

**SUSPEND THE RULES AND PASS THE BILL (H.R. 5116),
WITH AN AMENDMENT**

[Note: The amendment inserts an entirely new text.]

103^D CONGRESS
2^D SESSION

H. R. 5116

IN THE HOUSE OF REPRESENTATIVES

Mr. BROOKS (for himself, Mr. FISH, and Mr. SYNAR) introduced the following bill; which was referred to the Committee on

A BILL

To amend title 11 of the United States Code.

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

3 **SECTION 1. SHORT TITLE.**

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

1 (b) *TABLE OF CONTENTS.—The table of contents is as*
 2 *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.

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- 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 “con-*
7 *cluded”, 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 of*
11 *the parties in interest or for a specific time which the court*
12 *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 follow-*
19 *ing:*

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

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

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

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

5 (a) *REAFFIRMATION*.—Section 524(c) of title 11, Unit-
6 *ed 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), as*
11 *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” after*

24 “(A)”, and

25 (ii) *by striking “and” at the end,*

1 (C) in subparagraph (B)—

2 (i) by inserting “such agreement” after

3 “(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 of

7 the legal effect and consequences of—

8 “(i) an agreement of the kind specified

9 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 case

24 or proceeding under this title after notice to the par-

25 ties in interest; and

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

8 “(A) sets the date by which the trustee must
9 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, or
14 trustee if one has been appointed, shall file
15 a disclosure statement and plan;

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

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

21 “(iv) sets a date by which a proponent
22 of a plan, other than the debtor, shall solicit
23 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 subsection
11 (e), and

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

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

16 (B) by striking “Any” and inserting the fol-
17 lowing:

18 “(d) Any”.

19 (c) *ESTABLISHMENT, OPERATION, AND TERMINATION*
20 *OF BANKRUPTCY APPELLATE PANEL SERVICE*.—Section
21 158(b) of title 28, United States Code, is amended—

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

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

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

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

10 “(A) there are insufficient judicial resources
11 available in the circuit; or

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

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

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

21 “(B) On the request of a majority of the district judges
22 in a circuit for which a bankruptcy appellate panel service
23 is established under paragraph (1), made after the expira-
24 tion of the 1-year period beginning on the date such service
25 is established, the judicial council of the circuit shall deter-

1 *mine whether a circumstance specified in subparagraph (A)*
2 *or (B) of such paragraph exists.*

3 “(C) *On its own motion, after the expiration of the*
4 *3-year period beginning on the date a bankruptcy appellate*
5 *panel service is established under paragraph (1), the judi-*
6 *cial council of the circuit may determine whether a cir-*
7 *cumstance specified in subparagraph (A) or (B) of such*
8 *paragraph exists.*

9 “(D) *If the judicial council finds that either of such*
10 *circumstances exists, the judicial council may provide for*
11 *the completion of the appeals then pending before such serv-*
12 *ice and the orderly termination of such service.*

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

16 (4) *by inserting after paragraph (4), as so redes-*
17 *ignated, the following:*

18 “(5) *An appeal to be heard under this subsection shall*
19 *be heard by a panel of 3 members of the bankruptcy appel-*
20 *late panel service, except that a member of such service may*
21 *not hear an appeal originating in the district for which*
22 *such member is appointed or designated under section 152*
23 *of this title.*

24 “(6) *Appeals may not be heard under this subsection*
25 *by a panel of the bankruptcy appellate panel service unless*

1 *the district judges for the district in which the appeals*
2 *occur, by majority vote, have authorized such service to hear*
3 *and determine appeals originating in such district.”.*

4 (d) *APPEALS TO BE HEARD BY BANKRUPTCY APPEL-*
5 *LATE PANEL SERVICE.—Section 158 of title 28, United*
6 *States Code, is amended—*

7 (1) *in subsection (c) by striking “(c)” and in-*
8 *serting “(2)”, and*

9 (2) *by inserting after subsection (b) the follow-*
10 *ing:*

11 “(c)(1) *Subject to subsection (b), each appeal under*
12 *subsection (a) shall be heard by a 3-judge panel of the bank-*
13 *ruptcy appellate panel service established under subsection*
14 *(b)(1) unless—*

15 “(A) *the appellant elects at the time of filing the*
16 *appeal; or*

17 “(B) *any other party elects, not later than 30*
18 *days after service of notice of the appeal;*

19 *to have such appeal heard by the district court.”.*

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

23 (1) *in subsection (a)(2) by striking “section*
24 *2072” and inserting “sections 2072 and 2075”, and*

1 (2) in subsections (d) and (e) by inserting “or
2 2075” after “2072” each place it appears.

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

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

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

15 (a) *PRESIDING OFFICER.*—A bankruptcy adminis-
16 trator appointed under section 302(d)(3)(I) of the Bank-
17 ruptcy Judges, United States Trustees, and Family Farmer
18 Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law
19 99–554; 100 Stat. 3123), as amended by section 317(a) of
20 the Federal Courts Study Committee Implementation Act
21 of 1990 (Public Law 101–650; 104 Stat. 5115), or the bank-
22 ruptcy administrator’s designee may preside at the meeting
23 of creditors convened under section 341(a) of title 11, Unit-
24 ed States Code. The bankruptcy administrator or the bank-
25 ruptcy administrator’s designee may preside at any meet-

1 *ing of equity security holders convened under section 341(b)*
2 *of title 11, United States Code.*

3 *(b) EXAMINATION OF THE DEBTOR.—The bankruptcy*
4 *administrator or the bankruptcy administrator’s designee*
5 *may examine the debtor at the meeting of creditors and may*
6 *administer the oath required under section 343 of title 11,*
7 *United States Code.*

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

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

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

15 *“(A) acquires an asset from a person—*

16 *“(i) as a result of the operation of a*
17 *loan guarantee agreement; or*

18 *“(ii) as receiver or liquidating agent of*
19 *a person;*

20 *“(B) is a guarantor of a pension benefit*
21 *payable by or on behalf of the debtor or an affili-*
22 *ate of the debtor; or*

23 *“(C) is the legal or beneficial owner of an*
24 *asset of—*

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

5 “(ii) an eligible deferred compensation
6 plan, as defined in section 457(b) of the In-
7 ternal Revenue Code of 1986;

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

11 **SEC. 107. INCREASED INCENTIVE COMPENSATION FOR**
12 **TRUSTEES.**

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

17 “25 percent on the first \$5,000 or less, 10 percent on any
18 amount in excess of \$5,000 but not in excess of \$50,000,
19 5 percent on any amount in excess of \$50,000 but not in
20 excess of \$1,000,000, and reasonable compensation not to
21 exceed 3 percent of such moneys in excess of \$1,000,000”.

22 **SEC. 108. DOLLAR ADJUSTMENTS.**

23 (a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—
24 Section 109(e) of title 11, United States Code, is amended—

1 (1) by striking “\$100,000” each place it appears
2 and inserting “\$250,000”, and

3 (2) by striking “\$350,000” each place it appears
4 and inserting “\$750,000”.

5 (b) *INVOLUNTARY CASES.*—Section 303(b) of title 11,
6 *United States Code*, is amended—

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

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

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

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

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

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

19 (d) *EXEMPTIONS.*—Section 522(d) of title 11, *United*
20 *States Code*, is amended—

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

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

25 (3) in paragraph (3)—

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

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

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

7 (5) in paragraph (5)—

8 (A) by striking “\$400” and inserting
9 “\$800”, and

10 (B) by striking “\$3,750” and inserting
11 “\$7,500”,

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

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

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

18 (e) *FUTURE ADJUSTMENTS.*—Section 104 of title 11,
19 *United States Code*, is amended—

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

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

22 “(b)(1) On April 1, 1998, and at each 3-year interval
23 ending on April 1 thereafter, each dollar amount in effect
24 under sections 109(e), 303(b), 507(a), 522(d), and

1 523(a)(2)(C) immediately before such April 1 shall be ad-
2 justed—

3 “(A) to reflect the change in the Consumer Price
4 Index for All Urban Consumers, published by the De-
5 partment of Labor, for the most recent 3-year period
6 ending immediately before January 1 preceding such
7 April 1, and

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

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

16 “(3) Adjustments made in accordance with paragraph
17 (1) shall not apply with respect to cases commenced before
18 the date of such adjustments.”.

19 **SEC. 109. PREMERGER NOTIFICATION.**

20 Subparagraphs (A) and (B) of section 363(b)(2) of
21 title 11, United States Code, are amended to read as follows:

22 “(A) notwithstanding subsection (a) of such
23 section, the notification required by such sub-
24 section to be given by the debtor shall be given
25 by the trustee; and

1 “(B) notwithstanding subsection (b) of such
2 section, the required waiting period shall end on
3 the 15th day after the date of the receipt, by the
4 Federal Trade Commission and the Assistant At-
5 torney General in charge of the Antitrust Divi-
6 sion of the Department of Justice, of the notifica-
7 tion required under such subsection (a), unless
8 such waiting period is extended—

9 “(i) pursuant to subsection (e)(2) of
10 such section, in the same manner as such
11 subsection (e)(2) applies to a cash tender
12 offer;

13 “(ii) pursuant to subsection (g)(2) of
14 such section; or

15 “(iii) by the court after notice and a
16 hearing.”.

17 **SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EX-**
18 **PENSES.**

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

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

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

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

1 “(F) a member of a committee appointed
2 under section 1102 of this title, if such expenses
3 are incurred in the performance of the duties of
4 such committee;”.

5 **SEC. 111. SUPPLEMENTAL INJUNCTIONS.**

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

9 “(g)(1)(A) After notice and hearing, a court that enters
10 an order confirming a plan of reorganization under chapter
11 11 may issue, in connection with such order, an injunction
12 in accordance with this subsection to supplement the in-
13 junctive effect of a discharge under this section.

14 “(B) An injunction may be issued under subparagraph
15 (A) to enjoin entities from taking legal action for the pur-
16 pose of directly or indirectly collecting, recovering, or re-
17 ceiving payment or recovery with respect to any claim or
18 demand that, under a plan of reorganization, is to be paid
19 in whole or in part by a trust described in paragraph
20 (2)(B)(i), except such legal actions as are expressly allowed
21 by the injunction, the confirmation order, or the plan of
22 reorganization.

23 “(2)(A) Subject to subsection (h), if the requirements
24 of subparagraph (B) are met at the time an injunction de-
25 scribed in paragraph (1) is entered, then after entry of such

1 *injunction, any proceeding that involves the validity, appli-*
2 *cation, construction, or modification of such injunction, or*
3 *of this subsection with respect to such injunction, may be*
4 *commenced only in the district court in which such injunc-*
5 *tion was entered, and such court shall have exclusive juris-*
6 *diction over any such proceeding without regard to the*
7 *amount in controversy.*

8 “(B) *The requirements of this subparagraph are*
9 *that—*

10 “(i) *the injunction is to be implemented in con-*
11 *nection with a trust that, pursuant to the plan of re-*
12 *organization—*

13 “(I) *is to assume the liabilities of a debtor*
14 *which at the time of entry of the order for relief*
15 *has been named as a defendant in personal in-*
16 *jury, wrongful death, or property-damage actions*
17 *seeking recovery for damages allegedly caused by*
18 *the presence of, or exposure to, asbestos or asbes-*
19 *tos-containing products;*

20 “(II) *is to be funded in whole or in part by*
21 *the securities of 1 or more debtors involved in*
22 *such plan and by the obligation of such debtor*
23 *or debtors to make future payments, including*
24 *dividends;*

1 “(III) is to own, or by the exercise of rights
2 granted under such plan would be entitled to
3 own if specified contingencies occur, a majority
4 of the voting shares of—

5 “(aa) each such debtor;

6 “(bb) the parent corporation of each
7 such debtor; or

8 “(cc) a subsidiary of each such debtor
9 that is also a debtor; and

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

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

14 “(I) the debtor is likely to be subject to sub-
15 stantial future demands for payment arising out
16 of the same or similar conduct or events that
17 gave rise to the claims that are addressed by the
18 injunction;

19 “(II) the actual amounts, numbers, and
20 timing of such future demands cannot be deter-
21 mined;

22 “(III) pursuit of such demands outside the
23 procedures prescribed by such plan is likely to
24 threaten the plan’s purpose to deal equitably
25 with claims and future demands;

1 “(IV) as part of the process of seeking con-
2 firmation of such plan—

3 “(aa) the terms of the injunction pro-
4 posed to be issued under paragraph (1)(A),
5 including any provisions barring actions
6 against third parties pursuant to para-
7 graph (4)(A), are set out in such plan and
8 in any disclosure statement supporting the
9 plan; and

10 “(bb) a separate class or classes of the
11 claimants whose claims are to be addressed
12 by a trust described in clause (i) is estab-
13 lished and votes, by at least 75 percent of
14 those voting, in favor of the plan; and

15 “(V) subject to subsection (h), pursuant to
16 court orders or otherwise, the trust will operate
17 through mechanisms such as structured, periodic,
18 or supplemental payments, pro rata distribu-
19 tions, matrices, or periodic review of estimates of
20 the numbers and values of present claims and fu-
21 ture demands, or other comparable mechanisms,
22 that provide reasonable assurance that the trust
23 will value, and be in a financial position to pay,
24 present claims and future demands that involve

1 *similar claims in substantially the same man-*
2 *ner.*

3 “(3)(A) *If the requirements of paragraph (2)(B) are*
4 *met and the order confirming the plan of reorganization*
5 *was issued or affirmed by the district court that has juris-*
6 *isdiction over the reorganization case, then after the time for*
7 *appeal of the order that issues or affirms the plan—*

8 “(i) *the injunction shall be valid and enforceable*
9 *and may not be revoked or modified by any court ex-*
10 *cept through appeal in accordance with paragraph*
11 *(6);*

12 “(ii) *no entity that pursuant to such plan or*
13 *thereafter becomes a direct or indirect transferee of, or*
14 *successor to any assets of, a debtor or trust that is the*
15 *subject of the injunction shall be liable with respect to*
16 *any claim or demand made against such entity by*
17 *reason of its becoming such a transferee or successor;*
18 *and*

19 “(iii) *no entity that pursuant to such plan or*
20 *thereafter makes a loan to such a debtor or trust or*
21 *to such a successor or transferee shall, by reason of*
22 *making the loan, be liable with respect to any claim*
23 *or demand made against such entity, nor shall any*
24 *pledge of assets made in connection with such a loan*
25 *be upset or impaired for that reason;*

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

2 “(i) imply that an entity described in subpara-
3 graph (A) (ii) or (iii) would, if this paragraph were
4 not applicable, necessarily be liable to any entity by
5 reason of any of the acts described in subparagraph
6 (A);

7 “(ii) relieve any such entity of the duty to com-
8 ply with, or of liability under, any Federal or State
9 law regarding the making of a fraudulent conveyance
10 in a transaction described in subparagraph (A) (ii)
11 or (iii); or

12 “(iii) relieve a debtor of the debtor’s obligation to
13 comply with the terms of the plan of reorganization,
14 or affect the power of the court to exercise its author-
15 ity under sections 1141 and 1142 to compel the debtor
16 to do so.

17 “(4)(A)(i) Subject to subparagraph (B), an injunction
18 described in paragraph (1) shall be valid and enforceable
19 against all entities that it addresses.

20 “(ii) Notwithstanding the provisions of section 524(e),
21 such an injunction may bar any action directed against
22 a third party who is identifiable from the terms of such
23 injunction (by name or as part of an identifiable group)
24 and is alleged to be directly or indirectly liable for the con-
25 duct of, claims against, or demands on the debtor to the

1 *extent such alleged liability of such third party arises by*
2 *reason of—*

3 “(I) *the third party’s ownership of a financial*
4 *interest in the debtor, a past or present affiliate of the*
5 *debtor, or a predecessor in interest of the debtor;*

6 “(II) *the third party’s involvement in the man-*
7 *agement of the debtor or a predecessor in interest of*
8 *the debtor, or service as an officer, director or em-*
9 *ployee of the debtor or a related party;*

10 “(III) *the third party’s provision of insurance to*
11 *the debtor or a related party; or*

12 “(IV) *the third party’s involvement in a trans-*
13 *action changing the corporate structure, or in a loan*
14 *or other financial transaction affecting the financial*
15 *condition, of the debtor or a related party, including*
16 *but not limited to—*

17 “(aa) *involvement in providing financing*
18 *(debt or equity), or advice to an entity involved*
19 *in such a transaction; or*

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

22 “(iii) *As used in this subparagraph, the term ‘related*
23 *party’ means—*

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

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

1 “(III) any entity that owned a financial interest
2 in—

3 “(aa) the debtor;

4 “(bb) a past or present affiliate of the debt-
5 or; or

6 “(cc) a predecessor in interest of the debtor.

7 “(B) Subject to subsection (h), if, under a plan of reor-
8 ganization, a kind of demand described in such plan is to
9 be paid in whole or in part by a trust described in para-
10 graph (2)(B)(i) in connection with which an injunction de-
11 scribed in paragraph (1) is to be implemented, then such
12 injunction shall be valid and enforceable with respect to a
13 demand of such kind made, after such plan is confirmed,
14 against the debtor or debtors involved, or against a third
15 party described in subparagraph (A)(ii), if—

16 “(i) as part of the proceedings leading to issu-
17 ance of such injunction, the court appoints a legal
18 representative for the purpose of protecting the rights
19 of persons that might subsequently assert demands of
20 such kind, and

21 “(ii) the court determines, before entering the
22 order confirming such plan, that identifying such
23 debtor or debtors, or such third party (by name or as
24 part of an identifiable group), in such injunction
25 with respect to such demands for purposes of this sub-

1 *paragraph is fair and equitable with respect to the*
2 *persons that might subsequently assert such demands,*
3 *in light of the benefits provided, or to be provided, to*
4 *such trust on behalf of such debtor or debtors or such*
5 *third party.*

6 *“(5) In this subsection, the term ‘demand’ means a de-*
7 *mand for payment, present or future, that—*

8 *“(A) was not a claim during the proceedings*
9 *leading to the confirmation of a plan of reorganiza-*
10 *tion;*

11 *“(B) arises out of the same or similar conduct*
12 *or events that gave rise to the claims addressed by the*
13 *injunction issued under paragraph (1); and*

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

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

20 *“(7) This subsection does not affect the operation of*
21 *section 1144 or the power of the district court to refer a*
22 *proceeding under section 157 of title 28 or any reference*
23 *of a proceeding made prior to the date of the enactment*
24 *of this subsection.*

1 “(h) *APPLICATION TO EXISTING INJUNCTIONS.*—For
2 purposes of subsection (g)—

3 “(1) subject to paragraph (2), if an injunction of
4 the kind described in subsection (g)(1)(B) was issued
5 before the date of the enactment of this Act, as part
6 of a plan of reorganization confirmed by an order en-
7 tered before such date, then the injunction shall be
8 considered to meet the requirements of subsection
9 (g)(2)(B) for purposes of subsection (g)(2)(A), and to
10 satisfy subsection (g)(4)(A)(ii), if—

11 “(A) the court determined at the time the
12 plan was confirmed that the plan was fair and
13 equitable in accordance with the requirements of
14 section 1129(b);

15 “(B) as part of the proceedings leading to
16 issuance of such injunction and confirmation of
17 such plan, the court had appointed a legal rep-
18 resentative for the purpose of protecting the
19 rights of persons that might subsequently assert
20 demands described in subsection (g)(4)(B) with
21 respect to such plan; and

22 “(C) such legal representative did not object
23 to confirmation of such plan or issuance of such
24 injunction; and

1 “(2) for purposes of paragraph (1), if a trust de-
2 scribed in subsection (g)(2)(B)(i) is subject to a court
3 order on the date of the enactment of this Act staying
4 such trust from settling or paying further claims—

5 “(A) the requirements of subsection
6 (g)(2)(B)(ii)(V) shall not apply with respect to
7 such trust until such stay is lifted or dissolved;
8 and

9 “(B) if such trust meets such requirements
10 on the date such stay is lifted or dissolved, such
11 trust shall be considered to have met such re-
12 quirements continuously from the date of the en-
13 actment of this Act.”.

14 (b) *RULE OF CONSTRUCTION.*—Nothing in subsection
15 (a), or in the amendments made by subsection (a), shall
16 be construed to modify, impair, or supersede any other au-
17 thority the court has to issue injunctions in connection with
18 an order confirming a plan of reorganization.

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

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

23 “(e) If the right to a jury trial applies in a proceeding
24 that may be heard under this section by a bankruptcy judge,
25 the bankruptcy judge may conduct the jury trial if specially

1 *designated to exercise such jurisdiction by the district court*
2 *and with the express consent of all the parties.”.*

3 **SEC. 113. SOVEREIGN IMMUNITY.**

4 *Section 106 of title 11, United States Code, is amended*
5 *to read as follows:*

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

7 *“(a) Notwithstanding an assertion of sovereign immu-*
8 *nity, sovereign immunity is abrogated as to a governmental*
9 *unit to the extent set forth in this section with respect to*
10 *the following:*

11 *“(1) Sections 105, 106, 107, 108, 303, 346, 362,*
12 *363, 364, 365, 366, 502, 503, 505, 506, 510, 522, 523,*
13 *524, 525, 542, 543, 544, 545, 546, 547, 548, 549, 550,*
14 *551, 552, 553, 722, 724, 726, 728, 744, 749, 764, 901,*
15 *922, 926, 928, 929, 944, 1107, 1141, 1142, 1143,*
16 *1146, 1201, 1203, 1205, 1206, 1227, 1231, 1301,*
17 *1303, 1305, and 1327 of this title.*

18 *“(2) The court may hear and determine any*
19 *issue arising with respect to the application of such*
20 *sections to governmental units.*

21 *“(3) The court may issue against a governmental*
22 *unit an order, process, or judgment under such sec-*
23 *tions or the Federal Rules of Bankruptcy Procedure,*
24 *including an order or judgment awarding a money*
25 *recovery, but not including an award of punitive*

1 *damages. Such order or judgment for costs or fees*
2 *under this title or the Federal Rules of Bankruptcy*
3 *Procedure against any governmental unit shall be*
4 *consistent with the provisions and limitations of sec-*
5 *tion 2412(d)(2)(A) of title 28.*

6 *“(4) The enforcement of any such order, process,*
7 *or judgment against any governmental unit shall be*
8 *consistent with appropriate nonbankruptcy law ap-*
9 *plicable to such governmental unit and, in the case of*
10 *a money judgment against the United States, shall be*
11 *paid as if it is a judgment rendered by a district*
12 *court of the United States.*

13 *“(5) Nothing in this section shall create any sub-*
14 *stantive claim for relief or cause of action not other-*
15 *wise existing under this title, the Federal Rules of*
16 *Bankruptcy Procedure, or nonbankruptcy law.*

17 *“(b) A governmental unit that has filed a proof of*
18 *claim in the case is deemed to have waived sovereign immu-*
19 *nity with respect to a claim against such governmental unit*
20 *that is property of the estate and that arose out of the same*
21 *transaction or occurrence out of which the claim of such*
22 *governmental unit arose.*

23 *“(c) Notwithstanding any assertion of sovereign im-*
24 *munity by a governmental unit, there shall be offset against*
25 *a claim or interest of a governmental unit any claim*

1 *against such governmental unit that is property of the es-*
2 *tate.”.*

3 **SEC. 114. SERVICE OF PROCESS IN BANKRUPTCY PROCEED-**
4 **INGS ON AN INSURED DEPOSITORY INSTITU-**
5 **TION.**

6 *Rule 7004 of the Federal Rules of Bankruptcy Proce-*
7 *dure is amended—*

8 *(1) in subdivision (b) by striking “In addition”*
9 *and inserting “Except as provided in subdivision (h),*
10 *in addition”, and*

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

12 *“(h) SERVICE OF PROCESS ON AN INSURED DEPOSI-*
13 *TORY INSTITUTION.—Service on an insured depository in-*
14 *stitution (as defined in section 3 of the Federal Deposit In-*
15 *surance Act) in a contested matter or adversary proceeding*
16 *shall be made by certified mail addressed to an officer of*
17 *the institution unless—*

18 *“(1) the institution has appeared by its attorney,*
19 *in which case the attorney shall be served by first*
20 *class mail;*

21 *“(2) the court orders otherwise after service upon*
22 *the institution by certified mail of notice of an appli-*
23 *cation to permit service on the institution by first*
24 *class mail sent to an officer of the institution des-*
25 *ignated by the institution; or*

1 “(3) the institution has waived in writing its en-
2 titlement to service by certified mail by designating
3 an officer to receive service.”.

4 **SEC. 115. MEETINGS OF CREDITORS AND EQUITY SECURITY**
5 **HOLDERS.**

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

8 “(d) Prior to the conclusion of the meeting of creditors
9 or equity security holders, the trustee shall orally examine
10 the debtor to ensure that the debtor in a case under chapter
11 7 of this title is aware of—

12 “(1) the potential consequences of seeking a dis-
13 charge in bankruptcy, including the effects on credit
14 history;

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

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

19 “(4) the effect of reaffirming a debt, including
20 the debtor’s knowledge of the provisions of section
21 524(d) of this title.”.

22 **SEC. 116. TAX ASSESSMENT.**

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

25 “(9) under subsection (a), of—

1 “(A) an audit by a governmental unit to
2 determine tax liability;

3 “(B) the issuance to the debtor by a govern-
4 mental unit of a notice of tax deficiency;

5 “(C) a demand for tax returns; or

6 “(D) the making of an assessment for any
7 tax and issuance of a notice and demand for
8 payment of such an assessment (but any tax lien
9 that would otherwise attach to property of the es-
10 tate by reason of such an assessment shall not
11 take effect unless such tax is a debt of the debtor
12 that will not be discharged in the case and such
13 property or its proceeds are transferred out of
14 the estate to, or otherwise revested in, the debt-
15 or).”.

16 **SEC. 117. ADDITIONAL TRUSTEE COMPENSATION.**

17 Section 330(b) of title 11, United States Code, is
18 amended—

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

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

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

22 “(A) shall prescribe additional fees of the same
23 kind as prescribed under section 1914(b) of title 28;
24 and

1 “(B) may prescribe notice of appearance fees and
2 fees charged against distributions in cases under this
3 title;
4 to pay \$15 to trustees serving in cases after such trustees’
5 services are rendered. Beginning 1 year after the date of
6 the enactment of the Bankruptcy Reform Act of 1994, such
7 \$15 shall be paid in addition to the amount paid under
8 paragraph (1).”.

9 **TITLE II—COMMERCIAL**
10 **BANKRUPTCY ISSUES**

11 **SEC. 201. AIRCRAFT EQUIPMENT AND VESSELS; ROLLING**
12 **STOCK EQUIPMENT.**

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

15 **“§ 1110. Aircraft equipment and vessels**

16 “(a)(1) The right of a secured party with a security
17 interest in equipment described in paragraph (2) or of a
18 lessor or conditional vendor of such equipment to take pos-
19 session of such equipment in compliance with a security
20 agreement, lease, or conditional sale contract is not affected
21 by section 362, 363, or 1129 or by any power of the court
22 to enjoin the taking of possession unless—

23 “(A) before the date that is 60 days after the
24 date of the order for relief under this chapter, the
25 trustee, subject to the court’s approval, agrees to per-

1 *form all obligations of the debtor that become due on*
2 *or after the date of the order under such security*
3 *agreement, lease, or conditional sale contract; and*

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

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

10 *“(ii) that occurs after the date of the order*
11 *is cured before the later of—*

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

14 *“(II) the expiration of such 60-day pe-*
15 *riod.*

16 *“(2) Equipment is described in this paragraph if it*
17 *is—*

18 *“(A) an aircraft, aircraft engine, propeller, ap-*
19 *pliance, or spare part (as defined in section 40102 of*
20 *title 49) that is subject to a security interest granted*
21 *by, leased to, or conditionally sold to a debtor that is*
22 *a citizen of the United States (as defined in 40102 of*
23 *title 49) holding an air carrier operating certificate*
24 *issued by the Secretary of Transportation pursuant to*
25 *chapter 447 of title 49 for aircraft capable of carrying*

1 *10 or more individuals or 6,000 pounds or more of*
2 *cargo; or*

3 *“(B) a documented vessel (as defined in section*
4 *30101(1) of title 46) that is subject to a security in-*
5 *terest granted by, leased to, or conditionally sold to*
6 *a debtor that is a water carrier that holds a certifi-*
7 *cate of public convenience and necessity or permit is-*
8 *ssued by the Interstate Commerce Commission.*

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

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

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

20 *“(1) the term ‘lease’ includes any written agree-*
21 *ment with respect to which the lessor and the debtor,*
22 *as lessee, have expressed in the agreement or in a sub-*
23 *stantially contemporaneous writing that the agree-*
24 *ment is to be treated as a lease for Federal income*
25 *tax purposes; and*

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

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

5 **“§ 1168. Rolling stock equipment**

6 “(a)(1) The right of a secured party with a security
7 interest in or of a lessor or conditional vendor of equipment
8 described in paragraph (2) to take possession of such equip-
9 ment in compliance with an equipment security agreement,
10 lease, or conditional sale contract is not affected by section
11 362, 363, or 1129 or by any power of the court to enjoin
12 the taking of possession, unless—

13 “(A) before the date that is 60 days after the
14 date of commencement of a case under this chapter,
15 the trustee, subject to the court’s approval, agrees to
16 perform all obligations of the debtor that become due
17 on or after the date of commencement of the case
18 under such security agreement, lease, or conditional
19 sale contract; and

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

23 “(i) that occurs before the date of com-
24 mencement of the case and is an event of default

1 *therewith is cured before the expiration of such*
2 *60-day period; and*

3 “(ii) *that occurs or becomes an event of de-*
4 *fault after the date of commencement of the case*
5 *is cured before the later of—*

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

8 “(II) *the expiration of such 60-day pe-*
9 *riod.*

10 “(2) *Equipment is described in this paragraph if it*
11 *is rolling stock equipment or accessories used on such equip-*
12 *ment, including superstructures and racks, that is subject*
13 *to a security interest granted by, leased to, or conditionally*
14 *sold to the debtor.*

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

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

23 “(c) *With respect to equipment first placed in service*
24 *on or prior to the date of enactment of this subsection, for*
25 *purposes of this section—*

1 “(1) the term ‘lease’ includes any written agree-
2 ment with respect to which the lessor and the debtor,
3 as lessee, have expressed in the agreement or in a sub-
4 stantially contemporaneous writing that the agree-
5 ment is to be treated as a lease for Federal income
6 tax purposes; and

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

9 “(d) With respect to equipment first placed in service
10 after the date of enactment of this subsection, for purposes
11 of this section, the term ‘rolling stock equipment’ includes
12 rolling stock equipment that is substantially rebuilt and ac-
13 cessories used on such equipment.”.

14 **SEC. 202. LIMITATION ON LIABILITY OF NON-INSIDER**
15 **TRANSFeree FOR AVOIDED TRANSFER.**

16 Section 550 of title 11, United States Code, is amend-
17 ed—

18 (1) by redesignating subsections (c), (d), and (e)
19 as subsections (d), (e), and (f), respectively, and

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

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

24 “(1) is avoided under section 547(b) of this title;
25 and

1 “(2) was made for the benefit of a creditor that
2 at the time of such transfer was an insider;
3 the trustee may not recover under subsection (a) from a
4 transferee that is not an insider.”.

5 **SEC. 203. PERFECTION OF PURCHASE-MONEY SECURITY IN-**
6 **TEREST.**

7 Section 547 of title 11, United States Code, is amend-
8 ed—

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

11 (2) in subsection (e)(2)(A) by inserting “, except
12 as provided in subsection (c)(3)(B)” before the semi-
13 colon at the end.

14 **SEC. 204. CONTINUED PERFECTION.**

15 (a) **AUTOMATIC STAY.**—Section 362(b)(3) of title 11,
16 United States Code, is amended by inserting “, or to main-
17 tain or continue the perfection of,” after “to perfect”.

18 (b) **LIMITATIONS ON AVOIDING POWERS.**—Section
19 546(b) of title 11, United States Code, is amended to read
20 as follows:

21 “(b)(1) The rights and powers of a trustee under sec-
22 tions 544, 545, and 549 of this title are subject to any gen-
23 erally applicable law that—

24 “(A) permits perfection of an interest in prop-
25 erty to be effective against an entity that acquires

1 *rights in such property before the date of perfection;*
2 *or*

3 *“(B) provides for the maintenance or continu-*
4 *ation of perfection of an interest in property to be ef-*
5 *fective against an entity that acquires rights in such*
6 *property before the date on which action is taken to*
7 *effect such maintenance or continuation.*

8 *“(2) If—*

9 *“(A) a law described in paragraph (1) requires*
10 *seizure of such property or commencement of an ac-*
11 *tion to accomplish such perfection, or maintenance or*
12 *continuation of perfection of an interest in property;*
13 *and*

14 *“(B) such property has not been seized or such*
15 *an action has not been commenced before the date of*
16 *the filing of the petition;*

17 *such interest in such property shall be perfected, or perfec-*
18 *tion of such interest shall be maintained or continued, by*
19 *giving notice within the time fixed by such law for such*
20 *seizure or such commencement.”.*

21 **SEC. 205. REJECTION OF UNEXPIRED LEASES OF REAL**
22 **PROPERTY OR TIMESHARE INTERESTS.**

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

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

3 “(i) if the rejection by the trustee amounts to
4 such a breach as would entitle the lessee to treat such
5 lease as terminated by virtue of its terms, applicable
6 nonbankruptcy law, or any agreement made by the
7 lessee, then the lessee under such lease may treat such
8 lease as terminated by the rejection; or

9 “(ii) if the term of such lease has commenced, the
10 lessee may retain its rights under such lease (includ-
11 ing rights such as those relating to the amount and
12 timing of payment of rent and other amounts payable
13 by the lessee and any right of use, possession, quiet
14 enjoyment, subletting, assignment, or hypothecation)
15 that are in or appurtenant to the real property for
16 the balance of the term of such lease and for any re-
17 newal or extension of such rights to the extent that
18 such rights are enforceable under applicable
19 nonbankruptcy law.

20 “(B) If the lessee retains its rights under subparagraph
21 (A)(ii), the lessee may offset against the rent reserved under
22 such lease for the balance of the term after the date of the
23 rejection of such lease and for the term of any renewal or
24 extension of such lease, the value of any damage caused by
25 the nonperformance after the date of such rejection, of any

1 *obligation of the debtor under such lease, but the lessee shall*
2 *not have any other right against the estate or the debtor*
3 *on account of any damage occurring after such date caused*
4 *by such nonperformance.*

5 “(C) *The rejection of a lease of real property in a shop-*
6 *ping center with respect to which the lessee elects to retain*
7 *its rights under subparagraph (A)(ii) does not affect the*
8 *enforceability under applicable nonbankruptcy law of any*
9 *provision in the lease pertaining to radius, location, use,*
10 *exclusivity, or tenant mix or balance.*

11 “(D) *In this paragraph, ‘lessee’ includes any successor,*
12 *assign, or mortgagee permitted under the terms of such*
13 *lease.*

14 “(2)(A) *If the trustee rejects a timeshare interest under*
15 *a timeshare plan under which the debtor is the timeshare*
16 *interest seller and—*

17 “(i) *if the rejection amounts to such a breach as*
18 *would entitle the timeshare interest purchaser to treat*
19 *the timeshare plan as terminated under its terms, ap-*
20 *plicable nonbankruptcy law, or any agreement made*
21 *by timeshare interest purchaser, the timeshare interest*
22 *purchaser under the timeshare plan may treat the*
23 *timeshare plan as terminated by such rejection; or*

24 “(ii) *if the term of such timeshare interest has*
25 *commenced, then the timeshare interest purchaser*

1 *may retain its rights in such timeshare interest for*
2 *the balance of such term and for any term of renewal*
3 *or extension of such timeshare interest to the extent*
4 *that such rights are enforceable under applicable*
5 *nonbankruptcy law.*

6 *“(B) If the timeshare interest purchaser retains its*
7 *rights under subparagraph (A), such timeshare interest*
8 *purchaser may offset against the moneys due for such*
9 *timeshare interest for the balance of the term after the date*
10 *of the rejection of such timeshare interest, and the term of*
11 *any renewal or extension of such timeshare interest, the*
12 *value of any damage caused by the nonperformance after*
13 *the date of such rejection, of any obligation of the debtor*
14 *under such timeshare plan, but the timeshare interest pur-*
15 *chaser shall not have any right against the estate or the*
16 *debtor on account of any damage occurring after such date*
17 *caused by such nonperformance.”.*

18 *(b) TECHNICAL AMENDMENT.—Section 553(b)(1) of*
19 *title 11, United States Code, is amended by striking*
20 *“365(h)(2)” and inserting “365(h)”.*

21 **SEC. 206. CONTENTS OF PLAN.**

22 *Section 1123(b) of title 11, United States Code, is*
23 *amended—*

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

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

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

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

11 **SEC. 207. PRIORITY FOR INDEPENDENT SALES REPRESENT-**
12 **ATIVES.**

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

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

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

24 “(B) sales commissions earned by an indi-
25 vidual or by a corporation with only 1 employee,

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

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

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

15 (1) *by inserting after paragraph (42) the follow-*
16 *ing:*

17 “(42A) ‘production payment’ means a term over-

18 *riding royalty satisfiable in cash or in kind—*

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

22 “(B) *from a specified volume, or a specified*
23 *value, from the liquid or gaseous hydrocarbon*
24 *produced from such property, and determined*
25 *without regard to production costs;”, and*

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

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

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

11 (1) in subparagraph (A) by striking “(A)” and
12 inserting “(A)(i)”,

13 (2) in subparagraph (B)—

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

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

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

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

20 “(B)(i) the debtor has transferred such in-
21 terest pursuant to a written conveyance of a pro-
22 duction payment to an entity that does not par-
23 ticipate in the operation of the property from
24 which such production payment is transferred;
25 and

1 “(ii) but for the operation of this para-
2 graph, the estate could include the interest re-
3 ferred to in clause (i) only by virtue of section
4 542 of this title;”.

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

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

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

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

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

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

17 Section 345(b) of title 11, United States Code, is
18 amended—

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

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

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

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

24 (a) *ELECTION AUTHORIZED.*—Section 1104 of title 11
25 of the United States Code is amended—

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

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

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

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

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

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

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

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

4 (d) *IMPAIRMENT OF CLAIMS OR INTERESTS.*—Section
5 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-PE-**

12 **TITION RENTS AND LODGING PAYMENTS.**

13 (a) *POSTPETITION EFFECT OF SECURITY INTEREST.*—

14 Section 552(b) of title 11, United States Code, is amend-
15 ed—

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 en-
23 tered into a security agreement before the commencement
24 of the case and if the security interest created by such secu-
25 rity agreement extends to property of the debtor acquired

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

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

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

19 *Subparagraph (A) of the first paragraph (55) of sec-*
20 *tion 101 of title 11, United States Code, is amended by in-*
21 *serting “spot foreign exchange agreement,” after “forward*
22 *foreign exchange agreement,”.*

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

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

1 “(3) On request of a party in interest in a case in
2 which the debtor is a small business and for cause, the court
3 may order that a committee of creditors not be appointed.”.

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

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

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

12 “(1) only the debtor may file a plan until after
13 100 days after the date of the order for relief under
14 this chapter;

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

17 “(3) on request of a party in interest made with-
18 in the respective periods specified in paragraphs (1)
19 and (2) and after notice and a hearing, the court
20 may—

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

24 “(B) increase the 100-day period specified
25 in paragraph (1) if the debtor shows that the

1 *need for an increase is caused by circumstances*
2 *for which the debtor should not be held account-*
3 *able.”.*

4 *(e) POSTPETITION DISCLOSURE.—Section 1125 of title*
5 *11, United States Code, is amended by adding at the end*
6 *the following:*

7 *“(f) Notwithstanding subsection (b), in a case in which*
8 *the debtor has elected under section 1121(e) to be considered*
9 *a small business—*

10 *“(1) the court may conditionally approve a dis-*
11 *closure statement subject to final approval after notice*
12 *and a hearing;*

13 *“(2) acceptances and rejections of a plan may be*
14 *solicited based on a conditionally approved disclosure*
15 *statement as long as the debtor provides adequate in-*
16 *formation to each holder of a claim or interest that*
17 *is solicited, but a conditionally approved disclosure*
18 *statement shall be mailed at least 10 days prior to the*
19 *date of the hearing on confirmation of the plan; and*

20 *“(3) a hearing on the disclosure statement may*
21 *be combined with a hearing on confirmation of a*
22 *plan.”.*

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

2 (a) *DEFINITION.*—Section 101 of title 11, United
3 States Code, is amended by inserting after paragraph (51)
4 the following:

5 “(51B) ‘single asset real estate’ means real prop-
6 erty constituting a single property or project, other
7 than residential real property with fewer than 4 resi-
8 dential units, which generates substantially all of the
9 gross income of a debtor and on which no substantial
10 business is being conducted by a debtor other than the
11 business of operating the real property and activities
12 incidental thereto having aggregate noncontingent,
13 liquidated secured debts in an amount no more than
14 \$4,000,000;”.

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

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

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

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

21 “(3) with respect to a stay of an act against sin-
22 gle asset real estate under subsection (a), by a creditor
23 whose claim is secured by an interest in such real es-
24 tate, unless, not later than the date that is 90 days
25 after the entry of the order for relief (or such later

1 *date as the court may determine for cause by order*
2 *entered within that 90-day period)—*

3 “(A) *the debtor has filed a plan of reorga-*
4 *nization that has a reasonable possibility of*
5 *being confirmed within a reasonable time; or*

6 “(B) *the debtor has commenced monthly*
7 *payments to each creditor whose claim is secured*
8 *by such real estate (other than a claim secured*
9 *by a judgment lien or by an unmatured statu-*
10 *tory lien), which payments are in an amount*
11 *equal to interest at a current fair market rate on*
12 *the value of the creditor’s interest in the real es-*
13 *tate.”.*

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

15 (a) *ASSUMPTION.—Section 365(b)(2) of title 11, Unit-*
16 *ed States Code is amended—*

17 (1) *in subparagraph (B) by striking “or” at the*
18 *end,*

19 (2) *in subparagraph (C) by striking the period*
20 *and inserting “; or”,*

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

22 “(D) *the satisfaction of any penalty rate or pro-*
23 *vision relating to a default arising from any failure*
24 *by the debtor to perform nonmonetary obligations*
25 *under the executory contract or unexpired lease.”.*

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

3 “(10) The trustee shall timely perform all of the
4 obligations of the debtor, except those specified in sec-
5 tion 365(b)(2), first arising from or after 60 days
6 after the order for relief in a case under chapter 11
7 of this title under an unexpired lease of personal
8 property (other than personal property leased to an
9 individual primarily for personal, family, or house-
10 hold purposes), until such lease is assumed or rejected
11 notwithstanding section 503(b)(1) of this title, unless
12 the court, after notice and a hearing and based the
13 equities of the case, orders otherwise with respect to
14 the obligations or timely performance thereof. This
15 subsection shall not be deemed to affect the trustee’s
16 obligations under the provisions of subsection (b) or
17 (f). Acceptance of any such performance does not con-
18 stitute waiver or relinquishment of the lessor’s rights
19 under such lease or under this title.”.

20 (c) *LIMITATION*.—Section 363(e) of title 11, United
21 States Code is amended by adding at the end the following:

22 “*This subsection also applies to property that is subject to*
23 *any unexpired lease of personal property (to the exclusion*
24 *of such property being subject to an order to grant relief*
25 *from the stay under section 362).*”.

1 **SEC. 220. EXEMPTION FOR SMALL BUSINESS INVESTMENT**
2 **COMPANIES.**

3 *Section 109(b)(2) of title 11, United States Code, is*
4 *amended by inserting after “homestead association,” the fol-*
5 *lowing: “a small business investment company licensed by*
6 *the Small Business Administration under subsection (c) or*
7 *(d) of section 301 of the Small Business Investment Act of*
8 *1958.”.*

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

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

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

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

15 *“(14) incurred to pay a tax to the United States*
16 *that would be nondischargeable pursuant to para-*
17 *graph (1);”.*

18 **SEC. 222. RETURN OF GOODS.**

19 *(a) LIMITATION ON AVOIDING POWERS.—Section 546*
20 *of title 11, United States Code, is amended by adding at*
21 *the end the following:*

22 *“(g) Notwithstanding the rights and powers of a trust-*
23 *ee under sections 544(a), 545, 547, 549, and 553, if the*
24 *court determines on a motion by the trustee made not later*
25 *than 120 days after the date of the order for relief in a*
26 *case under chapter 11 of this title and after notice and a*

1 *hearing, that a return is in the best interests of the estate,*
2 *the debtor, with the consent of a creditor, may return goods*
3 *shipped to the debtor by the creditor before the commence-*
4 *ment of the case, and the creditor may offset the purchase*
5 *price of such goods against any claim of the creditor against*
6 *the debtor that arose before the commencement of the case.”.*

7 (b) *SETOFF.*—Section 553(b)(1) is amended by insert-
8 *ing “546(h),” after “365(h),”.*

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

10 *Section 541(b) of title 11, United States Code is amend-*
11 *ed—*

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

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

16 (3) *by inserting after paragraph (4) the follow-*
17 *ing:*

18 “(5) *any interest in cash or cash equivalents that*
19 *constitute proceeds of a sale by the debtor of a money*
20 *order that is made—*

21 “(A) *on or after the date that is 14 days*
22 *prior to the date on which the petition is filed;*
23 *and*

24 “(B) *under an agreement with a money*
25 *order issuer that prohibits the commingling of*

1 *such proceeds with property of the debtor (not-*
2 *withstanding that, contrary to the agreement, the*
3 *proceeds may have been commingled with prop-*
4 *erty of the debtor),*
5 *unless the money order issuer had not taken action,*
6 *prior to the filing of the petition, to require compli-*
7 *ance with the prohibition.”.*

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

9 *(a) TRUSTEE’S DUTIES.—Section 586(a)(3)(A) of title*
10 *28, United States Code, is amended to read as follows:*

11 *“(A)(i) reviewing, in accordance with proce-*
12 *dural guidelines adopted by the Executive Office*
13 *of the United States Trustee (which guidelines*
14 *shall be applied uniformly by the United States*
15 *trustee except when circumstances warrant dif-*
16 *ferent treatment), applications filed for com-*
17 *ensation and reimbursement under section 330*
18 *of title 11; and*

19 *“(ii) filing with the court comments with*
20 *respect to such application and, if the United*
21 *States Trustee considers it to be appropriate, ob-*
22 *jections to such application.”.*

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

1 “(a)(1) After notice to the parties in interest and the
2 United States trustee and a hearing, and subject to sections
3 326, 328, and 329, the court may award to a trustee, an
4 examiner, a professional person employed under section 327
5 or 1103—

6 “(A) reasonable compensation for actual, nec-
7 essary services rendered by the trustee, examiner, pro-
8 fessional person, or attorney and by any paraprofes-
9 sional person employed by any such person; and

10 “(B) reimbursement for actual, necessary ex-
11 penses.

12 “(2) The court may, on its own motion or on the mo-
13 tion of the United States Trustee, the United States Trustee
14 for the District or Region, the trustee for the estate, or any
15 other party in interest, award compensation that is less
16 than the amount of compensation that is requested.

17 “(3)(A) In determining the amount of reasonable com-
18 pensation to be awarded, the court shall consider the nature,
19 the extent, and the value of such services, taking into ac-
20 count all relevant factors, including—

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

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

23 “(C) whether the services were necessary to the
24 administration of, or beneficial at the time at which

1 *the service was rendered toward the completion of, a*
2 *case under this title;*

3 *“(D) whether the services were performed within*
4 *a reasonable amount of time commensurate with the*
5 *complexity, importance, and nature of the problem,*
6 *issue, or task addressed; and*

7 *“(E) whether the compensation is reasonable*
8 *based on the customary compensation charged by*
9 *comparably skilled practitioners in cases other than*
10 *cases under this title.*

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

13 *“(i) unnecessary duplication of services; or*

14 *“(ii) services that were not—*

15 *“(I) reasonably likely to benefit the debtor’s*
16 *estate; or*

17 *“(II) necessary to the administration of the*
18 *case.*

19 *“(B) In a chapter 12 or chapter 13 case in which the*
20 *debtor is an individual, the court may allow reasonable*
21 *compensation to the debtor’s attorney for representing the*
22 *interests of the debtor in connection with the bankruptcy*
23 *case based on a consideration of the benefit and necessity*
24 *of such services to the debtor and the other factors set forth*
25 *in this section.*

1 “(5) The court shall reduce the amount of compensa-
2 tion awarded under this section by the amount of any in-
3 terim compensation awarded under section 331, and, if the
4 amount of such interim compensation exceeds the amount
5 of compensation awarded under this section, may order the
6 return of the excess to the estate.

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

10 **SEC. 225. NOTICES TO CREDITORS.**

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

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

19 **TITLE III—CONSUMER**
20 **BANKRUPTCY ISSUES**

21 **SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO**
22 **PRINCIPAL RESIDENCE.**

23 Section 1322 of title 11, United States Code, is amend-
24 ed—

1 (1) by redesignating subsection (c) as subsection
2 (d), and

3 (2) by inserting after subsection (b) the follow-
4 ing:

5 “(c) Notwithstanding subsection (b)(2) and applicable
6 nonbankruptcy law—

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

13 “(2) in a case in which the last payment on the
14 original payment schedule for a claim secured only by
15 a security interest in real property that is the debtor’s
16 principal residence is due before the date on which the
17 final payment under the plan is due, the plan may
18 provide for the payment of the claim as modified pur-
19 suant to section 1325(a)(5) of this title.”.

20 **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**
21 **TER 13.**

22 Section 1328(a)(3) of title 11, United States Code, is
23 amended by inserting “, or a criminal fine,” after “restitu-
24 tion”.

1 **SEC. 303. IMPAIRMENT OF EXEMPTIONS.**

2 *Section 522(f) of title 11, United States Code, is*
3 *amended—*

4 *(1) in paragraph (2)—*

5 *(A) by redesignating subparagraphs (A),*
6 *(B), and (C) as clauses (i), (ii), and (iii), respec-*
7 *tively, and*

8 *(B) by striking “(2)” and inserting “(B),*
9 *(2) by redesignating paragraph (1) as subpara-*
10 *graph (A),*

11 *(3) by inserting “(1)” before “Notwithstanding”,*
12 *and*

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

14 *“(2)(A) For the purposes of this subsection, a lien shall*
15 *be considered to impair an exemption to the extent that the*
16 *sum of—*

17 *“(i) the lien,*

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

19 *“(iii) the amount of the exemption that the debt-*
20 *or could claim if there were no liens on the property;*
21 *exceeds the value that the debtor’s interest in the property*
22 *would have in the absence of any liens.*

23 *“(B) In the case of a property subject to more than*
24 *1 lien, a lien that has been avoided shall not be considered*
25 *in making the calculation under subparagraph (A) with re-*
26 *spect to other liens.*

1 “(C) *This paragraph shall not apply with re-*
2 *spect to a judgment arising out of a mortgage fore-*
3 *closure.*”.

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

5 (a) *DEFINITION.*—Section 101 of title 11, United
6 *States Code, is amended by inserting after paragraph (12)*
7 *the following:*

8 “(12A) *‘debt for child support’ means a debt of*
9 *a kind specified in section 523(a)(5) of this title for*
10 *maintenance or support of a child of the debtor;*”.

11 (b) *RELIEF FROM AUTOMATIC STAY.*—Section
12 *362(b)(2) of title 11, United States Code, is amended to*
13 *read as follows:*

14 “(2) *under subsection (a) of this section—*

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

17 “(i) *the establishment of paternity; or*

18 “(ii) *the establishment or modification*
19 *of an order for alimony, maintenance, or*
20 *support; or*

21 “(B) *of the collection of alimony, mainte-*
22 *nance, or support from property that is not*
23 *property of the estate;*”.

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

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

3 (2) *in paragraph (7) by striking “(7) Seventh”*
4 *and inserting “(8) Eighth”, and*

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

7 “*(7) Seventh, allowed claims for debts to a*
8 *spouse, former spouse, or child of the debtor, for ali-*
9 *mony to, maintenance for, or support of such spouse*
10 *or child, in connection with a separation agreement,*
11 *divorce decree or other order of a court of record, de-*
12 *termination made in accordance with State or terri-*
13 *torial law by a governmental unit, or property settle-*
14 *ment agreement, but not to the extent that such*
15 *debt—*

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

18 “*(B) includes a liability designated as ali-*
19 *mony, maintenance, or support, unless such li-*
20 *ability is actually in the nature of alimony,*
21 *maintenance or support.”.*

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

25 “*, other than a judicial a lien that secures a debt—*

1 “(i) to a spouse, former spouse, or child of
2 the debtor, for alimony to, maintenance for, or
3 support of such spouse or child, in connection
4 with a separation agreement, divorce decree or
5 other order of a court of record, determination
6 made in accordance with State or territorial law
7 by a governmental unit, or property settlement
8 agreement; and

9 “(ii) to the extent that such debt—

10 “(I) is not assigned to another entity,
11 voluntarily, by operation of law, or other-
12 wise; and

13 “(II) includes a liability designated as
14 alimony, maintenance, or support, unless
15 such liability is actually in the nature of
16 alimony, maintenance or support.”.

17 (e) *EXCEPTION TO DISCHARGE.*—Section 523 of title
18 11, United States Code, as amended by section 221, is
19 amended by adding at the end the following:

20 “(15) not of the kind described in paragraph (5)
21 that is incurred by the debtor in the course of a di-
22 vorce or separation or in connection with a separa-
23 tion agreement, divorce decree or other order of a
24 court of record, a determination made in accordance

1 *with State or territorial law by a governmental unit*
2 *unless—*

3 *“(A) the debtor does not have the ability to*
4 *pay such debt from income or property of the*
5 *debtor not reasonably necessary to be expended*
6 *for the maintenance or support of the debtor or*
7 *a dependent of the debtor and, if the debtor is en-*
8 *gaged in a business, for the payment of expendi-*
9 *tures necessary for the continuation, preserva-*
10 *tion, and operation of such business; or*

11 *“(B) discharging such debt would result in*
12 *a benefit to the debtor that outweighs the det-*
13 *rimonial consequences to a spouse, former spouse,*
14 *or child of the debtor;”, and*

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

17 *(f) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Sec-*
18 *tion 547(c) of title 11, United States Code, is amended—*

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

21 *(2) by redesignating paragraph (7) as para-*
22 *graph (8), and*

23 *(3) by inserting after paragraph (6) the fol-*
24 *lowing:*

1 “(7) to the extent such transfer was a bona fide
2 payment of a debt to a spouse, former spouse, or child
3 of the debtor, for alimony to, maintenance for, or sup-
4 port of such spouse or child, in connection with a sep-
5 aration agreement, divorce decree or other order of a
6 court of record, determination made in accordance
7 with State or territorial law by a governmental unit,
8 or property settlement agreement, but not to the ex-
9 tent that such debt—

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

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

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

1 (h) *CONFORMING AMENDMENTS*—Title 11 of the Unit-
2 *ed States Code is amended—*

3 (1) *in section 502(i) by striking “507(a)(7)” and*
4 *inserting “507(a)(8)”*,

5 (2) *in section 503(b)(1)(B)(i) by striking*
6 *“507(a)(7)” and inserting “507(a)(8)”*,

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

9 (4) *in section 724(b)(2) by striking “or*
10 *507(a)(6)” and inserting “507(a)(6), or 507(a)(7)”*,

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

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

15 (7) *in section 1129(a)(9)—*

16 (i) *in subparagraph (B) by striking “or*
17 *507(a)(6)” and inserting “, 507(a)(6), or*
18 *507(a)(7)”*, and

19 (ii) *in subparagraph (C) by striking*
20 *“507(a)(7)” and inserting “507(a)(8)”*.

21 **SEC. 305. INTEREST ON INTEREST.**

22 (a) *CHAPTER 11.—Section 1123 of title 11, United*
23 *States Code, is amended by adding at the end the following:*

24 “*(d) Notwithstanding subsection (a) of this section and*
25 *sections 506(b), 1129(a)(7), and 1129(b) of this title, if it*

1 *is proposed in a plan to cure a default the amount nec-*
2 *essary to cure the default shall be determined in accordance*
3 *with the underlying agreement and applicable*
4 *nonbankruptcy law.”.*

5 (b) *CHAPTER 12.—Section 1222 of title 11, United*
6 *States Code, is amended by adding at the end the following:*

7 “(d) *Notwithstanding subsection (b)(2) of this section*
8 *and sections 506(b) and 1225(a)(5) of this title, if it is pro-*
9 *posed in a plan to cure a default, the amount necessary*
10 *to cure the default, shall be determined in accordance with*
11 *the underlying agreement and applicable nonbankruptcy*
12 *law.”.*

13 (c) *CHAPTER 13.—Section 1322 of title 11, United*
14 *States Code, is amended by adding at the end the following:*

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

21 **SEC. 306. EXCEPTION TO DISCHARGE.**

22 *Section 523(a)(2)(C) of title 11, United States Code,*
23 *is amended—*

24 (1) *by striking “\$500” and inserting “\$1,000”,*

25 (2) *by striking “forty” and inserting “60”, and*

1 (3) by striking “twenty” and inserting “60”.

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

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

6 **SEC. 308. BANKRUPTCY PETITION PREPARERS.**

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

10 **“§ 110. Penalty for persons who negligently or fraudu-**
11 **lently prepare bankruptcy petitions**

12 “(a) In this section—

13 “(1) ‘bankruptcy petition preparer’ means a per-
14 son, other than an attorney or an employee of an at-
15 torney, who prepares for compensation a document
16 for filing; and

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

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

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

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

9 “(2) For purposes of this section, the identifying num-
10 ber of a bankruptcy petition preparer shall be the Social
11 Security account number of each individual who prepared
12 the document or assisted in its preparation.

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

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

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

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

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

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

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

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

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

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

24 “(2) The court shall disallow and order the immediate
25 turnover to the bankruptcy trustee of any fee referred to

1 *in paragraph (1) found to be in excess of the value of serv-*
2 *ices rendered for the documents prepared. An individual*
3 *debtor may exempt any funds so recovered under section*
4 *522(b).*

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

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

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

24 “(A) *the debtor’s actual damages;*

25 “(B) *the greater of—*

1 “(i) \$2,000; or

2 “(ii) twice the amount paid by the debtor to
3 the bankruptcy petition preparer for the prepar-
4 er’s services; and

5 “(C) reasonable attorneys’ fees and costs in mov-
6 ing for damages under this subsection.

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

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

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

23 “(i) a bankruptcy petition preparer has—

24 “(I) engaged in conduct in violation of this
25 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 from*
11 *engaging in such conduct.*

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

20 *“(3) The court shall award to a debtor, trustee, or cred-*
21 *itor that brings a successful action under this subsection*
22 *reasonable attorney’s fees and costs of the action, to be paid*
23 *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, Unit-*
4 *ed States Code, is amended by adding at the end the follow-*
5 *ing 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 associa-*
3 *tion 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 to*
12 *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 the*
23 *fixing of a consensual lien on any property or pro-*
24 *hibits avoidance of a consensual lien on property oth-*
25 *erwise 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 if*
3 *the lien is a nonpossessory, nonpurchase-money security in-*
4 *terest in implements, professional books, or tools of the trade*
5 *of the debtor or a dependent of the debtor or farm animals*
6 *or crops of the debtor or a dependent of the debtor to the*
7 *extent the value of such implements, professional books, tools*
8 *of the trade, animals, and crops exceeds \$5,000.”.*

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

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

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

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

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

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

5 **SEC. 312. BANKRUPTCY FRAUD.**

6 (a) *IN GENERAL.*—

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

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

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

13 “A person who—

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

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

23 “(3) knowingly and fraudulently makes a false
24 declaration, certificate, verification, or statement
25 under penalty of perjury as permitted under section

1 *1746 of title 28, in or in relation to any case under*
2 *title 11;*

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

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

12 *“(6) knowingly and fraudulently gives, offers, re-*
13 *ceives, or attempts to obtain any money or property,*
14 *remuneration, compensation, reward, advantage, or*
15 *promise thereof for acting or forbearing to act in any*
16 *case under title 11;*

17 *“(7) in a personal capacity or as an agent or of-*
18 *ficer of any person or corporation, in contemplation*
19 *of a case under title 11 by or against the person or*
20 *any other person or corporation, or with intent to de-*
21 *feat the provisions of title 11, knowingly and fraudu-*
22 *lently transfers or conceals any of his property or the*
23 *property of such other person or corporation;*

24 *“(8) after the filing of a case under title 11 or*
25 *in contemplation thereof, knowingly and fraudulently*

1 *conceals, destroys, mutilates, falsifies, or makes a false*
2 *entry in any recorded information (including books,*
3 *documents, records, and papers) relating to the prop-*
4 *erty or financial affairs of a debtor; or*

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

12 *shall be fined not more than \$5,000, imprisoned not more*
13 *than 5 years, or both.*

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

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

21 *“(b) PERSON TO WHOM SECTION APPLIES.—A person*
22 *described in this subsection is one who has access to prop-*
23 *erty or documents belonging to an estate by virtue of the*
24 *person’s participation in the administration of the estate*
25 *as a trustee, custodian, marshal, attorney, or other officer*

1 *of the court or as an agent, employee, or other person en-*
2 *gaged by such an officer to perform a service with respect*
3 *to the estate.*

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

5 *“A person who, being a custodian, trustee, marshal,*
6 *or other officer of the court—*

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

10 *“(2) knowingly refuses to permit a reasonable*
11 *opportunity for the inspection by parties in interest*
12 *of the documents and accounts relating to the affairs*
13 *of estates in the person’s charge by parties when di-*
14 *rected by the court to do so; or*

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

19 *shall be fined not more than \$5,000 and shall forfeit the*
20 *person’s office, which shall thereupon become vacant.”; and*

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

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

23 *“(a) DEFINITIONS.—In this section—*

24 *“ ‘bankruptcy petition preparer’ means a person,*
25 *other than the debtor’s attorney or an employee of*

1 *such an attorney, who prepares for compensation a*
2 *document for filing.*

3 *“‘document for filing’ means a petition or any*
4 *other document prepared for filing by a debtor in a*
5 *United States bankruptcy court or a United States*
6 *district court in connection with a case under this*
7 *title.*

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

15 **“§ 157. Bankruptcy fraud**

16 *“A person who, having devised or intending to devise*
17 *a scheme or artifice to defraud and for the purpose of exe-*
18 *cuting or concealing such a scheme or artifice or attempting*
19 *to do so—*

20 *“(1) files a petition under title 11;*

21 *“(2) files a document in a proceeding under title*
22 *11; or*

23 *“(3) makes a false or fraudulent representation,*
24 *claim, or promise concerning or in relation to a pro-*
25 *ceeding under title 11, at any time before or after the*

1 *filing of the petition, or in relation to a proceeding*
2 *falsely asserted to be pending under such title,*
3 *shall be fined under this title, imprisoned not more than*
4 *5 years, or both.”.*

5 (2) *TECHNICAL AMENDMENTS.—The chapter*
6 *analysis for chapter 9 of title 18, United States Code,*
7 *is amended—*

8 (A) *by amending the item relating to sec-*
9 *tion 153 to read as follows:*

“Sec. 153. Embezzlement against estate.”;

10 *and*

11 (B) *by adding at the end the following new*
12 *items:*

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

“Sec. 157. Bankruptcy fraud.”.

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

16 **SEC. 313. PROTECTION AGAINST DISCRIMINATORY TREAT-**
17 **MENT OF APPLICATIONS FOR STUDENT**
18 **LOANS.**

19 *Section 525 of title 11, United States Code, is amended*
20 *by adding at the end the following:*

21 *“(c)(1) A governmental unit that operates a student*
22 *grant or loan program and a person engaged in a business*
23 *that includes the making of loans guaranteed or insured*

1 *under a student loan program may not deny a grant, loan,*
2 *loan guarantee, or loan insurance to a person that is or*
3 *has been a debtor under this title or a bankrupt or debtor*
4 *under the Bankruptcy Act, or another person with whom*
5 *the debtor or bankrupt has been associated, because the debt-*
6 *or or bankrupt is or has been a debtor under this title or*
7 *a bankrupt or debtor under the Bankruptcy Act, has been*
8 *insolvent before the commencement of a case under this title*
9 *or during the pendency of the case but before the debtor is*
10 *granted or denied a discharge, or has not paid a debt that*
11 *is dischargeable in the case under this title or that was dis-*
12 *charged under the Bankruptcy Act.*

13 *“(2) In this section, ‘student loan program’ means the*
14 *program operated under part B, D, or E of title IV of the*
15 *Higher Education Act of 1965 or a similar program oper-*
16 *ated under State or local law.”.*

17 **TITLE IV—GOVERNMENTAL**
18 **BANKRUPTCY ISSUES**

19 **SEC. 401. EXCEPTION FROM AUTOMATIC STAY FOR POST-**
20 **PETITION PROPERTY TAXES.**

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

23 *“(18) under subsection (a) of the creation or per-*
24 *fection of a statutory lien for an ad valorem property*
25 *tax imposed by the District of Columbia, or a politi-*

1 *cal subdivision of a State, if such tax comes due after*
2 *the filing of the petition.”.*

3 **SEC. 402. MUNICIPAL BANKRUPTCY.**

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

8 **TITLE V—TECHNICAL**
9 **CORRECTIONS**

10 **SEC. 501. AMENDMENTS TO BANKRUPTCY DEFINITIONS, NE-**

11 **CESSITATED BY ENACTMENT OF PUBLIC LAW**

12 **101-647.**

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

17 *(1) by redesignating paragraph (3) as para-*
18 *graph (21B) and transferring such paragraph so as*
19 *to insert it after paragraph (21A),*

20 *(2) by redesignating paragraph (39) as para-*
21 *graph (51A) and transferring such paragraph so as*
22 *to insert it after paragraph (51),*

23 *(3) by redesignating paragraphs (54) through*
24 *(57), as so redesignated by section 2522(e) of Public*

1 *Law 101–647, as paragraphs (53A) through (53D),*
2 *respectively,*

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

7 *(5) by redesignating paragraph (57), as in effect*
8 *immediately before the enactment of Public Law 101–*
9 *647, as paragraph (39) and transferring such para-*
10 *graph so as to insert it after paragraph (38).*

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

16 *(A) in paragraph (6) by striking “section*
17 *761(9)” and inserting “section 761”,*

18 *(B) in paragraph (22) by striking “section*
19 *741(7)” and inserting “section 741”,*

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

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

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

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

6 (A) in paragraph (6)—

7 (i) by striking “section 761(4)” and insert-
8 ing “section 761”,

9 (ii) by striking “section 741(7)” and insert-
10 ing “section 741”,

11 (iii) by striking “section 101(34), 741(5), or
12 761(15)” and inserting “section 101, 741, or
13 761”, and

14 (iv) by striking “section 101(35) or 741(8)”
15 and inserting “section 101 or 741”, and

16 (B) in paragraph (7)—

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

19 (ii) by striking “section 741(8)” and insert-
20 ing “section 741”.

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

23 (A) by striking “section 557(b)(1)” and inserting
24 “section 557(b)”, and

1 (B) by striking “section 557(b)(2)” and inserting
2 “section 557(b)”.

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

5 (A) in subsection (e)—

6 (i) by striking “section 101(34), 741(5), or
7 761(15)” and inserting “section 101, 741, or
8 761”, and

9 (ii) by striking “section 101(35) or 741(8)”
10 and inserting “section 101 or 741”, and

11 (B) in subsection (f)—

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

14 (ii) by striking “section 741(8)” and insert-
15 ing “section 741”.

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

18 (A) in subparagraph (B)—

19 (i) by striking “section 101(34), 741(5) or
20 761(15)” and inserting “section 101, 741, or
21 761”, and

22 (ii) by striking “section 101(35) or 741(8)”
23 and inserting “section 101 or 741”, and

24 (B) in subparagraph (C)—

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

3 (ii) by striking “section 741(8)” and insert-
4 ing “section 741”.

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

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

11 (c) CONFORMING AMENDMENTS TO OTHER LAWS
12 BASED ON REDESIGNATED DEFINITIONS.—(1) Section
13 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C.
14 1787(c)(8)(D)) is amended—

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

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

19 (C) in clause (iv)(I) by striking “section
20 101(41)” and inserting “section 101”, and

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

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

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

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

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

7 (D) in clause (v)(I) by striking “section
8 101(41)” and inserting “section 101”, and

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

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

13 (1) in section 101—

14 (A) in paragraph (33)—

15 (i) in subparagraph (A) by striking
16 “(12 U.S.C. 1813(u))”, and

17 (ii) in subparagraph (B) by striking
18 “(12 U.S.C. 1786(r))”,

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

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

23 (D) in paragraph (48)—

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

25 and

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

2 (E) in paragraph (49)—

3 (i) in subparagraph (A)(xii)—

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

6 (II) by striking “(15 U.S.C.
7 77c(b))”, and

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

10 (F) in paragraph (53D), as so redesignated
11 by subsection (a), by striking the period at the
12 end and inserting a semicolon,

13 (2) in section 109(b)(2) by striking “(12 U.S.C.
14 1813(h))”,

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

17 (4) in section 346—

18 (A) in subsection (a) by striking “Internal
19 Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and
20 inserting “Internal Revenue Code of 1986”, and

21 (B) in subsection (g)(1)(C) by striking “In-
22 ternal Revenue Code of 1954 (26 U.S.C. 371)”
23 and inserting “Internal Revenue Code of 1986”,

24 (5) in section 348—

1 (A) in subsection (b) by striking “1301(a),
2 1305(a), 1201(a), 1221, and 1228(a)” and in-
3 serting “1201(a), 1221, 1228(a), 1301(a), and
4 1305(a)”, and

5 (B) in subsections (b), (c), (d), and (e) by
6 striking “1307, or 1208” each place it appears
7 and inserting “1208, or 1307”,

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

10 (7) in section 362—

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

13 (B) in subsection (b)—

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

16 (ii) in paragraph (10) by striking “or”
17 at the end,

18 (iii) in paragraph (12)—

19 (I) by striking “the Ship Mort-
20 gage Act, 1920 (46 App. U.S.C. 911 et
21 seq.)” and inserting “section 31325 of
22 title 46”, and

23 (II) by striking “(46 App. U.S.C.
24 1117 and 1271 et seq., respectively)”,

25 (iv) in paragraph (13)—

- 1 (I) by striking “the Ship Mort-
- 2 gage Act, 1920 (46 App. U.S.C. 911 et
- 3 seq.)” each place it appears and insert-
- 4 ing “section 31325 of title 46”,
- 5 (II) by striking “(46 App. U.S.C.
- 6 1117 and 1271 et seq., respectively)”,
- 7 and
- 8 (III) by striking “or” at the end,
- 9 (v) in paragraph (15), as added by
- 10 Public Law 101–508, by striking “or” at
- 11 the end,
- 12 (vi) in paragraph (16), as added by
- 13 Public Law 101–508—
- 14 (I) by striking “(20 U.S.C. 1001
- 15 et seq.)”, and
- 16 (II) by striking the period at the
- 17 end and inserting a semicolon, and
- 18 (vii) in paragraph (14), as added by
- 19 Public Law 101–311—
- 20 (I) by striking the period at the
- 21 end and inserting “; or”,
- 22 (II) by redesignating such para-
- 23 graph as paragraph (17), and

1 (III) by transferring such para-
2 graph so as to insert such paragraph
3 after paragraph (16),

4 (8) in section 363—

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

7 (B) in subsection (c)(1) by striking “1304,
8 1203, or 1204” and inserting “1203, 1204, or
9 1304”,

10 (9) in section 364—

11 (A) in subsection (a) by striking “1304,
12 1203, or 1204” and inserting “1203, 1204, or
13 1304”, and

14 (B) in subsection (f)—

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

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

18 (10) in section 365—

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

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

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

3 (D) in subsection (o) by striking “the Fed-
4 eral” the first place it appears and all that fol-
5 lows through “successors,” and inserting “a Fed-
6 eral depository institutions regulatory agency (or
7 predecessor to such agency)”, and

8 (E) by striking subsection (p),
9 (11) in section 507, as amended by section 304—

10 (A) in subsection (a)(9) by striking “the
11 Federal” the first place it appears and all that
12 follows through “successors,” and inserting “a
13 Federal depository institutions regulatory agency
14 (or predecessor to such agency)”, and

15 (B) in subsection (d) by striking “or (a)(6)”
16 and inserting “(a)(6), (a)(7), (a)(8), or (a)(9)”,
17 (12) in section 522—

18 (A) in subsection (b) by striking “Bank-
19 ruptcy Rules” and inserting “Federal Rules of
20 Bankruptcy Procedure”, and

21 (B) in subsection (d)(10)(E)(iii)—

22 (i) by striking “408, or 409” the first
23 place it appears and inserting “or 408”,
24 and

- 1 (ii) by striking “Internal Revenue
2 Code of 1954 (26 U.S.C. 401(a), 403(a),
3 403(b), 408, or 409)” and inserting “Inter-
4 nal Revenue Code of 1986”,
- 5 (13) in section 523—
- 6 (A) in subsection (a)—
- 7 (i) by striking “1141,,” and inserting
8 “1141,,” and
- 9 (ii) in paragraph (2)(C) by striking
10 “(15 U.S.C. 1601 et seq.)”,
- 11 (B) in subsection (b)—
- 12 (i) by striking “(20 U.S.C. 1087-3)”,
13 and
- 14 (ii) by striking “(42 U.S.C. 294f)”,
15 and
- 16 (C) in subsection (e) by striking “depository
17 institution or insured credit union” and insert-
18 ing “insured depository institution”,
- 19 (14) in section 524—
- 20 (A) in subsection (a)(3) by striking
21 “1328(c)(1)” and inserting “1328(a)(1)”,
- 22 (B) in subsection (c)(4) by striking
23 “recission” and inserting “rescission”, and
- 24 (C) in subsection (d)(1)(B)(ii) by adding
25 “and” at the end,

1 (15) in section 525(a)—

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

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

4 (C) by striking “(57 Stat. 422; 7 U.S.C.
5 204)”,

6 (16) in section 542(e) by striking “to to” and in-
7 serting “to”,

8 (17) in section 543(d)(1) by striking “section,”
9 and inserting “section”,

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

13 (19) in section 553—

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

16 (B) in subsection (b)(1) by striking
17 “362(b)(14),,” and inserting “362(b)(14),”,

18 (20) in section 555 by striking “(15 U.S.C.
19 78aaa et seq.)”,

20 (21) in section 559 by striking “(15 U.S.C.
21 78aaa et seq.)”,

22 (22) in section 706(a) by striking “1307, or
23 1208” and inserting “1208, or 1307”,

1 (23) in section 724(d) by striking “Internal Rev-
2 enue Code of 1954 (26 U.S.C. 6323)” and inserting
3 “Internal Revenue Code of 1986”,

4 (24) in section 726(b)—

5 (A) inserting a comma after “section 1112”,

6 and

7 (B) by inserting “1009,” after “chapter
8 under section”,

9 (25) in section 741(4)(A)(iii) by striking “(15
10 U.S.C. 78a et seq.)”,

11 (26) in section 742 by striking “(15 U.S.C.
12 78aaa et seq.)”,

13 (27) in section 743 by striking “342(a)” and in-
14 serting “342”,

15 (28) in section 745(c) by striking “Internal Rev-
16 enue Code of 1954 (26 U.S.C. 1 et seq.)” and insert-
17 ing “Internal Revenue Code of 1986”,

18 (29) in section 761—

19 (A) in paragraph (1) by striking “(7 U.S.C.
20 1 et seq.)”,

21 (B) in paragraph (5) by striking “(7 U.S.C.
22 6c(b))”, and

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

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

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

5 (32) in section 1129—

6 (A) in subsection (a)—

7 (i) in paragraph (4) by striking the
8 semicolon at the end and inserting a period,
9 and

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

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

14 (33) in section 1145—

15 (A) in subsection (a)—

16 (i) by striking “does” and inserting
17 “do”,

18 (ii) by striking “(15 U.S.C. 77e)”, and

19 (iii) in paragraph (3)(B)(i) by strik-
20 ing “(15 U.S.C. 78m or 78o(d))”,

21 (B) in subsection (b)(1) by striking “(15
22 U.S.C. 77b(11))”, and

23 (C) in subsection (d) by striking “(15
24 U.S.C. 77aaa et seq.)”,

1 (34) in section 1166(2) by striking “(45 U.S.C.
2 791(b))”;

3 (35) in section 1167—

4 (A) by striking “(45 U.S.C. 151 et seq.)”,
5 and

6 (B) by striking “(45 U.S.C. 156)”,

7 (36) in section 1226(b)(2)—

8 (A) by striking “1202(d)” and inserting
9 “1202(c)”, and

10 (B) by striking “1202(e)” and inserting
11 “1202(d)”,

12 (37) in section 1302(b)(3) by striking “and” at
13 the end, and

14 (38) in section 1328(a)—

15 (A) in paragraph (2) by striking “(5) or
16 (8)” and inserting “(5), (8), or (9)”, and

17 (B) by striking the last paragraph (3), and

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

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

21 Section 586(a)(3) of title 28, United States Code, is
22 amended in the matter preceding subparagraph (A) by in-
23 serting “12,” after “11,”.

1 **TITLE VI—BANKRUPTCY REVIEW**
2 **COMMISSION**

3 **SEC. 601. SHORT TITLE.**

4 *This title may be cited as the “National Bankruptcy*
5 *Review Commission Act”.*

6 **SEC. 602. ESTABLISHMENT.**

7 *There is established the National Bankruptcy Review*
8 *Commission (referred to as the “Commission”).*

9 **SEC. 603. DUTIES OF THE COMMISSION.**

10 *The duties of the Commission are—*

11 *(1) to investigate and study issues and problems*
12 *relating to title 11, United States Code (commonly*
13 *known as the “Bankruptcy Code”);*

14 *(2) to evaluate the advisability of proposals and*
15 *current arrangements with respect to such issues and*
16 *problems;*

17 *(3) to prepare and submit to the Congress, the*
18 *Chief Justice, and the President a report in accord-*
19 *ance with section 608; and*

20 *(4) to solicit divergent views of all parties con-*
21 *cerned with the operation of the bankruptcy system.*

22 **SEC. 604. MEMBERSHIP.**

23 *(a) NUMBER AND APPOINTMENT.—The Commission*
24 *shall be composed of 9 members as follows:*

1 (1) *Three members appointed by the President, 1*
2 *of whom shall be designated as chairman by the*
3 *President.*

4 (2) *One member shall be appointed by the Presi-*
5 *dent pro tempore of the Senate.*

6 (3) *One member shall be appointed by the Mi-*
7 *nority Leader of the Senate.*

8 (4) *One member shall be appointed by the*
9 *Speaker of the House of Representatives.*

10 (5) *One member shall be appointed by the Mi-*
11 *nority Leader of the House of Representatives.*

12 (6) *Two members appointed by the Chief Justice.*
13 *Members of Congress, and officers and employees of the exec-*
14 *utive branch, shall be ineligible for appointment to the*
15 *Commission.*

16 (b) *TERM.*—*Members of the Commission shall be ap-*
17 *pointed for the life of the Commission.*

18 (c) *QUORUM.*—*Five members of the Commission shall*
19 *constitute a quorum, but a lesser number may conduct*
20 *meetings.*

21 (d) *APPOINTMENT DEADLINE.*—*The first appoint-*
22 *ments made under subsection (a) shall be made within 60*
23 *days after the date of enactment of this Act.*

1 (e) *FIRST MEETING.*—*The first meeting of the Com-*
2 *mission shall be called by the chairman and shall be held*
3 *within 210 days after the date of enactment of this Act.*

4 (f) *VACANCY.*—*A vacancy on the Commission resulting*
5 *from the death or resignation of a member shall not affect*
6 *its powers and shall be filled in the same manner in which*
7 *the original appointment was made.*

8 (g) *CONTINUATION OF MEMBERSHIP.*—*If any member*
9 *of the Commission who was appointed to the Commission*
10 *as an officer or employee of a government leaves that office,*
11 *or if any member of the Commission who was not appointed*
12 *in such a capacity becomes an officer or employee of a gov-*
13 *ernment, the member may continue as a member of the*
14 *Commission for not longer than the 90-day period begin-*
15 *ning on the date the member leaves that office or becomes*
16 *such an officer or employee, as the case may be.*

17 (h) *CONSULTATION PRIOR TO APPOINTMENT.*—*Prior*
18 *to the appointment of members of the Commission, the*
19 *President, the President pro tempore of the Senate, the*
20 *Speaker of the House of Representatives, and the Chief Jus-*
21 *tice shall consult with each other to ensure fair and equi-*
22 *table representation of various points of view in the Com-*
23 *mission and its staff.*

24 **SEC. 605. COMPENSATION OF THE COMMISSION.**

25 (a) *PAY.*—

1 (1) *NONGOVERNMENT EMPLOYEES.*—Each mem-
2 ber of the Commission who is not otherwise employed
3 by the United States Government shall be entitled to
4 receive the daily equivalent of the annual rate of basic
5 pay payable for level IV of the Executive Schedule
6 under section 5315 of title 5, United States Code, for
7 each day (including travel time) during which he or
8 she is engaged in the actual performance of duties as
9 a member of the Commission.

10 (2) *GOVERNMENT EMPLOYEES.*—A member of the
11 Commission who is an officer or employee of the
12 United States Government shall serve without addi-
13 tional compensation.

14 (b) *TRAVEL.*—Members of the Commission shall be re-
15 imbursed for travel, subsistence, and other necessary ex-
16 penses incurred by them in the performance of their duties.

17 **SEC. 606. STAFF OF COMMISSION; EXPERTS AND CONSULT-**
18 **ANTS.**

19 (a) *STAFF.*—

20 (1) *APPOINTMENT.*—The chairman of the Com-
21 mission may, without regard to the civil service laws
22 and regulations, appoint, and terminate an executive
23 director and such other personnel as are necessary to
24 enable the Commission to perform its duties. The em-

1 *ployment of an executive director shall be subject to*
2 *confirmation by the Commission.*

3 (2) *COMPENSATION.*—*The chairman of the Com-*
4 *mission may fix the compensation of the executive di-*
5 *rector and other personnel without regard to the pro-*
6 *visions of chapter 51 and subchapter II of chapter 53*
7 *of title 5, United States Code, relating to classifica-*
8 *tion of positions and General Schedule pay rates, ex-*
9 *cept that the rate of pay for the executive director and*
10 *other personnel may not exceed the rate payable for*
11 *level V of the Executive Schedule under section 5316*
12 *of that title.*

13 (b) *EXPERTS AND CONSULTANTS.*—*The Commission*
14 *may procure temporary and intermittent services of experts*
15 *and consultants under section 3109(b) of title 5, United*
16 *States Code.*

17 **SEC. 607. POWERS OF THE COMMISSION.**

18 (a) *HEARINGS AND MEETINGS.*—*The Commission or,*
19 *on authorization of the Commission, a member of the Com-*
20 *mission, may hold such hearings, sit and act at such time*
21 *and places, take such testimony, and receive such evidence,*
22 *as the Commission considers appropriate. The Commission*
23 *or a member of the Commission may administer oaths or*
24 *affirmations to witnesses appearing before it.*

1 (b) *OFFICIAL DATA.*—*The Commission may secure di-*
2 *rectly from any Federal department, agency, or court infor-*
3 *mation necessary to enable it to carry out this title. Upon*
4 *request of the chairman of the Commission, the head of a*
5 *Federal department or agency or chief judge of a Federal*
6 *court shall furnish such information, consistent with law,*
7 *to the Commission.*

8 (c) *FACILITIES AND SUPPORT SERVICES.*—*The Ad-*
9 *ministrator of General Services shall provide to the Com-*
10 *mission on a reimbursable basis such facilities and support*
11 *services as the Commission may request. Upon request of*
12 *the Commission, the head of a Federal department or agen-*
13 *cy may make any of the facilities or services of the agency*
14 *available to the Commission to assist the Commission in*
15 *carrying out its duties under this title.*

16 (d) *EXPENDITURES AND CONTRACTS.*—*The Commis-*
17 *sion or, on authorization of the Commission, a member of*
18 *the Commission may make expenditures and enter into con-*
19 *tracts for the procurement of such supplies, services, and*
20 *property as the Commission or member considers appro-*
21 *priate for the purposes of carrying out the duties of the*
22 *Commission. Such expenditures and contracts may be made*
23 *only to such extent or in such amounts as are provided in*
24 *appropriation Acts.*

1 (e) *MAILS.*—*The Commission may use the United*
2 *States mails in the same manner and under the same condi-*
3 *tions as other Federal departments and agencies of the*
4 *United States.*

5 (f) *GIFTS.*—*The Commission may accept, use, and dis-*
6 *pose of gifts or donations of services or property.*

7 ***SEC. 608. REPORT.***

8 *The Commission shall submit to the Congress, the Chief*
9 *Justice, and the President a report not later than 2 years*
10 *after the date of its first meeting. The report shall contain*
11 *a detailed statement of the findings and conclusions of the*
12 *Commission, together with its recommendations for such*
13 *legislative or administrative action as it considers appro-*
14 *priate.*

15 ***SEC. 609. TERMINATION.***

16 *The Commission shall cease to exist on the date that*
17 *is 30 days after the date on which it submits its report*
18 *under section 608.*

19 ***SEC. 610. AUTHORIZATION OF APPROPRIATIONS.***

20 *There is authorized to be appropriated \$1,500,000 to*
21 *carry out this title.*

1 **TITLE VII—SEVERABILITY; EF-**
2 **FECTIVE DATE; APPLICATION**
3 **OF AMENDMENTS.**

4 **SEC. 701. SEVERABILITY.**

5 *If any provision of this Act or amendment made by*
6 *this Act or the application of such provision or amendment*
7 *to any person or circumstance is held to be unconstitu-*
8 *tional, the remaining provisions of and amendments made*
9 *by this Act and the application of such other provisions*
10 *and amendments to any person or circumstance shall not*
11 *be affected thereby.*

12 **SEC. 702. EFFECTIVE DATE; APPLICATION OF AMEND-**
13 **MENTS.**

14 *(a) EFFECTIVE DATE.—Except as provided in sub-*
15 *section (b), this Act shall take effect on the date of the enact-*
16 *ment of this Act.*

17 *(b) APPLICATION OF AMENDMENTS.—(1) Except as*
18 *provided in paragraph (2), the amendments made by this*
19 *Act shall not apply with respect to cases commenced under*
20 *title 11 of the United States Code before the date of the en-*
21 *actment of this Act.*

22 *(2)(A) Paragraph (1) shall not apply with respect to*
23 *the amendment made by section 111.*

24 *(B) The amendments made by sections 113 and 117*
25 *shall apply with respect to cases commenced under title 11*

1 *of the United States Code before, on, and after the date of*
2 *the enactment of this Act.*

3 *(C) Section 1110 of title 11, United States Code, as*
4 *amended by section 201 of this Act, shall apply with respect*
5 *to any lease, as defined in such section 1110(c) as so amend-*
6 *ed, entered into in connection with a settlement of any pro-*
7 *ceeding in any case pending under title 11 of the United*
8 *States Code on the date of the enactment of this Act.*

9 *(D) The amendments made by section 305 shall apply*
10 *only to agreements entered into after the date of enactment*
11 *of this Act.*