, 1920 (46 App. U.S.C. 911  
3 et seq.)” and inserting “section 31325  
4 of title 46”, and

5 (II) by striking “(46 App. U.S.C.  
6 1117 and 1271 et seq., respectively)”,  
7 (iv) in paragraph (13)—

8 (I) by striking “the Ship Mort-  
9 gage Act, 1920 (46 App. U.S.C. 911  
10 et seq.)” each place it appears and in-  
11 sserting “section 31325 of title 46”,

12 (II) by striking “(46 App. U.S.C.  
13 1117 and 1271 et seq., respectively)”,  
14 and

15 (III) by striking “or” at the end,  
16 (v) in paragraph (15), as added by  
17 Public Law 101–508, by striking “or” at  
18 the end,

19 (vi) in paragraph (16), as added by  
20 Public Law 101–508—

21 (I) by striking “(20 U.S.C. 1001  
22 et seq.)”, and

23 (II) by striking the period at the  
24 end and inserting a semicolon, and

1 (vii) in paragraph (14), as added by  
2 Public Law 101-311—

3 (I) by striking the period at the  
4 end and inserting “; or”,

5 (II) by redesignating such para-  
6 graph as paragraph (17), and

7 (III) by transferring such para-  
8 graph so as to insert such paragraph  
9 after paragraph (16),

10 (8) in section 363—

11 (A) in subsection (b)(2) by striking “(15  
12 U.S.C. 18a)”, and

13 (B) in subsection (c)(1) by striking “1304,  
14 1203, or 1204” and inserting “1203, 1204, or  
15 1304”,

16 (9) in section 364—

17 (A) in subsection (a) by striking “1304,  
18 1203, or 1204” and inserting “1203, 1204, or  
19 1304”, and

20 (B) in subsection (f)—

21 (i) by striking “(15 U.S.C. 77e)”, and

22 (ii) by striking “(15 U.S.C. 77aaa et  
23 seq.)”,

24 (10) in section 365—

1 (A) in subsection (d)(6)(C) by striking  
2 “the Federal Aviation Act of 1958 (49 U.S.C.  
3 1301)” and inserting “section 40102 of title  
4 49”,

5 (B) in subparagraphs (A) and (B) of sub-  
6 section (g)(2) by striking “1307, or 1208” each  
7 place it appears and inserting “1208, or 1307”,

8 (C) in subsection (n)(1)(B) by striking “to  
9 to” and inserting “to”,

10 (D) in subsection (o) by striking “the Fed-  
11 eral” the first place it appears and all that fol-  
12 lows through “successors,”, and inserting “a  
13 Federal depository institutions regulatory agen-  
14 cy (or predecessor to such agency)”, and

15 (E) by striking subsection (p),

16 (11) in section 507, as amended by section  
17 304—

18 (A) in subsection (a)(9) by striking “the  
19 Federal” the first place it appears and all that  
20 follows through “successors,”, and inserting “a  
21 Federal depository institutions regulatory agen-  
22 cy (or predecessor to such agency)”, and

23 (B) in subsection (d) by striking “or  
24 (a)(6)” and inserting “(a)(6), (a)(7), (a)(8), or  
25 (a)(9)”,

1 (12) in section 522—

2 (A) in subsection (b) by striking “Bank-  
3 ruptcy Rules” and inserting “Federal Rules of  
4 Bankruptcy Procedure”, and

5 (B) in subsection (d)(10)(E)(iii)—

6 (i) by striking “408, or 409” the first  
7 place it appears and inserting “or 408”,  
8 and

9 (ii) by striking “Internal Revenue  
10 Code of 1954 (26 U.S.C. 401(a), 403(a),  
11 403(b), 408, or 409)” and inserting “In-  
12 ternal Revenue Code of 1986”,

13 (13) in section 523—

14 (A) in subsection (a)—

15 (i) by striking “1141,,” and inserting  
16 “1141,,” and

17 (ii) in paragraph (2)(C) by striking  
18 “(15 U.S.C. 1601 et seq.)”,

19 (B) in subsection (b)—

20 (i) by striking “(20 U.S.C. 1087-3)”,  
21 and

22 (ii) by striking “(42 U.S.C. 294f)”,  
23 and

1 (C) in subsection (e) by striking “deposi-  
2 tory institution or insured credit union” and in-  
3 serting “insured depository institution”,

4 (14) in section 524—

5 (A) in subsection (a)(3) by striking  
6 “1328(c)(1)” and inserting “1328(a)(1)”,

7 (B) in subsection (c)(4) by striking  
8 “recission” and inserting “rescission”, and

9 (C) in subsection (d)(1)(B)(ii) by adding  
10 “and” at the end,

11 (15) in section 525(a)—

12 (A) by striking “(7 U.S.C. 499a-499s)”,

13 (B) by striking “(7 U.S.C. 181-229)”, and

14 (C) by striking “(57 Stat. 422; 7 U.S.C.  
15 204)”,

16 (16) in section 542(e) by striking “to to” and  
17 inserting “to”,

18 (17) in section 543(d)(1) by striking “section,”  
19 and inserting “section”,

20 (18) in section 549(b) inserting “the trustee  
21 may not avoid under subsection (a) of this section”  
22 after “involuntary case,”,

23 (19) in section 553—

24 (A) in subsection (a)(1) by striking “other  
25 than under section 502(b)(3) of this title”, and

1 (B) in subsection (b)(1) by striking  
2 “362(b)(14),,” and inserting “362(b)(14),”,  
3 (20) in section 555 by striking “(15 U.S.C.  
4 78aaa et seq.)”,  
5 (21) in section 559 by striking “(15 U.S.C.  
6 78aaa et seq.)”,  
7 (22) in section 706(a) by striking “1307, or  
8 1208” and inserting “1208, or 1307”,  
9 (23) in section 724(d) by striking “Internal  
10 Revenue Code of 1954 (26 U.S.C. 6323)” and in-  
11 serting “Internal Revenue Code of 1986”,  
12 (24) in section 726(b)—  
13 (A) inserting a comma after “section  
14 1112”, and  
15 (B) by inserting “1009,” after “chapter  
16 under section”,  
17 (25) in section 741(4)(A)(iii) by striking “(15  
18 U.S.C. 78a et seq.)”,  
19 (26) in section 742 by striking “(15 U.S.C.  
20 78aaa et seq.)”,  
21 (27) in section 743 by striking “342(a)” and  
22 inserting “342”,  
23 (28) in section 745(c) by striking “Internal  
24 Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and  
25 inserting “Internal Revenue Code of 1986”,

1 (29) in section 761—

2 (A) in paragraph (1) by striking “(7  
3 U.S.C. 1 et seq.)”,

4 (B) in paragraph (5) by striking “(7  
5 U.S.C. 6c(b))”, and

6 (C) in paragraph (13) by striking “(7  
7 U.S.C. 23)”,

8 (30) in section 1104(d), as redesignated by sec-  
9 tion 211, inserting a comma after “interest”,

10 (31) in section 1123(a)(1) inserting a comma  
11 after “title” the last place it appears,

12 (32) in section 1129—

13 (A) in subsection (a)—

14 (i) in paragraph (4) by striking the  
15 semicolon at the end and inserting a pe-  
16 riod, and

17 (ii) in paragraph (12) inserting “of  
18 title 28” after “section 1930”, and

19 (B) in subsection (d) by striking “(15  
20 U.S.C. 77e)”,

21 (33) in section 1145—

22 (A) in subsection (a)—

23 (i) by striking “does” and inserting  
24 “do”,

1                   (ii) by striking “(15 U.S.C. 77e)”,  
2                   and  
3                   (iii) in paragraph (3)(B)(i) by striking  
4                   “(15 U.S.C. 78m or 78o(d))”,  
5                   (B) in subsection (b)(1) by striking “(15  
6                   U.S.C. 77b(11))”, and  
7                   (C) in subsection (d) by striking “(15  
8                   U.S.C. 77aaa et seq.)”,  
9                   (34) in section 1166(2) by striking “(45 U.S.C.  
10                   791(b))”,  
11                   (35) in section 1167—  
12                   (A) by striking “(45 U.S.C. 151 et seq.)”,  
13                   and  
14                   (B) by striking “(45 U.S.C. 156)”,  
15                   (36) in section 1226(b)(2)—  
16                   (A) by striking “1202(d)” and inserting  
17                   “1202(c)”, and  
18                   (B) by striking “1202(e)” and inserting  
19                   “1202(d)”,  
20                   (37) in section 1302(b)(3) by striking “and” at  
21                   the end, and  
22                   (38) in section 1328(a)—  
23                   (A) in paragraph (2) by striking “(5) or  
24                   (8)” and inserting “(5), (8), or (9)”, and  
25                   (B) by striking the last paragraph (3), and

1 (39) in the table of chapters by striking the  
2 item relating to chapter 15.

3 **SEC. 502. TITLE 28 OF THE UNITED STATES CODE.**

4 Section 586(a)(3) of title 28, United States Code, is  
5 amended in the matter preceding subparagraph (A) by in-  
6 serting “12,” after “11,”.

7 **TITLE VI—BANKRUPTCY REVIEW**  
8 **COMMISSION**

9 **SEC. 601. SHORT TITLE.**

10 This title may be cited as the “National Bankruptcy  
11 Review Commission Act”.

12 **SEC. 602. ESTABLISHMENT.**

13 There is established the National Bankruptcy Review  
14 Commission (referred to as the “Commission”).

15 **SEC. 603. DUTIES OF THE COMMISSION.**

16 The duties of the Commission are—

17 (1) to investigate and study issues and prob-  
18 lems relating to title 11, United States Code (com-  
19 monly known as the “Bankruptcy Code”);

20 (2) to evaluate the advisability of proposals and  
21 current arrangements with respect to such issues  
22 and problems;

23 (3) to prepare and submit to the Congress, the  
24 Chief Justice, and the President a report in accord-  
25 ance with section 608; and

1 (4) to solicit divergent views of all parties con-  
2 cerned with the operation of the bankruptcy system.

3 **SEC. 604. MEMBERSHIP.**

4 (a) NUMBER AND APPOINTMENT.—The Commission  
5 shall be composed of 9 members as follows:

6 (1) Three members appointed by the President,  
7 1 of whom shall be designated as chairman by the  
8 President.

9 (2) One member shall be appointed by the  
10 President pro tempore of the Senate.

11 (3) One member shall be appointed by the Mi-  
12 nority Leader of the Senate.

13 (4) One member shall be appointed by the  
14 Speaker of the House of Representatives.

15 (5) One member shall be appointed by the Mi-  
16 nority Leader of the House of Representatives.

17 (6) Two members appointed by the Chief Jus-  
18 tice.

19 Members of Congress, and officers and employees of the  
20 executive branch, shall be ineligible for appointment to the  
21 Commission.

22 (b) TERM.—Members of the Commission shall be ap-  
23 pointed for the life of the Commission.

1 (c) QUORUM.—Five members of the Commission  
2 shall constitute a quorum, but a lesser number may con-  
3 duct meetings.

4 (d) APPOINTMENT DEADLINE.—The first appoint-  
5 ments made under subsection (a) shall be made within 60  
6 days after the date of enactment of this Act.

7 (e) FIRST MEETING.—The first meeting of the Com-  
8 mission shall be called by the chairman and shall be held  
9 within 210 days after the date of enactment of this Act.

10 (f) VACANCY.—A vacancy on the Commission result-  
11 ing from the death or resignation of a member shall not  
12 affect its powers and shall be filled in the same manner  
13 in which the original appointment was made.

14 (g) CONTINUATION OF MEMBERSHIP.—If any mem-  
15 ber of the Commission who was appointed to the Commis-  
16 sion as an officer or employee of a government leaves that  
17 office, or if any member of the Commission who was not  
18 appointed in such a capacity becomes an officer or em-  
19 ployee of a government, the member may continue as a  
20 member of the Commission for not longer than the 90-  
21 day period beginning on the date the member leaves that  
22 office or becomes such an officer or employee, as the case  
23 may be.

24 (h) CONSULTATION PRIOR TO APPOINTMENT.—Prior  
25 to the appointment of members of the Commission, the

1 President, the President pro tempore of the Senate, the  
2 Speaker of the House of Representatives, and the Chief  
3 Justice shall consult with each other to ensure fair and  
4 equitable representation of various points of view in the  
5 Commission and its staff.

6 **SEC. 605. COMPENSATION OF THE COMMISSION.**

7 (a) PAY.—

8 (1) NONGOVERNMENT EMPLOYEES.—Each  
9 member of the Commission who is not otherwise em-  
10 ployed by the United States Government shall be en-  
11 titled to receive the daily equivalent of the annual  
12 rate of basic pay payable for level IV of the Execu-  
13 tive Schedule under section 5315 of title 5, United  
14 States Code, for each day (including travel time)  
15 during which he or she is engaged in the actual per-  
16 formance of duties as a member of the Commission.

17 (2) GOVERNMENT EMPLOYEES.—A member of  
18 the Commission who is an officer or employee of the  
19 United States Government shall serve without addi-  
20 tional compensation.

21 (b) TRAVEL.—Members of the Commission shall be  
22 reimbursed for travel, subsistence, and other necessary ex-  
23 penses incurred by them in the performance of their du-  
24 ties.

1 **SEC. 606. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
2 **ANTS.**

3 (a) STAFF.—

4 (1) APPOINTMENT.—The chairman of the Com-  
5 mission may, without regard to the civil service laws  
6 and regulations, appoint, and terminate an executive  
7 director and such other personnel as are necessary  
8 to enable the Commission to perform its duties. The  
9 employment of an executive director shall be subject  
10 to confirmation by the Commission.

11 (2) COMPENSATION.—The chairman of the  
12 Commission may fix the compensation of the execu-  
13 tive director and other personnel without regard to  
14 the provisions of chapter 51 and subchapter II of  
15 chapter 53 of title 5, United States Code, relating  
16 to classification of positions and General Schedule  
17 pay rates, except that the rate of pay for the execu-  
18 tive director and other personnel may not exceed the  
19 rate payable for level V of the Executive Schedule  
20 under section 5316 of that title.

21 (b) EXPERTS AND CONSULTANTS.—The Commission  
22 may procure temporary and intermittent services of ex-  
23 perts and consultants under section 3109(b) of title 5,  
24 United States Code.

1 **SEC. 607. POWERS OF THE COMMISSION.**

2 (a) HEARINGS AND MEETINGS.—The Commission or,  
3 on authorization of the Commission, a member of the  
4 Commission, may hold such hearings, sit and act at such  
5 time and places, take such testimony, and receive such evi-  
6 dence, as the Commission considers appropriate. The  
7 Commission or a member of the Commission may admin-  
8 ister oaths or affirmations to witnesses appearing before  
9 it.

10 (b) OFFICIAL DATA.—The Commission may secure  
11 directly from any Federal department, agency, or court  
12 information necessary to enable it to carry out this title.  
13 Upon request of the chairman of the Commission, the  
14 head of a Federal department or agency or chief judge  
15 of a Federal court shall furnish such information, consist-  
16 ent with law, to the Commission.

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

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

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

8 (e) **MAILS.**—The Commission may use the United  
9 States mails in the same manner and under the same con-  
10 ditions as other Federal departments and agencies of the  
11 United States.

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

14 **SEC. 608. REPORT.**

15 The Commission shall submit to the Congress, the  
16 Chief Justice, and the President a report not later than  
17 2 years after the date of its first meeting. The report shall  
18 contain a detailed statement of the findings and conclu-  
19 sions of the Commission, together with its recommenda-  
20 tions for such legislative or administrative action as it con-  
21 siders appropriate.

22 **SEC. 609. TERMINATION.**

23 The Commission shall cease to exist on the date that  
24 is 30 days after the date on which it submits its report  
25 under section 608.

1 **SEC. 610. AUTHORIZATION OF APPROPRIATIONS.**

2       There is authorized to be appropriated \$1,500,000 to  
3 carry out this title.

4 **TITLE VII—SEVERABILITY; EF-**  
5 **FECTIVE DATE; APPLICATION**  
6 **OF AMENDMENTS.**

7 **SEC. 701. SEVERABILITY.**

8       If any provision of this Act or amendment made by  
9 this Act or the application of such provision or amendment  
10 to any person or circumstance is held to be unconstitu-  
11 tional, the remaining provisions of and amendments made  
12 by this Act and the application of such other provisions  
13 and amendments to any person or circumstance shall not  
14 be affected thereby.

15 **SEC. 702. EFFECTIVE DATE; APPLICATION OF AMEND-**  
16 **MENTS.**

17       (a) EFFECTIVE DATE.—Except as provided in sub-  
18 section (b), this Act shall take effect on the date of the  
19 enactment of this Act.

20       (b) APPLICATION OF AMENDMENTS.—(1) Except as  
21 provided in paragraph (2), the amendments made by this  
22 Act shall not apply with respect to cases commenced under  
23 title 11 of the United States Code before the date of the  
24 enactment of this Act.

25       (2)(A) Paragraph (1) shall not apply with respect to  
26 the amendment made by section 111.

1 (B) The amendments made by sections 113 and 117  
 2 shall apply with respect to cases commenced under title  
 3 11 of the United States Code before, on, and after the  
 4 date of the enactment of this Act.

5 (C) Section 1110 of title 11, United States Code, as  
 6 amended by section 201 of this Act, shall apply with re-  
 7 spect to any lease, as defined in such section 1110(c) as  
 8 so amended, entered into in connection with a settlement  
 9 of any proceeding in any case pending under title 11 of  
 10 the United States Code on the date of the enactment of  
 11 this Act.

12 (D) The amendments made by section 305 shall  
 13 apply only to agreements entered into after the date of  
 14 enactment of this Act.

Passed the House of Representatives October 5,  
 1994.

Attest: DONNALD K. ANDERSON,  
*Clerk.*

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