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# 2022 Annual Spring Meeting

## Legislative Update

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# AMERICAN BANKRUPTCY INSTITUTE

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*A Voluntary Organization Composed of Persons Interested in the  
Improvement of the Bankruptcy Code and Its Administration*

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March 15, 2022

Re: Revisions to Chapter 15 of the Bankruptcy Code

Dear Reps. Cicilline and Buck and Sens. Durbin and Grassley:

The National Bankruptcy Conference ("NBC") is a voluntary, non-partisan, not-for-profit organization composed of about 60 of the nation's leading bankruptcy judges, professors and practitioners. It has provided advice to Congress on bankruptcy legislation for nearly 80 years. I enclose a Fact Sheet which provides further information about the NBC. This letter updates a January 27, 2016 letter by adding more current information and authorities.

Chapter 15, Ancillary and Other Cross-Border Cases, was added to the Bankruptcy Code by section 801 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.<sup>1</sup> Chapter 15 is the United States embodiment and enactment of the Model Law on Cross-Border Insolvency ("Model Law") promulgated by the United Nations Commission on International Trade Law ("UNCITRAL"). The United States and fifty countries (plus two overseas

<sup>1</sup>House Report No. 109-31, Pt. 1, 109<sup>th</sup> Cong., 1<sup>st</sup> Sess. 105, *et seq* (2005) ("H. R. Rep.").

territories of the United Kingdom and two jurisdictions within the United Arab Emirates) have adopted the Model Law.<sup>2</sup> NBC

Conferees were actively involved in the development and drafting of the Model Law as members (International Insolvency Institute) and heads (United States and the International Bar Association) of delegations to UNCITRAL and then assisted Congress in drafting chapter 15.<sup>3</sup> As experience has developed in cases under chapter 15, the NBC has identified a number of revisions that are necessary or desirable for chapter 15 to fulfill its purposes, as set forth in section 1501(a), and to function and be interpreted in light of its international origin and consistently with the application of similar statutes adopted by foreign jurisdictions, as set forth in section 1508.

In 2019, we submitted a letter to Congress containing eleven proposed revisions. At the suggestion of then legislative staff, we circulated that letter to individuals and organizations with interest and expertise in cross-border insolvency. Three of the proposed revisions were opposed by one or more of the reviewers and the NBC decided to proceed with only the unopposed revisions discussed below. A chart of the comments from the reviewing parties is attached.

**Amendments to clarify the applicability of sections of the Bankruptcy Code to chapter 15 cases**

**1. 11 U.S.C. § 103(a)**

The rigid, ostensibly “plain meaning” interpretational approach taken by the Second Circuit in the *Barnet* decision discussed below raises the possibility that section 103 might be interpreted to prevent the application of several Bankruptcy Code sections that either apply by their terms in chapter 15 or are referenced in chapter 15 but are not specified in section 103(a). Section 103(a) provides:

**11 U.S.C. § 103 Applicability of chapters**

- (a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, 12, or 13 of this title, and this chapter, sections 307, 362(o), 555 through 557, and 559 through 562 apply in a case under chapter 15.

Sections 305 and 306, as they now exist and as they would be amended by changes recommended below, apply to chapter 15 by their terms. They should be added to section 103(a).

Additional sections of the Bankruptcy Code apply in cases under chapter 15 because they are specifically referenced in chapter 15. Section 1502(c) refers to sections 109(b) and (e) to exclude

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<sup>2</sup>See

[http://www.uncitral.org/uncitral/en/uncitral\\_texts/insolvency/1997Model\\_status.html](http://www.uncitral.org/uncitral/en/uncitral_texts/insolvency/1997Model_status.html).

<sup>3</sup>Conferee Professor Jay L. Westbrook was a head of the United States delegation to UNCITRAL Working Group V (Insolvency) while Conferee Daniel M. Glosband was the IBA’s lead delegate. They also led a consulting group organized by the United States Department of State in drafting the legislation that was enacted by Congress as chapter 15.

entities identified in those sections from the scope of chapter 15. Section 1520 applies (with limitations) sections 361, 362, 363, 549 and 552.<sup>4</sup> We recommend the following revisions to address this problem:

**11 U.S.C. § 103. Applicability of chapters**

- (a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, 12, or 13 of this title, ~~and this.~~ This chapter, sections **305, 306**, 307, 362(o), 555, **556**, through 557, and 559, **560, 561**, and through 562 of this title, **and any section of this title specifically made applicable by a section of chapter 15** apply in a case under chapter 15.

**2. 11 U.S.C. § 103(k)**

Section 103(k) identifies sections of chapter 15 that apply (a) in all cases under title 11 and (b) in situations when no case under title 11 is pending. It was intended to identify sections of chapter 15 that would apply even if there were no chapter 15 case but, in retrospect, it was not sufficiently comprehensive. Section 103(k) currently states:

**11 U.S.C. § 103 - Applicability of chapters**

- (k) Chapter 15 applies only in a case under such chapter, except that—  
 (1) sections 1505, 1513, and 1514 apply in all cases under this title; and  
 (2) section 1509 applies whether or not a case under this title is pending.

The sections currently specified in section 103(k)(1) deal with authorization of a trustee or other entity to act in a foreign country (§ 1505), the rights of foreign creditors to participate in a case under title 11 (§ 1513) and notifications to foreign creditors concerning a case under title 11 (§ 1514). The section currently specified in section 103(k)(2) deals with access to courts in the United States by foreign representatives (§ 1509).

In addition to sections 1505, 1513 and 1514, sections 1511, 1523, 1531 and 1532 should apply to all cases under title 11 while section 1510 should apply generally, regardless of whether there is a case pending under title 11. These sections would appear to apply beyond chapter 15 based on their language and function, but they are not referenced in 11 U.S.C. § 103(k).

Section 1510, Limited jurisdiction, provides: “The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.” The provision was intended to protect against an extension of jurisdiction “beyond the boundaries of the case and any related actions the foreign representative may take ....”<sup>5</sup>

<sup>4</sup> While section 1523 gives a foreign representative the power to initiate avoidance actions in a case concerning the debtor under another chapter of the Bankruptcy Code and references sections 522, 544, 545, 547, 548, 550, 553 and 724(a), those sections only apply in cases under chapters other than chapter 15. Consequently, while mentioned in chapter 15, they do not need to be added to the list of sections that apply in a chapter 15 case.

<sup>5</sup> H.R. Rep. at 111.

Section 1511, Commencement of case under section 301, 302 or 303, empowers a foreign representative, upon recognition, to commence a case under other chapters of title 11. It must necessarily apply to the case commencement procedures for those chapters. For example, section 301 refers to a voluntary case under a chapter being commenced by an entity that may be a debtor under that chapter and makes no reference to the foreign representative of a recognized foreign main proceeding who may file such a petition by virtue of section 1511.<sup>6</sup>

Section 1531, Presumption of insolvency based on recognition of a foreign main proceeding, literally creates this presumption for the purposes of an involuntary petition filed under section 303 and must apply in such a case.

Section 1532, Rule of payment in concurrent proceedings, replaced former section 508(a) and was intended to apply generally, regardless of whether there is a chapter 15 proceeding.<sup>7</sup> The language follows the Model Law and is designed “to avoid situations in which a creditor might obtain more favorable treatment than the other creditors of the same class by obtaining payment of the same claim in different jurisdictions.”<sup>8</sup>

While the applicability of these sections to other chapters of title 11 (or beyond, in the case of section 1510) may appear self-evident, in light of decisions in cases that apply the language of chapter 15 and related provisions more narrowly and literally than contemplated by section 1508, clarifying the statutory language to avoid potential misunderstanding would be prudent. The NBC recommends the following revisions:

- (k) Chapter 15 applies only in a case under such chapter, except that—
  - (1) sections 1505, **1511**, 1513, ~~and 1514~~, **1523, 1531, and 1532** apply in all cases under this title; and
  - (2) ~~section 1509 applies~~ **sections 1509 and 1510 apply** whether or not a case under this title is pending.

#### **Amendment related to eligibility of a foreign proceeding for recognition under chapter 15**

### **3. 11 U.S.C. § 109(a)**

In an appeal certified directly from the bankruptcy court in *Drawbridge Special Opportunities Fund, LP v. Barnet (In re Barnet)*, 737 F. 3d 238 (2d Cir. 2013), the Second Circuit ruled that section 109(a) applied to a petition for recognition of a foreign proceeding and remanded the case to the bankruptcy court because the foreign representatives had not proved that the debtor satisfied the requirements of section 109(a). In the court’s view:

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<sup>6</sup> *Id.*

<sup>7</sup> 11 U.S.C. § 1532: “Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.”

<sup>8</sup> Guide to Enactment and Interpretation of the UNCITRAL Model Law, ¶ 239, available at [http://www.uncitral.org/uncitral/en/uncitral\\_texts/insolvency/1997Model.html](http://www.uncitral.org/uncitral/en/uncitral_texts/insolvency/1997Model.html).

Section 103(a) makes all of Chapter 1 applicable to Chapter 15. Section 109(a)—within Chapter 1—creates a requirement that must be met by any debtor. Chapter 15 governs the recognition of foreign proceedings, which are defined as proceedings in which “the assets and affairs of the debtor are subject to control or supervision by a foreign court.” 11 U.S.C. § 101(23). The debtor that is the subject of the foreign proceeding, therefore, must meet the requirements of Section 109(a) before a bankruptcy court may grant recognition of the foreign proceeding.<sup>9</sup>

Section 109(a) provides:

**11 U.S.C. § 109 - Who may be a debtor**

(a) Notwithstanding any other provision of this section, only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

After the *Barnet* decision, the section 109(a) requirement has been regularly satisfied by the transfer of a small amount of the foreign debtor’s property to the United States, usually the establishment of a funded retainer account, as an incidental step in the commencement of a chapter 15 case.<sup>10</sup> On a second petition for recognition of the Australian liquidation of Octaviar Administration Pty Ltd., filed by Ms. Barnet after the remand, the bankruptcy court granted recognition to the foreign proceeding, finding that causes of action asserted by the foreign representatives and \$50,000 held by their U.S. counsel in a retainer account each constituted “property in the United States” for purposes of section 109(a).<sup>11</sup> Bankruptcy Judges in Delaware and Florida rejected the Second Circuit’s *Barnet* ruling and the Delaware judge predicted that the Third Circuit would also reject it.<sup>12</sup> A California bankruptcy judge applied section 109(a) to a

<sup>9</sup> See Section 1, above, for the text of § 103(a).

<sup>10</sup> See, e.g., *In re The Cash Store Financial Services Inc.*, Case No. 15-12813, Docket No. 1-1, ¶ 4 (Bankr. S.D.N.Y. October 16, 2015). (“CSF is eligible to be a debtor under chapter 15 pursuant to sections 109(a) and 1501(b) of the Bankruptcy Code. CSF has a USD 50,000 retainer held in the United States by Conway Mackenzie, Inc. since 2014, and a retainer held in the United States by Rothschild Inc. since 2014, the balance of which is USD 21,532.09.”); see also *In re Berau Capital Resources Pte Ltd*, 2015 WL 6507871 (Bankr. S.D.N.Y. 2015) (holding that each of funds in a retainer account and contract rights under a New York law-governed indenture constitute property sufficient to satisfy § 109(a)); *In re B.C.I. Finance Pty Limited*, 583 B.R. 288 (Bankr. S.D.N.Y. 2018) (finding that \$1,250 in a retainer account suffices to satisfy § 109(a)).

<sup>11</sup> *In re Octaviar Administration Pty Ltd (Debtor in a Foreign Proceeding)*, 511 B.R. 361 at 372-373 (Bankr. S.D.N.Y. June 19, 2014), citing *In re Cenargo Int’l PLC*, 294 B.R. 571, 603 (Bankr. S.D.N.Y. 2003); *In re Yukos Oil Co.*, 321 B.R. 396, 401-403 (Bankr. S.D. Tex. 2005); *In re Global Ocean Carriers Ltd.*, 251 B.R. 31, 39 (Bankr. D. Del 2000). See also *In re Suntech Power Holdings Co., Ltd.*, 520 B.R. 399 (Bankr. S.D.N.Y. Nov. 17, 2014). A number of subsequent cases have found a retainer account to be sufficient to satisfy the §109(a) requirement including *In re B.C.I. Finances Pty Limited*, 583 B.R. 288 (Bankr. S.D.N.Y. 2018) where the court ruled that each of \$1,250 retainer account and causes of action (for breach of fiduciary duty) satisfied § 109(a).

<sup>12</sup> *In re Bemarmara Consulting A.S.*, Case No. 13-13037 (Bankr. D. Del. Dec. 17, 2013); *In re Al Zawawi*, 634 B.R. 11 (Bankr. M.D. Fla. 2021 (“this Court believes the Eleventh Circuit would

recognition petition and then found that a retainer account was not sufficient to satisfy the section 109(a) property requirement. On appeal, the District Court, affirmed the applicability of section 109(a) but suggested that the retainer account should satisfy it.<sup>13</sup> Nevertheless, the contrived property transfer solely to satisfy section 109(a) exposes the recognition petition to a challenge that it was not filed in good faith or was “manifestly contrary to public policy”. Conversely, by creating an artificial but permeable obstacle to recognition, the ruling inadvertently invites venue shopping based on the newly-minted “principal assets.”<sup>14</sup>

*Barnet* is wrong; only the requirements specified in section 1517 (Order granting recognition) must be satisfied for recognition. Two Conferees who were actively involved in drafting both the Model Law and chapter 15 wrote a long article explaining in detail why *Barnet* is wrong.<sup>15</sup> In sum, section 1517 focuses on eligibility of the foreign proceeding and foreign representative, not the debtor, and contains no debtor-eligibility requirements.

The Second Circuit essentially invited Congress to revisit the drafting of section 109(a) in the last sentence of the *Barnet* opinion: “We direct the Clerk of Court to forward copies of this opinion to Congress following the specified protocol adopted by the Judicial Conference.”<sup>16</sup>

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likely disagree with the *Barnet* holding”); *In re MMX Sudeste Mineracao S.A.* (Bankr. D.D. Fla. Nov. 1, 2017 (“I reject the holding of the Second Circuit in drawbridge Special Opportunities Fund vs. Barnet...and agree with the majority view of commentators and courts that find that 109 does not apply to a Chapter.” Transcript of 11/1/17 Hearing, p.5, Lines 21-24); appeal dismissed for lack of jurisdiction, U.S.D.C.S.D. Fla., No. 17-24308-Civ-Scola, Apr. 3, 2018).

<sup>13</sup> *In re Forge Group Power Pty Ltd.*, Case No. 17-300008 (Bankr. N.D. Cal. Mar. 22, 2017); 2018 WL 827913 (N.D. Cal. Feb. 12, 2018).

<sup>14</sup> See 28 U.S.C. § 1410(a). The *Suntech* case, *supra*, is an exemplar of all that is bad about the *Barnet* ruling. (“Focusing on venue rather than eligibility, Solyndra nevertheless contends that the JPLs opened the BONY account to manipulate the placement of the case in this Court rather than in the Northern District of California where the Debtor allegedly had its principal place of business in the United States at the time the JPLs filed the chapter 15 petition .... Solyndra argues that the JPLs’ conduct was somehow improper, but I disagree. Interpreting the Bankruptcy Code to prevent an ineligible foreign debtor from establishing eligibility to support needed chapter 15 relief will contravene the purposes of the statute to provide legal certainty, maximize value, protect creditors and other parties in interests and rescue financially troubled businesses. See 11 U.S.C. § 1501(a).”) 520 B.R. at \*412-\*413.

<sup>15</sup> **Chapter 15 Recognition in the United States: Is a Debtor “Presence” Required?**, Int. Insolv. Rev., Vol. 24:28-56 (2015). Among other things, the *Barnet* opinion completely ignores section 1508, which dictates that courts shall take an international perspective in interpreting chapter 15 and look to the UNCITRAL Guide to Enactment for guidance. The Guide makes clear that there are no debtor-eligibility requirements for recognition (“In principle, the Model Law was formulated to apply to any proceeding that meets the requirements of article 2, subparagraph (a), independently of the nature of the debtor or its particular status under national law.”). UNCITRAL Model Law on Cross-Border Insolvency, Guide to Enactment and Interpretation, 55.

<sup>16</sup> *Barnet*, *supra*, 737 F.3d at \*251.

Amending the statute to reverse *Barnet* and preclude other courts from making the same mistake should be relatively easy.

We propose the following revision to section 103(a) in addition to the revisions to that section proposed in Part 1 of this letter: **11 U.S.C. § 103. Applicability of chapters**

(a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, 12, or 13 of this title, ~~and this.~~ **This chapter, except for section 109(a) which does not apply in a case under chapter 15, sections 305, 306, 307, 362(o), 555, 556, through 557, and 559, 560, 561, and through 562 of this title, and any section of this title specifically made applicable by a section of chapter 15** apply in a case under chapter 15.

**Amendment to repeal a provision made redundant by enactment of a similar provision in chapter 15**

**4. 11 U.S.C. § 303**

Prior to BAPCPA, section 303(b)(4) granted authority to a foreign representative to file an involuntary petition:

**11 U.S.C. § 303 - Involuntary cases**

- (b) An involuntary case against a person is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title—...
  - (4) by a foreign representative of the estate in a foreign proceeding concerning such person.

Section 303(b)(4) was not amended by BAPCPA despite the enactment of section 1511, which provides as follows:

**11 U.S.C. § 1511 - Commencement of case under section 301, 302, or 303**

- (a) Upon recognition, a foreign representative may commence—
  - (1) an involuntary case under section 303; or
  - (2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

Consequently, the “upon recognition” pre-condition to the filing of an involuntary petition by a foreign representative was not interpolated into section 303, creating an internal inconsistency in the statute. This inconsistency was noted by the late Judge Lifland in his decision in the *Bear Stearns* case, where he denied recognition to foreign proceedings of hedge funds that had neither their COMI nor an establishment in the country of the foreign proceeding. *In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd.*, 374 B.R. 122 (Bankr. S.D.N.Y. 2007); *aff’d* 389 B.R. 325 (S.D.N.Y. 2008). Judge Lifland noted:

Nonrecognition of the Foreign Proceedings, however, does not leave the Petitioners without the ability to obtain relief from U.S. courts.... While section 304 of the Bankruptcy Code was repealed upon the enactment of chapter 15, section 303 was not repealed. Section 303(b)(4) of the Bankruptcy Code specifically provides that an involuntary case may be commenced under chapter 7 or 11 of the Bankruptcy Code by a



foreign representative of the estate in a foreign proceeding so that a foreign representative is not left remediless upon nonrecognition.

FN15. 11 U.S.C. § 303(b)(4)... Section 303(b)(4) does not require that the foreign proceeding be recognized. This flexibility leaves open the potential coordination of a case filed here under Title 11 with the Foreign Proceeding. *See* 11 U.S.C. § 1529 (implicating cooperation and coordination among proceedings under sections 1525, 1526 and 1527 of the Bankruptcy Code, i.e., section 1527(5), concurrent proceedings involving the same debtor).

FN15. It would appear that the failure to repeal section 303(b)(4) along with section 304 may be a drafting error in view of the newly enacted section 1511(b) which likewise addresses the commencement of a case under sections 301 and 303. The inconsistencies of the two statutes have not been conformed.

The NBC agrees that the failure to repeal section 303(b) was a drafting error and should be corrected, as follows:

**11 U.S.C. § 303. Involuntary cases**

- (b) An involuntary case against a person is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title.

~~(4) by a foreign representative of the estate in a foreign proceeding concerning such person if the debtor is the subject of a foreign proceeding that has been recognized under section 1517.~~

**Amendment to add missing cross-references**

**5. 11 U.S.C. § 306**

As discussed in Part 2, above, section 1511 provides that a foreign representative of a foreign main proceeding, upon recognition, may commence a voluntary case under section 301 or 302. Prior to the enactment of chapter 15, a foreign representative could appear under section 304, commence an involuntary case under section 303 or request abstention or dismissal of a case under section 305. Section 306 permitted those appearances without exposing the foreign representative to jurisdiction of any other court in the United States.<sup>17</sup> While section 1510 provides for such limited jurisdiction upon filing a petition for recognition under chapter 15, and the reference to section 304 was deleted from section 306, section 306 was not modified by BAPCPA to reflect the additional authority to file petitions under sections 301 and 302, and it should have been. As currently written, section 306 applies to petitions or requests under section 303 or 305:

**11 U.S.C. § 306. Limited appearance**

An appearance in a bankruptcy court by a foreign representative in connection with a petition or request under section 303 or 305 of this title does not submit such foreign representative to the jurisdiction of any court in the United States for any other purpose,

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<sup>17</sup> H.R. Rep. at 325-326.

but the bankruptcy court may condition any order under section 303 or 305 of this title on compliance by such foreign representative with the orders of such bankruptcy court.

Section 306 should be amended to add references to sections 301 and 302, as follows:

**11 U.S.C. § 306. Limited appearance**

An appearance in a bankruptcy court by a foreign representative in connection with a petition or a request under section ~~301, 302,~~ 303, or 305 of this title does not submit such foreign representative to the jurisdiction of any court in the United States for any other purpose, but the bankruptcy court may condition any order under section ~~301, 302,~~ 303, or 305 of this title on compliance by such foreign representative with the orders of such bankruptcy court.

**Amendment to clarify intended scope of abstention provisions**

**6. 28 U.S.C. § 1334(c) and section 103(a)**

A bankruptcy court decision involving the foreign nonmain proceedings of British American Insurance Company Limited (“BAICO”), a Bahamian insurance company in insolvency proceedings in St. Vincent and the Grenadines (“SVG”), held that section 305 is not applicable in a chapter 15 case and that 28 U.S.C. § 1334(c)(1) prohibits the bankruptcy court from abstaining from proceedings arising under title 11 or arising in or related to a case under title 11.<sup>18</sup> Subsequent circuit and bankruptcy court decisions agreed with the conclusion but discussed only 28 U.S.C. § 1334 and did not mention section 305.<sup>19</sup>

**28 U.S.C. § 1334. Bankruptcy cases and proceedings** provides as follows:

**(c)(1)** Except with respect to a case under chapter 15 of title 11, nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

There is no discussion of the amendment to 28 U.S.C. § 1334(c) in the legislative history of chapter 15. The recollection of the Conferees who assisted with drafting chapter 15 (Jay Westbrook and Dan Glosband) was that the chapter 15 exception was added to section 1334 to assure that a chapter 15 petition would be considered on the new, objective standards for recognition adopted by the Model Law and chapter 15 and not on the subjective “interests of justice” standard of section 1334(c). The subjective standards of former section 304 were being replaced and no alternative, back-door approach to subjective evaluation of a chapter 15 petition for recognition was to be allowed.

In the *BAICO* case, branch operations of BAICO in SVG were placed under judicial management under the SVG insurance law, and a Judicial Manager was appointed with full

<sup>18</sup> *In re British American Insurance Company Limited*, 488 B.R. 205 (S.D. Fla. 2013).

<sup>19</sup> *Firefighters’ Retirement Sys. v. Citco Group Ltd.*, 796 F. 3d 520 (5th Cir. 2015); *In re Hellas Telecommunications (Luxembourg) II SCA*, 535 B.R. 543 (Bankr. S.D.N.Y. 2015). Both of these decisions refer to dicta to the same effect in the case of *In re Fairfield Sentry Ltd.*, 452 B.R. 64, 83 (Bankr. S.D.N.Y. 2011), rev’d on other grounds, 458 B.R. 665 (S.D.N.Y. 2011).

authority to liquidate BAICO in SVG. The Judicial Manager sought (in November 2009) and obtained (in March 2010) recognition under chapter 15 of the SVG liquidation as a foreign nonmain proceeding. Through the Judicial Manager, BAICO sued its former directors for breach of fiduciary duty. Two of the directors moved to dismiss for lack of jurisdiction on various theories and, in the alternative, argued that the court should abstain from the litigation under the permissive abstention provisions of 28 U.S.C. § 1334(c)(1).

The court ruled that it had jurisdiction and that 28 U.S.C. § 1334(c)(1) does not permit the court to abstain from (a) either a full chapter 15 case or (b) a matter arising under chapter 15 or arising in a chapter 15 case. The first half of this ruling is consistent with the purpose of the chapter 15 exception to 28 U.S.C. § 1334(c)(1) but the second half goes beyond that purpose. The court discusses the issue as follows:

Section 305 is the sole statutory authority for abstention from a title 11 case.

However, section 305 is not applicable in a case under chapter 15. 11 U.S.C. § 103(a). There is no provision in federal law allowing a federal court to abstain from an entire chapter 15 case. Nor is there any provision in federal law permitting abstention from matters arising under chapter 15 or arising in a chapter 15 case. To the contrary, chapter 15 and section 1334 ensure that the decision whether to recognize a foreign proceeding, and control over further relief under chapter 15, rests with a single court. Congress reinforced this by eliminating the possibility of abstention from the entire chapter 15 case and from matters arising under chapter 15 or arising in a chapter 15 case. The Court’s interpretation of section 1334(c)(1) is consistent with the intent of Congress. (footnotes omitted). [*British American*, supra, at 239-240.]

Reliance on 28 U.S.C. § 1334 for abstention from a full chapter 15 case is not necessary since an equivalent result is available under chapter 15 itself: (a) unlike the filing of a voluntary petition under other chapters of the Bankruptcy Code, which constitutes an order for relief, a chapter 15 petition is an application for recognition, and recognition can be denied if the criteria of section 1517 are not satisfied; (b) after recognition, recognition can be terminated or modified under §1517(d).<sup>20</sup>

The *British American* court reached its conclusion based on a plausible but unintended reading of 28 U.S.C. § 1334(c)(1):

The opposing interpretation of the opening phrase of section 1334(c)(1) [that abstention from arising under/arising in cases is permitted] takes into consideration the remaining text of that subsection. In general, subsection (c)(1) permits abstention from proceedings arising under title 11 or arising in or related to a case under title 11. That is, it permits a court to abstain from matters other than the title 11 case itself. Because subsection (c)(1) is aimed at abstention from proceedings arising in, arising under and related to a title 11 case, the words “[e]xcept with respect to a case under chapter 15 of title 11” must refer to matters arising under, arising in or related to a case under chapter 15, and not the chapter

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<sup>20</sup> 11 U.S.C. § 1517(d): “The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.”

15 case itself. Under this view, section 1334(c)(1) could not be used to abstain from any proceeding arising under a provision of chapter 15, arising in a chapter 15 case, or related to a chapter 15 case. Count I here is related to a chapter 15 case, and so section 1334(c)(1) could not be used to abstain from hearing Count I. Because this view of section 1334(c)(1) interprets the exclusionary provision in light of the entire text of the subsection, the Court believes this view of section 1334(c)(1) to be correct. The Court may not abstain from Count I under section 1334(c)(1). (footnote omitted.)

The reference in 28 U.S.C. §1334(c)(1) to a “case” under chapter 15 was intended to echo the phrase “cases under title 11” in 28 U.S.C. § 1334(a) and 28 U.S.C. § 157(a) and was not intended to be expanded to prevent abstention from proceedings arising in/arising under cases.

Notwithstanding the intent of the drafters, the interpretation of the *British American* judge is a plausible one based on the current wording.

Two subsequent decisions followed the *British American* interpretation. In *Firefighters’ Retirement System v. Citco Group Limited*, the Fifth Circuit reversed the district court’s remand to Louisiana state court of an action by three pension funds against persons and entities related to a Cayman Islands leveraged feeder fund (“Leveraged Fund”) and a larger fund (the “Arbitrage Fund” and together with the Leveraged Fund, the “Offshore Funds”) through which it invested.<sup>21</sup> The Offshore Funds were part of a master fund entity which filed a chapter 11 case in the Southern District of New York. The litigation was originally filed in state court and then removed to federal district court based on the related chapter 11 case. The court read 28 U.S.C. § 1334(c)(1) to prevent abstention from a proceeding that was related to a chapter 15 case, as opposed to preventing abstention from considering the chapter 15 case itself.<sup>22</sup>

A decision of the Bankruptcy Court for the Southern District of New York agreed with the *British American* and *Firefighters’* analysis.<sup>23</sup>

The following revision will limit section 28 U.S.C. §1334(c)(1) to its original narrowly- intended purpose of assuring that chapter 15 petitions, as applications for recognition, must be heard and granted or denied:

#### **28 U.S.C. § 1334. Bankruptcy cases and proceedings**

(c)(1) ~~Except with respect to a case under chapter 15 of title 11,~~ Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11-, **except a proceeding for recognition of a foreign proceeding.**

#### **Amendment to conform language to defined term**

<sup>21</sup> *Firefighters’ Retirement Sys. v. Citco Group Ltd.*, 796 F. 3d 520 (5th Cir. 2015).

<sup>22</sup> *Id.* at \*527.

<sup>23</sup> *In re Hellas Telecommunications (Luxembourg) II SCA*, 535 B.R. 543 (Bankr. S.D.N.Y. 2015).

7. **11 U.S.C. § 1517(a)**

Section 1517 is entitled **Order granting recognition**, and it contains the requirements for entry of an order recognizing a foreign proceeding. While “it closely tracks article 17 of the Model Law”,<sup>24</sup> it inadvertently omitted a phrase. The pertinent part of Article 17 of the Model Law reads as follows:

*Article 17. Decision to recognize a foreign proceeding*

- (1) Subject to article 6, a foreign proceeding shall be recognized if:
  - (a) The foreign proceeding is a proceeding within the meaning of subparagraph (a) of article 2;
  - (b) The foreign representative applying for recognition is a person or body **within the meaning of subparagraph (d) of article 2**; (emphasis added)

In contrast, the pertinent part of section 1517 reads:

**11 U.S.C. § 1517 - Order granting recognition**

- (a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—
  - (1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;
  - (2) the foreign representative applying for recognition is a person or body;

The NBC recommends that section 1517 be conformed to Article 17 of the Model Law to avoid confusion over the unintended difference, as follows:

**11 U.S.C. § 1517(a) - Order granting recognition**

- (a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—
  - (1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;
  - (2) the ~~foreign representative~~**person or body** applying for recognition is a ~~person or body~~**foreign representative**; and

8. **Amendments related to avoidance of transfers and recovery of property**

a. **11 U.S.C. §§ 1520, 1521 and 1502(6)**

Article 20 of the Model Law on Cross Border Insolvency provides as follows (with emphasis added in bold):

- 1. Upon recognition of a foreign proceeding that is a foreign main proceeding,
  - (a) Commencement or continuation of individual actions or individual proceedings concerning the debtor’s assets, rights, obligations or liabilities is stayed;
  - (b) Execution against the debtor’s assets is stayed; and

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<sup>24</sup> H.R. Rep. at p. 113.

**(c) The right to transfer, encumber or otherwise dispose of any assets of the debtor is suspended.**

2. The scope, and the modification or termination, of the stay and suspension referred to in paragraph 1 of this article are subject to [*refer to any provisions of law of the enacting State relating to insolvency that apply to exceptions, limitations, modifications or termination in respect of the stay and suspension referred to in paragraph 1 of this article*].

The U.S. enactment of Article 20, in section 1520, made modifications and adjustments, the intention of which was to integrate the Model Law into our existing bankruptcy scheme, while altering the original intention of Article 20 as little as possible. Thus, for example, section 1520, rather than imposing a generalized moratorium upon actions in the enacting state, as does the Model Law, instead takes our pre-existing generic moratorium, section 362, and *restricts* it to property within the territorial jurisdiction of the U.S., thereby approximating the scope of the Article 20 moratorium by pruning back the extraterritorial aspect of section 362 in the chapter 15 context.

The drafters of the U.S. enactment attempted to achieve a similar end with respect to the provision in Article 20 that imposes a moratorium on the debtor's ability to transfer property (a moratorium on *debtor's* actions, if you will). Again, they enacted this provision by reference to pre-existing provisions of the U.S. Bankruptcy Code. Section 1520 says that section 549, "Postpetition transactions," applies with respect to property of the debtor within the territorial jurisdiction of the U.S., paralleling the mechanism that was used for the moratorium on creditor actions.<sup>25</sup> Section 549 does not *automatically* proscribe postpetition transfers of the debtor's property in the way that the moratorium on such transfers was drafted in Article 20 of the Model Law; instead it empowers a trustee to avoid those transfers.<sup>26</sup> It thus falls short of achieving the intended purpose of Article 20.

The reference to section 549 creates two additional problems: first, there is no trustee in a chapter 15 ancillary proceeding, but only a trustee may "avoid a transfer of property ..." (courts might interpret section 1520(a)(2) such that "trustee" means "foreign representative" in the context of 1520(a)(2) but it should not be left to doubt); second, section 549 is not self-executing, and the remedial mechanism to recover avoided transfers, section 550, is not available in chapter

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<sup>25</sup> Section 1520, Effects of recognition of a foreign main proceeding, provides in pertinent part:

(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

<sup>26</sup>Section 549 provides as follows:

(a) Except as provided in subsection (b) or (c) of this section, the trustee may avoid a transfer of property of the estate—

(1) that occurs after the commencement of the case; and

(2)(A) that is authorized only under section 303 (f) or 542 (c) of this title; or

(B) that is not authorized under this title or by the court.

15.<sup>27</sup> Section 1521(a)(7), which prohibits use of most Bankruptcy Code avoidance powers in a chapter 15 case, includes a prohibition of section 550.<sup>28</sup> The omission of the section 550 remedy also affects one other avoidance provision that is not excluded from chapter 15 use, section 553 dealing with the reduction in insufficiency of a setoff within 90 days pre-petition.<sup>29</sup>

Repairing these problems requires amendments to sections 1520, 1521 and 1502(6) (the definition of trustee for the purposes of chapter 15) as follows:

**11 U.S. Code § 1520 - Effects of recognition of a foreign main proceeding**

(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

(1) sections 361 ~~and~~, 362 and 552 apply within the territorial jurisdiction of the United States with respect to the debtor and the property of the debtor ~~that is~~;

(2) the debtor may not transfer, encumber, or otherwise dispose of any property within the territorial jurisdiction of the United States;

(23) ~~sections 363, section 549, and 552~~ apply to a transfer by the debtor of an interest ~~of the debtor~~ in property that is within the territorial jurisdiction of the United States ~~to the same extent that the sections would apply to property of an estate~~;

(34) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and ~~552~~552; and

(45) section ~~552~~363 applies to ~~property~~ a transfer by the foreign representative of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the section would apply to property of an estate.

**11 U.S.C. § 1521. Relief that may be granted upon recognition**

(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

<sup>27</sup>Section 550, Liability of transferee of avoided transfer, provides in pertinent part: "...to the extent that a transfer is avoided under section 544, 545, 547, 548, 549, 553(b), or 724(a) of this title, the trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property..."

<sup>28</sup>Section 1521, Relief that may be granted upon recognition, provides in pertinent part: "(a) Upon recognition of a

foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including— (7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, **550**, and 724(a). (emphasis added).

<sup>29</sup>The section 553/550 issue was discussed in *Awal Bank, BSC v. HSBC Bank USA (In re Awal Bank, BSC)*, 455

B.R. 73, 82 (Bankr. S.D.N.Y. 2011).

(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a); **and** -  
(8) notwithstanding subsection (a)(7) of this section, granting relief under section 550 for the purpose of permitting the foreign representative to enforce the provisions of sections 549 and 553.

## 11 U.S. Code § 1502 - Definitions

For the purposes of this chapter, the term—:

(6) “trustee” includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title; **the term “trustee,” when used in a section that is made applicable in a case under this chapter means foreign representative.**

### b. 11 U.S.C. §1523

Chapter 15 should also be amended to provide explicitly that the look-back period for avoidance proceedings brought under U.S. law by or on behalf of a foreign representative should be measured from the date of the filing of the foreign proceeding. Under section 1523(a) of chapter 15 a foreign representative can bring an avoidance proceeding based on U.S. substantive law only in a plenary U.S. case under chapter 7 or chapter 11.<sup>30</sup> Although section 1523(a) affords the foreign representative standing to bring such a proceeding, it does not explicitly provide that the look-back period should be measured from the date of the commencement of the foreign case rather than the date of commencement of case in the United States. If we measure the look-back period from the date of the opening of U.S. case, the delay inherent in the need for the foreign representative to file proceedings in the United States would make it unlikely that a foreign representative would ever be able to bring a proceeding under U.S. law to avoid a preference, as the look-back period under section 547 of the Bankruptcy Code is ordinarily only 90 days from the filing of the “petition,” (i.e., the petition under chapter 15 or the petition under chapter 7 or 11). Proceedings to avoid a fraudulent conveyance under section 548 of the Bankruptcy Code have a longer look-back period of two years from the filing of the “petition,” but some avoidable conveyances would doubtless fall outside this look-back period if the period is measured from the commencement of U.S. case rather than the commencement of the foreign proceeding.

There is authority under present law that the applicable look-back period can be measured from the date of the filing of the chapter 15 petition for recognition rather than the date of the opening of a plenary proceeding. *See In re Awal Bank, BSC*, 455 B.R. 73, 88-91 (Bankr. S.D.N.Y. 2011). The same result might be obtainable by virtue of the tolling provisions of section 108 of the Bankruptcy Code, which apply in a chapter 15 case.

However, it is more consonant with the cooperation principles of chapter 15 for the look-back period to date from the opening of the foreign proceeding. There should be no unfairness in

<sup>30</sup> Section 1523, Actions to avoid acts detrimental to creditors, provides:

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.”



assisting the foreign representative in this manner because a court will be required to determine whether it is appropriate to apply avoidance law under the facts and circumstances of the case.

For example, if a German liquidator brought an avoidance proceeding in a U.S. plenary case after chapter 15 recognition, and it was determined that it was appropriate to apply U.S. avoidance law under the principles of *Maxwell Communication Corp. v. Societe Generale (In re Maxwell Communication Corp.)*, 93 F.3d 1036 (2d Cir. 1996)), or other applicable law, the German liquidator would be able to use the avoidance look-back period under U.S. law measured from the date of the filing of the original petition in Germany.<sup>31</sup>

The English version of the Model Law includes this type of provision at Article 23, sections 3 and 4 of the Cross-Border Insolvency Regulations 2006.

The statutory change can be accomplished by adding a new subsection (c) to section 1523<sup>32</sup>:

**11 U.S.C. § 1523. Actions to avoid acts detrimental to creditors**

(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

(c) For purposes of any applicable section governing an action initiated by the foreign representative under subsection (a), the term “commencement of the case” and the term “order for relief” mean the opening of the foreign proceeding, and the phrase “date of the filing of the petition” means the date of the filing of an application or the taking of other action that resulted in the opening of the foreign proceeding. The date of the opening of the foreign proceeding shall be determined in accordance with the law of the country in which the foreign proceeding is pending.

We would welcome an opportunity to discuss these amendments with you or your staffs. We believe they would substantially improve the operation of chapter 15 by reducing litigation and more closely conforming it to the purposes of the Model Law.

Sincerely,

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<sup>31</sup> The same measurement date should apply to foreign avoidance law that may be applied in a chapter 15 case. See *Fogerty v. Petroquest Res. (In re Condor Ins. Ltd.)*, 601 F.3d 319, 326 (5th Cir. 2010); *Hellas Telecommunications*, supra, 535 B.R. 543 at 586-587.

<sup>32</sup> Section 1523, Actions to avoid acts detrimental to creditors, currently provides:

(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

**AMERICAN BANKRUPTCY INSTITUTE**

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II

116TH CONGRESS  
2D SESSION**S. 4991**

To amend title 11, United States Code, to add a bankruptcy chapter relating to the debt of individuals, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2020

Ms. WARREN (for herself, Mr. DURBIN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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**A BILL**

To amend title 11, United States Code, to add a bankruptcy chapter relating to the debt of individuals, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Bankruptcy  
5 Reform Act of 2020”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—CHAPTER 10 INDIVIDUAL BANKRUPTCY

- Sec. 101. Findings and purpose.
- Sec. 102. Chapter 10 individual bankruptcy.
- Sec. 103. Repeal of chapter 13.
- Sec. 104. Other amendments to the Bankruptcy Code.
- Sec. 105. Data collection.
- Sec. 106. Electronic signatures.
- Sec. 107. Judicial education.
- Sec. 108. Conforming amendments to other laws.

TITLE II—CONSUMER FINANCIAL PROTECTION AMENDMENTS

- Sec. 201. Amendments to the Consumer Financial Protection Act of 2010.
- Sec. 202. Amendments to the Truth in Lending Act.
- Sec. 203. Amendments to the Fair Credit Reporting Act.
- Sec. 204. Amendments to the Equal Credit Opportunity Act.
- Sec. 205. Amendments to the Fair Debt Collection Practices Act.
- Sec. 206. Amendments to the Electronic Fund Transfers Act.

TITLE III—BANKRUPTCY RULES

- Sec. 301. Rules Enabling Act amendments.
- Sec. 302. Bankruptcy rules amendments.
- Sec. 303. Sense of Congress.

TITLE IV—FUNDING THE BANKRUPTCY SYSTEM

- Sec. 401. Bankruptcy fees.
- Sec. 402. Trustee compensation.

TITLE V—BANKRUPTCY LIEN FILING SYSTEM

- Sec. 501. Bankruptcy lien filing system.

TITLE VI—MISCELLANEOUS

- Sec. 601. Effective date.
- Sec. 602. Transition.
- Sec. 603. Severability.

1                   **TITLE I—CHAPTER 10**  
2                   **INDIVIDUAL BANKRUPTCY**

3 **SEC. 101. FINDINGS AND PURPOSE.**

4           (a) FINDINGS.—Congress finds that—

5                   (1) individuals and families are often in finan-  
6           cial distress for reasons outside of their control, such  
7           as job loss, medical bills, or educational debt, and an  
8           effective bankruptcy system not only provides those  
9           individuals and families with a fresh start but also

1 ensures that they can participate fully in the United  
2 States economy;

3 (2) the Bankruptcy Code was adopted in 1978,  
4 and, since then, consumer lending has grown dra-  
5 matically and been transformed by technology and  
6 the preemption of State usury and consumer protec-  
7 tion laws for certain types of lenders;

8 (3) unnecessary paperwork and overly complex  
9 laws increase the cost of bankruptcy and prevent in-  
10 dividuals and families in the United States who need  
11 help from accessing the bankruptcy system;

12 (4) many consumer debtors cannot afford bank-  
13 ruptcy counsel and must instead save up to pay an  
14 attorney to file their bankruptcy petitions;

15 (5) the dual-track bankruptcy system produces  
16 racially disparate outcomes that disadvantage people  
17 of color;

18 (6) student loan debt burdens are creating dis-  
19 tortions in the labor and housing market;

20 (7) the nondischargeability of private student  
21 loan debt has not resulted in lower financing costs  
22 for student loan borrowers;

23 (8) the inability of debtors to restructure home  
24 mortgage loans has led to unnecessary foreclosures  
25 that have created hardships for individuals and fam-

1        ilies and their communities without reducing costs of  
2        mortgage financing;

3            (9) individuals and families often rely on their  
4        cars to get to work and to get dependents to school  
5        and medical appointments but often cannot retain  
6        their cars in bankruptcy without paying substan-  
7        tially more than the car is worth;

8            (10) the difficulty of enforcing the discharge in-  
9        junction has enabled illegal debt collection activity  
10       that undercuts the fresh start policy of bankruptcy;

11           (11) existing law does not provide a sufficient  
12        deterrent to predatory creditors that harm individ-  
13        uals and families in bankruptcy by violating con-  
14        sumer financial laws or failing to comply with bank-  
15        ruptcy rules; and

16           (12) well-counseled, affluent debtors can avoid  
17        repaying creditors through asset protection planning.

18        (b) PURPOSE.—The purpose of the Act is to establish  
19        a bankruptcy system that helps individuals and families  
20        in the United States regain financial stability and protects  
21        against abusive and predatory behavior by—

22            (1) streamlining the process of filing for bank-  
23        ruptcy, simplifying court procedures in bankruptcy,  
24        and lowering the cost of bankruptcy for both con-  
25        sumers and creditors;

1           (2) creating a single-chapter consumer bank-  
2           ruptcy system that allows consumers greater flexi-  
3           bility in addressing their debts and prevents dis-  
4           parate treatment of similarly situated consumers;

5           (3) offering consumers more and better options  
6           to deal with debts, while ensuring the fair treatment  
7           of creditors;

8           (4) making it easier for consumers to pay an  
9           attorney for counsel or representation in a bank-  
10          ruptcy case;

11          (5) simplifying the identification and treatment  
12          of cases by expanding the number of routine cases  
13          that are handled by the court in which there is no  
14          chance of a reasonable payment to creditors and re-  
15          ducing paperwork requirements in those routine  
16          cases;

17          (6) allowing the modification of mortgages on  
18          all residences;

19          (7) allowing the modification of car loans based  
20          on the market value of a car;

21          (8) allowing the discharge of student loan debt  
22          on equal terms with most other types of debt;

23          (9) reducing racial, gender, and other harmful  
24          disparities in the availability, accessibility, costs, and  
25          outcomes with respect to the bankruptcy process;

- 1 (10) ensuring the fair treatment of claimants
- 2 for domestic support obligations;
- 3 (11) reducing abusive creditor behavior; and
- 4 (12) closing bankruptcy loopholes that allow the
- 5 wealthy to exploit the bankruptcy process.

6 **SEC. 102. CHAPTER 10 INDIVIDUAL BANKRUPTCY.**

7 (a) IN GENERAL.—Title 11, United States Code, is  
8 amended by inserting after section 946 the following:

9 **“CHAPTER 10—INDIVIDUAL BANKRUPTCY**

“SUBCHAPTER I—GENERAL PROVISIONS

- “Sec.
- “1001. Trustee.
- “1002. Rights and powers of debtor.
- “1003. Debtor engaged in business.
- “1004. Possession of property of the estate.
- “1005. Conversion or dismissal.
- “1006. Treatment of certain contracts and leases.
- “1007. Treatment of rental-purchase agreements.
- “1008. Obtaining credit.
- “1009. Stay of action against codebtor.
- “1010. Interpretive principle.

“SUBCHAPTER II—PLANS

- “1021. Filing of plans.
- “1022. Contents of plans.
- “1023. Plan confirmation hearing.
- “1024. Confirmation of plans.
- “1025. Payments under a repayment plan.
- “1026. Payments under a residence plan or property plan.
- “1027. Protection of lessors and purchase money lenders.
- “1028. Effect of confirmation.
- “1029. Modification of repayment plan.

“SUBCHAPTER III—DISCHARGE

- “1031. Discharge; scope and timing.
- “1032. Revocation of discharge or order of confirmation.

“SUBCHAPTER IV—AVOIDANCE ACTIONS

- “1041. Treatment of certain liens.
- “1042. Limitations on avoidance actions.

“SUBCHAPTER V—LIMITED PROCEEDINGS



“1051. Election of limited proceeding.

“1052. Effect of limited proceeding.

“1053. Dismissal or conversion of limited proceedings.

1 “SUBCHAPTER I—GENERAL PROVISIONS

2 “§ 1001. Trustee

3 “(a) APPOINTMENT.—Except as provided by section  
4 1052, in a case under this chapter, the United States  
5 trustee—

6 “(1) shall appoint 1 disinterested individual to  
7 serve as trustee from the panel of private trustees  
8 under section 586(a) of title 28 or a standing trust-  
9 ee under subsection (b) of that section who meets  
10 the requirements of a trustee under section 522 of  
11 this title; or

12 “(2) may serve as trustee.

13 “(b) DUTIES.—The trustee shall—

14 “(1) perform the duties required under para-  
15 graphs (2) through (5) and (7) of section 704;

16 “(2) appear and be heard at any hearing that  
17 concerns—

18 “(A) the value of property subject to a  
19 lien; or

20 “(B) confirmation of a repayment plan, a  
21 residence plan, or a property plan;

22 “(3) advise, other than on legal matters, and  
23 assist the debtor in the formulation of, and perform-  
24 ance under, any plan;

1           “(4) ensure that the debtor commences making  
2           timely payments under section 1025;

3           “(5) in the case of a debtor against whom there  
4           is a claim for a domestic support obligation, provide  
5           the notices required under subsection (d); and

6           “(6) in the case of a debtor engaged in business  
7           as described in section 1003(a), perform the duties  
8           required under paragraphs (3) and (4) of section  
9           1106(a).

10          “(c) PROHIBITIONS.—The trustee may not—

11           “(1) serve as an advocate for debtors or credi-  
12           tors;

13           “(2) advise debtors or creditors on legal mat-  
14           ters; or

15           “(3) raise an objection to a plan filed under  
16           section 1021 solely on the basis of the treatment of  
17           a secured claim under the plan.

18          “(d) DOMESTIC SUPPORT CLAIM NOTICE.—

19           “(1) DEFINITION OF STATE OR LOCAL CHILD  
20           SUPPORT ENFORCEMENT AGENCY.—In this sub-  
21           section, the term ‘State or local child support en-  
22           forcement agency’ means any agency of a State or  
23           political subdivision thereof operating pursuant to a  
24           plan described in section 454 of the Social Security  
25           Act (42 U.S.C. 654) that has been approved by the

1 Secretary of Health and Human Services under part  
2 D of title IV of such Act (42 U.S.C. 651 et seq.).

3 “(2) ADDITIONAL DUTIES.—In the case of a  
4 debtor against whom there is a claim for a domestic  
5 support obligation, the trustee shall—

6 “(A) provide written notice of the claim to  
7 the holder of the domestic support obligation  
8 that includes—

9 “(i) a notice of the right of the holder  
10 to use the services of a State or local child  
11 support enforcement agency for assistance  
12 in collecting child support during and after  
13 the case; and

14 “(ii) the address and telephone num-  
15 ber of the State or local child support en-  
16 forcement agency of the State or political  
17 subdivision thereof in which the holder re-  
18 sides;

19 “(B) provide written notice of the claim to  
20 the State or local child support enforcement  
21 agency of the State or political subdivision  
22 thereof in which the holder resides that includes  
23 the name, address, and telephone number of the  
24 holder of the domestic support obligation; and

1           “(C) on the date on which the debtor is  
2           granted a discharge under section 1031, provide  
3           written notice to the holder of the domestic sup-  
4           port obligation and the State or local child sup-  
5           port enforcement agency of the State or polit-  
6           ical subdivision thereof in which the holder re-  
7           sides of—

8                   “(i) the granting of the discharge;

9                   “(ii) the most recent known address  
10                  of the debtor;

11                  “(iii) the most recent known name  
12                  and address of the most recent known em-  
13                  ployer of the debtor; and

14                  “(iv) the name of each creditor that  
15                  holds a claim that is not discharged under  
16                  paragraph (2) or (4) of section 523(a).

17           “(3) ADDRESS REQUEST.—

18                  “(A) IN GENERAL.—The holder of a claim  
19                  for domestic support against the debtor or a  
20                  State or local child support enforcement agency  
21                  of the State or political subdivision thereof in  
22                  which the holder resides may request from a  
23                  creditor described in paragraph (2)(C)(iv) the  
24                  most recent known address of the debtor.

1           “(B) NO LIABILITY.—Notwithstanding any  
2           other provision of law, a creditor that makes a  
3           disclosure in connection with a request made  
4           under subparagraph (A) shall not be liable for  
5           making the disclosure.

6   **“§ 1002. Rights and powers of debtor**

7           “(a) IN GENERAL.—Subject to any limitations of a  
8           trustee under this chapter, the debtor shall have, exclusive  
9           of the trustee, the rights and powers of a trustee under—

10           “(1) subsections (b), (c), (d), (f), and (l) of sec-  
11           tion 363; and

12           “(2) section 364.

13           “(b) AVOIDANCE OF TRANSFERS.—The debtor may  
14           avoid a transfer of property of the debtor or recover a  
15           setoff if—

16           “(1)(A) the transfer is avoidable by the trustee  
17           under section 544, 545, 547, 548, 549, or 1041 or  
18           recoverable by the trustee under section 553; and

19           “(B) the trustee does not attempt to avoid the  
20           transfer; or

21           “(2) section 1042 prohibits the trustee from  
22           avoiding the transfer.

23   **“§ 1003. Debtor engaged in business**

24           “(a) IN GENERAL.—For the purposes of this chapter,  
25           a debtor is engaged in business if the debtor is—

1 “(1) self-employed; and

2 “(2) required to withhold taxes under section  
3 3402 of the Internal Revenue Code of 1986.

4 “(b) RIGHTS.—Unless the court orders otherwise, a  
5 debtor engaged in business may operate the business of  
6 the debtor and, subject to any limitations on a trustee  
7 under sections 363(c) and 364 and to such limitations or  
8 conditions as the court prescribes, shall have, exclusive of  
9 the trustee, the rights and powers of the trustee under  
10 such sections.

11 “(c) DUTIES.—A debtor engaged in business—

12 “(1) shall perform the duties of the trustee re-  
13 quired under section 704(7); and

14 “(2) is not subject to the provisions of section  
15 308.

16 **“§ 1004. Possession of property of the estate**

17 “The debtor shall remain in possession of all property  
18 of the estate, unless—

19 “(1) a confirmed plan or an order confirming a  
20 plan provides otherwise; or

21 “(2) the court, for cause, orders otherwise.

22 **“§ 1005. Conversion or dismissal**

23 “(a) CONVERSION ON REQUEST OF DEBTOR.—At  
24 any time, the debtor may convert a case under this chapter  
25 to a case under—

1 “(1) chapter 11, if the debtor is eligible under  
2 section 109(e); or

3 “(2) chapter 12, if the debtor is eligible under  
4 section 109(f).

5 “(b) CONVERSION OR DISMISSAL ON REQUEST OF  
6 OTHER PARTIES.—After notice and a hearing, the court,  
7 on its own motion, or on a motion by a creditor, the  
8 United States trustee, the trustee, or any other party in  
9 interest, may, for cause, dismiss a case under this chapter  
10 or, with the consent of the debtor, convert a case under  
11 this chapter to a case under chapter 11 or 12, including—

12 “(1) unreasonable delay by the debtor that is  
13 prejudicial to creditors;

14 “(2) nonpayment of any fees or costs required  
15 under section 1930 of title 28;

16 “(3) failure to timely file a plan under section  
17 1021, unless the debtor is eligible for a discharge  
18 without a plan under section 1031;

19 “(4) failure to commence making timely pay-  
20 ments required under section 1025 if the debtor files  
21 a repayment plan;

22 “(5) denial of confirmation of a plan under sec-  
23 tion 1024 and denial of a request for additional time  
24 for filing another plan;

1 “(6) except as provided by section 1052(8), and  
2 only on request of the United States trustee, failure  
3 of the debtor in a voluntary case to file, not later  
4 than 14 days after the date of the commencement of  
5 the case, or additional time as the court may allow,  
6 the information required under section 521(a)(1);  
7 and

8 “(7) failure to file a repayment plan, if re-  
9 quired, by the deadline prescribed under section  
10 1021(e).

11 “(c) DISMISSAL.—

12 “(1) DISMISSAL FOR MANIFESTLY IMPROPER  
13 USE OF THE BANKRUPTCY SYSTEM.—

14 “(A) IN GENERAL.—Notwithstanding sub-  
15 section (b), after notice and a hearing, the  
16 court, on its own motion or on a motion by the  
17 United States trustee or the trustee, may dis-  
18 miss a case on grounds that the granting of re-  
19 lief would be a manifestly improper use of the  
20 bankruptcy system.

21 “(B) MANIFESTLY IMPROPER USE OF THE  
22 BANKRUPTCY SYSTEM.—For the purpose of  
23 subparagraph (A), the failure of a debtor to pay  
24 an amount that is greater than the minimum  
25 payment obligation under a repayment plan



1 alone does not constitute a manifestly improper  
2 use of the bankruptcy system.

3 “(2) DISMISSAL AT REQUEST OF DEBTOR.—

4 “(A) IN GENERAL.—At the request of the  
5 debtor, at any time, the court shall dismiss a  
6 case under this chapter if the case has not been  
7 converted under subsection (a).

8 “(B) WAIVER UNENFORCEABLE.—A waiv-  
9 er of the right to dismiss a case under this sec-  
10 tion is unenforceable.

11 **“§ 1006. Treatment of certain contracts and leases**

12 “Notwithstanding a provision in any contract or un-  
13 expired lease, or in applicable law, with respect to any con-  
14 tract or unexpired lease of the debtor, the contract or lease  
15 and any right or obligation under the contract or lease  
16 may not be terminated or modified, and neither the debtor  
17 nor any individual liable on such contract or unexpired  
18 lease with the debtor may be declared in default under  
19 the contract or lease at any time during or after the case,  
20 solely because of a provision in the contract or lease that  
21 is conditioned on—

22 “(1) the insolvency or financial condition of the  
23 debtor at any time before the closing of the case;

24 “(2) the commencement of a case under this  
25 title;

1 “(3) the appointment of, or taking possession  
2 by—

3 “(A) a trustee in a case under this title; or

4 “(B) a custodian before the commence-  
5 ment of a case under this title; or

6 “(4) the filing of a plan or the exercise of any  
7 other right under this title.

8 **“§ 1007. Treatment of rental-purchase agreements**

9 “(a) DEFINITION OF RENTAL-PURCHASE AGREE-  
10 MENT.—In this section, the term ‘rental-purchase agree-  
11 ment’ means an agreement, irrespective of form—

12 “(1) for the use of personal property, other  
13 than a vehicle, by the debtor for personal, family, or  
14 household purposes;

15 “(2) that is renewable with each payment; and

16 “(3) that permits, but does not obligate, the  
17 debtor to become the owner of the property that is  
18 the subject of the agreement.

19 “(b) NO INTEREST IN PROPERTY.—For the purpose  
20 of this chapter and notwithstanding applicable nonbank-  
21 ruptcy law, the lessor on a rental-purchase agreement does  
22 not have an interest in the property covered by the rental-  
23 purchase agreement.

24 “(c) ELECTION TO RETAIN PROPERTY.—Notwith-  
25 standing section 365 and subject to subsection (d), in a

1 case under this chapter, the debtor may elect to retain  
2 the property covered by a rental-purchase agreement.

3 “(d) CLAIMS OF LESSOR-SELLER.—Notwithstanding  
4 section 365 and subject to section 502, if the debtor elects  
5 to retain the property covered by a rental-purchase agree-  
6 ment, the lessor-seller shall have a claim for the sum of—

7 “(1) accrued and unpaid rent under the rental-  
8 purchase agreement; and

9 “(2) if the debtor has elected to become owner  
10 of the property under the rental-purchase agree-  
11 ment, future rent and other payments due under the  
12 rental-purchase agreement.

13 “(e) TERMINATION.—Nothing in this section shall be  
14 construed to prohibit the debtor from terminating a rent-  
15 al-purchase agreement.

16 “(f) POST-DISCHARGE EXERCISE OF LESSOR-SELL-  
17 ER’S RIGHTS PROHIBITED.—Any attempt to exercise the  
18 rights of a lessor-seller under a rental-purchase agreement  
19 or applicable nonbankruptcy law after the issuance of a  
20 discharge under section 1028 shall be deemed to be a vio-  
21 lation of section 524(a).

22 **“§ 1008. Obtaining credit**

23 “(a) DEFINITION OF CREDIT.—In this section, the  
24 term ‘credit’ has the meaning given the term in section  
25 103 of the Truth in Lending Act (15 U.S.C. 1602).

1 “(b) OBTAINING CREDIT.—

2 “(1) IN GENERAL.—The debtor in a case under  
3 this chapter may not obtain credit outside the ordi-  
4 nary course of the affairs of the debtor without prior  
5 authorization by the court.

6 “(2) COURT APPROVAL.—After notice and a  
7 hearing, the court may authorize the debtor to ob-  
8 tain credit under paragraph (1) or incur debt only  
9 if it is in the best interests of the debtor.

10 “(3) VOIDING OF OTHER POST-PETITION CRED-  
11 IT INCURRED.—Any credit obtained or debt incurred  
12 by a debtor not in accordance with this subsection  
13 is void.

14 “(4) CREDIT RATE LIMIT.—In no event may  
15 the court authorize the debtor to obtain credit with  
16 an annual percentage rate that exceeds the annual  
17 percentage rate described in section 987(b) of title  
18 10.

19 “(5) COMPLIANCE WITH NONBANKRUPTCY  
20 LAW.—Credit obtained by a debtor pursuant to this  
21 section shall comply with applicable nonbankruptcy  
22 law.

23 “(c) APPLICATION OF SECTION.—This section shall  
24 apply to credit obtained by a debtor until the date on  
25 which the case is closed under section 350.

1   **“§ 1009. Stay of action against codebtor**

2           “(a) COLLECTION OF DEBT.—Except as provided in  
3 subsections (b) and (c) of this section, after the entry of  
4 the order for relief under this chapter, a creditor may not  
5 act or commence or continue any civil action to collect all  
6 or any part of a consumer debt of the debtor from any  
7 individual that is liable on the consumer debt with the  
8 debtor or that secured the consumer debt, unless—

9           “(1) the individual became liable on, or secured,  
10 the consumer debt in the ordinary course of business  
11 of the individual; or

12           “(2) the case is closed, dismissed, or converted  
13 to a case under chapter 11 or 12 of this title.

14           “(b) NEGOTIABLE INSTRUMENTS.—A creditor may  
15 present a negotiable instrument, and may give notice of  
16 dishonor of such an instrument.

17           “(c) RELIEF FROM STAY.—On request of a party in  
18 interest and after notice and a hearing, the court shall  
19 grant relief from the stay provided under subsection (a)  
20 with respect to a creditor, to the extent that—

21           “(1) as between the debtor and the individual  
22 protected under subsection (a), the individual re-  
23 ceived consideration for the claim held by the cred-  
24 itor;

25           “(2) the plan filed by the debtor does not pro-  
26 pose to pay the claim; or

1           “(3) the interest of the creditor would be irrep-  
2           arably harmed by a continuation of the stay.

3           “(d) TERMINATION OF STAY.—On the date that is  
4 20 days after the date on which a party in interest files  
5 a request under subsection (c) for relief from the stay pro-  
6 vided under subsection (a), the stay shall be terminated  
7 with respect to the party in interest, unless the debtor or  
8 any individual that is liable on the consumer debt with  
9 the debtor files and serves upon the party in interest a  
10 written objection to the proposed relief from the stay.

11 **“§ 1010. Interpretive principle**

12           “In cases under this chapter, the provisions of this  
13 title shall be interpreted liberally in favor of relief for con-  
14 sumer debtors.

15                           “SUBCHAPTER II—PLANS

16 **“§ 1021. Filing of plans**

17           “(a) IN GENERAL.—Except as provided in subsection  
18 (c), the debtor may file—

19                           “(1) a repayment plan that solely provides for  
20                           the treatment of unsecured claims;

21                           “(2) a residence plan that solely provides for  
22                           the treatment of claims secured by the debtor’s prin-  
23                           cipal residence; or

1 “(3) a property plan that solely provides for the  
2 treatment of claims secured by property that is not  
3 the debtor’s principal residence.

4 “(b) MULTIPLE PLANS.—

5 “(1) IN GENERAL.—

6 “(A) MORE THAN 1 PLAN.—Subject to  
7 subparagraph (B), the debtor may file 1 or  
8 more plans.

9 “(B) PROHIBITION.—If the court confirms  
10 a repayment plan of a debtor, the debtor may  
11 not file an additional repayment plan in a case  
12 under this chapter.

13 “(2) SEPARATE TREATMENT.—Except as pro-  
14 vided in section 1023(a), each plan shall be treated  
15 separately for purposes of confirmation, discharge,  
16 and revocation of an order of confirmation or dis-  
17 charge.

18 “(c) INVOLUNTARY CASES.—In a case commenced  
19 under section 303—

20 “(1) a petitioning creditor may file only a re-  
21 payment plan under which the minimum payment  
22 obligation of the debtor shall be calculated to ex-  
23 clude any amounts required by clause (ii) or (iii) of  
24 section 101(54)(B);

1           “(2) the debtor may file a repayment plan,  
2           which shall supersede any repayment plan filed  
3           under paragraph (1); and

4           “(3) if more than 1 petitioning creditor files a  
5           repayment plan under paragraph (1) and the debtor  
6           does not file a repayment plan under paragraph (2),  
7           the court shall confirm the repayment plan that is  
8           in the best interest of creditors.

9           “(d) DISCHARGE WITHOUT A PLAN.—A debtor with  
10          a minimum payment obligation of \$0 shall receive a dis-  
11          charge under section 1031 without filing a plan if the  
12          debtor is otherwise eligible to receive a discharge under  
13          this chapter.

14          “(e) FILING DEADLINE.—The debtor shall promptly  
15          file a plan within such period of time as permitted in a  
16          rule prescribed by the Judicial Conference of the United  
17          States, except that the court may extend such time period  
18          for cause.

19          **“§ 1022. Contents of plans**

20          “(a) REPAYMENT PLANS.—

21                  “(1) IN GENERAL.—A repayment plan—

22                          “(A) shall provide that—

23                                  “(i) the debtor shall satisfy the min-  
24                                  imum payment obligation by—



1 “(I) making deferred cash pay-  
2 ments; or  
3 “(II) upon request of the trustee,  
4 and subject to paragraph (2), ten-  
5 dering to the trustee all property of  
6 the estate that is not exempt under  
7 section 522 not later than 30 days  
8 after the date on which the court con-  
9 firms the plan, unless the court orders  
10 a later date;  
11 “(ii) any payments under the repay-  
12 ment plan occur during a period not to ex-  
13 ceed 36 months from the date on which  
14 the first payment is due under a repay-  
15 ment plan under section 1025(b)(1); and  
16 “(iii) any payment under a repayment  
17 plan, other than the final payment, shall  
18 be in an amount that is not less than the  
19 payments required for 36 equal monthly  
20 installments, unless the court orders other-  
21 wise for cause, which may include the ir-  
22 regular or seasonal nature of the debtor’s  
23 income; and  
24 “(B) may—

1           “(i) pursuant to section 365, provide  
2           for the assumption, rejection, or assign-  
3           ment of any executory contract or unex-  
4           pired lease of the debtor that has not pre-  
5           viously been assumed or rejected under  
6           that section;

7           “(ii) provide for the payment in full,  
8           in deferred cash payments, over the dura-  
9           tion of the repayment plan, of any claim  
10          based on a debt of a kind described in sec-  
11          tion 523 if the plan also provides for the  
12          payment in full, in deferred cash pay-  
13          ments, of all claims entitled to priority  
14          under section 507, other than the claim of  
15          a holder that is based on a debt described  
16          in section 507 that agrees to a different  
17          treatment of that claim;

18          “(iii) provide for the exercise of any  
19          other power of the debtor or the trustee  
20          under this title;

21          “(iv) provide for an order garnishing  
22          the earnings of the debtor or ordering the  
23          authorization of electronic fund transfers  
24          from a deposit account of the debtor dur-

1           ing the duration of the repayment plan;  
2           and

3           “(v) include any other appropriate  
4           provision not inconsistent with this title.

5           “(2) REQUEST FOR TENDER BY TRUSTEE.—

6           “(A) IN GENERAL.—The trustee shall re-  
7           quest the tender of property of the estate that  
8           is not exempt under section 522 only if the liq-  
9           uidation of such property would be reasonably  
10          likely to produce a meaningful distribution to  
11          creditors.

12          “(B) INSTALLMENT REDEMPTION AS AN  
13          ALTERNATIVE TO TENDER.—In lieu of ten-  
14          dering nonexempt property of the estate under  
15          paragraph (1)(A)(i)(II), the debtor may elect to  
16          pay to the trustee under the repayment plan an  
17          amount equal to the value of the interest of the  
18          debtor in such property that is in excess of the  
19          sum of—

20                  “(i) any allowed secured claims that  
21                  are secured by that property; and

22                  “(ii) any exemption applicable under  
23                  section 522(b).

24          “(b) RESIDENCE PLANS.—A residence plan may—

1           “(1) modify or leave unaffected the rights of a  
2 holder of a claim secured by the debtor’s principal  
3 residence;

4           “(2) provide for the waiving or curing within a  
5 reasonable time of any default on any claim secured  
6 by the debtor’s principal residence in accordance  
7 with subsection (d);

8           “(3) provide for payment of any allowed se-  
9 cured claim secured by the debtor’s principal resi-  
10 dence;

11           “(4) authorize the debtor to sell any property  
12 that is the debtor’s principal residence free and clear  
13 of any liens not earlier than 60 days and not later  
14 than 180 days after the date of confirmation if the  
15 plan provides that—

16           “(A) the debtor shall tender the property  
17 that is the debtor’s principal residence to the  
18 holder of the first-priority lien, subject to a lien  
19 secured by any allowed secured claim of a jun-  
20 ior lienholder;

21           “(B) upon acceptance of the tender de-  
22 scribed in subparagraph (A), the debtor shall  
23 transfer the debtor’s principal residence to the  
24 holder of the first-priority lien not later than 14  
25 days after acceptance of the tender; and

1           “(C) if there is not a timely acceptance of  
2           the tender of the principal residence—

3           “(i) a sale free and clear of liens of  
4           the debtor’s principal residence shall be  
5           conducted in a commercially reasonable  
6           manner; and

7           “(ii) after deducting the costs of the  
8           sale, any liens against the debtor’s prin-  
9           cipal residence shall attach to the proceeds  
10          of the sale;

11          “(5) provide for an order garnishing the earn-  
12          ings of the debtor or authorizing electronic fund  
13          transfers from a deposit account of the debtor dur-  
14          ing the duration of the residence plan, but only to  
15          the extent necessary to cure any default on a claim  
16          secured by the debtor’s principal residence in accord-  
17          ance with subsection (d); and

18          “(6) include any other appropriate provision not  
19          inconsistent with this title.

20          “(c) PROPERTY PLANS.—A property plan may—

21          “(1) modify or leave unaffected the rights of  
22          holders of claims secured by the property, other than  
23          property that is the debtor’s principal residence;

24          “(2) provide for the curing or waiving within a  
25          reasonable time of any default on any claim secured

1 by the property of the debtor that is not the debtor's  
2 principal residence in accordance with subsection  
3 (d)(2);

4 “(3) provide for payment of any allowed se-  
5 cured claim secured by the property of the debtor  
6 that is not the debtor's principal residence;

7 “(4) subject to section 522(e), treat as the  
8 holder of a secured claim—

9 “(A) the seller or assignee of an install-  
10 ment sales contract for personal property or the  
11 equivalent of such a contract;

12 “(B) the lessor of a lease of personal prop-  
13 erty, the term of which extends beyond the re-  
14 maining economic life of the property; or

15 “(C) a party to an agreement, irrespective  
16 of form, that is a security interest in personal  
17 property under applicable nonbankruptcy law;

18 “(5) provide for an order garnishing the earn-  
19 ings of the debtor or ordering the authorization of  
20 electronic fund transfers from a deposit account of  
21 the debtor during the duration of the property plan;  
22 and

23 “(6) include any other appropriate provision not  
24 inconsistent with this title.

25 “(d) CURE OF DEFAULT.—

1 “(1) PRINCIPAL RESIDENCE.—Notwithstanding  
2 any applicable nonbankruptcy law, a default with re-  
3 spect to, or that gives rise to, a lien on the property  
4 that is the debtor’s principal residence may be cured  
5 by a residence plan under subsection (a)(2)(B) until  
6 the debtor ceases to have rights, including a right of  
7 redemption, in the property.

8 “(2) AMOUNT TO CURE.—

9 “(A) IN GENERAL.—Notwithstanding sec-  
10 tion 506(b), if a repayment plan, a residence  
11 plan, or a property plan provides for the curing  
12 of a default, the amount necessary to cure the  
13 default shall be determined in accordance with  
14 the underlying agreement and applicable non-  
15 bankruptcy law.

16 “(B) PROHIBITION.—The cure of a default  
17 under subparagraph (A) may not require—

18 “(i) interest on arrearages; or

19 “(ii) the payment of any penalty rate,  
20 late fee, or payment required under a pen-  
21 alty provision or a similar provision.

22 **“§ 1023. Plan confirmation hearing**

23 “(a) IN GENERAL.—If the trustee, the United States  
24 trustee, or a creditor objects to confirmation of a plan filed  
25 under section 1021, the court shall hold a hearing on con-

1 firmation of the plan within such period of time as per-  
2 mitted in a rule prescribed by the Judicial Conference of  
3 the United States, except that the court may extend such  
4 time period for cause.

5 “(b) CONFIRMATION WITHOUT HEARING.—If no ob-  
6 jection is raised, the court shall, upon notice, promptly  
7 confirm a plan that complies with section 1024(a) without  
8 a hearing.

9 “(c) MULTIPLE PLANS.—If the debtor files more  
10 than 1 plan under section 1021, the court shall hold a  
11 single hearing on confirmation on all of the plans, un-  
12 less—

13 “(1) the court orders otherwise for cause; or

14 “(2) no hearing is required under subsection  
15 (b).

16 **“§ 1024. Confirmation of plans**

17 “(a) PLAN REQUIREMENTS.—Subject to subsections  
18 (b) through (d), the court shall confirm a plan under this  
19 section if all of the following requirements are met:

20 “(1) The plan complies with the applicable pro-  
21 visions of this title, other than section 1022(a)(1).

22 “(2) Any fee, charge, or amount that is re-  
23 quired to be paid before confirmation under chapter  
24 123 of title 28 or the plan has been paid.

25 “(3) The plan has not been proposed—



1           “(A) in bad faith, which may not be dem-  
2           onstrated solely by the amount of payments  
3           proposed by the debtor under a repayment plan;  
4           or

5           “(B) by any means forbidden by law.

6           “(4) The debtor is likely to be able to make all  
7           payments under the plan and to comply with the  
8           plan.

9           “(5) In the case of a debtor that is required by  
10          a judicial or administrative order or by a statute to  
11          pay a domestic support obligation, the debtor has  
12          paid all amounts required by such domestic support  
13          obligation that first became payable after the date of  
14          the filing of the petition.

15          “(6) Any compensation paid under the plan to  
16          the attorney of the debtor is reasonable and satisfies  
17          the requirements of section 329(c).

18          “(b) OBJECTION TO REPAYMENT PLAN.—If the  
19          trustee or the holder of an allowed unsecured claim objects  
20          to a repayment plan that complies with subsection (a), the  
21          court shall confirm the repayment plan only if—

22               “(1) the plan satisfies the requirements of sec-  
23               tion 1022(a)(1); or

24               “(2) the court finds that, because of cir-  
25               cumstances that the debtor cannot reasonably avoid,

1 the debtor is justly excused from satisfying all or  
2 part of the requirements of section 1022(a)(1).

3 “(c) OBJECTION TO RESIDENCE PLAN.—If the hold-  
4 er of an allowed secured claim secured by the debtor’s  
5 principal residence objects to the confirmation of a resi-  
6 dence plan, the court shall confirm the residence plan only  
7 if, for any such allowed secured claim of which the holder  
8 has objected to the confirmation, the residence plan pro-  
9 vides that—

10 “(1) the holder retains the lien securing the  
11 claim;

12 “(2) the value, as of the effective date of the  
13 residence plan, of the payments to be distributed  
14 under the residence plan on account of the claim is  
15 not less than the allowed amount of the secured  
16 claim;

17 “(3) payments on all claims under the residence  
18 plan are in equal monthly amounts, other than pay-  
19 ments to cure a default under section  
20 1022(a)(2)(B);

21 “(4) except as provided in paragraph (5), de-  
22 fault under the residence plan constitutes default  
23 under any security agreement that creates a security  
24 interest in the debtor’s principal residence;

1           “(5) the debtor will be in default for a late pay-  
2           ment under the plan and any security agreement  
3           that creates a security interest in the debtor’s prin-  
4           cipal residence only if the debtor is more than 120-  
5           days delinquent on any payment under the residence  
6           plan;

7           “(6) the holders of any judicial lien or statutory  
8           lien created before the order for relief cannot exer-  
9           cise any remedies under applicable nonbankruptcy  
10          law, unless the debtor is 120-days delinquent on any  
11          payment under the residence plan;

12          “(7) the last payment on account of the secured  
13          claim is due on a date that is not later than the  
14          later of—

15               “(A) 15 years after the date of confirma-  
16               tion of the residence plan; or

17               “(B) 5 years after the original maturity  
18               date of the loan relating to the claim; and

19          “(8) the debt secured by the debtor’s principal  
20          residence that is dealt with by the residence plan has  
21          not been previously provided for by a residence plan  
22          that was—

23               “(A) confirmed on a date that is not more  
24               than 6 years before the date of the filing of the  
25               petition; and

1 “(B) completed.

2 “(d) OBJECTION TO PROPERTY PLAN.—If the holder  
3 of an allowed secured claim that is secured by property  
4 that is not the debtor’s principal residence objects to the  
5 confirmation of a property plan, the court shall confirm  
6 the property plan only if—

7 “(1) the property plan provides that—

8 “(A) the holder of the claim retains the  
9 lien securing the allowed secured claim;

10 “(B) the value, as of the effective date of  
11 the property plan, of the property to be distrib-  
12 uted under the property plan on account of the  
13 claim is not less than the amount of the allowed  
14 secured claim, unless—

15 “(i) the property securing the claim is  
16 a motor vehicle that was acquired by the  
17 debtor within the 90-day period imme-  
18 diately preceding the date of the filing of  
19 the petition; and

20 “(ii) the lien securing the claim is a  
21 purchase-money security interest;

22 “(C) the value, as of the effective date of  
23 the property plan, of property to be distributed  
24 on account of a claim described in clauses (i)  
25 through (iii) of subparagraph (B) is not less

1 than the allowed amount of the claim, as cal-  
2 culated under section 502;

3 “(D) payments on all claims under the  
4 property plan are in equal monthly amounts;

5 “(E) except as provided in subparagraph  
6 (F), default under the property plan constitutes  
7 default under any security agreement that cre-  
8 ates a security interest in the property subject  
9 to the property plan;

10 “(F) the debtor is in default for a late pay-  
11 ment under the plan and any security agree-  
12 ment that creates a security interest in the  
13 property subject to the property plan only if the  
14 debtor is not less than 90 days delinquent on  
15 payment to the holder of the security interest  
16 under the property plan;

17 “(G) the property plan provides that the  
18 holder of a judicial lien or statutory lien created  
19 before the date of the order for relief cannot ex-  
20 ercise any remedies relating to the judicial lien  
21 or statutory lien under applicable nonbank-  
22 ruptcy law, unless the debtor is not less than 90  
23 days delinquent on any payment to the  
24 lienholder under the property plan;

1           “(H) the last payment due under the prop-  
2           erty plan is due on a date that is not later than  
3           the later of—

4                   “(i) 5 years after the date of con-  
5                   firmation of the property plan; or

6                   “(ii) the original maturity date of  
7                   loan; and

8           “(I) the debt secured by the property that  
9           is dealt with by the property plan has not been  
10          previously provided for by a property plan that  
11          was—

12                   “(i) confirmed on a date that is not  
13                   more than 6 years before the date of the  
14                   filing of the petition; and

15                   “(ii) completed;

16          “(2) if the property securing the claim of the  
17          objecting holder is a motor vehicle—

18                   “(A) the debtor has provided the holder of  
19                   any security interest in the motor vehicle with  
20                   reasonable evidence of the maintenance of any  
21                   required insurance coverage on the motor vehi-  
22                   cle securing the claim sufficient to protect the  
23                   interest of the holder in the motor vehicle; and

24                   “(B) the motor vehicle is—

- 1                   “(i) used regularly as a means of
- 2                   transportation for the debtor or a depend-
- 3                   ent of the debtor; or
- 4                   “(ii) used by the debtor or a depend-
- 5                   ent of the debtor in business; and
- 6                   “(3) if the property securing the claim of the
- 7                   objecting holder is not a motor vehicle—
- 8                   “(A) the property is reasonably necessary
- 9                   for the support or maintenance of the debtor or
- 10                  a dependent of the debtor; or
- 11                  “(B) the property is reasonably necessary
- 12                  for the continuation, preservation, and oper-
- 13                  ation of a business owned or operated by the
- 14                  debtor or a dependent of the debtor.
- 15                  “(e) IMPAIRMENT.—
- 16                  “(1) IN GENERAL.—The holder of an allowed
- 17                  secured claim that is not impaired under a plan may
- 18                  not object to a residence plan under subsection (c)
- 19                  or a property plan under subsection (d).
- 20                  “(2) DETERMINATION.—For the purpose of
- 21                  this subsection, impairment shall be determined
- 22                  under section 1124.
- 23                  “(f) DENIAL OF MOTION.—

1           “(1) IN GENERAL.—A denial of a motion to  
2       confirm a plan shall constitute a final, appealable  
3       order.

4           “(2) PLAN MODIFICATION.—Nothing in this  
5       section shall be construed to prevent a debtor from  
6       proposing to modify a plan that has been denied  
7       confirmation.

8           “(g) MULTIPLE PLANS.—If the debtor has filed mul-  
9       tiple plans, any party in interest may request that the con-  
10      firmation of any plan be stayed until the date on which  
11      the court confirms or denies any other plan.

12          “(h) INTEREST RATE.—The rate of interest that  
13      shall be used to calculate the value of property distributed  
14      under a plan, as of the effective date of the plan, shall  
15      be—

16           “(1) for the purpose of subsection (c)(2)—

17           “(A) in the case of a first priority lien, the  
18           current average prime offer rate (as defined in  
19           section 1026.35(a)(2) of title 12, Code of Fed-  
20           eral Regulations) for a loan of the most similar  
21           duration and rate type; and

22           “(B) in the case of any other lien, a rate  
23           that is 300 basis points greater than the cur-  
24           rent average prime offer rate (as defined in sec-  
25           tion 1026.35(a)(2) of title 12, Code of Federal



1 Regulations) for a loan of the most similar du-  
2 ration and rate type; and

3 “(2) for the purpose of subsection (d)(2), the  
4 current average prime offer rate for motor vehicle fi-  
5 nancing of the most similar duration and rate type,  
6 as determined by the Bureau of Consumer Financial  
7 Protection under section 201(e) of the Consumer  
8 Bankruptcy Reform Act of 2020.

9 **“§ 1025. Payments under a repayment plan**

10 “(a) DUTIES OF TRUSTEE.—The trustee shall—

11 “(1) collect and be accountable for any future  
12 income of the debtor that is designated for a pay-  
13 ment to a creditor under a repayment plan;

14 “(2) accept and be accountable for any property  
15 of the estate tendered by the debtor pursuant to a  
16 repayment plan under section 1022(a)(1)(A)(i)(II);  
17 and

18 “(3) reduce to money and be accountable for  
19 any property of the estate tendered by the debtor  
20 under the repayment plan as expeditiously as is com-  
21 patible with the best interests of the parties in inter-  
22 est.

23 “(b) PAYMENTS.—

24 “(1) IN GENERAL.—Except as provided by sec-  
25 tion 1027 and unless the court orders otherwise, not

1 later than 30 days after the date of the order for re-  
2 lief under this chapter, the debtor shall—

3 “(A) commence making payments in the  
4 amount proposed to be made under a repay-  
5 ment plan; and

6 “(B) tender to the trustee any relevant  
7 property of the estate requested by the trustee  
8 under section 1022(a)(1)(A)(i)(II), unless the  
9 debtor has elected under section 1022(a)(2)(B)  
10 to pay the trustee for the value of such prop-  
11 erty under a repayment plan.

12 “(2) ACTION BY TRUSTEE.—

13 “(A) RETENTION OF PAYMENTS PENDING  
14 PLAN CONFIRMATION.—The trustee shall retain  
15 a payment made under paragraph (1) until the  
16 date on which the repayment plan is confirmed  
17 or denied under section 1024.

18 “(B) DISTRIBUTION OF PAYMENTS.—If a  
19 repayment plan is confirmed under section  
20 1024, the trustee shall distribute any payments  
21 retained under subparagraph (A) in accordance  
22 with the repayment plan as soon as is prac-  
23 ticable.

24 “(C) RETURN OF PAYMENTS.—The trust-  
25 ee, after deducting the sum of each allowed ad-

1           ministrative expense under section 503(b), shall  
2           return to the debtor any payments retained  
3           under paragraph (1) if the case is dismissed or  
4           converted.

5           “(3) MODIFICATION.—Subject to section 363,  
6           pending confirmation of a repayment plan, the  
7           court, after notice and a hearing, may for cause  
8           modify, increase, or reduce the payments required  
9           under this subsection.

10          “(c) PAYMENTS TO CREDITORS.—

11           “(1) IN GENERAL.—Except as otherwise pro-  
12           vided in the repayment plan or in the order con-  
13           firming the repayment plan, after confirmation of  
14           the plan, the trustee shall make payments to credi-  
15           tors under the repayment plan.

16           “(2) PROHIBITION.—Except as provided in sub-  
17           section (d), the trustee may not make a payment de-  
18           scribed in section 1022(a)(1)(B)(ii) under a repay-  
19           ment plan until the date on which the trustee makes  
20           every payment in accordance with any entitlement of  
21           a creditor, including a creditor provided for under  
22           section 1022(a)(1)(B)(ii), to payment under the  
23           minimum payment obligation.

24          “(d) PRIORITY OF PAYMENTS.—

1           “(1) IN GENERAL.—Subject to paragraphs (2)  
2           and (3), all payments made by the trustee under this  
3           section shall be disbursed according to the order of  
4           priority in section 726.

5           “(2) ADMINISTRATIVE EXPENSES AND FEES.—  
6           Before or at the time of each payment to a creditor  
7           under a repayment plan, the trustee shall pay any  
8           unpaid claim of a kind specified in section  
9           507(a)(2).

10          “(3) EXCEPTIONS.—In disbursing payments  
11          under this section, the trustee shall, at the time of  
12          each disbursement, pay—

13               “(A) any unpaid claim of the kind de-  
14               scribed in section 507(a)(2); and

15               “(B) if a standing trustee appointed under  
16               section 586(b) of title 28 is serving in the case,  
17               the percentage fee fixed for the standing trustee  
18               under section 586(e) of title 28.

19          “(4) PROPERTY RECOVERED IN AVOIDANCE AC-  
20          TIONS.—Subject to any exemption allowed under  
21          section 522, the trustee shall disburse any property  
22          the trustee recovers under section 550 in accordance  
23          with this subsection.

24          “(e) ENFORCEMENT OF OBLIGATIONS OF DEBTOR.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2           the obligations of a debtor under a repayment plan  
3           may be enforced solely by the trustee.

4           “(2) EXCEPTION.—The holder of a claim pro-  
5           vided for under section 1022(a)(1)(B)(ii) may en-  
6           force the debt that is the basis for the claim in ac-  
7           cordance with section 1028(b).

8           “(3) 90-DAY DELINQUENCY REQUIREMENT.—  
9           The trustee may not commence any action to enforce  
10          an obligation of the debtor under a repayment plan  
11          based on a delinquent payment until after the date  
12          on which the debtor has been delinquent on the pay-  
13          ment for an 90-day period.

14          “(4) PLAN ENFORCEABLE BY TRUSTEE AS A  
15          SIMPLE CONTRACT.—Subject to sections 362 and  
16          1029 and paragraph (7), the trustee may enforce an  
17          obligation of the debtor under a repayment plan only  
18          as a simple contract under applicable nonbankruptcy  
19          law.

20          “(5) APPLICATION OF NONBANKRUPTCY LAW.—  
21          Except as provided in section 1029, enforcement of  
22          the obligations of a debtor under a repayment plan  
23          shall be subject to applicable nonbankruptcy law, in-  
24          cluding laws relating to the garnishment of the  
25          wages of the debtor.

1           “(6) INEFFICIENT ENFORCEMENT PROHIB-  
2       ITED.—The trustee may not enforce an obligation of  
3       the debtor under a repayment plan if the reasonably  
4       anticipated costs of the enforcement would exceed  
5       the reasonably anticipated recovery to creditors after  
6       deducting the fee and expenses of the trustee.

7           “(7) STATUTE OF LIMITATIONS FOR TRUSTEE  
8       ENFORCEMENT.—An action by the trustee to enforce  
9       an obligation of the debtor under a repayment plan  
10      may not be commenced on a date that is more than  
11      2 years after the earliest date on which the trustee  
12      may bring an action under paragraph (3).

13          “(8) TRUSTEE’S RIGHTS NONASSIGNABLE.—  
14      Any assignment, factoring, or transferring of rights  
15      or amounts a debtor owes to a trustee under a re-  
16      payment plan, or of rights or authority to collect any  
17      such amounts, is void.

18   **“§ 1026. Payments under a residence plan or property**  
19           **plan**

20          “(a) IN GENERAL.—Payments under a residence  
21      plan or a property plan shall be made by the debtor in  
22      accordance with the plan.

23          “(b) CURE OF DEFAULT.—

24              “(1) IN GENERAL.—If a residence plan or prop-  
25      erty plan proposes to cure a default on a claim se-

1       cured by property of the debtor, the debtor may,  
2       upon completion of the cure payments due under the  
3       plan, certify to the holder of such claim using a form  
4       prescribed by the Judicial Conference of the United  
5       States, with notice given to the court, that the de-  
6       fault has been cured.

7               “(2) PRESUMPTIVE EVIDENCE.—A certification  
8       of a debtor of cure of a default by the debtor under  
9       paragraph (1) shall constitute presumptive evidence  
10      that the default has in fact been cured.

11   **“§ 1027. Protection of lessors and purchase money**  
12               **lenders**

13               “(a) LEASE PAYMENTS.—The debtor shall timely  
14      make any payments scheduled in a lease of personal prop-  
15      erty directly to the lessor for the portion of the obligation  
16      that becomes due after the date of the order for relief  
17      under this chapter, unless—

18               “(1) the court orders otherwise;

19               “(2) the debtor rejects a lease of personal prop-  
20      erty under section 365(a); or

21               “(3) the debtor assumes a lease of personal  
22      property under section 365(p)(1)(B).

23               “(b) INSURANCE COVERAGE.—Not later than 60  
24      days after the date of the order for relief under this chap-  
25      ter, a debtor who has proposed a plan that retains posses-

1 sion of personal property subject to a lease a purchase  
2 money security interest shall—

3 “(1) provide the lessor or holder of the claim  
4 reasonable evidence of the maintenance of any insur-  
5 ance coverage required under the lease or purchase  
6 money security agreement with respect to the use or  
7 ownership of the property; and

8 “(2) continue to provide the reasonable evidence  
9 required under paragraph (1) for as long as the  
10 debtor retains possession of the property before the  
11 date of confirmation of a plan addressing the prop-  
12 erty.

13 **“§ 1028. Effect of confirmation**

14 “(a) BINDING EFFECT.—The provisions of a con-  
15 firmed plan bind the debtor and each creditor of a claim  
16 for which the plan provides, regardless of whether the  
17 creditor has objected to the plan.

18 “(b) REPAYMENT PLAN INJUNCTION.—Confirmation  
19 of a repayment plan shall operate as an injunction against  
20 the commencement or continuation of an action, the em-  
21 ployment of process, or an act to collect, recover, or offset  
22 any debt excepted from discharge under section 523(a)  
23 and treated under section 1022(a)(1)(B)(ii) until—

24 “(1) the date on which the debtor completes all  
25 payments due under the plan; or



1           “(2) the debtor is not less than 90 days delin-  
2           quent on a payment required under a repayment  
3           plan.

4           “(c) RESIDENCE PLAN INJUNCTION.—Except as pro-  
5           vided in subsection (e), confirmation of a residence plan  
6           shall operate as an injunction against the commencement  
7           or continuation of an action, the employment of process,  
8           or an act, to collect, recover, or offset any debt treated  
9           under section 1022(b)(2) or property securing such debt  
10          as long as the debtor is not more than 120 days delinquent  
11          on a payment required under a residence plan.

12          “(d) PROPERTY PLAN INJUNCTION.—Except as pro-  
13          vided in subsection (e), confirmation of a property plan  
14          shall operate as an injunction against the commencement  
15          or continuation of an action, the employment of process,  
16          or an act, to collect, recover, or offset any debt treated  
17          under section 1022(c)(2) or property securing such debt  
18          as long as the debtor is not more than 90 days delinquent  
19          on a payment required under a property plan.

20          “(e) REQUEST FOR RELIEF FROM INJUNCTION.—A  
21          party in interest may request from the court relief from  
22          the operation of an injunction under subsection (c) or (d).

23          “(f) VESTING OF PROPERTY.—Except as otherwise  
24          provided in a plan or the order confirming the plan, the

1 confirmation of a plan vests all of the property of the es-  
2 tate in the debtor.

3 “(g) FREE AND CLEAR.—Except as otherwise pro-  
4 vided in a plan or in the order confirming the plan, the  
5 property vesting in the debtor under subsection (f) is free  
6 and clear of any claim or interest of any creditor holding  
7 a claim provided for by the plan.

8 “(h) SECURED CLAIMS.—Except as provided by sec-  
9 tion 1031, the confirmation of a repayment plan leaves  
10 unaltered the rights of the holder of a secured claim that  
11 has not been avoided under this title.

12 “(i) LIEN CREATED TO SECURE REPAYMENT PLAN  
13 OBLIGATION.—

14 “(1) IN GENERAL.—The confirmation of a re-  
15 payment plan creates a lien in favor of the trustee  
16 in the amount of the minimum payment obligation  
17 on any non-exempt property of the estate retained  
18 by the debtor pursuant to section  
19 1022(a)(1)(A)(i)(II) to secure the minimum pay-  
20 ment obligation.

21 “(2) PRIORITY OF LIEN.—Without regard to  
22 the knowledge of the trustee or any creditor, a lien  
23 created under paragraph (1) shall have the same  
24 status, priority, rights, and powers, with respect to

1 the property retained by the debtor to secure the ob-  
2 ligation, as—

3 “(A) a creditor, regardless of whether such  
4 a creditor exists, that extends credit to the  
5 debtor at the time of the commencement of the  
6 case and obtains, at such time, and with respect  
7 to such credit, a judicial lien on any such non-  
8 exempt property that is personal property;

9 “(B) a bona fide purchaser of any such  
10 real property, other than fixtures, from the  
11 debtor against whom applicable law permits  
12 such transfer to be perfected and that obtains  
13 the status of a bona fide purchaser; and has  
14 perfected such transfer at the time of the com-  
15 mencement of the case, whether or not any  
16 such purchaser exists;

17 “(C) the holder of a perfected security in-  
18 terest in any such personal property of the  
19 debtor against which applicable law permits  
20 such security interest to be perfected as of the  
21 date of the confirmation of the repayment plan,  
22 whether or not such a holder exists; or

23 “(D) the holder of a perfected garnishment  
24 lien against the wages of the debtor, whether or  
25 not such a holder exists.

1           “(3) EFFECT OF LIEN.—A lien created under  
2       paragraph (1)—

3           “(A) may not be considered a garnishment  
4       for the purposes of section 304(a) of the Con-  
5       sumer Credit Protection Act (15 U.S.C.  
6       1674(a)); and

7           “(B) shall be subordinate to any lien for  
8       payment of a domestic support obligation.

9           “(4) RECORD OF LIEN.—The trustee shall  
10      record a lien created under paragraph (1) in the  
11      bankruptcy lien filing system maintained by the Ex-  
12      ecutive Office of the United States Trustee under  
13      section 501 of the Consumer Bankruptcy Reform  
14      Act of 2020.

15          “(j) EFFECT OF RESIDENCE OR PROPERTY PLAN.—  
16      Except to the extent inconsistent with the plan or the pro-  
17      visions of this title, confirmation of a residence plan or  
18      a property plan leaves unaltered the rights of the parties  
19      under any agreement that is the basis for a claim secured  
20      by property provided for by the plan.

21          “(k) CERTAIN CONTRACT PROVISIONS VOID.—

22               “(1) IPSO FACTO CLAUSES VOID.—The con-  
23      firmation of a plan voids any provision in a contract  
24      provided for by the plan that is conditioned on—

1           “(A) the insolvency or financial condition  
2           of the debtor at any time before the closing of  
3           a case;

4           “(B) the commencement of a case under  
5           this title; or

6           “(C) the appointment of, or taking of pos-  
7           session by, a trustee in a case under this title  
8           or a custodian before a case is commenced  
9           under this title.

10          “(2) ARBITRATION AND JOINT-ACTION PROVI-  
11          SIONS VOID.—Notwithstanding any contrary provi-  
12          sion of nonbankruptcy law, the confirmation of a  
13          plan voids any pre-dispute arbitration agreement or  
14          pre-dispute joint-action lawsuit waiver relating to  
15          property subject to the plan.

16          “(1) JURISDICTION TO RESOLVE DISPUTES.—Upon  
17          confirmation of a plan, the court shall retain jurisdiction  
18          to resolve any disputes arising under, or relating to, the  
19          plan and may order any appropriate relief in such a dis-  
20          pute, including the suspension of the payment obligations  
21          of the debtor under the plan.

22          **“§ 1029. Modification of repayment plan**

23          “(a) IN GENERAL.—After notice and a hearing, the  
24          court may, for cause, modify an obligation of the debtor

1 under a repayment plan based on a material change in  
2 the financial condition of the debtor that—

3 “(1) occurs after the date of the confirmation  
4 of the repayment plan; and

5 “(2) would impose a substantial burden on the  
6 debtor or a dependent of the debtor.

7 “(b) UNANTICIPATED ATTORNEY’S FEES.—If the  
8 debtor incurs unanticipated attorney’s fees for services  
9 provided subsequent to confirmation of a repayment plan,  
10 including for services relating to this section, after notice  
11 and a hearing, the court may, for cause—

12 “(1) subject to section 502(b)(3), allow the  
13 debtor to modify the repayment plan to include  
14 treatment of such attorney’s fees; and

15 “(2) permit the debtor to extend the term of a  
16 repayment plan by up to 6 months to facilitate  
17 treatment of such attorney’s fees.

18 “SUBCHAPTER III—DISCHARGE

19 “§ 1031. Discharge; scope and timing

20 “(a) IN GENERAL.—Subject to subsection (b), the  
21 court shall grant the debtor a discharge in accordance with  
22 subsection (c) as soon as is practicable after—

23 “(1) the date of confirmation of a repayment  
24 plan; or

1 “(2) in the case of a debtor that has no min-  
2 imum payment obligation, the date on which the  
3 deadline for filing a repayment plan under section  
4 1021(e) expires.

5 “(b) EXCEPTIONS.—The court may not grant a dis-  
6 charge under subsection (a) to a debtor who has—

7 “(1) been granted a discharge under this sec-  
8 tion, under section 1141, 1192, 1128, or under  
9 former section 727 or 1328, within 6 years of the  
10 date of the filing of the petition;

11 “(2) failed to tender the property of the estate  
12 that is designated to be tendered under a repayment  
13 plan under section 1022(a)(1)(A)(i)(II);

14 “(3)(A) executed a written waiver of discharge  
15 after the date of the order for relief; and

16 “(B) appeared at a hearing at which the court  
17 determined that the debtor adequately understands  
18 the terms and consequences of the waiver described  
19 in subparagraph (A);

20 “(4) with the intent to hinder, delay, or defraud  
21 a creditor or an officer of the estate charged with  
22 the custody of property under this title, transferred,  
23 removed, destroyed, mutilated, concealed, or per-  
24 mitted the transfer, removal, destruction, mutilation,  
25 or concealment of—

1           “(A) property of the debtor within 1 year  
2           of the date of the filing of the petition; or

3           “(B) property of the estate after the date  
4           of the filing of the petition;

5           “(5) concealed, destroyed, mutilated, falsified,  
6           or failed to keep or preserve any recorded informa-  
7           tion from which the financial condition or business  
8           transactions of the debtor might have been  
9           ascertained, unless such act or failure was justified  
10          under all of the circumstances of the case;

11          “(6) knowingly and fraudulently, in the case or  
12          in connection with the case—

13               “(A) made a false oath or account;

14               “(B) presented or used a false claim;

15               “(C) gave, offered, received, or attempted  
16           to obtain money, property, or advantage, or a  
17           promise of money, property, or advantage, for  
18           acting or forbearing to act; or

19               “(D) withheld from the trustee any re-  
20           corded information, including books, documents,  
21           records, and papers, relating to the property or  
22           financial affairs of the debtor;

23               “(7) failed to satisfactorily explain, before the  
24           determination of denial of discharge under this para-



1 graph, any loss of assets or deficiency of assets to  
2 meet the liabilities of the debtor; or

3 “(8) refused in the case—

4 “(A) to obey any lawful order of the court,  
5 other than an order to respond to a material  
6 question or to testify;

7 “(B) on the ground of privilege against  
8 self-incrimination, to respond to a material  
9 question approved by the court or to testify  
10 after the debtor has been granted immunity  
11 with respect to the matter concerning which the  
12 privilege was invoked; or

13 “(C) on a ground other than a properly in-  
14 voked privilege against self-incrimination, to re-  
15 spond to a material question approved by the  
16 court or to testify.

17 “(c) DEBTS DISCHARGED.—Except as provided in  
18 section 523, a discharge under subsection (a) discharges  
19 the debtor from all debts that arose before the date of  
20 the order for relief under this chapter and any liability  
21 on a claim that is determined under section 502 as if such  
22 debt or claim had arisen before the commencement of the  
23 case, whether or not—

24 “(1) a proof of claim based on any such debt  
25 or liability is filed under section 501; or

1           “(2) a claim based on any such debt or liability  
2           is allowed under section 502.

3           “(d) NOTICE OF DEBTOR’S RIGHTS.—Upon granting  
4 a discharge under subsection (a), the court shall include  
5 in the discharge order provided to the debtor on a form  
6 prescribed by the Judicial Conference of the United States  
7 in accordance with rule 9009 of the Federal Rules of  
8 Bankruptcy Procedure a conspicuous notice of—

9           “(1) the right to bring an action for contempt  
10          or a civil action under section 524(c); and

11          “(2) the existence of other Federal or State  
12          laws that may provide additional remedies to the  
13          debtor in the event a person violates section 524.

14 **“§ 1032. Revocation of discharge or order of con-**  
15 **firmation**

16          “(a) IN GENERAL.—On request of the trustee, a  
17 creditor, or the United States trustee, at any time within  
18 1 year after the date of the entry of an order of confirma-  
19 tion under section 1024 or an order of discharge under  
20 section 1031, and after notice and a hearing, the court  
21 may revoke such order only if—

22          “(1) such confirmation or discharge was ob-  
23          tained through the fraud of the debtor and the re-  
24          questing party did not know of such fraud until

1 after the granting of such confirmation or discharge;

2 or

3 “(2) the debtor has refused, in the case—

4 “(A) to obey any lawful order of the court,  
5 other than an order to respond to a material  
6 question or to testify;

7 “(B) on the ground of privilege against  
8 self-incrimination, to respond to a material  
9 question approved by the court or to testify,  
10 after the debtor has been granted immunity  
11 with respect to the matter concerning which  
12 such privilege was invoked; or

13 “(C) on a ground other than the properly  
14 invoked privilege against self-incrimination, to  
15 respond to a material question approved by the  
16 court or to testify.

17 “(b) DISPOSAL OF CASE.—If the court revokes an  
18 order of confirmation or an order of discharge under sub-  
19 section (a), the court shall convert or dismiss the case  
20 under section 1005.

21 “SUBCHAPTER IV—AVOIDANCE ACTIONS

22 **“§ 1041. Treatment of certain liens**

23 “The trustee may avoid a lien that secures a claim  
24 of a kind described in section 726(a)(4).

1   **“§ 1042. Limitations on avoidance actions**

2       “The trustee may not bring an action to avoid a  
3 transfer or obligation under section 544, 545, 547, 548,  
4 553, or 1041, unless there are allowed unsecured claims  
5 against the estate that the debtor does not propose to pay  
6 in full under a repayment plan.

7       “SUBCHAPTER V—LIMITED PROCEEDINGS

8   **“§ 1051. Election of limited proceeding**

9       “(a) IN GENERAL.—

10       “(1) ELECTION OF LIMITED PROCEEDING.—In  
11 a case commenced under section 301 or 302, a debt-  
12 or that is eligible to file under this chapter may, as  
13 part of the petition for relief, elect to conduct a lim-  
14 ited proceeding that affects only claims secured by  
15 specific items of the property of the debtor under  
16 this subchapter.

17       “(2) GENERAL PROCEEDING AS DEFAULT.—If  
18 the debtor does not elect to conduct a limited pro-  
19 ceeding in a case under this chapter—

20               “(A) the case shall proceed as a general  
21 proceeding under this title; and

22               “(B) this subchapter shall not apply to the  
23 case.

24       “(b) LIMITATION ON ELECTION.—

1 “(1) IN GENERAL.—After the entry of order for  
2 relief, the debtor may not elect to conduct a limited  
3 proceeding.

4 “(2) ELECTION AFTER DISMISSAL.—Nothing in  
5 this section shall preclude a debtor, subsequent to  
6 the dismissal of a case, from—

7 “(A) filing a petition under section 301 or  
8 302; and

9 “(B) electing to conduct a limited pro-  
10 ceeding under subsection (a).

11 **“§ 1052. Effect of limited proceeding**

12 “If the debtor elects to conduct a limited proceeding  
13 under section 1051(a)—

14 “(1) the debtor shall file with the petition a  
15 schedule of affected property designating the prop-  
16 erty to be subject to the limited proceeding that lists  
17 any creditor that has an interest in such property;

18 “(2) the property of the estate under section  
19 541 shall be limited to property that the debtor has  
20 indicated in the schedule of affected property;

21 “(3) sections 341, 365, 1001, 1002, 1003,  
22 1005(a), 1005(b)(4), 1005(b)(7), 1005(c), 1008,  
23 1021(a)(1), 1025, 1027(a), 1031, 1032, 1041, and  
24 1042 shall not apply to the case;

1           “(4) subject to any limitations of a trustee  
2           under this chapter, the debtor shall have the rights  
3           and powers of a trustee under—

4                   “(A) subsections (b), (c), (d), (f), and (l)  
5                   of section 363; and

6                   “(B) sections 364, 544, 546, 547, 548,  
7                   549, and 553;

8           “(5) the debtor shall file 1 or more plans under  
9           paragraphs (2) and (3) of section 1021(a) with re-  
10          spect to property listed in the schedule of affected  
11          property within 7 days of the order for relief, or  
12          such further time as the court may allow for cause,  
13          but in no case more than 30 days after the date of  
14          the order for relief;

15          “(6) the stay under subsection section 362(a)  
16          shall apply only to entities with an interest in the  
17          property that the debtor has indicated in the sched-  
18          ule of affected property as intended for treatment  
19          under a plan;

20          “(7) the debtor shall not be required to file the  
21          items required under section 521(a)(1)(B), other  
22          than a statement of current income and current ex-  
23          penditures; and

24          “(8) notice of the order for relief shall not be  
25          required to be provided to parties other than parties

1 with claims secured by property that the debtor has  
2 indicated in the schedule of affected property and to  
3 the United States trustee.

4 **“§ 1053. Dismissal or conversion of limited pro-**  
5 **ceedings**

6 “(a) ELECTION OF DISMISSAL OR CONVERSION OF  
7 LIMITED PROCEEDING.—The debtor may elect to dismiss  
8 a limited proceeding or convert a limited proceeding to a  
9 general proceeding under this chapter by filing a notice  
10 of termination or conversion within 7 days of the earlier  
11 of—

12 “(1) the failure of the debtor to timely file a  
13 plan required under section 1052(5); or

14 “(2) the failure of the court to confirm a plan  
15 within 60 days of the date of the order for relief.

16 “(b) CONVERSION OF LIMITED PROCEEDING.—If a  
17 debtor elects to convert a limited proceeding to a general  
18 proceeding under this chapter under subsection (a)—

19 “(1) the property of the estate shall be deter-  
20 mined under section 541, without regard to section  
21 1052(2), as of the date of the notice of conversion;

22 “(2) the stay under section 362(a) shall apply  
23 to each entity as of the date of the notice of conver-  
24 sion;

1 “(3) notice of the order for relief shall be pro-  
2 vided to each party in interest that was not notified  
3 under section 1052(8);

4 “(4) any timeline for an action to be taken by  
5 the debtor under this title that begins on the date  
6 of the order for relief shall be adjusted to begin on  
7 the date of the notice of conversion;

8 “(5) except as provided in section 506, with re-  
9 spect to a creditor that has a claim secured by prop-  
10 erty included in the schedule of affected property  
11 filed under section 1052(1), any claims that arose  
12 against the debtor after the date of the order for re-  
13 lief and before the date of the notice of conversion  
14 shall be deemed to have arisen immediately before  
15 the date of the filing of the petition; and

16 “(6) any valuation of property or an allowed se-  
17 cured claim, any determination of a claim allowance,  
18 and any other determination made in the course of  
19 the limited proceeding may be used in the general  
20 proceeding, unless the court for cause orders other-  
21 wise.

22 “(c) DISMISSAL BY COURT OF LIMITED PRO-  
23 CEEDING.—At any time, after notice and a hearing, the  
24 court, on its own motion or on a motion by the United  
25 States trustee, may dismiss a case that is proceeding as



1 a limited proceeding on the grounds that the granting of  
 2 relief would be a manifestly improper use of the bank-  
 3 ruptcy system.”.

4 (b) CLERICAL AMENDMENT.—The table of chapters  
 5 for title 11, United States Code, is amended by inserting  
 6 after the item relating to chapter 9 the following:

“10. Individual bankruptcy ..... 1001”.

7 **SEC. 103. REPEAL OF CHAPTER 13.**

8 (a) IN GENERAL.—Chapter 13 of title 11, United  
 9 States Code, is repealed.

10 (b) CLERICAL AMENDMENT.—The table of chapters  
 11 for title 11, United States Code, is amended by striking  
 12 the item relating to chapter 13.

13 **SEC. 104. OTHER AMENDMENTS TO THE BANKRUPTCY**  
 14 **CODE.**

15 (a) DEFINITIONS.—

16 (1) IN GENERAL.—Section 101 of title 11,  
 17 United States Code, is amended—

18 (A) by striking paragraphs (3), (4A),  
 19 (10A), (12A), and (30);

20 (B) by redesignating paragraphs (53B),  
 21 (53C), (56A), (53D), (54), (54A), and (55) as  
 22 paragraphs (86), (87), (88), (89), (90), (91),  
 23 and (92), respectively;

24 (C) by inserting before paragraph (87), as  
 25 so redesignated, the following:

1           “(85) The term ‘store gift card’ means a card,  
2           code, or other device that is—

3                   “(A) issued in exchange for payment on a  
4           prepaid basis primarily for personal, family, or  
5           household purposes to a consumer in a specified  
6           amount, whether or not that amount may be in-  
7           creased or reloaded; and

8                   “(B) redeemable for goods or services upon  
9           presentation at a single merchant or an affili-  
10          ated group of merchants.”;

11                  (D) by redesignating paragraphs (48),  
12           (48A), (49), (50), (51), (51A), (51B), (51C),  
13           (51D), (52), (53), and (53A) as paragraphs  
14           (73), (74), (75), (76), (77), (78), (79), (80),  
15           (81), (82), (83), and (84), respectively;

16                  (E) by inserting before paragraph (73), as  
17           so redesignated, the following:

18                  “(72) The term ‘residence plan’ means a plan  
19           filed pursuant to section 1022(b) of this title.”;

20                  (F) by redesignating paragraphs (46) and  
21           (47) as paragraphs (70) and (71), respectively;

22                  (G) by inserting before paragraph (70), as  
23           so redesignated, the following:

24                  “(69) The term ‘repayment plan’ means a plan  
25           filed pursuant to section 1022(a) of this title.”;

1 (H) by redesignating paragraph (45) as  
2 paragraph (68);

3 (I) by inserting before paragraph (68), as  
4 so redesignated, the following:

5 “(67) The term ‘realizable value’ means the  
6 value, as of the relevant date, that could be obtained  
7 for the relevant property in a lawful foreclosure, re-  
8 possession, or execution sale, less the costs of such  
9 sale.”;

10 (J) by redesignating paragraphs (43) and  
11 (44) as paragraphs (65) and (66), respectively;

12 (K) by inserting before paragraph (65), as  
13 so redesignated, the following:

14 “(64) The term ‘property plan’ means a plan  
15 filed pursuant to section 1022(c) of this title.”;

16 (L) by redesignating paragraph (42A) as  
17 paragraph (63);

18 (M) by inserting before paragraph (63), as  
19 so redesignated, the following:

20 “(61) The term ‘pre-dispute arbitration agree-  
21 ment’ means any agreement to which the debtor is  
22 a party to arbitrate a dispute that has not arisen at  
23 the time of the making of the agreement.

24 “(62) The term ‘pre-dispute joint-action waiver’  
25 means any agreement to which the debtor is a party,

1       whether or not part of a predispute arbitration  
2       agreement, that would prohibit the debtor from par-  
3       ticipating, or waive the right of the debtor to partici-  
4       pate, in a joint, class, or collective action in a judi-  
5       cial, arbitral, administrative, or other forum, con-  
6       cerning a dispute that has not yet arisen at the time  
7       of the making of the agreement.”;

8               (N) by redesignating paragraphs (40),  
9               (40A), (40B), (41), (41A), and (42) as para-  
10              graphs (55), (56), (57), (58), (59), and (60),  
11              respectively;

12             (O) by inserting before paragraph (56), as  
13             so redesignated, the following:

14             “(54) The term ‘minimum payment obligation’  
15             means, except as provided in section 1021(c)(1) of  
16             this title, an amount equal to the lesser of—

17               “(A) the allowed unsecured claims; or

18               “(B) the sum of—

19                “(i) the value of the debtor’s interest  
20                in property of the bankruptcy estate in ex-  
21                cess of—

22                “(I) any allowed secured claims  
23                that are secured by that property;  
24                plus

1 “(II) any exemption applicable  
2 under section 522(b);  
3 “(ii) in the case of a debtor in a  
4 household of 1, 2, 3, or 4 individuals, to  
5 the extent the debtor’s annual income ex-  
6 ceeds 135 percent of the median family in-  
7 come of the applicable State for a family  
8 of the same number of individuals or fewer  
9 as the debtor—  
10 “(I) if the excess is not over  
11 \$10,000, 15 percent of the excess;  
12 “(II) if the excess is over  
13 \$10,000 but not over \$50,000, \$1,500  
14 plus 45 percent of the excess over  
15 \$10,000;  
16 “(III) if the excess is over  
17 \$50,000 but not over \$100,000,  
18 \$19,500 plus 75 percent of the excess  
19 over \$50,000; or  
20 “(IV) if the excess is over  
21 \$100,000, \$94,500 plus 150 percent  
22 of the excess over \$100,000; and  
23 “(iii) in the case of a debtor in a  
24 household exceeding 4 individuals, clause  
25 (ii) shall apply, except that excess income

1 shall be calculated as the extent to which  
2 the debtor's annual income exceeds the  
3 sum of 135 percent of the highest median  
4 family income of the applicable State for a  
5 family of 4 or fewer individuals and \$9,000  
6 for each individual in excess of 4.”;

7 (P) by redesignating paragraphs (31),  
8 (32), (33), (34), (35), (35A), (36), (37), (38),  
9 (38A), (38B), (39), and (39A) as paragraphs  
10 (41), (42), (43), (44), (45), (46), (47), (48),  
11 (49), (50), (51), (52), and (53), respectively;

12 (Q) in paragraph (45)(B), as so redesign-  
13 ated, by striking “paragraphs (21B) and  
14 (33)(A)” and inserting “paragraphs (29) and  
15 (43)(A)”;

16 (R) by redesignating paragraphs (14),  
17 (14A), (15), (16), (17), (18), (19), (19A),  
18 (19B), (20), (21), (21A), (21B), (22), (22A),  
19 (23), (24), (25), (26), (27), (27A), (27B), (28),  
20 and (29) as paragraphs (17), (18), (19), (20),  
21 (21), (22), (23), (24), (25), (26), (27), (28),  
22 (29), (30), (31), (32), (33), (34), (35), (36),  
23 (37), (38), (39), and (40), respectively;

24 (S) in paragraph (18), as so redesign-  
25 ated—

1 (i) in the matter preceding subpara-  
2 graph (A), by inserting “attorneys’ fees  
3 and” before “interest”; and

4 (ii) by striking subparagraph (A) and  
5 inserting the following:

6 “(A) owed to or recoverable by a spouse,  
7 former spouse, or child of the debtor or a par-  
8 ent, legal guardian, or responsible relative of  
9 such a child;”;

10 (T) by striking paragraph (13A) and in-  
11 serting the following:

12 “(16) The term ‘debtor’s principal residence’,  
13 with respect to a debtor, means 1 of the following:

14 “(A) A residential structure that the debt-  
15 or or a dependent uses as a residence, including  
16 an individual condominium, a mobile or manu-  
17 factured home, or trailer or houseboat, and inci-  
18 dental property, without regard to whether that  
19 structure is attached to real property.

20 “(B) An interest in a cooperative that  
21 owns property that the debtor or a dependent  
22 of the debtor uses as a residence.

23 “(C) A residential leasehold that the debt-  
24 or or a dependent of the debtor uses as a resi-  
25 dence.”;

1           (U) by redesignating paragraphs (7A),  
2           (7B) (8), (9), (10), (11), (12), and (13) as  
3           paragraphs (8), (9), (10), (11), (12), (13),  
4           (14), and (15), respectively; and

5           (V) by inserting before paragraph (4) the  
6           following:

7           “(3) The term ‘annual income’ means—

8           “(A) an amount equal to twice the income  
9           from all sources that the debtor receives (or in  
10          a joint case the debtor and the debtor’s spouse  
11          receive) without regard to whether such income  
12          is taxable, derived during the 6-month period  
13          ending on the last day of the calendar month  
14          immediately preceding the date of the filing of  
15          the petition; and

16          “(B) any amount paid by any entity other  
17          than the debtor (or in a joint case the debtor  
18          and the debtor’s spouse), on a regular basis on  
19          behalf of the debtor, except that the proceeds  
20          from the sale of an asset not in the ordinary  
21          course of business shall not be included in an-  
22          nual income.”.

23          (2) CONFORMING AMENDMENTS TO OTHER  
24          LAWS.—



1 (A) Section 1503(3)(A)(iv) of the S.A.F.E.  
2 Mortgage Licensing Act of 2008 (12 U.S.C.  
3 1502(3)(A)(iv)) is amended by striking “section  
4 101(53D)” and inserting “section 101(89)”.

5 (B) Section 116(a)(2)(A) of the Emer-  
6 gency Economic Stabilization Act of 2008 (12  
7 U.S.C. 5226(a)(2)(A)) is amended by striking  
8 “section 101(27)” and inserting “section  
9 101(36)”.

10 (C) Section 210(a) of the Dodd-Frank  
11 Wall Street Reform and Consumer Protection  
12 Act (12 U.S.C. 5390(a))—

13 (i) in paragraph (11)(H)—

14 (I) in clause (i)(I), by striking  
15 “section 101(31)” and inserting “sec-  
16 tion 101(41)”;

17 (II) in clause (ii)(II), by striking  
18 “section 101(32)” and inserting “sec-  
19 tion 101(42)”;

20 (ii) in paragraph (12)(C), by striking  
21 “section 101(32)” and inserting “section  
22 101(42)”.

23 (D) Section 3E(g) of the Securities Ex-  
24 change Act of 1934 (15 U.S.C. 78c-5(g)) is

1 amended by striking “section 101(53A)(B)”  
2 and inserting “section 101(84)(B)”.

3 (E) Section 103(dd)(5) of the Truth in  
4 Lending Act (15 U.S.C. 1602(dd)(5)) is amend-  
5 ed by striking “section 101(53D)” and insert-  
6 ing “section 101(89)”.

7 (F) Section 128(b)(2)(G)(i) of the Truth  
8 in Lending Act (15 U.S.C. 1638(b)(2)(G)(i)) is  
9 amended, in the matter preceding subclause (I),  
10 by striking “section 101(53D)” and inserting  
11 “section 101(89)”.

12 (G) Section 129B(f) of the Truth in Lend-  
13 ing Act (15 U.S.C. 1639b(f)) is amended by  
14 striking “section 101(53D)” and inserting “sec-  
15 tion 101(89)”.

16 (H) Section 129C(i) of the Truth in Lend-  
17 ing Act (15 U.S.C. 1639c(i)) is amended by  
18 striking “section 101(53D)” and inserting “sec-  
19 tion 101(89)”.

20 (I) Section 1016(f)(2)(A) of the Oil Pollu-  
21 tion Act of 1990 (33 U.S.C. 2716(f)(2)(A)) is  
22 amended by striking “section 101(32)” and in-  
23 serting “section 101(42)”.

24 (J) Section 405(j)(2)(C) of PROMESA  
25 (48 U.S.C. 2194(j)(2)(C)) is amended by strik-

1 ing “section 101(11)” and inserting “section  
2 101(13)”.

3 (b) APPLICABILITY OF CHAPTERS.—Section 103 of  
4 title 11, United States Code, is amended—

5 (1) in subsection (a)—

6 (A) by striking “chapter 7, 11, 12, or 13  
7 of this title” and inserting “chapter 7, 10, 11,  
8 or 12 of this title”; and

9 (B) by striking “section 362(o)” and in-  
10 serting “section 362(m)”; and

11 (2) in subsection (j) by striking “Chapter 13”  
12 and inserting “Chapter 10”.

13 (c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section  
14 104 of title 11, United States Code, is amended—

15 (1) in subsection (a) by striking “sections  
16 101(3)” and all that follows through “of this title”  
17 and inserting “this title”; and

18 (2) in subsection (b) by striking “sections  
19 101(3)” and all that follows through “of this title”  
20 and inserting “this title”.

21 (d) WAIVER OF SOVEREIGN IMMUNITY.—Section  
22 106(a)(1) of title 11, United States Code, is amended—

23 (1) by striking “722,”;

24 (2) by inserting “1028,” after “944,”; and

1           (3) by striking “1231, 1301, 1303, 1305, and  
2       1327” and inserting “and 1231”.

3       (e) EXTENSION OF TIME.—Section 108 of title 11,  
4 United States Code, is amended—

5           (1) in subsection (b), in the matter preceding  
6 paragraph (1), by striking “or 1301”; and

7           (2) in subsection (c)—

8                (A) in the matter preceding paragraph (1),  
9       by striking “1201 or 1301” and inserting  
10       “1009 or 1201”; and

11               (B) in paragraph (2), by striking “section  
12       362, 922, 1201, or 1301 of this title,” and in-  
13       serting “section 362, 922, or 1201 of this  
14       title,”.

15       (f) WHO MAY BE A DEBTOR.—

16           (1) IN GENERAL.—Section 109 of title 11,  
17 United States Code, is amended—

18           (A) in subsection (b)—

19                (i) by redesignating paragraphs (1),  
20       (2), and (3) as paragraphs (2), (3), and  
21       (4), respectively; and

22               (ii) by inserting before paragraph (2),  
23       as so redesignated, the following:

24       “(1) an individual;”;

25           (B) by striking subsection (e);

1 (C) by redesignating subsection (d) as (e);

2 (D) by inserting after subsection (c) the

3 following:

4 “(d) Only an individual that owes aggregate non-

5 contingent liquidated secured and unsecured debts as of

6 the date of the filing of the petition or the date of the

7 order for relief in an amount not more than \$7,500,000

8 (excluding debts owed to 1 or more affiliates or insiders)

9 may be a debtor under chapter 10 of this title.”;

10 (E) in subsection (e), as so redesignated,

11 by striking “railroad, a person” and inserting

12 “railroad, an individual, a person”;

13 (F) by striking subsection (g) and insert-

14 ing the following:

15 “(g) Notwithstanding any other provision of this sec-

16 tion, no individual or family farmer may be a debtor under

17 this title who has been a debtor in a case pending under

18 this title at any time in the preceding 180 days if the case

19 was dismissed by the court for willful failure of the debtor

20 to abide by orders of the court, or to appear before the

21 court in proper prosecution of the case.”; and

22 (G) by striking subsection (h) and insert-

23 ing the following:

24 “(h)(1) Upon motion of a party in interest or on the

25 court’s own motion, the court may, after notice and a

1 hearing, include in an order dismissing a case under sec-  
2 tion 707, 1005, 1053(c), 1112, or 1208 of this title a re-  
3 striction of the debtor's eligibility to refile a subsequent  
4 case under this title upon a finding of cause, including—

5 “(A) willful failure of the debtor to—

6 “(i) abide by orders of the court; or

7 “(ii) propose a plan required under section  
8 1021, 1129, or 1225 in good faith and not by  
9 any means forbidden by law;

10 “(B) willful and substantial default by the debt-  
11 or with respect to a term of a confirmed plan;

12 “(C) a pattern or practice of filing bankruptcy  
13 petitions as part of a manifestly improper use of the  
14 bankruptcy system;

15 “(D) willful failure of the debtor to appear be-  
16 fore the court in proper prosecution of the case; or

17 “(E) other manifestly improper use of the pro-  
18 visions of this title.

19 “(2) The period of ineligibility for a subsequent  
20 case—

21 “(A) shall extend for 180 days from the date of  
22 the entry of the court's order unless the court orders  
23 otherwise; and

24 “(B) may extend for a period longer than 180  
25 days (but not to exceed 720 days) only if the court

1 finds manifestly improper use the bankruptcy sys-  
2 tem.

3 “(3) After notice and a hearing, the court may de-  
4 crease the period of ineligibility based upon a showing of  
5 changed circumstances or for good cause shown.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 1501(c)(2) of title 11, United  
8 States Code, is amended by striking “109(e)”  
9 and inserting “109(d)”.

10 (B) Section 303(1) of PROMESA (48  
11 U.S.C. 2163(1)) is amended by striking “sec-  
12 tion 109(b)(2)” and inserting “section  
13 109(b)(3)”.

14 (g) PENALTY FOR PERSONS WHO NEGLIGENTLY OR  
15 FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.—  
16 Section 110(e)(2)(B)(i)(II) of title 11, United States  
17 Code, is amended by striking “under chapter 7, 11, 12,  
18 or 13” and inserting “under chapter 10, 11, or 12”.

19 (h) NONPROFIT BUDGET AND CREDIT COUNSELING  
20 AGENCIES; FINANCIAL MANAGEMENT INSTRUCTIONAL  
21 COURSES.—

22 (1) Chapter 1 of title 11, United States Code,  
23 is amended by striking section 111.

1           (2) The table of sections for chapter 1 of title  
2       11, United States Code, is amended by striking the  
3       item relating to section 111.

4       (i) INVOLUNTARY CASES.—Section 303 of title 11,  
5       United States Code, is amended—

6           (1) in subsection (a) by striking “chapter 7 or  
7       11 of this title” and inserting “chapter 7, 10, or 11  
8       of this title”;

9           (2) in subsection (b) by striking “chapter 7 or  
10       11 of this title—” and inserting “chapter 7, 10, or  
11       11 of this title—”;

12          (3) in subsection (g)—

13           (A) by striking “chapter 7 of this title”  
14       and inserting “chapter 7 or 10 of this title”;  
15       and

16           (B) by striking “section 701 of this title”  
17       and inserting “section 701 or 1003 of this  
18       title”; and

19          (4) in subsection (k)(2), by striking “the court  
20       may enter an order” and inserting “the court shall  
21       enter an order”.

22       (j) APPEARANCE BY CONSUMER FINANCIAL PROTEC-  
23       TION BUREAU.—



1 (1) IN GENERAL.—Subchapter I of chapter 3 of  
 2 title 11, United States Code, is amended by adding  
 3 at the end the following:

4 **“§ 309. Bureau of Consumer Financial Protection ap-**  
 5 **pearances in bankruptcy cases**

6 “Notwithstanding section 1054(e) of the Consumer  
 7 Financial Protection Act (12 U.S.C. 5564(e)), the Bureau  
 8 of Consumer Financial Protection may represent itself in  
 9 its own name and may raise, appear, and be heard on any  
 10 issue in a case under this title before any court with ap-  
 11 propriate jurisdiction.”.

12 (2) CONFORMING AMENDMENT.—The table of  
 13 sections for chapter 3 of title 11, United States  
 14 Code, is amended by inserting after the item relating  
 15 to section 308 the following:

“309. Bureau of Consumer Financial Protection appearances in bankruptcy  
 cases.”.

16 (k) ELIGIBILITY TO SERVE AS TRUSTEE.—Section  
 17 321(a) of title 11, United States Code, is amended by  
 18 striking “under chapter 7, 12, or 13 of this title,” each  
 19 place it appears and inserting “under chapter 7, 10, or  
 20 12 of this title,”.

21 (l) QUALIFICATION OF TRUSTEE.—Section 322(a) of  
 22 title 11, United States Code, is amended by striking “701,  
 23 702, 703, 1104, 1163, 1183, 1202, or 1302” and insert-  
 24 ing “701, 702, 703, 1001, 1104, 1163, 1183, or 1202”.

1 (m) LIMITATION ON COMPENSATION OF TRUSTEE.—  
2 Section 326(b) of title 11, United States Code, is amend-  
3 ed—

4 (1) by striking “chapter 12 or 13 of this title,”  
5 and inserting “chapter 10 or 12 of this title,”; and

6 (2) by striking “under section 1202(a) or  
7 1302(a) of this title” and inserting “under section  
8 1001(a) or 1202(a) of this title”.

9 (n) DEBTOR’S TRANSACTIONS WITH ATTORNEYS.—  
10 Section 329 of title 11, United States Code, is amended—

11 (1) in subsection (b)(1)(B), by striking “chap-  
12 ter 11, 12, or 13 of this title” and inserting “chap-  
13 ter 10, 11, or 12 of this title”; and

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

15 “(c) In a case under chapter 10 of this title, no com-  
16 pensation shall be allowed for the debtor’s attorney under  
17 this title unless—

18 “(1) the agreement between the debtor and the  
19 debtor’s attorney providing for compensation—

20 “(A) was made not more than 90 days be-  
21 fore the date of the filing of the petition;

22 “(B) specifies the services provided or to  
23 be provided by the debtor’s attorney and the at-  
24 torney’s related fees and expenses;

1           “(C) provides that the debtor will not be  
2           requested to pay or be liable for any amounts  
3           other than attorneys’ fees and expenses—  
4                       “(i) specified in the agreement;  
5                       “(ii) for any adversary proceeding in  
6           which the debtor is a party; or  
7                       “(iii) for services required by the  
8           debtor or the court that the attorney  
9           should not have reasonably anticipated at  
10          the time of the agreement;  
11          “(D) does not provide for the payment of  
12          interest or any additional fees based on delay in  
13          payment or risk of nonpayment or for costs of  
14          collection on installment payments; and  
15          “(E) does not include a pre-dispute arbi-  
16          tration agreement or a pre-dispute joint-action  
17          waiver with respect to any dispute under the  
18          agreement;  
19          “(2) the attorney has discussed with the debtor  
20          the attorney’s fees and expenses under the agree-  
21          ment and the consequences of the attorney’s filing  
22          the certification required under paragraph (3), and,  
23          after full disclosure, the debtor consents to the filing  
24          of the certification; and

1 “(3) the attorney files with the court a certifi-  
2 cation, in accordance with rule 9011 of the Federal  
3 Rules of Bankruptcy Procedure, with respect to the  
4 agreement that—

5 “(A) the conditions specified in paragraphs  
6 (1) and (2) are satisfied; and

7 “(B) the enforcement of the agreement  
8 would not impose an undue hardship on the  
9 debtor or the debtor’s dependents.

10 “(d) In a case under chapter 10 of this title, any as-  
11 signment, factoring, or transfer of rights or amounts, or  
12 of rights or authority to collect any such amounts, due  
13 under an agreement between the debtor and the debtor’s  
14 attorney is void.

15 “(e) The bankruptcy court shall have exclusive juris-  
16 diction over any disputes under an agreement that is sub-  
17 ject to this section, whether or not the case has been  
18 closed.”.

19 (o) COMPENSATION OF OFFICERS.—

20 (1) IN GENERAL.—Section 330 of title 11,  
21 United States Code, is amended—

22 (A) in subsection (a)(4)(B), by striking

23 “In a chapter 12 or chapter 13 case in which  
24 the debtor is an individual,” and inserting “In

1 a chapter 10 or 12 case in which the debtor is  
2 an individual,”;

3 (B) by redesignating subsections (c) and  
4 (d) as subsections (d) and (f), respectively;

5 (C) by striking “(b)(1) There” and insert-  
6 ing “(b) There”;

7 (D) by striking “title \$45” and inserting  
8 “title \$75”;

9 (E) by striking “(2) The Judicial” and in-  
10 serting “(c) The Judicial”;

11 (F) by striking “(A) shall” and inserting  
12 “(1) shall”;

13 (G) by striking “(B) may” and inserting  
14 “(2) may”;

15 (H) by striking “paid under paragraph  
16 (1).” and inserting “paid under subsection  
17 (b).”;

18 (I) in subsection (d), as so redesignated,  
19 by striking “in a case under chapter 12 or 13”  
20 and inserting “in a case under chapter 10 or  
21 12”; and

22 (J) by inserting after subsection (d), as so  
23 redesignated, the following:

1       “(e) There shall be paid from the filing fee in a case  
2 under chapter 10 of this title \$120 to the trustee serving  
3 in such case, after such trustee’s services are rendered.”.

4           (2) CONFORMING AMENDMENT.—Section  
5 589a(b)(7) of title 28, United States Code, is  
6 amended by striking “section 330(d)” and inserting  
7 “section 330(f)”.

8       (p) MEETINGS OF CREDITORS AND EQUITY SECU-  
9 RITY HOLDERS.—Section 341 of title 11, United States  
10 Code, is amended—

11           (1) in subsection (c), by striking “chapter 7 or  
12 13” and inserting “chapter 10 of this title”;

13           (2) in subsection (d)—

14               (A) in the matter preceding paragraph (1),  
15 by striking “chapter 7” and inserting “chapter  
16 10”;

17               (B) in paragraph (1), by adding “and” at  
18 the end;

19               (C) by striking paragraph (2);

20               (D) by redesignating paragraph (3) as  
21 paragraph (2);

22               (E) in paragraph (2), as so redesignated,  
23 by striking “; and” and inserting a period; and

24               (F) by striking paragraph (4); and

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

1 “(f) In a case under chapter 10 of this title—

2 “(1) the meeting of creditors under subsection  
3 (a) may be convened electronically and allow remote  
4 appearances of all parties;

5 “(2)(A) the debtor shall not be required to ap-  
6 pear in person if it would impose an unreasonable  
7 burden on the debtor; and

8 “(B) there shall be a rebuttable presumption  
9 that in-person attendance at the meeting of creditors  
10 under subsection (a) is an unreasonable burden on  
11 the debtor if the debtor’s address on the bankruptcy  
12 petition is more than 10 miles from the location of  
13 the courthouse of the bankruptcy court where the  
14 meeting of creditors under subsection (a) would  
15 occur; and

16 “(3) the meeting of creditors under subsection  
17 (a) shall be scheduled at such times to avoid conflict  
18 with the debtor’s employment.”.

19 (q) NOTICE.—Section 342 of title 11, United States  
20 Code, is amended—

21 (1) by striking subsections (b) and (d);

22 (2) by redesignating subsections (c), (e), (f),  
23 and (g) as subsections (b), (c), (d), and (e), respec-  
24 tively;

1 (3) in subsection (c)(1), as so redesignated, by  
2 striking “chapter 7 or 13” and inserting “chapter  
3 10”;

4 (4) in subsection (d), as so redesignated—

5 (A) in paragraph (1), by striking “chapters  
6 7 or 13” and inserting “chapter 10”; and

7 (B) in paragraph (2)—

8 (i) by striking “chapter 7 or 13” and  
9 inserting “chapter 10”; and

10 (ii) by striking “subsection (e)” and  
11 inserting “subsection (c)”; and

12 (5) in subsection (e)(2), as so redesignated, by  
13 striking “section 362(k)” and inserting “section  
14 362(j)”.

15 (r) UNCLAIMED PROPERTY.—Section 347(a) of title  
16 11, United States Code, is amended by striking “under  
17 section” and all that follows through “as the case may  
18 be” and inserting “under section 726, 1025, 1194, or  
19 1226 of this title under chapter 7, chapter 10, subchapter  
20 V of chapter 11, or chapter 12 of this title, as the case  
21 may be”.

22 (s) EFFECT OF CONVERSION.—Section 348 of title  
23 11, United States Code, is amended—

24 (1) in subsection (b)—



1 (A) by striking “sections 701(a),  
2 727(a)(10), 727(b), 1102(a), 1110(a)(1),  
3 1121(b), 1121(c), 1141(d)(4), 1201(a), 1221,  
4 1228(a), 1301(a), and 1305(a) of this title”  
5 and inserting “sections 701(a), 1009(a),  
6 1025(b), 1027(a), 1027(b), 1031(c), 1102(a),  
7 1110(a)(1), 1121(b), 1121(c), 1141(d)(4),  
8 1201(a), 1221, and 1228(a) of this title”; and  
9 (B) by striking “under section 706, 1112,  
10 1208, or 1307 of this title” and inserting  
11 “under section 706, 1005, 1053(c), 1112, or  
12 1208 of this title”;  
13 (2) in subsection (c), by striking “under section  
14 706, 1112, 1208, or 1307 of this title” and inserting  
15 “under section 706, 1005, 1053(c), 1112, or 1208”  
16 of this title;  
17 (3) in subsection (d), by striking “under section  
18 1112, 1208, or 1307 of this title” and inserting  
19 “under section 1005, 1053(c), 1112, or 1208 of this  
20 title”;  
21 (4) in subsection (e), by striking “under section  
22 706, 1112, 1208, or 1307 of this title” and inserting  
23 “under section 706, 1005, 1053(c), 1112, or 1208”  
24 of this title; and  
25 (5) by striking subsection (f).

1 (t) EFFECT OF DISMISSAL.—Section 349 of title 11,  
2 United States Code, is amended—

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

5 “(a) The dismissal of a case shall not—

6 “(1) bar the discharge, in a later case, of debts  
7 that were dischargeable in the case dismissed, except  
8 as provided in section 523, 1031, 1141, or 1228; or

9 “(2) prejudice the debtor with regard to the fil-  
10 ing of a subsequent petition, except as provided in  
11 subsection (g) or (h) of section 109.”; and

12 (2) in subsection (b)(1)(B), by striking “or  
13 724(a) of this title,” and inserting “724(a), or 1041  
14 of this title,”.

15 (u) AUTOMATIC STAY.—

16 (1) IN GENERAL.—Section 362 of title 11,  
17 United States Code, is amended—

18 (A) in subsection (a)—

19 (i) in paragraph (3), by inserting “or  
20 to retain” after “to exercise control over”;

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

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

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

3 “(9) in a case under chapter 10 of this title, at  
4 any time before the earliest of a conversion or dis-  
5 missal under section 1005 of this title, a dismissal  
6 under section 1053(c) of this title, or a discharge  
7 under section 1031 of this title, any act to alter,  
8 refuse, or discontinue utility service provided to the  
9 debtor under an agreement entered into before the  
10 entry of the order for relief.”;

11 (B) in subsection (b)—

12 (i) by striking paragraph (22);

13 (ii) by redesignating paragraphs (23),  
14 (24), (25), (26), (27), and (28) as para-  
15 graphs (22), (23), (24), (25), (26), and  
16 (27), respectively;

17 (iii) in paragraph (22), as so redesign-  
18 nated, by striking “subsection (m)” and in-  
19 serting “subsection (l)”;

20 (iv) in paragraph (26), as so redesign-  
21 nated, by striking “and” at the end;

22 (v) in paragraph (27), as so redesign-  
23 nated, by striking the period and inserting  
24 “; and”; and

1 (vi) by striking the matter following  
2 paragraph (27), as so redesignated and in-  
3 serting the following:

4 “(28) under subsection (a), over retention of  
5 property of the estate subject to a potential loss of  
6 value due to accident, casualty, or theft unless the  
7 party entitled to possession provides proof of insur-  
8 ance or other security sufficient to protect the cred-  
9 itor against such loss of value.”;

10 (C) in subsection (c)—

11 (i) in the matter preceding paragraph  
12 (1), by striking “(f), and (h)” and insert-  
13 ing “and (f)”;

14 (ii) by striking paragraphs (2) and (3)  
15 and inserting the following:

16 “(2) in a case under chapter 7, 9, 11, or 12,  
17 the stay of any other act under subsection (a) of this  
18 section continues until the earliest of—

19 “(A) the time the case is closed;

20 “(B) the time the case is dismissed; or

21 “(C) if the case is a case under chapter 9,  
22 11, or 12, the time a discharge is granted or  
23 denied;

1 “(3) in a case under chapter 10, the stay of any  
2 other act under subsection (a) of this section con-  
3 tinues until the earliest of—

4 “(A) the time the case is closed;

5 “(B) the time the case is dismissed; or

6 “(C) the time specified in section 1021(e)  
7 has expired without the debtor having filed a  
8 plan; and”; and

9 (iii) in subparagraph (A)(i) of para-  
10 graph (4), by striking “dismissed, other  
11 than a case refiled under a chapter other  
12 than chapter 7 after dismissal under sec-  
13 tion 707(b),” and inserting “dismissed,”;

14 (D) in subsection (e)(2), by striking “chap-  
15 ter 7, 11, or 13” and inserting “chapter 10 or  
16 11”;

17 (E) by striking subsections (h) and (i);

18 (F) by redesignating subsections (j)  
19 through (o) as subsections (h) through (m) re-  
20 spectively;

21 (G) in subsection (i), as so redesignated—

22 (i) by striking “(1) Except as pro-  
23 vided in paragraph (2), an” and inserting  
24 “An”; and

25 (ii) by striking paragraph (2); and

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

2 “(n) Any agreement of the debtor entered into before  
3 the filing of the petition to waive the provisions of this  
4 section or any other provision of this title is void.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 1519(f) of title 11, United  
7 States Code, is amended by striking “section  
8 362(o)” and inserting “section 362(m)”.

9 (B) Section 1521(f) of title 11, United  
10 States Code, is amended by striking “section  
11 362(o)” and inserting “section 362(m)”.

12 (v) USE, SALE, OR LEASE OF PROPERTY.—Section  
13 363 of title 11, United States Code, is amended—

14 (1) in subsection (c)(1) by striking “section  
15 721, 1108, 1183, 1184, 1203, 1204 or 1304 of this  
16 title” and inserting “section 721, 1003, 1108, 1183,  
17 1184, 1203, or 1204 of this title”; and

18 (2) in subsection (l) by striking “under chapter  
19 11, 12, or 13 of this title” and inserting “under  
20 chapter 10, 11, or 12 of this title”.

21 (w) OBTAINING CREDIT.—Section 364(a) of title 11,  
22 United States Code, is amended by striking “section 721,  
23 1108, 1183, 1184, 1203, 1204, or 1304 of this title,” and  
24 inserting “section 721, 1108, 1183, 1183, 1203, or 1204  
25 of this title,”.

1       (x) EXECUTORY CONTRACTS AND UNEXPIRED  
2 LEASES.—Section 365 of title 11, United States Code, is  
3 amended—

4           (1) in subsection (d)(2), by striking “under  
5 chapter 9, 11, 12, or 13 of this title” and inserting  
6 “under chapter 9, 10, 11, or 12 of this title”;

7           (2) in subsection (g)—

8               (A) in paragraph (1), by striking “under  
9 chapter 9, 11, 12, or 13 of this title,” and in-  
10 sserting “under chapter 9, 10, 11, or 12 of this  
11 title,”; and

12               (B) in paragraph (2)—

13                   (i) in the matter preceding subpara-  
14 graph (A), by striking “under chapter 9,  
15 11, 12, or 13 of this title” and inserting  
16 “under chapter 9, 10, 11, or 12 of this  
17 title”;

18                   (ii) in subparagraph (A) by striking  
19 “under section 1112, 1208 or 1307 of this  
20 title,” and inserting “under section 1005,  
21 1053(c), 1112, or 1208 of this title,”; and

22                   (iii) in subparagraph (B), in the mat-  
23 ter preceding clause (i), by striking “under  
24 section 1112, 1208 or 1307 of this title”

1                   and inserting “under section 1005,  
2                   1053(c), 1112, or 1208 of this title”; and  
3                   (3) by striking subsection (p) and inserting the  
4                   following:

5                   “(p) Notwithstanding any provision in a lease or ap-  
6                   plicable nonbankruptcy law, the following shall apply:

7                   “(1)(A) If the debtor is an individual, the trust-  
8                   ee shall be deemed to have abandoned any unexpired  
9                   lease of residential real property that is the debtor’s  
10                  principal residence of which the debtor or the debt-  
11                  or’s spouse or dependents is a tenant.

12                  “(B)(i) Notwithstanding any other provision of  
13                  this section, the debtor may assume such a lease—

14                  “(I) without curing any monetary defaults  
15                  under the lease that aggregate no more than  
16                  the amount described in clause (iii); and

17                  “(II) without adequate assurance of future  
18                  performance.

19                  “(ii) If there are monetary defaults under the  
20                  lease that aggregate to more than the amount de-  
21                  scribed in clause (iii), the debtor may not assume  
22                  such lease unless all monetary defaults in excess of  
23                  the amount described in clause (iii) are cured.



1           “(iii) The amount described in this clause is the  
2           amount equal to 6 times the monthly rent to be paid  
3           by the debtor under the lease.

4           “(C) Any monetary defaults on such a lease left  
5           uncured shall become claims against the estate in  
6           accordance with section 365(g).

7           “(D)(i) All non-monetary defaults on such a  
8           lease shall be deemed waived, except those relating  
9           to health or safety, which shall require permission of  
10          the court to waive or modify if the lessor objects to  
11          their waiver or modification.

12          “(ii) Any pecuniary loss in accordance with  
13          such a non-monetary default shall constitute a claim  
14          against the estate in accordance with subsection  
15          365(g).

16          “(E) Such a lease not assumed by the debtor,  
17          including satisfaction or adequate assurance of any  
18          cure required within 60 days of the order of relief,  
19          under this paragraph shall return to the bankruptcy  
20          estate.

21          “(2)(A) If the debtor is an individual and if an  
22          unexpired lease of property not subject to paragraph  
23          (1) is rejected or not timely assumed by the trustee  
24          under subsection (d), the debtor may move to as-  
25          sume the lease.

1 “(B) The court—

2 “(i) may approve such an assumption if  
3 the debtor cures any monetary default within  
4 90 days after the date of assumption; and

5 “(ii) shall withhold any discharge of the  
6 debtor until such cure is made.

7 “(C) The debtor’s interest in the lease or prop-  
8 erty that is the subject of the lease ceases to be  
9 property of the estate if—

10 “(i) the debtor fails to move to assume the  
11 lease within 14 days after the lease is rejected  
12 or not timely assumed by the trustee; or

13 “(ii) the debtor’s motion to assume the  
14 lease is denied.

15 “(D) All non-monetary defaults on such a lease  
16 shall be deemed waived except those relating to  
17 health or safety, which shall require permission of  
18 the court upon motion to waive or modify if the les-  
19 sor objects to their waiver or modification.

20 “(3) In this subsection, the term ‘lease’ does  
21 not include—

22 “(A) an agreement that is a security inter-  
23 est under applicable nonbankruptcy law, irre-  
24 spective of its form; or

1           “(B) a lease the term of which extends be-  
2           yond the remaining economic life of the prop-  
3           erty.”.

4           (y) UTILITY SERVICE.—Section 366(b) of title 11,  
5           United States Code, is amended by striking “Such utility”  
6           and inserting “In a case other than under chapter 10 of  
7           this title, such utility”.

8           (z) FILING OF PROOFS OF CLAIMS OR INTERESTS.—  
9           Section 501 of title 11, United States Code, is amended  
10          by adding at the end the following:

11          “(f)(1) Any creditor that files a claim, and any attor-  
12          ney representing such creditor, shall at the time of filing  
13          certify, under penalty of perjury, whether the creditor has  
14          a beneficial interest in the claim and to what extent.

15          “(2) If the creditor does not hold the entire beneficial  
16          interest in the claim, the creditor shall disclose in the cer-  
17          tification under paragraph (1) the identity of the party  
18          or parties holding the beneficial interest.

19          “(3) The creditor shall promptly notify the court, the  
20          trustee, the United States Trustee, and the debtor of any  
21          updates necessary to maintain the accuracy of the certifi-  
22          cation under paragraph (1).

23          “(g) The filing of a claim under this title shall not  
24          revive any period of limitations under applicable nonbank-  
25          ruptcy law.”.

1 (aa) ALLOWANCE OF CLAIMS OR INTERESTS.—

2 (1) IN GENERAL.—Section 502 of title 11,  
3 United States Code, is amended—

4 (A) in subsection (b)—

5 (i) in the matter preceding paragraph  
6 (1), by striking “subsections (e)(2), (f),  
7 (g), (h) and (i)” and inserting “subsections  
8 (e), (f)(2), (g), (h), (i) and (j)”;

9 (ii) in paragraph (2), by striking “in-  
10 terest;” and inserting “interest, including  
11 under a prepayment penalty, yield mainte-  
12 nance clause, make-whole clause, or similar  
13 contractual provision;”;

14 (iii) by redesignating paragraphs (3)  
15 through (9) as paragraphs (5) through  
16 (11), respectively;

17 (iv) by inserting after paragraph (2)  
18 the following:

19 “(3) such claim is for attorneys’ fees incurred  
20 after the entry of the order for relief under this title,  
21 except to the extent permitted under section 503 or  
22 506 of this title;

23 “(4) notwithstanding section 506(b), such claim  
24 is for a fee incurred under section 1930(b) of title  
25 28;”;

- 1 (v) in paragraph (10), as so redesign-  
2 nated, by striking “or” at the end; and
- 3 (vi) in paragraph (11), as so redesign-  
4 nated, by striking “may provide,” and all  
5 that follows and inserting “may provide.”;
- 6 (B) by striking subsection (k);
- 7 (C) by redesignating subsections (d), (e),  
8 (f), (g), (h), (i), and (j) as subsections (e), (f),  
9 (g), (h), (i), (j), and (k), respectively;
- 10 (D) by inserting after subsection (c) the  
11 following:
- 12 “(d) The court shall, after notice and a hearing, dis-  
13 allow any claim if—
- 14 “(1) the creditor, an affiliate of the creditor, an  
15 agent of the creditor, a direct or indirect transferor  
16 of the claim to the creditor, or an affiliate of such  
17 transferor engaged in inequitable conduct (which  
18 shall include a violation of Federal or State law)  
19 that harmed the debtor, whether or not the inequi-  
20 table conduct was connected with the claim or an ob-  
21 ligation that gave rise to the claim; or
- 22 “(2) the creditor, an affiliate of the creditor, an  
23 agent of the creditor, a direct or indirect transferor  
24 of the claim to the creditor, or an affiliate of such  
25 transferor violated a Federal consumer financial law,

1 as defined in section 1002 of the Consumer Finan-  
2 cial Protection Act of 2010 (12 U.S.C. 5481), in  
3 connection with the claim or an obligation that gave  
4 rise to the claim.”;

5 (E) in subsection (e), as so redesignated,  
6 by striking “or 724(a) of this title” and insert-  
7 ing “724(a) or 1041 of this title”;

8 (F) in subsection (f), as so redesignated, in  
9 paragraph (2), by striking “or disallowed under  
10 subsection (d)” and inserting “or disallowed  
11 under subsection (d) or (e)”;

12 (G) in subsection (g), as so redesignated,  
13 by striking “or disallowed under subsection (d)  
14 or (e)” and inserting “or disallowed under sub-  
15 section (d), (e), or (f)”;

16 (H) in subsection (h), as so redesignated—  
17 (i) in paragraph (1)—

18 (I) by striking “chapter 9, 11,  
19 12, or 13” and inserting “chapter 9,  
20 10, 11, or 12”; and

21 (II) by striking “or disallowed  
22 under subsection (d) or (e)” and in-  
23 serting “or disallowed under sub-  
24 section (d), (e), or (f)”;

1 (ii) in paragraph (2), by striking “or  
2 disallowed under subsection (d) or (e)” and  
3 inserting “or disallowed under subsection  
4 (d), (e), or (f)”;

5 (I) in subsection (i), as so redesignated, by  
6 striking “or disallowed under subsection (d) or  
7 (e)” and inserting “or disallowed under sub-  
8 section (d), (e), or (f)”;

9 (J) in subsection (j), as so redesignated, by  
10 striking “or disallowed under subsection (d) or  
11 (e)” and inserting “or disallowed under sub-  
12 section (d), (e), or (f)”;

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

14 “(l)(1)(A) If a claim that is disallowed under sub-  
15 section (b) of this section was filed in bad faith, the court  
16 shall grant judgment against the creditor and in favor of  
17 the estate for—

18 “(i) costs and reasonable attorneys’ fees; and

19 “(ii) punitive damages, as are necessary to  
20 deter future bad faith claim filing by the creditor.

21 “(B) A claim filed in bad faith includes a claim that  
22 is filed without an actual, reasonable, good faith belief that  
23 the debt on which it is based is within the applicable statu-  
24 tory limitations period.

1       “(C) Not more than 50 percent of the total amount  
2 of any punitive damages awarded to the estate under sub-  
3 paragraph (A) shall be reserved for the trustee, debtor,  
4 or both and shall be exempt from the property of the es-  
5 tate, notwithstanding section 522.

6       “(2) If a claim is disallowed under subsection (d), the  
7 court shall grant judgment against the creditor and in  
8 favor of the estate for costs and reasonable attorneys’ fees.

9       “(3) The estate may offset the liability of a creditor  
10 under this subsection against any distribution to be made  
11 on the claim of the creditor.”.

12               (2) CONFORMING AMENDMENTS.—

13               (A) Section 101 of title 11, United States  
14 Code, is amended in paragraph (12)(B), as re-  
15 designated by this section, by striking “502(f),  
16 502(g), 502(h) or 502(i)” and inserting “sub-  
17 section (g), (h), (i), or (j) of section 502”.

18               (B) Section 501(d) of title 11, United  
19 States Code, is amended by striking “in section  
20 502(e)(2), 502(f), 502(g), 502(h) or 502(i)”  
21 and inserting “in subsection (f)(2), (g), (h), (i),  
22 or (j) of section 502”.

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



1 (i) in the matter preceding paragraph  
2 (1), by striking “section 502(f)” and in-  
3 serting “section 502(g)”; and

4 (ii) in paragraph (7), by striking “sec-  
5 tion 502(b)(6)” and inserting “section  
6 502(b)(8)”.

7 (D) Section 506(d)(1) of title 11, United  
8 States Code, is amended by striking “section  
9 502(b)(5) or 502(e)” and inserting “subsection  
10 (b)(7) or (f) of section 502”.

11 (E) Section 507(a)(3) of title 11, United  
12 States Code, is amended by striking “section  
13 502(f)” and inserting “section 502(g)”.

14 (F) Section 509(b)(1)(B) of title 11,  
15 United States Code, is amended by striking  
16 “section 502(e)” and inserting “section  
17 502(f)”.

18 (G) Section 544(b)(1) of title 11, United  
19 States Code, is amended by striking “section  
20 502(e)” and inserting “section 502(f)”.

21 (H) Section 929 of title 11, United States  
22 Code, is amended by striking “section  
23 502(b)(6)” and inserting “section 502(b)(8)”.

1 (I) Section 1114(j) of title 11, United  
2 States Code, is amended by striking “section  
3 502(b)(7)” and inserting “section 502(b)(9)”.

4 (J) Section 1141(d)(1)(A) of title 11,  
5 United States Code, is amended by striking  
6 “section 502(g), 502(h), or 502(i)” and insert-  
7 ing “subsection (h), (i), or (j) of section 502”.

8 (K) Section 1232(d)(4) of title 11, United  
9 States Code, is amended by striking “or dis-  
10 allowed under subsection (d) or (e) of section  
11 502” and inserting “or disallowed under sub-  
12 section (d), (e), or (f) of section 502”.

13 (L) Section 311 of PROMESA (48 U.S.C.  
14 2171) is amended by striking “502(b)(6)” and  
15 inserting “502(b)(8)”.

16 (bb) DETERMINATION OF SECURED STATUS.—Sec-  
17 tion 506 of title 11, United States Code, is amended—

18 (1) in subsection (a), by striking paragraph (2)  
19 and inserting the following:

20 “(2) In a case under chapter 10 of this title,  
21 any interest of a creditor in property of the debtor  
22 or the estate shall be determined by its realizable  
23 value as of the date of the filing of the petition.”;

24 (2) in subsection (b), by striking “interest on  
25 such claim,” and all that follows and inserting “in-

1       terest on such claim and any reasonable fees, costs,  
 2       or charges provided for under the agreement or ap-  
 3       plicable nonbankruptcy law under which such claim  
 4       arose, with post-petition interest credited to the al-  
 5       lowed secured claim before other fees, costs, or  
 6       charges.”; and

7           (3) in subsection (d), in the matter preceding  
 8       paragraph (1) by striking “allowed secured claim,”  
 9       and inserting “allowed secured claim pursuant to  
 10      subsection (a),”.

11      (cc) PRIORITIES.—

12           (1) IN GENERAL.—Section 507(a) of title 11,  
 13      United States Code, is amended—

14           (A) in paragraph (1)—

15                   (i) by striking subparagraph (B);

16                   (ii) by redesignating subparagraph  
 17           (C) as subparagraph (B); and

18                   (iii) in subparagraph (B), as so redes-  
 19           ignated—

20                           (I) by striking “701, 702, 703,  
 21                           1104, 1202, or 1302” and inserting  
 22                           “1001, 1104, or 1202”; and

23                           (II) by striking “subparagraphs  
 24                           (A) and (B)” and inserting “subpara-  
 25                           graph (A)”;

1 (B) in paragraph (7), by inserting “includ-  
2 ing the purchase of a store gift card,” after  
3 “purchase of services.”

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 724(b)(2) of title 11, United  
6 States Code, is amended by striking “section  
7 507(a)(1)(C)” and inserting “section  
8 507(a)(1)(B)”.

9 (B) Section 1222(a)(4) of title 11, United  
10 States Code, is amended—

11 (i) in paragraph (3), by adding “and”  
12 at the end;

13 (ii) by striking paragraph (4); and

14 (iii) by redesignating paragraph (5) as  
15 paragraph (4).

16 (dd) RATE OF INTEREST ON TAX CLAIMS.—Section  
17 511 of title 11, United States Code, is amended by adding  
18 at the end the following:

19 “(c) This section shall not apply in a case under  
20 chapter 10 of this title.”.

21 (ee) DEBTOR’S DUTIES.—Section 521, of title 11,  
22 United States Code, is amended by striking subsections  
23 (a) through (j) and inserting the following:

24 “(a) The debtor shall—

25 “(1) file—

1 “(A) a list of creditors; and  
2 “(B) unless the court orders otherwise—  
3 “(i) a schedule of assets and liabil-  
4 ities;  
5 “(ii) a schedule of current income and  
6 current expenditures;  
7 “(iii) a statement of the debtor’s fi-  
8 nancial affairs;  
9 “(iv) a statement disclosing any rea-  
10 sonably anticipated increase in income or  
11 expenditures over the 12-month period fol-  
12 lowing the date of the filing of the petition;  
13 and  
14 “(v) if the debtor’s annual income cre-  
15 ates or increases the minimum payment  
16 obligation as described in clause (ii) or (iii)  
17 of section 101(54)(B) of this title—  
18 “(I) a statement of the debtor’s  
19 annual income; and  
20 “(II) the calculations that deter-  
21 mine the amount by which the debt-  
22 or’s annual income creates or in-  
23 creases the minimum payment obliga-  
24 tion;

1           “(2) if a trustee is serving in the case, cooper-  
2       ate with the trustee as necessary to enable the trust-  
3       ee to perform the trustee’s duties under this title;

4           “(3) appear at the hearing required under sec-  
5       tion 524(d) of this title; and

6           “(4) unless a trustee is serving in the case, con-  
7       tinue to perform the obligations required of the ad-  
8       ministrator (as defined in section 3 of the Employee  
9       Retirement Income Security Act of 1974) of an em-  
10      ployee benefit plan if at the time of the commence-  
11      ment of the case the debtor (or any entity des-  
12      ignated by the debtor) served as such administrator.

13          “(b) In a case under chapter 10 of this title:

14               “(1) Not later than 7 days before the date first  
15      set for the first meeting of creditors, the debtor shall  
16      provide to the trustee documentation that establishes  
17      the debtor’s income in one or more of the following  
18      forms:

19                   “(A) One or more payment advices, issued  
20      within 60 days before the date of the filing of  
21      the petition, showing the debtor’s year-to-date  
22      income.

23                   “(B) A copy of the Federal income tax re-  
24      turn required under applicable law (or at the  
25      election of the debtor, a transcript of such re-

1           turn) for the most recent tax year ending im-  
2           mediately before the commencement of the case  
3           and for which a Federal income tax return was  
4           filed.

5           “(C) A W-2 form issued by each employer  
6           for the tax year preceding the year the petition  
7           is filed.

8           “(D) Other evidence of payment received  
9           within 60 days before the date of the filing of  
10          the petition that establishes the debtor’s in-  
11          come.

12          “(2) If the debtor’s annual income creates or  
13          increases the minimum payment obligation as de-  
14          scribed in clause (ii) or (iii) of section 101(54)(B)  
15          of this title, the debtor shall, to the extent not al-  
16          ready provided under paragraph (1), provide to the  
17          trustee as documentation of income—

18                 “(A) a copy of the Federal income tax re-  
19                 turn required under applicable law (or at the  
20                 election of the debtor, a transcript of such re-  
21                 turn) for the most recent tax year ending im-  
22                 mediately before the commencement of the case  
23                 and for which a Federal income tax return was  
24                 required and filed; and

1           “(B) copies of all payment advices or other  
2           evidence of payment received within 60 days be-  
3           fore the date of the filing of the petition, by the  
4           debtor from any employer of the debtor.

5           “(3) Notwithstanding paragraphs (1) and (2),  
6           the debtor shall provide additional documentation of  
7           income if requested by the trustee or the United  
8           States trustee upon reasonable grounds to believe  
9           the debtor’s actual income is greater than disclosed  
10          and would create or increase the minimum payment  
11          obligation as described in clause (ii) or (iii) of sec-  
12          tion 101(54)(B) of this title.

13          “(c) If the schedule of current income required by  
14          subsection (a)(1)(B)(ii) discloses income that is not more  
15          than 80 percent of the amount of annual income that  
16          would trigger the documentation obligations in subsection  
17          (b)(2) and in the absence of actual knowledge of facts to  
18          the contrary, an attorney for the debtor or a bankruptcy  
19          petition preparer for the debtor under section 110 of this  
20          title may rely on the schedule of current income to deter-  
21          mine that—

22                 “(1) the documentation requirements of sub-  
23                 section (b)(2) do not apply; and



1 “(2) the debtor is not required to file the state-  
2 ment of annual income required by subsection  
3 (a)(1)(B)(v).

4 “(d) In a case under chapter 7 or 11:

5 “(1) The debtor shall provide—

6 “(A) not later than 7 days before the date  
7 first set for the first meeting of creditors, to the  
8 trustee a copy of the Federal income tax return  
9 required under applicable law (or at the election  
10 of the debtor, a transcript of such return) for  
11 the most recent tax year ending immediately be-  
12 fore the commencement of the case and for  
13 which a Federal income tax return was filed;  
14 and

15 “(B) at the same time the debtor complies  
16 with subparagraph (A), a copy of such return  
17 (or if elected under subparagraph (A), such  
18 transcript) to any creditor that timely requests  
19 such copy.

20 “(2) If the debtor fails to comply with subpara-  
21 graph (A) or (B) of paragraph (1), the court shall  
22 dismiss the case unless the debtor demonstrates that  
23 the failure to so comply is due to circumstances be-  
24 yond the debtors’s control.

1           “(3) If a creditor requests a copy of such tax  
2           return or such transcript and if the debtor fails to  
3           provide a copy of such tax return or such transcript  
4           to such creditor at the time the debtor provides such  
5           tax return or such transcript to the trustee, the  
6           court shall dismiss the case unless the debtor dem-  
7           onstrates that the failure to provide a copy of such  
8           tax return or such transcript is due to circumstances  
9           beyond the debtor’s control.

10          “(e) Failure by the debtor to disclose a cause of ac-  
11       tion in a schedule required to be filed under this section  
12       shall not alone be grounds to dismiss a lawsuit brought  
13       to enforce the cause of action.

14          “(f) If requested by the United States trustee or by  
15       the trustee, the debtor shall provide—

16               “(1) a document that establishes the identity of  
17               the debtor, including a driver’s license, passport, or  
18               other document that contains a photograph of the  
19               debtor; or

20               “(2) such other personal identifying information  
21               relating to the debtor that establishes the identity of  
22               the debtor.

23          “(g) At the request of the court, the trustee, or the  
24       United States trustee, a debtor under chapter 10 or 11  
25       who is an individual shall file with the court—

1           “(1) at the same time filed with the taxing au-  
2           thority, a copy of each Federal income tax return re-  
3           quired under applicable law (or at the election of the  
4           debtor, a transcript of such tax return) with respect  
5           to each tax year of the debtor ending while the case  
6           is pending under such chapter;

7           “(2) at the same time filed with the taxing au-  
8           thority, each Federal income tax return required  
9           under applicable law (or at the election of the debt-  
10          or, a transcript of such tax return) that had not  
11          been filed with such authority as of the date of the  
12          commencement of the case and that was subse-  
13          quently filed for any tax year of the debtor ending  
14          in the 3-year period ending on the date of the com-  
15          mencement of the case; and

16          “(3) a copy of each amendment to any Federal  
17          income tax return or transcript filed with the court  
18          under paragraph (1) or (2).

19          “(h)(1) Notwithstanding any other provision of this  
20          title, if the debtor fails to file a tax return that becomes  
21          due after the commencement of the case or to properly  
22          obtain an extension of the due date for filing such return,  
23          the taxing authority may request that the court enter an  
24          order converting or dismissing the case.

1 “(2) If the debtor does not file the required return  
2 or obtain the extension referred to in paragraph (1) within  
3 90 days after a request is filed by the taxing authority  
4 under that paragraph, the court shall convert or dismiss  
5 the case, whichever is in the best interests of creditors and  
6 the estate.”.

7 (ff) EXEMPTIONS.—

8 (1) IN GENERAL.—Section 522 of title 11,  
9 United States Code, is amended by striking sub-  
10 sections (a) through (q) and inserting the following:

11 “(a) In this section—

12 “(1) the term ‘conforming loan limit’ means  
13 that applicable limitation for the debtor’s county of  
14 residence governing the maximum original principal  
15 obligation for a mortgage secured by a single-family  
16 residence, as determined and adjusted annually  
17 under section 302(b)(2) of the Federal National  
18 Mortgage Association Charter Act (12 U.S.C.  
19 1717(b)(2)) and section 305(a)(2) of the Federal  
20 Home Loan Mortgage Corporation Act (12 U.S.C.  
21 1454(a)(2));

22 “(2) the term ‘dependent’ includes spouse,  
23 whether or not actually dependent; and

24 “(3) the term ‘value’ means value—

1           “(A) as of the date of the filing of the peti-  
2           tion; or

3           “(B) with respect to property that becomes  
4           property of the estate after such date, as of the  
5           date such property becomes property of the es-  
6           tate.

7           “(b)(1) Notwithstanding section 541 of this title, an  
8           individual debtor may elect to exempt from property of  
9           the estate either the property listed in paragraph (2) or,  
10          in the alternative, the property listed in paragraph (3).

11          “(2)(A) The property listed in this paragraph is the  
12          following:

13               “(i) The debtor’s interest in the debtor’s prin-  
14               cipal residence, not to exceed—

15                       “(I) 75 percent of the conforming loan  
16                       limit, if the debtor is age 65 or older on the  
17                       date of the petition not to exceed; and

18                       “(II) 50 percent of the conforming loan  
19                       limit in any other case.

20               “(ii) The debtor’s aggregate interest, unlimited  
21               in amount except as provided in subparagraph (B),  
22               in the following:

23                       “(I) Professionally prescribed health aids  
24                       for the debtor or a dependent of the debtor.

1           “(II) The debtor’s right to receive, or  
2           property that is traceable to—

3           “(aa) a social security benefit, rail-  
4           road retirement benefit, government pen-  
5           sion or retirement benefit, unemployment  
6           compensation, or a local public assistance  
7           benefit;

8           “(bb) a veterans’ benefit;

9           “(cc) a disability, illness, or unemploy-  
10          ment benefit;

11          “(dd) alimony, support, or separate  
12          maintenance;

13          “(ee) a payment under a stock bonus,  
14          pension, profit sharing, annuity, or similar  
15          plan or contract on account of illness, dis-  
16          ability, death, age, or length of service, un-  
17          less—

18          “(AA) such plan or contract was  
19          established by or under the auspices  
20          of an insider that employed the debtor  
21          at the time the debtor’s rights under  
22          such plan or contract arose;

23          “(BB) such payment is on ac-  
24          count of age or length of service; and

1 “(CC) such plan or contract does  
2 not qualify under section 401(a),  
3 403(a), 403(b), or 408 of the Internal  
4 Revenue Code of 1986;

5 “(ff) an award under a crime victim’s  
6 reparation law;

7 “(gg) a payment on account of the  
8 wrongful death of an individual of whom  
9 the debtor was a dependent, except to the  
10 extent that such payment is for punitive  
11 damages;

12 “(hh) a payment under a life insur-  
13 ance contract that insured the life of an in-  
14 dividual of whom the debtor was a depend-  
15 ent on the date of such individual’s death;

16 “(ii) a payment on account of per-  
17 sonal bodily injury, pain and suffering, or  
18 compensation for actual pecuniary loss, of  
19 the debtor or an individual of whom the  
20 debtor is a dependent, except to the extent  
21 that such payment is for punitive damages;

22 “(jj) a payment in compensation of  
23 loss of future earnings of the debtor or an  
24 individual of whom the debtor is or was a  
25 dependent;

1           “(kk) retirement funds, including a  
2           direct transfer of retirement funds from a  
3           fund or account that is exempt from tax-  
4           ation under section 401, 403, 408, 408A,  
5           414, 457, or 501(a) of the Internal Rev-  
6           enue Code of 1986, under section  
7           401(a)(31) of the Internal Revenue Code  
8           of 1986, or otherwise, or a distribution  
9           that qualifies as an eligible rollover dis-  
10          tribution within the meaning of section  
11          402(c) of the Internal Revenue Code of  
12          1986 or has been distributed from a fund  
13          or account that is exempt from taxation  
14          under section 401, 403, 408, 408A, 414,  
15          457, or 501(a) of the Internal Revenue  
16          Code of 1986 and to the extent allowed by  
17          law is deposited in such a fund or account  
18          not later than 60 days after the distribu-  
19          tion of such amount, to the extent that  
20          those funds are or were in a fund or ac-  
21          count that is exempt from taxation under  
22          section 401, 403, 408, 408A, 414, 457, or  
23          501(a) of the Internal Revenue Code of  
24          1986; or



1                   “(ll) a tax credit for earned income  
2                   under section 32 of the Internal Revenue  
3                   Code of 1986.

4                   “(iii) The debtor’s interest in any other prop-  
5                   erty up to \$30,000 in aggregate value.

6                   “(B)(i) The court on its own motion, or upon motion  
7 by the trustee or United States trustee, may limit the  
8 amount property exempt under item (dd), (ee), (hh), (jj),  
9 or (kk) of subparagraph (A)(ii)(II) after notice and hear-  
10 ing if it determines that such property is manifestly un-  
11 necessary for the support of the debtor or the debtor’s de-  
12 pendants.

13                   “(ii) There shall be a rebuttable presumption that ag-  
14 gregate value of property described in any such item in  
15 excess of \$1,500,000 is manifestly unnecessary for the  
16 support of the debtor or the debtor’s dependents.

17                   “(C)(i) If the debtor has a dependent, the debtor may  
18 double the exemption amounts under subparagraph  
19 (A)(iii) unless the dependent is filing a concurrent petition  
20 or has filed a petition within the previous 6 years.

21                   “(ii) The debtor may increase the amounts exempt  
22 under subparagraph (A)(iii) in accordance with the num-  
23 ber of additional dependents not claimed under clause (i)  
24 of this subparagraph by—

1           “(I) 25 percent for the first additional depend-  
2           ent;

3           “(II) an additional 10 percent for the second  
4           additional dependent;

5           “(III) an additional 5 percent for the third ad-  
6           ditional dependent; and

7           “(IV) an additional 1 percent for each addi-  
8           tional dependent beyond the third.

9           “(iii) If a debtor has been claimed as dependent  
10          under this subparagraph on a previous debtor’s petition  
11          within the past 6 years, the court may reduce the amount  
12          of such debtor’s exemptions under this subparagraph as  
13          the equities of the case require. There shall be a rebuttable  
14          presumption that an intervening change in family cir-  
15          cumstances, such as separation or divorce, shall not re-  
16          quire such a reduction.

17          “(iv) If a debtor has a dependent that has been  
18          claimed on another debtor’s petition under this subpara-  
19          graph within the past 6 years, the court may reduce the  
20          amount of the debtor’s exemptions under this subpara-  
21          graph as the equities of the case require. There shall be  
22          a rebuttable presumption that an intervening change in  
23          family circumstances, such as separation or divorce, shall  
24          not require such a reduction.

1       “(v) When claiming property as exempt from the es-  
2     tate under this subparagraph, the debtor shall indicate on  
3     an official form prescribed by the Judicial Conference of  
4     the United States in accordance with the Federal Rules  
5     of Bankruptcy Procedure whether any of the debtor’s de-  
6     pendents have filed for bankruptcy within the previous 6  
7     years or whether this information is unknown.

8       “(3)(A) The property listed in this paragraph is the  
9     following:

10       “(i) Subject to subparagraphs (B) through (E),  
11     any property that is exempt under Federal law,  
12     other than paragraph (2) of this subsection, or State  
13     or local law that is applicable on the date of the fil-  
14     ing of the petition to the place in which the debtor’s  
15     domicile has been located for the 730 days imme-  
16     diately preceding the date of the filing of the peti-  
17     tion or if the debtor’s domicile has not been located  
18     in a single State for such 730-day period, the place  
19     in which the debtor’s domicile was located for 180  
20     days immediately preceding the 730-day period or  
21     for a longer portion of such 180-day period than in  
22     any other place.

23       “(ii) Any interest in property in which the debt-  
24     or had, immediately before the commencement of the  
25     case, an interest as a tenant by the entirety or joint

1       tenant to the extent that such interest as a tenant  
2       by the entirety or joint tenant is exempt from proc-  
3       ess under applicable nonbankruptcy law.

4           “(iii) Retirement funds to the extent that those  
5       funds are in a fund or account that is exempt from  
6       taxation under section 401, 403, 408, 408A, 414,  
7       457, or 501(a) of the Internal Revenue Code of  
8       1986.

9           “(B)(i) Notwithstanding any contrary provision of  
10      nonbankruptcy law, the exempt amount under this para-  
11      graph of any homestead acquired by the debtor within the  
12      1-year period immediately preceding the date of the filing  
13      of the petition shall be limited to the exempt amount of  
14      value of the debtor’s previous principal residence.

15          “(ii) If the value of the debtor’s interest in property  
16      claimed as a principal residence under this paragraph ex-  
17      ceeds \$1,000,000, clause (i) applies to a principal resi-  
18      dence acquired within the 3-year period immediately pre-  
19      ceding the date of filing of the petition.

20          “(C) The value of an interest in the debtor’s principal  
21      residence shall be reduced to the extent that such value  
22      is attributable to any portion of any property that the  
23      debtor disposed of in the 10-year period ending on the  
24      date of the filing of the petition with the intent to hinder,  
25      delay, or defraud a creditor and that the debtor could not

1 exempt, or that portion that the debtor could not exempt  
2 under this subsection if on such date the debtor had held  
3 the property so disposed of.

4 “(D)(i) Except as provided in clause (ii) of this sub-  
5 paragraph and sections 544 and 548, as a result of elect-  
6 ing to exempt property under State or local law under sub-  
7 paragraph (A)(i), a debtor may not exempt any amount  
8 of interest that was acquired by the debtor during the 4-  
9 year period preceding the date of the filing of the petition  
10 that exceeds in the aggregate \$170,000 in value in the  
11 debtor’s principal residence.

12 “(ii)(I) The limitation under clause (i) shall not apply  
13 to an exemption claimed under subparagraph (A)(i) by a  
14 family farmer for the principal residence of such farmer.

15 “(II) For purposes of clause (i), any amount of such  
16 interest does not include any interest transferred from a  
17 debtor’s previous principal residence (which was acquired  
18 prior to the beginning of such 4-year period) into the debt-  
19 or’s current principal residence, if the debtor’s previous  
20 and current residences are located in the same State.

21 “(E)(i) A debtor electing to exempt property under  
22 this paragraph may not exempt any amount of an interest  
23 in the debtor’s principal residence that exceeds in the ag-  
24 gregate \$170,000 if—

1           “(I) the court determines, after notice and a  
2           hearing, that the debtor has been convicted of a fel-  
3           ony (as defined in section 3156 of title 18), which  
4           under the circumstances demonstrates that the filing  
5           of the case was an abuse of the provisions of this  
6           title; or

7           “(II) the debtor owes a debt arising from—

8                   “(aa) any violation of the Federal securi-  
9                   ties laws (as defined in section 3(a)(47) of the  
10                   Securities Exchange Act of 1934), any State se-  
11                   curities laws, or any regulation or order issued  
12                   under Federal securities laws or State securities  
13                   laws;

14                   “(bb) fraud, deceit, or manipulation in a  
15                   fiduciary capacity or in connection with the  
16                   purchase or sale of any security registered  
17                   under section 12 or 15(d) of the Securities Ex-  
18                   change Act of 1934 or under section 6 of the  
19                   Securities Act of 1933;

20                   “(cc) any civil remedy under section 1964  
21                   of title 18;

22                   “(dd) for debts arising from a violation of  
23                   section 1979 of the Revised Statutes (42 U.S.C.  
24                   1983); or

1           “(ee) any criminal act, intentional tort, or  
2           willful or reckless misconduct that caused seri-  
3           ous physical injury or death to another indi-  
4           vidual in the preceding 5 years.

5           “(ii) Clause (i) shall not apply to the extent the  
6           amount of an interest in the debtor’s principal residence  
7           is reasonably necessary for the support of the debtor or  
8           any dependent of the debtor.

9           “(4)(A) For the purposes of item (kk) of paragraph  
10          (2)(A)(ii)(II) and clause (iii) of paragraph (3)(A), if the  
11          trustee, United States trustee, or court on its own motion  
12          objects to retirement funds’ status as exempt, and if those  
13          retirement funds are in a retirement fund or account that  
14          has received a favorable determination under section 7805  
15          of the Internal Revenue Code of 1986 and that determina-  
16          tion is in effect as of the date of the filing of the petition  
17          in a case under this title, those funds shall be presumed  
18          to be exempt from the estate.

19          “(B) If the retirement funds are in a retirement fund  
20          or account that has not received a favorable determination  
21          under such section 7805, those funds shall be exempt from  
22          the estate if the court determines that—

23                 “(i) no prior determination to the contrary has  
24                 been made by a court or the Internal Revenue Serv-  
25                 ice; and

1           “(ii)(I) the retirement fund is in substantial  
2           compliance with the applicable requirements of the  
3           Internal Revenue Code of 1986; or

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

8           “(5)(A) A direct transfer of retirement funds from  
9           1 fund or account that is exempt from taxation under sec-  
10          tion 401, 403, 408, 408A, 414, 457, or 501(a) of the In-  
11          ternal Revenue Code of 1986, under section 401(a)(31)  
12          of the Internal Revenue Code of 1986, or otherwise, shall  
13          not cease to qualify for exemption under item (kk) of para-  
14          graph (2)(A)(ii)(II) or clause (iii) of paragraph (3)(A) by  
15          reason of such direct transfer.

16          “(B)(i) Any distribution that qualifies as an eligible  
17          rollover distribution within the meaning of section 402(c)  
18          of the Internal Revenue Code of 1986 or that is described  
19          in clause (ii) of this subparagraph shall not cease to qual-  
20          ify for exemption under item (kk) of paragraph  
21          (2)(A)(ii)(II) or clause (iii) of paragraph (3)(A) by reason  
22          of such distribution.

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



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

5           “(II) to the extent allowed by law, is deposited  
6           in such a fund or account not later than 60 days  
7           after the distribution of such amount.

8           “(6)(A) In joint cases filed under section 302 of this  
9           title and individual cases filed under section 301 or 303  
10          of this title by or against 2 debtors who are married to  
11          each other, and whose estates are ordered to be jointly  
12          administered under the Federal Rules of Bankruptcy Pro-  
13          cedure, the debtors shall be deemed to elect exempt prop-  
14          erty under paragraph (2) unless they both affirmatively  
15          elect to exempt property under paragraph (3).

16          “(B) In a joint case, the residence exemptions in sub-  
17          paragraphs (2)(A)(i) and (3)(A)(i) shall be allocated one-  
18          half each to each debtor.

19          “(C) The nonresidence exemptions in paragraphs  
20          (2)(A)(iii) and (3)(A)(iii) shall apply separately with re-  
21          spect to each debtor in a joint case.

22          “(c) Unless the case is dismissed, property exempted  
23          under this section is not liable during or after the case  
24          for any debt of the debtor that arose, or that is determined

1 under section 502 of this title as if such debt had arisen,  
2 before the commencement of the case, except—

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

8 “(2) a debt secured by a lien that is—

9 “(A) not avoided under subsection (e) or  
10 (g) of this section or under section 544, 545,  
11 547, 548, or 549 of this title; and

12 “(B) not void under section 506(d) of this  
13 title.

14 “(d)(1) A waiver of an exemption executed in favor  
15 of a creditor that holds an unsecured claim against the  
16 debtor is unenforceable in a case under this title with re-  
17 spect to such claim against property that the debtor may  
18 exempt under subsection (b).

19 “(2) A waiver by the debtor of a power under sub-  
20 section (e) or (g) to avoid a transfer, under subsection (f)  
21 or (h) to exempt property, or under subsection (h) to re-  
22 cover property or to preserve a transfer, is unenforceable  
23 in a case under this title.

24 “(e)(1) Notwithstanding any waiver of exemptions,  
25 the debtor may avoid the fixing of a lien on an interest

1 of the debtor in property to the extent that such lien im-  
2 pairs an exemption to which the debtor would have been  
3 entitled under subsection (b), if such lien is—

4 “(A) a judicial lien, other than a judicial lien  
5 that secures a debt of a kind that is specified in sec-  
6 tion 523(a)(5); or

7 “(B) a nonpossessory, non-purchase-money se-  
8 curity interest in any personal, family, or household  
9 goods or in any implements, professional books, or  
10 tools, of the trade of the debtor or the trade of a  
11 dependent of the debtor.

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

15 “(i) the lien;

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

17 “(iii) the amount of the exemption that the  
18 debtor could claim if there were no liens on the  
19 property, exceeds the value that the debtor’s interest  
20 in the property would have in the absence of any  
21 liens.

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

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

3       “(f) Notwithstanding sections 550 and 551 of this  
4 title, the debtor may exempt under subsection (b) of this  
5 section property that the trustee recovers under section  
6 510(c)(2), 542, 543, 550, 551, or 553 of this title, to the  
7 extent that the debtor could have exempted such property  
8 under subsection (b) of this section if such property had  
9 not been transferred, if—

10           “(1)(A) such transfer was not a voluntary  
11 transfer of such property by the debtor; and

12           “(B) the debtor did not conceal such property;  
13 or

14           “(2) the debtor could have avoided such trans-  
15 fer under subsection (e)(1) of this section.

16       “(g) The debtor may avoid a transfer of property of  
17 the debtor or recover a setoff to the extent that the debtor  
18 could have exempted such property under subsection (f)(1)  
19 if the trustee had avoided such transfer, if—

20           “(1) such transfer is avoidable by the trustee  
21 under section 544, 545, 547, 548, 549, or 1041 of  
22 this title or recoverable by the trustee under section  
23 553 of this title; and

24           “(2) the trustee does not attempt to avoid such  
25 transfer.

1       “(h)(1) If the debtor avoids a transfer or recovers a  
2 setoff under subsection (e) or (g), the debtor may recover  
3 in the manner prescribed by, and subject to the limitations  
4 of, section 550 of this title, the same as if the trustee had  
5 avoided such transfer, and may exempt any property so  
6 recovered under subsection (b).

7       “(2) Notwithstanding section 551 of this title, a  
8 transfer avoided under section 544, 545, 547, 548, 549,  
9 or 1041 of this title, under subsection (e) or (g) of this  
10 section, or property recovered under section 553 of this  
11 title, may be preserved for the benefit of the debtor to  
12 the extent that the debtor may exempt such property  
13 under subsection (f) of this section or paragraph (1) of  
14 this subsection.

15       “(i) Notwithstanding subsections (f) and (h), the  
16 debtor may exempt a particular kind of property under  
17 subsections (f) and (h) only to the extent that the debtor  
18 has exempted less property in value of such kind than that  
19 to which the debtor is entitled under subsection (b).

20       “(j) Property that the debtor exempts under this sec-  
21 tion is not liable for payment of any administrative ex-  
22 pense except—

23               “(1) the aliquot share of the costs and expenses  
24       of avoiding a transfer of property that the debtor ex-  
25       empts under subsection (f), or of recovery of such

1 property, that is attributable to the value of the por-  
2 tion of such property exempted in relation to the  
3 value of the property recovered; and

4 “(2) any costs and expenses of avoiding a  
5 transfer under subsection (e) or (g), or of recovery  
6 of property under subsection (h)(1), that the debtor  
7 has not paid.

8 “(k)(1)(A) The debtor shall file a list of property that  
9 the debtor claims as exempt under subsection (b).

10 “(B) If the debtor does not file such a list, a depend-  
11 ent of the debtor may file such a list, or may claim prop-  
12 erty as exempt from property of the estate on behalf of  
13 the debtor.

14 “(2) Unless a party in interest objects, the property  
15 claimed as exempt on such list is exempt.”.

16 (2) CONFORMING AMENDMENT.—

17 (A) Section 349(b)(1)(B) of title 11,  
18 United States Code, is amended by striking  
19 “522(i)(1),” and inserting “522(h)(i),”.

20 (B) Subsection (e) of section 502 of title  
21 11, United States Code, as so redesignated by  
22 subsection (aa) of this section, is amended—

23 (i) by striking “section 522(f),  
24 522(h),” and inserting “section 522(e),  
25 522(g),”; and

1 (ii) by striking “section 522(i)” and  
 2 inserting “section 522(h)”.

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

5 (1) in subsection (a)—

6 (A) in the matter preceding paragraph

7 (1)—

8 (i) by striking “727,”; and

9 (ii) by striking “1328(b)” and insert-  
 10 ing “1031(a)”;

11 (B) in paragraph (1)(B), in the matter  
 12 preceding clause (i), by inserting “subject to  
 13 subsection (f),” before “with respect”;

14 (C) in paragraph (2)—

15 (i) in subparagraph (A), by adding  
 16 “or” at the end;

17 (ii) in subparagraph (B), by striking  
 18 “or” at the end; and

19 (iii) by striking subparagraph (C);

20 (D) in paragraph (3)—

21 (i) in subparagraph (A), by striking  
 22 “(4), or (6)” and inserting “(4), (6), or  
 23 (7)”;

1 (ii) in subparagraph (B), by striking  
2 “(4), or (6)” and inserting “(4), (6), or  
3 (7)”;

4 (E) by striking paragraph (7) and insert-  
5 ing the following:

6 “(7) to the extent such debt is for a fine, pen-  
7 alty, or restitution—

8 “(A) that is incurred in a criminal pro-  
9 ceeding and specifically designated as a fine,  
10 penalty, or restitution in the sentencing order  
11 upon the debtor’s conviction;

12 “(B) that is not—

13 “(i) for the cost of prosecuting the  
14 debtor, including the cost of public defense,  
15 incarceration, probation, or any diversion  
16 program;

17 “(ii) for the cost of operating the  
18 criminal justice system or funding govern-  
19 ment functions;

20 “(iii) for the cost of collecting such  
21 debt; or

22 “(iv) a fee, surcharge, assessment, or  
23 interest or collection charge imposed in  
24 connection with such debt; and



1 “(C) only if the creditor demonstrates that  
2 the debtor has substantial financial resources  
3 that permit the debtor to pay all or a signifi-  
4 cant portion of the fine, penalty, or restitution  
5 for—

6 “(i) a fine, penalty, or restitution with  
7 respect to which the petition is filed on or  
8 after the date that is 3 years after the  
9 later of—

10 “(I) the date of the sentencing  
11 order; or

12 “(II) the date on which the debt-  
13 or was released from incarceration  
14 pursuant to the sentencing order; or

15 “(ii) a debt that is a tax penalty—

16 “(I) relating to a tax of a kind  
17 not specified in paragraph (1) of this  
18 subsection; or

19 “(II) imposed with respect to a  
20 transaction or event that occurred be-  
21 fore 3 years before the date of the fil-  
22 ing of the petition;”;

23 (F) by striking paragraph (8);

24 (G) by redesignating paragraph (9) as  
25 paragraph (8);

1 (H) by inserting after paragraph (8), as so  
2 redesignated, the following:

3 “(9) that was or could have been listed or  
4 scheduled by the debtor in a prior case concerning  
5 the debtor under this title in which the debtor  
6 waived a discharge, or was denied a discharge under  
7 section 727(a) (2), (3), (4), (5), (6), or (7), as in ef-  
8 fect on the day before the date of enactment of the  
9 Consumer Bankruptcy Reform Act of 2020, or  
10 under section 1031, unless such debt was the subject  
11 of a written waiver of discharge and the court has  
12 made the determination required by section  
13 1031(b)(3)(B);”;

14 (I) by striking paragraphs (14) and (14A);

15 (J) by redesignating paragraph (14B) as  
16 paragraph (14);

17 (K) in paragraph (16), by inserting “and  
18 the debtor or the trustee possesses, occupies, or  
19 uses the property” after “such lot”;

20 (L) by striking paragraph (17);

21 (M) by redesignating paragraph (18) as  
22 paragraph (17); and

23 (N) by striking paragraph (19) and insert-  
24 ing the following:

1           “(18) for debts arising from a violation of sec-  
2           tion 1979 of the Revised Statutes (42 U.S.C.  
3           1983).”;

4           (2) in subsection (b), by striking “(a)(1),  
5           (a)(3), or (a)(8)” and inserting “(a)(1) or (a)(3)”;

6           (3) in subsection (c), by adding at the end the  
7           following:

8           “(3) Notwithstanding subsection (a) of this section,  
9           the debtor shall be discharged from a debt of the kind  
10          specified in subsection (a)(7) of this section if the sen-  
11          tencing order fails to separately list any fees, costs, assess-  
12          ments, or surcharges in addition to any fine, penalty, or  
13          restitution, and such fees, costs, assessments, or sur-  
14          charges are authorized to be assessed under nonbank-  
15          ruptcy law for the particular crime committed by the debt-  
16          or, unless—

17          “(A) the sentencing order expressly states that  
18          no fees, costs, assessments, or surcharges are as-  
19          sessed against the debtor in addition to any fine,  
20          penalty, or restitution; or

21          “(B) on request of the creditor to whom such  
22          debt is owed, and after notice and a hearing, the  
23          court determines such debt shall not be discharged  
24          under subsection (a)(7) of this section.”; and

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

1 “(f) For purposes of subparagraph (B) of subsection  
2 (a)(1), a return—

3 “(1) must satisfy the requirements of applicable  
4 nonbankruptcy law;

5 “(2) must have been filed in a manner per-  
6 mitted by applicable nonbankruptcy law regardless  
7 of whether it was filed before or after any applicable  
8 deadline;

9 “(3) includes a return prepared pursuant to  
10 section 6020(a) of the Internal Revenue Code of  
11 1986, or similar State or local law, or a written stip-  
12 ulation to a judgment entered by a nonbankruptcy  
13 tribunal; and

14 “(4) does not include a return made pursuant  
15 to section 6020(b) of the Internal Revenue Code of  
16 1986, or similar State or local law.”.

17 (hh) EFFECT OF DISCHARGE.—Section 524 of title  
18 11, United States Code, is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1), by striking “727,  
21 944, 1141, 1192, 1228, or 1328” and inserting  
22 “section 727 or 1328, as in effect on the day  
23 before the date of enactment of the Consumer  
24 Bankruptcy Reform Act of 2020, or section  
25 944, 1031, 1141, 1192, or 1228”; and

1 (B) in paragraph (3), by striking “1192,  
2 1128(a)(1), or 1328(a)(1)” and inserting  
3 “1031, 1192, or 1228(a), or section 1328(a)(1),  
4 as in effect on the day before the date of enact-  
5 ment of the Consumer Bankruptcy Reform Act  
6 of 2020”;

7 (2) in subsection (b)(2)(B), by striking “727”  
8 and inserting “1031”;

9 (3) by striking subsection (c) and inserting the  
10 following:

11 “(c)(1) A debtor that receives a discharge under sec-  
12 tion 1031, or section 727 or 1328, as in effect on the day  
13 before the date of enactment of the Consumer Bankruptcy  
14 Reform Act of 2020, the trustee, the United States trust-  
15 ee, or the bankruptcy administrator may bring a civil ac-  
16 tion against a person that knows or should know that the  
17 discharge injunction is applicable and has intentionally or  
18 negligently commenced or continued any action described  
19 in subsection (a).

20 “(2) An action under paragraph (1) shall be com-  
21 menced not later than 1 year after the date on which the  
22 discharged debtor, the trustee, or the United States trust-  
23 ee discovers that a person has commenced or continued  
24 any action described in subsection (a).

1       “(3) In an action under paragraph (1), the court may  
2 award relief consistent with this title if the court finds  
3 that a person has—

4               “(A) engaged in conduct in violation of this sec-  
5 tion or of any provision of this title; or

6               “(B) engaged in fraudulent, unfair, deceptive,  
7 or abusive conduct with respect to the debtor or the  
8 case.

9       “(4) Subject to paragraph (6), in a successful action  
10 under paragraph (1)—

11               “(A) the court—

12                       “(i) shall award to a discharged debtor in-  
13 jured by a violation of subsection (a)—

14                               “(I) actual damages, including dam-  
15 ages for emotional distress; and

16                               “(II) reasonable costs and attorneys’  
17 fees; and

18               “(ii) if the trustee or the United States  
19 trustee is a prevailing party in the action, shall  
20 award to the trustee or the United States trust-  
21 ee—

22                               “(I) reasonable costs and attorney  
23 fees; and

24                               “(II) a fee equal to 3 times the  
25 amount sought to be collected by the per-

1 son found to be in violation of subsection  
2 (a); and

3 “(B) the court may award punitive damages, as  
4 appropriate.

5 “(5)(A) If the court awards punitive damages under  
6 paragraph (4) in an action brought or joined by the trust-  
7 ee, the court may award between 10 percent and 25 per-  
8 cent of the punitive damages to the trustee who brought  
9 or joined the action.

10 “(B) Any punitive damages under this subsection  
11 shall be in addition to the compensation set out in section  
12 326.

13 “(6) If the commencement or continuation of any ac-  
14 tion described in subsection (a) was taken by a person in  
15 the good faith belief that subsection (a) did not apply to  
16 the debt, and the action was withdrawn upon discovery  
17 that subsection (a) applied to the debt, the recovery shall  
18 be limited to actual damages, including damages for emo-  
19 tional distress, and reasonable costs and attorneys’ fees.

20 “(7) Nothing in this subsection shall be construed to  
21 prejudice the ability to bring a motion for contempt of  
22 court for a violation of subsection (a).

23 “(8) An agreement between a holder of a claim and  
24 the debtor, the consideration for which, in whole or in

1 part, is based on a debt that is dischargeable in a case  
2 under this title is voidable by the debtor.

3 “(9) Any pre-dispute arbitration agreement or pre-  
4 dispute joint-action waiver regarding an action under  
5 paragraph (1) is voidable by the debtor.”;

6 (4) in subsection (d)—

7 (A) in the matter preceding paragraph (1),  
8 by striking “727, 1141, 1192, 1228, or 1328”  
9 and inserting “1031, 1141, 1192, or 1228”;  
10 and

11 (B) beginning in the matter preceding  
12 paragraph (1), by striking “If a discharge has  
13 been granted” and all that follows through the  
14 end of paragraph (2);

15 (5) in subsection (f), by striking “(e) or”; and

16 (6) by striking subsections (k), (l), and (m) and  
17 inserting the following:

18 “(k)(1) Nothing in this section prejudices the ability  
19 to bring a motion for contempt of court for a violation  
20 of subsection (a) or any cause of action under applicable  
21 nonbankruptcy law.

22 “(2) Any pre-dispute arbitration agreement or pre-  
23 dispute joint-action waiver purporting to apply to such an  
24 action is void.



1 “(l) Upon an entity’s request, and after notice and  
2 a hearing, the court shall issue an order declaring whether  
3 an action proposed to be taken by the entity would be a  
4 violation of the discharge injunction under subsection (a).

5 “(m) The debtor’s failure to assert, raise, or plead  
6 the discharge shall not be construed to be a waiver against  
7 asserting the discharge.”.

8 (ii) PROTECTION AGAINST DISCRIMINATORY TREAT-  
9 MENT.—Section 525 of title 11, United States Code, is  
10 amended—

11 (1) in subsection (a), by striking “solely”;

12 (2) in subsection (b), in the matter preceding  
13 paragraph (1)—

14 (A) by inserting “deny employment to,”  
15 following “may”; and

16 (B) by striking “solely”; and

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

18 “(d)(1) A person aggrieved by a violation of this sec-  
19 tion may enforce this section in the bankruptcy case or  
20 by bringing a civil action in an appropriate district court  
21 of the United States.

22 “(2) To remedy a violation of this section, a court  
23 may—

24 “(A) award damages including back pay;

1           “(B) grant injunctive or other equitable relief;  
2           and

3           “(C) award of costs, including attorneys’ fees,  
4           to an aggrieved party who prevails.”.

5           (jj) RESTRICTIONS ON DEBT RELIEF AGENCIES.—

6           (1) IN GENERAL.—Section 526 of title 11,  
7           United States Code, is repealed.

8           (2) CONFORMING AMENDMENT.—The table of  
9           sections for chapter 5 of title 11, United States  
10          Code, is amended by striking the item relating to  
11          section 526.

12          (kk) DISCLOSURES.—

13          (1) IN GENERAL.—Section 527 of title 11,  
14          United States Code, is repealed.

15          (2) CONFORMING AMENDMENT.—The table of  
16          sections for chapter 5 of title 11, United States  
17          Code, is amended by striking the item relating to  
18          section 527.

19          (ll) REQUIREMENTS FOR DEBT RELIEF AGENCIES.—

20          (1) IN GENERAL.—Section 528 of title 11,  
21          United States Code, is repealed.

22          (2) CONFORMING AMENDMENT.—The table of  
23          sections for chapter 5 of title 11, United States  
24          Code, is amended by striking the item relating to  
25          section 528.

1 (mm) PROPERTY OF THE ESTATE.—Section 541 of  
2 title 11, United States Code, is amended—

3 (1) in subsection (b)(7)—

4 (A) by striking “except that such amount  
5 under this subparagraph shall not constitute  
6 disposable income as defined in section  
7 1325(b)(2); or” each place it appears;

8 (B) in subparagraph (A)(i)(III), by adding  
9 “or” at the end; and

10 (C) in subparagraph (B)(i)(III), by adding  
11 “or” at the end;

12 (2) in subsection (c)(2), by striking the period  
13 at the end and inserting “, except to the extent nec-  
14 essary to satisfy claims entitled to priority under  
15 section 507(a)(1).”; and

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

17 “(g) Notwithstanding any contrary provision of non-  
18 bankruptcy law, a pre-dispute arbitration agreement or  
19 pre-dispute joint-action waiver entered into by the debtor  
20 shall not be enforceable against the bankruptcy estate or  
21 the debtor for matters arising in, arising under, or related  
22 to a case under this title.”.

23 (nn) TURNOVER OF PROPERTY TO ESTATE.—

24 (1) IN GENERAL.—Section 542 of title 11,  
25 United States Code, is amended—

- 1 (A) in subsection (a)—  
2 (i) by striking “subsection (c) or (d)”  
3 and inserting “subsection (d), (e), or (f)”;  
4 and  
5 (ii) by striking “shall deliver to the  
6 trustee” and inserting “shall, without any  
7 condition or further action by the trustee,  
8 the debtor, or the court, deliver promptly  
9 to the trustee”;
- 10 (B) in subsection (b), by striking “sub-  
11 section (c) or (d)” and inserting “subsection  
12 (d), (e), or (f)”;
- 13 (C) by redesignating subsections (c), (d),  
14 and (e) as subsections (e), (f), and (g), respec-  
15 tively; and
- 16 (D) by adding before subsection (e), as so  
17 redesignated, the following:
- 18 “(c) An entity in possession of property that the  
19 trustee may use, sell, or lease under section 363 of this  
20 title, or that the debtor may exempt under section 522  
21 of this title, shall have, upon delivery of such property to  
22 the trustee, the same rights in the property as if the entity  
23 remained in possession.
- 24 “(d) An entity that holds property that the trustee  
25 may use, sell, or lease under section 363 of this title, or

1 that the debtor may exempt under section 522 of this title,  
2 and that is subject to a potential loss of value due to acci-  
3 dent, casualty, or theft shall not be required to deliver  
4 such property to the trustee unless the party entitled to  
5 possession provides proof of insurance or other security  
6 sufficient to protect the creditor against such loss of  
7 value.”.

8 (2) CONFORMING AMENDMENT.—Section  
9 549(a)(2)(A) of title 11, United States Code, is  
10 amended by striking “542(c)” and inserting  
11 “542(e)”.

12 (oo) LIMITATIONS ON AVOIDING POWERS.—Section  
13 546(a)(1)(B) of title 11, United States Code, is amended  
14 by striking “1104, 1163, 1202, or 1302” and inserting  
15 “1001, 1104, 1163, or 1202”.

16 (pp) FRAUDULENT TRANSFERS AND OBLIGA-  
17 TIONS.—Section 548 of title 11, United States Code, is  
18 amended—

19 (1) in subsection (a)(1), in the matter pre-  
20 ceding subparagraph (A), by striking “2 years” and  
21 inserting “4 years”;

22 (2) in subsection (b)(1), by striking “2 years”  
23 and inserting “4 years”;

24 (3) in subsection (e)—

25 (A) in paragraph (1)—

- 1 (i) in the matter preceding subpara-  
2 graph (A), by striking “In addition” and  
3 inserting “Subject to paragraphs (3) and  
4 (4), in addition”;
- 5 (ii) in subparagraph (B), by adding  
6 “and” at the end;
- 7 (iii) in subparagraph (C), by striking  
8 “; and” and inserting a period; and
- 9 (iv) by striking subparagraph (D);  
10 and
- 11 (B) by adding at the end the following:
- 12 “(3) The trustee may not avoid under para-  
13 graph (1) a transfer of property that is exempt from  
14 the estate pursuant to paragraph (2)(A)(ii)(II)(kk)  
15 or (3)(A)(iii) of section 522(b).
- 16 “(4)(A) The trustee may not avoid under para-  
17 graph (1) a transfer that was not made with actual  
18 intent to hinder, delay, or defraud.
- 19 “(B) The defendant in any action under this  
20 subsection has the burden of proof in pleading and  
21 proving that the transfer was not made with actual  
22 intent to hinder, delay, or defraud creditors.”.
- 23 (qq) LIABILITY OF TRANSFEREE OF AVOIDED  
24 TRANSFER.—Section 550 of title 11, United States Code,  
25 is amended by adding at the end the following:

1 “(g) The trustee may recover from a transferee the  
 2 costs of bringing a successful avoidance action, including  
 3 reasonable attorney fees, for the avoidance of a transfer  
 4 under section 544(b) under—

5 “(1) an applicable nonbankruptcy law that pro-  
 6 hibits a transfer made with actual intent to hinder,  
 7 delay, or defraud a creditor;

8 “(2) section 548(a)(1); or

9 “(3) section 548(e).”.

10 (rr) EXPEDITED DETERMINATION OF INTERESTS IN,  
 11 AND ABANDONMENT OR OTHER DISPOSITION OF GRAIN  
 12 ASSETS.—Section 557(d)(3) of title 11, United States  
 13 Code, is amended by striking “1104, 1183, 1202, and  
 14 1302” and inserting “1001, 1104, 1183, and 1202”.

15 (ss) DUTIES OF TRUSTEE.—Section 704 of title 11,  
 16 United States Code, is amended—

17 (1) in subsection (a)—

18 (A) by striking “(a)”;

19 (B) by striking paragraphs (3) and (10);

20 and

21 (C) by redesignating paragraphs (4), (5),  
 22 (6), (7), (8), (9), (11), and (12) as paragraphs  
 23 (3), (4), (5), (6), (7), (8), (9), and (10), respec-  
 24 tively;

25 (2) by striking subsection (b); and

1 (3) by striking subsection (c).

2 (tt) CONVERSION.—Section 706 of title 11, United  
3 States Code, is amended—

4 (1) in subsection (a)—

5 (A) by striking “11, 12, or 13” and insert-  
6 ing “11 or 12”; and

7 (B) by striking “1112, 1208, or 1307” and  
8 inserting “1112 or 1208”; and

9 (2) in subsection (c), by striking “12 or 13”  
10 and inserting “12”.

11 (uu) DISMISSAL OF A CASE OR CONVERSION TO A  
12 CASE UNDER CHAPTER 11 OR 13.—

13 (1) IN GENERAL.—Section 707 of title 11,  
14 United States Code, is amended—

15 (A) in the section heading, by striking “**or**  
16 **conversion to a case under chapter 11**  
17 **or 13**”;

18 (B) in subsection (a), by striking “(a)  
19 The” and inserting “The”;

20 (C) by striking subsection (b); and

21 (D) by striking subsection (c).

22 (2) CONFORMING AMENDMENT.—The table of  
23 sections for chapter 7 of title 11, United States  
24 Code, is amended by striking the item relating to  
25 section 707 and inserting the following:

“707. Dismissal of a case.”.



1 (vv) REDEMPTION.—

2 (1) IN GENERAL.—Section 722 of title 11,  
3 United States Code, is repealed.

4 (2) CONFORMING AMENDMENT.—The table of  
5 sections for chapter 7 of title 11, United States  
6 Code, is amended by striking the item relating to  
7 section 722.

8 (ww) DISTRIBUTION OF PROPERTY OF THE ES-  
9 TATE.—Section 726(b) of title 11, United States Code, is  
10 amended by striking “1112, 1208, or 1307” and inserting  
11 “1005, 1053(c), 1112, or 1208”.

12 (xx) DISCHARGE.—

13 (1) IN GENERAL.—Section 727 of title 11,  
14 United States Code, is repealed.

15 (2) CONFORMING AMENDMENT.—The table of  
16 sections for chapter 7 of title 11, United States  
17 Code, is amended by striking the item relating to  
18 section 727.

19 (yy) DUTIES OF TRUSTEE AND EXAMINER.—Section  
20 1106 of title 11, United States Code, is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (1), by striking “para-  
23 graphs (2), (5), (7), (8), (9), (10), (11), and  
24 (12) of section 704(a)” and inserting “para-

1           graphs (2), (4), (6), (7), (8), (9), and (10) of  
2           section 704”; and

3           (B) in paragraph (5), by striking “12, or  
4           13” and inserting “7, 10, or 12”; and

5           (2) in subsection (c)(1)(C), by striking clause  
6           (iv) and inserting the following:

7                   “(iv) the name of each creditor that  
8                   holds a claim that is not discharged under  
9                   paragraph (2) or (4) of section 523(a) of  
10                  this title.”.

11          (zz) CONVERSION OR DISMISSAL.—Section 1112 of  
12          title 11, United States Code, is amended—

13           (1) in subsection (a)—

14                   (A) in paragraph (2), by striking “or”;

15                   (B) in paragraph (3), by striking the pe-  
16                  riod at the end and inserting “; or”; and

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

18                   “(4) the debtor is an individual.”;

19           (2) in subsection (b)(1), by inserting “in a case  
20           in which the debtor is not an individual,” after “sub-  
21           section (c),”;

22           (3) in subsection (d), by striking “12 or 13”  
23           and insert “10 or 12”;

24           (4) by redesignating subsection (f) as sub-  
25           section (g); and

1           (5) by inserting after subsection (e), the fol-  
2       lowing:

3       “(f) The debtor may convert a case under this chap-  
4       ter to a case under chapter 10 of this title at any time.  
5       Any waiver of the right to convert under this subsection  
6       is unenforceable.”.

7       (aaa) PROPERTY OF THE ESTATE.—Section 1115(a)  
8       of title 11, United States Code, is amended by striking  
9       “7, 12, or 13” each place it appears and inserting “10  
10      or 12”.

11      (bbb) CONTENTS OF PLAN.—Section 1123(a)(8) of  
12      title 11, United States Code, is amended by striking “for  
13      the execution of the plan.” and inserting “for the debtor  
14      to meet the minimum payment obligation of the debtor.”.

15      (ccc) CONFIRMATION OF PLAN.—Section  
16      1129(a)(15)(B) of title 11, United States Code, is amend-  
17      ed by striking “the projected disposable income” and all  
18      that follows through “whichever is longer” and inserting  
19      “the minimum payment obligation of the debtor under a  
20      repayment plan under section 1021(a)(1) if the case were  
21      a case under chapter 10”.

22      (ddd) EFFECT OF CONFIRMATION.—Section 1141(d)  
23      of title 11, United States Code, is amended—

24           (1) in paragraph (3)(C)—

1 (A) by striking “section 727(a)” and in-  
2 serting “section 1031”; and

3 (B) by striking “chapter 7” and inserting  
4 “chapter 10”; and

5 (2) in paragraph (5)—

6 (A) in subparagraph (A), by adding “and”  
7 at the end;

8 (B) in subparagraph (B), by striking “;  
9 and” at the end and inserting a period; and

10 (C) by striking subparagraph (C).

11 (eee) TRUSTEE.—Section 1183(b) of title 11, United  
12 States Code, is amended—

13 (1) in paragraph (1), by striking “paragraphs  
14 (2), (5), (6), (7), and (9) of section 704(a)” and in-  
15 serting “paragraphs (2), (4), (5), (6), and (8) of sec-  
16 tion 704”;

17 (2) in paragraph (5), by striking “704(a)(8)”  
18 and inserting “704(7)”; and

19 (3) in paragraph (6), by striking “704(c)” and  
20 inserting “1001(b)(5)”.

21 (fff) PROPERTY OF THE ESTATE.—Section 1186(a)  
22 of title 11, United States Code, is amended by striking  
23 “7, 12, or 13” each place it appears and inserting “7,  
24 10, or 12”.

1 (ggg) TRUSTEE.—Section 1202 of title 11, United  
2 States Code, is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (1), by striking “sections  
5 704(a)(2), 704(a)(3), 704(a)(5), 704(a)(6),  
6 704(a)(7), and 704(a)(9)” and inserting “para-  
7 graphs (2), (3), (4), (5), (6), and (8) of section  
8 704”; and

9 (B) in paragraph (5), by striking  
10 “704(a)(8)” and inserting “704(7)”; and

11 (2) in subsection (c)(1)(C), by striking clause  
12 (iv) and inserting the following:

13 “(iv) the name of each creditor that  
14 holds a claim that is not discharged under  
15 paragraph (2) or (4) of section 523(a) of  
16 this title.”.

17 (hhh) CONVERSION OR DISMISSAL.—Section 1208 of  
18 title 11, United States Code, is amended—

19 (1) in subsection (a) by striking “7 of” and in-  
20 serting “7 or 10 of”; and

21 (2) in subsection (b) by striking “or 1112” and  
22 inserting “, 1005, 1053(c), or 1112”.

23 (iii) DISCHARGE.—Section 1228 of title 11, United  
24 States Code, is amended by striking subsection (f).

1 **SEC. 105. DATA COLLECTION.**

2 Section 159 of title 28, United States Code, is  
3 amended by striking subsections (a), (b), and (c) and in-  
4 serting the following:

5 “(a)(1) When a case is filed under chapter 10 of title  
6 11, each debtor in the case may file with the court the  
7 following information about the debtor:

8 “(A) Marital status.

9 “(B) Age.

10 “(C) Sex.

11 “(D) Race.

12 “(E) Ethnicity.

13 “(2) The Attorney General, in consultation with the  
14 Consumer Bankruptcy Ombuds of the Bureau of Con-  
15 sumer Financial Protection and the Director of the Ad-  
16 ministrative Office of the United States Courts (referred  
17 to in this section as the ‘Director’), shall prescribe a  
18 standard form for the collection of the information de-  
19 scribed in paragraph (1).

20 “(3) Any information collected, stored, received, or  
21 published under paragraph (1) shall—

22 “(A) be so collected, stored, received, or pub-  
23 lished in a manner that protects the privacy of indi-  
24 viduals whose information is included in such data;

1 “(B) be de-identified or anonymized in a man-  
2 ner that protects the identity of all individuals whose  
3 information is included in such data; and

4 “(C) be limited in use for the purpose of identi-  
5 fying and addressing disparities in the bankruptcy  
6 system and be protected from all other internal use  
7 by any entity that collects, stores, or receives the in-  
8 formation and from any other inappropriate uses.

9 “(4) Any information collected under paragraph  
10 (1)—

11 “(A) shall not be part of the public record of  
12 the bankruptcy case; and

13 “(B) shall be maintained in a nonpublic record  
14 by the court to fulfill its duties under subsection (b).

15 “(b) The clerk of the district court, or the clerk of  
16 the bankruptcy court if one is certified pursuant to section  
17 156(b), shall collect information regarding individual debt-  
18 ors seeking relief under chapter 10 of title 11. The infor-  
19 mation shall be in a standardized format prescribed by  
20 the Director so that the Director can fulfill the duties in  
21 subsection (c).

22 “(c)(1) In this subsection, the term ‘qualified re-  
23 searcher’ means a person who has undertaken to protect  
24 the confidentiality and privacy of the information in the  
25 database in a protocol that has been reviewed and ap-

1 proved by an institutional review board that is estab-  
2 lished—

3 “(A) to protect the rights and welfare of human  
4 subjects participating in scientific research; and

5 “(B) in accordance with the requirements es-  
6 tablished under part 46 of title 45, Code of Federal  
7 Regulations, or any successor thereto.

8 “(2) The Director shall—

9 “(A) compile statistical tables from the infor-  
10 mation referred to in subsections (a) and (b) and  
11 make the tables available to the public;

12 “(B) not later than July 1, 2022, and annually  
13 thereafter, prepare, and submit to Congress a report  
14 concerning the information collected under sub-  
15 sections (a) and (b) that contains an analysis of the  
16 information; and

17 “(C) not later than December 31 of the year  
18 following the calendar year in which the information  
19 is collected, make available to—

20 “(i) qualified researchers an electronic  
21 database containing the information collected  
22 under subsections (a) and (b) or used to create  
23 the compilation required by this subsection; and

24 “(ii) the public an electronic database con-  
25 taining the information collected under sub-



1 section (b) or used to create the compilation re-  
2 quired by this subsection.

3 “(d) The compilation required under subsection (c)  
4 shall—

5 “(1) be presented in the aggregate and for each  
6 judicial district and division; and

7 “(2) include information concerning—

8 “(A) the total assets and total liabilities of  
9 the debtors and in each category of assets and  
10 liabilities, as reported in the schedules pre-  
11 scribed pursuant to section 2075 and filed by  
12 debtors;

13 “(B) the current monthly income of debt-  
14 ors as reported on the schedules and statements  
15 that each debtor files under section 521 of title  
16 11;

17 “(C) the total compensation the debtors  
18 promised to pay to an attorney, the amount of  
19 the compensation paid to an attorney before fil-  
20 ing, and the total number of cases in which a  
21 wage garnishment order or electronic funds  
22 transfer order was entered to pay an attorney;

23 “(D) the total number of dependents of the  
24 debtors and the total number of dependents of  
25 the debtors under the age of 18;

1           “(E) whether the debtors had an owner-  
2           ship interest in real estate that served as the  
3           debtors’ principal residence;

4           “(F) whether the debtors had an owner-  
5           ship interest in real estate other than that  
6           served as the debtors’ principal residence;

7           “(G) the minimum payment obligation of  
8           the debtors as determined under section  
9           101(54) of title 11;

10          “(H) whether the debtors filed a repay-  
11          ment plan, a residence plan, or a property plan;  
12          and

13          “(I) the average period of time between the  
14          date of the filing of the petition and the closing  
15          of the case for cases closed during the reporting  
16          period.

17          “(e) The Director may add other information to the  
18          compilations and databases required by this section that  
19          improve the understanding of the causes of bankruptcy  
20          and the functioning of the bankruptcy system.”.

21   **SEC. 106. ELECTRONIC SIGNATURES.**

22          (a) **ELECTRONIC SIGNATURE DEFINED.**—In this sec-  
23          tion, the term “electronic signature” has the meaning  
24          given the term in section 106 of the Electronic Signatures  
25          in Global and National Commerce Act (15 U.S.C. 7006).

1 (b) ELECTRONIC SIGNATURES ALLOWED.—A signa-  
2 ture required for a filing in a case under title 11, United  
3 States Code, may not be denied legal effect, validity, or  
4 enforceability solely because it is an electronic signature.

5 (c) ORIGINAL ELECTRONIC SIGNATURES AL-  
6 LOWED.—In a case under title 11, United States Code,  
7 an original signature may be an electronic signature.

8 **SEC. 107. JUDICIAL EDUCATION.**

9 The Director of the Federal Judicial Center, in con-  
10 sultation with the Director of the Executive Office for  
11 United States Trustees, shall develop materials and con-  
12 duct training that may be useful to courts in implementing  
13 this Act and the amendments made by this Act.

14 **SEC. 108. CONFORMING AMENDMENTS TO OTHER LAWS.**

15 (a) BANKRUPTCY ABUSE AND CONSUMER PROTEC-  
16 TION ACT OF 2005.—

17 (1) AUDIT PROCEDURES.—Section 603 of the  
18 Bankruptcy Abuse Prevention and Consumer Pro-  
19 tection Act of 2005 (28 U.S.C. 586 note) is amend-  
20 ed by striking subsection (a).

21 (2) JUDICIAL EDUCATION.—Section 1226 of the  
22 Bankruptcy Abuse Prevention and Consumer Pro-  
23 tection Act of 2005 (11 U.S.C. 101 note) is re-  
24 pealed.

1           (3) TAX DOCUMENTS.—Section 1228(b) of the  
2       Bankruptcy Abuse Prevention and Consumer Pro-  
3       tection Act of 2005 (11 U.S.C. 521 note) is re-  
4       pealed.

5           (b) CONSOLIDATED FARM AND RURAL DEVELOP-  
6       MENT ACT.—Section 373(b)(2)(A)(ii) of the Consolidated  
7       Farm and Rural Development Act (7 U.S.C.  
8       2008h(b)(2)(A)(ii)) is amended by striking “11, 12, or  
9       13” and inserting “10, 11, or 12”.

10          (c) CONSUMER CREDIT PROTECTION ACT.—Section  
11       303(b)(1)(B) of the Consumer Credit Protection Act (15  
12       U.S.C. 1673(b)(1)(B)) is amended by striking “any order  
13       of any court of bankruptcy under chapter XIII of the  
14       Bankruptcy Act” and inserting “any order of any court  
15       of the United States having jurisdiction over cases under  
16       title 11; and”.

17          (d) HIGHER EDUCATION ACT OF 1965.—Section  
18       437(b) of the Higher Education Act of 1965 (20 U.S.C.  
19       1087(b)) is amended—

20               (1) in paragraph (1), by striking “chapter 12 or  
21       13” and inserting “chapter 10 or 12”; and

22               (2) in paragraphs (2) and (3), by striking  
23       “chapter 7 or 11” and inserting “chapter 10, 11, or  
24       12”.

1 (e) HOUSING AND COMMUNITY DEVELOPMENT  
2 AMENDMENTS OF 1978.—Section 201(l)(2)(C) of the  
3 Housing and Community Development Amendments of  
4 1978 (12 U.S.C. 1715z–1a(l)(2)(C)) is amended by strik-  
5 ing “727, 1141, or 1328(b)” and inserting “1031, 1141,  
6 or 1192”.

7 (f) TITLE 28.—Title 28, United States Code, is  
8 amended—

9 (1) in section 157(b)(2)—

10 (A) in subparagraph (B), by striking  
11 “chapter 11, 12, or 13” and inserting “chapter  
12 10, 11, or 12”;

13 (B) in subparagraph (O), by striking  
14 “and”;

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

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

18 “(Q) proceedings to enforce rights under  
19 sections 524 or 525 of title 11.”;

20 (2) in section 589b—

21 (A) in subsection (a)(1), by striking “chap-  
22 ters 7, 12, and 13” and inserting “chapters 7,  
23 10, and 12”; and

24 (B) in subsection (d)—

1 (i) in the matter preceding paragraph  
2 (1), by striking “chapters 7, 12, and 13”  
3 and inserting “chapters 7, 10, and 12”;

4 (ii) in paragraph (5), by striking “,  
5 including for use under section 707(b), ac-  
6 tual costs of administering cases under  
7 chapter 13 or chapter 11”; and

8 (iii) in the matter following paragraph  
9 (8), by striking “chapters 12 and 13” and  
10 inserting “chapters 10 and 12”; and

11 (3) in section 3014(a)(1), by striking “section  
12 522(d)” and inserting “section 522(b)”.

13 (g) TITLE 38.—Section 3732(a)(2)(B) of title 38,  
14 United States Code, is amended by striking “1322(b)”  
15 and inserting “1022(b)”.

16 **TITLE II—CONSUMER FINAN-**  
17 **CIAL PROTECTION AMEND-**  
18 **MENTS**

19 **SEC. 201. AMENDMENTS TO THE CONSUMER FINANCIAL**  
20 **PROTECTION ACT OF 2010.**

21 (a) CONSUMER BANKRUPTCY OMBUDS.—The Con-  
22 sumer Financial Protection Act of 2010 (12 U.S.C. 5481  
23 et seq.) is amended by inserting after section 1035 (12  
24 U.S.C. 5535) the following:

1   **“SEC. 1035A. CONSUMER BANKRUPTCY OMBUDS.**

2           “(a) ESTABLISHMENT.—The Director, in consulta-  
3   tion with the Attorney General, shall designate a Con-  
4   sumer Bankruptcy Ombuds (in this section referred to as  
5   the ‘Ombuds’) within the Bureau, to provide timely assist-  
6   ance to individual debtors in bankruptcy.

7           “(b) PUBLIC INFORMATION.—The Director and the  
8   Attorney General and the bankruptcy clerks appointed  
9   under section 156(b) of title 11, United States Code, shall  
10   disseminate information about the availability and func-  
11   tions of the Ombuds to individual debtors in bankruptcy  
12   and consumer bankruptcy attorneys and consumer credit  
13   counseling agencies.

14          “(c) FUNCTIONS OF OMBUDS.—The Ombuds des-  
15   ignated under this subsection shall—

16           “(1) in accordance with regulations of the Di-  
17   rector, receive, review, and attempt to resolve infor-  
18   mally complaints from individual debtors in bank-  
19   ruptcy, including, as appropriate, attempts to resolve  
20   such complaints in collaboration with creditors, the  
21   United States Trustee Program of the Department  
22   of Justice, trustees in bankruptcy, the bankruptcy  
23   clerks appointed under section 156(b) of title 11,  
24   United States Code, and consumer privacy ombuds-  
25   men and future claims representatives appointed in  
26   bankruptcy;

1           “(2) not later than 90 days after the date of  
2           enactment of this section, establish a memorandum  
3           of understanding with the Executive Office of the  
4           United States Trustee Program, to ensure coordina-  
5           tion in providing assistance to and serving individual  
6           debtors in bankruptcy seeking to resolve complaints  
7           related to their bankruptcy cases;

8           “(3) compile and analyze data on consumer  
9           bankruptcy filings, including on the causes of indi-  
10          vidual bankruptcy filings, the relationship between  
11          consumer bankruptcy filings and consumer financial  
12          products and services, and any disparities in the  
13          bankruptcy system, including any disparities based  
14          on the demographic categories described in section  
15          159(a)(1) of title 28, United States Code;

16          “(4) compile and analyze data on complaints  
17          from individual debtors in bankruptcy;

18          “(5) make recommendations to the Director  
19          and the Attorney General regarding the filing of  
20          amicus curiae briefs and making appearances in in-  
21          dividual bankruptcy cases, particularly in the cases  
22          involving repeat patterns of creditor behavior;

23          “(6) consult with the Director of the Adminis-  
24          trative Office of the United States Courts regarding  
25          the duties of that officer under section 159 of title



1 28, United States Code, regarding data collection  
2 and reporting; and

3 “(7) make other appropriate recommendations  
4 to the Director, the Attorney General, the Com-  
5 mittee on Banking, Housing, and Urban Affairs and  
6 the Committee on the Judiciary of the Senate and  
7 the Committee on Financial Services and the Com-  
8 mittee on Judiciary of the House of Representatives.

9 “(d) ANNUAL REPORTS.—

10 “(1) IN GENERAL.—The Ombuds shall prepare  
11 an annual report that describes the activities, and  
12 evaluates the effectiveness of the Ombuds during the  
13 preceding year.

14 “(2) SUBMISSION.—The report required by  
15 paragraph (1) shall be submitted on the same date  
16 annually to the Attorney General, the Committee on  
17 Banking, Housing, and Urban Affairs and the Com-  
18 mittee on the Judiciary of the Senate and the Com-  
19 mittee on Financial Services and the Committee on  
20 the Judiciary of the House of Representatives.”.

21 (b) SUPERVISION OF HIGHER COST LENDERS.—Sec-  
22 tion 1024(a)(1)(E) of the Consumer Financial Protection  
23 Act of 2010 (12 U.S.C. 5514(a)(1)(E)) is amended by  
24 striking “a payday loan” and inserting “a loan with an  
25 annual percentage rate of greater than 36 percent, as de-

1 terminated under section 987(i)(4) of title 10, United States  
2 Code”.

3 (c) VIOLATIONS OF DISCHARGE INJUNCTION.—Sec-  
4 tion 1036(a) of the Consumer Financial Protection Act  
5 of 2010 (12 U.S.C. 5536(a)), is amended—

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

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

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

11 “(4) to violate section 524(a) of title 11, United  
12 States Code, in a case involving an individual debt-  
13 or.”.

14 (d) AUTHORITY TO EXERCISE SUPERVISION AND  
15 ENFORCEMENT AUTHORITY REGARDING BANKRUPTCY  
16 LAW.—

17 (1) DEFINITIONS.—Section 1002(12) of the  
18 Consumer Financial Protection Act of 2010 (12  
19 U.S.C. 5481(12)) is amended—

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

22 (B) in subparagraph (R), by striking the  
23 period at the end and inserting a semicolon;  
24 and

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

1 “(S) title 11, United States Code, with re-  
2 spect to individual debtors.”.

3 (2) EXCEPTION FROM RULEMAKING.—Section  
4 1022 of the Consumer Financial Protection Act of  
5 2010 (12 U.S.C. 5512) is amended by inserting “,  
6 except title 11, United States Code,” after “Federal  
7 consumer financial laws” each place the term ap-  
8 pears.

9 (e) AVERAGE PRIME OFFER RATE FOR MOTOR VE-  
10 HICLE FINANCINGS.—

11 (1) IN GENERAL.—Not later than 1 year after  
12 the date of enactment of this Act, and not less fre-  
13 quently than monthly thereafter, the Bureau of Con-  
14 sumer Financial Protection shall publish on the  
15 website of the Bureau the following information with  
16 respect to motor vehicle financing:

17 (A) The current (as of the date of publica-  
18 tion) average prime offer rate for that type of  
19 financing, including the provision of that fi-  
20 nancing through retail installment sales con-  
21 tracts.

22 (B) The most common duration of that  
23 type of financing.

24 (C) Rate structures for financings for the  
25 purchase of new and used light motor vehicles

1           that are used primarily for personal, family, or  
2           household use.

3           (2) DATA COLLECTION.—In carrying out para-  
4           graph (1), the Bureau of Consumer Financial Pro-  
5           tection may engage in the collection of information  
6           without regard to chapter 35 of title 44, United  
7           States Code.

8 **SEC. 202. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

9           Section 130 of the Truth in Lending Act (15 U.S.C.  
10 1640) is amended—

11           (1) in subsection (a)(2)—

12                (A) in subparagraph (A)—

13                   (i) by striking “\$200” and inserting  
14                   “\$1,600”;

15                   (ii) by striking “\$2,000” and insert-  
16                   ing “\$16,000”;

17                   (iii) by striking “\$500” and inserting  
18                   “\$4,000”;

19                   (iv) by striking “\$5,000” and insert-  
20                   ing “\$40,000”;

21                   (v) by striking “\$400” and inserting  
22                   “\$3,200”; and

23                   (vi) by striking “\$4,000” and insert-  
24                   ing “\$32,000”; and

1 (B) in subparagraph (B), by striking  
2 “\$1,000,000 or 1” and inserting “\$8,000,000  
3 or 5”; and

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

5 “(m) ADJUSTMENTS.—On April 1, 2022, and each  
6 April 1 thereafter, each dollar amount in effect under sub-  
7 sections (a) and (b) on the day before such April 1 shall  
8 be adjusted—

9 “(1) to reflect the change in the Consumer  
10 Price Index for All Urban Consumers, published by  
11 the Department of Labor, for the most recent period  
12 ending immediately before January 1 preceding such  
13 April 1; and

14 “(2) to round to the nearest \$25 the dollar  
15 amount that represents the change described in  
16 paragraph (1).”.

17 **SEC. 203. AMENDMENTS TO THE FAIR CREDIT REPORTING**  
18 **ACT.**

19 The Fair Credit Reporting Act (15 U.S.C. 1681 et  
20 seq.) is amended—

21 (1) in section 605(a) (15 U.S.C. 1681c(a)), by  
22 striking paragraph (1) and inserting the following:

23 “(1) Cases under title 11, United States Code,  
24 that, from the date of entry of the order for relief,  
25 antedate the report by more than 7 years.”; and

1 (2) in section 616 (15 U.S.C. 1681n)—

2 (A) in subsection (a)(1)—

3 (i) in subparagraph (A)—

4 (I) by striking “\$100” and in-  
5 serting “\$700”; and

6 (II) by striking “\$1,000” and in-  
7 serting “\$7,000”; and

8 (ii) in subparagraph (B), by striking  
9 “\$1,000” and inserting “\$7,000”;

10 (B) in subsection (b), by striking “\$1,000”  
11 and inserting “\$7,000”; and

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

13 “(e) ADJUSTMENT.—On April 1, 2022, and each  
14 April 1 thereafter, each dollar amount in effect under sub-  
15 sections (a) and (b) on the day before such April 1 shall  
16 be adjusted—

17 “(1) to reflect the change in the Consumer  
18 Price Index for All Urban Consumers, published by  
19 the Department of Labor, for the most recent period  
20 ending immediately before January 1 preceding such  
21 April 1; and

22 “(2) to round to the nearest \$25 the dollar  
23 amount that represents the change described in  
24 paragraph (1).”.

1 **SEC. 204. AMENDMENTS TO THE EQUAL CREDIT OPPOR-**  
2 **TUNITY ACT.**

3 Section 706 of the Equal Credit Opportunity Act (15  
4 U.S.C. 1691e) is amended—

5 (1) in subsection (b)—

6 (A) by striking “\$10,000” and inserting  
7 “\$60,000”; and

8 (B) by striking “500,000 or 1” and insert-  
9 ing “\$5,000,000 or 5”;

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

11 “(l) ADJUSTMENT.—On April 1, 2022, and each  
12 April 1 thereafter, each dollar amount in effect under sub-  
13 section (b) on the day before such April 1 shall be ad-  
14 justed—

15 “(1) to reflect the change in the Consumer  
16 Price Index for All Urban Consumers, published by  
17 the Department of Labor, for the most recent period  
18 ending immediately before January 1 preceding such  
19 April 1; and

20 “(2) to round to the nearest \$25 the dollar  
21 amount that represents the change described in  
22 paragraph (1).”.

23 **SEC. 205. AMENDMENTS TO THE FAIR DEBT COLLECTION**  
24 **PRACTICES ACT.**

25 The Fair Debt Collection Practices Act (15 U.S.C.  
26 1692 et seq.) is amended—

1 (1) in section 808 (15 U.S.C. 1692f), by adding  
2 at the end the following:

3 “(9) Filing a lawsuit or a claim in a bankruptcy  
4 case that is based on a debt without an actual, rea-  
5 sonable, good-faith belief that the applicable statute  
6 of limitations for enforcement of that debt has not  
7 expired at the time of filing.

8 “(10) Any act to knowingly collect or attempt  
9 to collect a debt that has been discharged in bank-  
10 ruptcy except acceptance of a purely voluntary pay-  
11 ment of the debtor without encouragement or coer-  
12 cion by the debt collector.”; and

13 (2) in section 813 (15 U.S.C. 1692k)—

14 (A) in subsection (a)(2)—

15 (i) in subparagraph (A), by striking  
16 “\$1,000” and inserting “\$5,000”; and

17 (ii) in subparagraph (B), by striking  
18 “\$500,000 or 1” and inserting  
19 “\$5,000,000 or 5”; and

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

21 “(f) On April 1, 2022, and each April 1 thereafter,  
22 each dollar amount in effect under paragraph (a)(2) on  
23 the day before such April 1 shall be adjusted—

24 “(1) to reflect the change in the Consumer  
25 Price Index for All Urban Consumers, published by



1 the Department of Labor, for the most recent period  
 2 ending immediately before January 1 preceding such  
 3 April 1; and

4 “(2) to round to the nearest \$25 the dollar  
 5 amount that represents the change described in  
 6 paragraph (1).”.

7 **SEC. 206. AMENDMENTS TO THE ELECTRONIC FUND**  
 8 **TRANSFERS ACT.**

9 Section 916 of the Electronic Fund Transfers Act  
 10 (15 U.S.C. 1693m) is amended—

11 (1) in subsection (a)(2)—

12 (A) in subparagraph (A)—

13 (i) by striking “\$100” and inserting  
 14 “\$500”; and

15 (ii) by striking “\$1,000” and insert-  
 16 ing “\$5,000”; and

17 (B) in subparagraph (B), by striking  
 18 “\$500,000 or 1” and inserting “\$5,000,000 or  
 19 5”; and

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

21 “(h) On April 1, 2022, and each April 1 thereafter,  
 22 each dollar amount in effect under paragraph (a)(2) on  
 23 the day before such April 1 shall be adjusted—

24 “(1) to reflect the change in the Consumer  
 25 Price Index for All Urban Consumers, published by

1 the Department of Labor, for the most recent period  
2 ending immediately before January 1 preceding such  
3 April 1, and

4 “(2) to round to the nearest \$25 the dollar  
5 amount that represents the change described in  
6 paragraph (1).”.

## 7 **TITLE III—BANKRUPTCY RULES**

### 8 **SEC. 301. RULES ENABLING ACT AMENDMENTS.**

9 (a) IN GENERAL.—Notwithstanding the third undes-  
10 ignated paragraph of section 2075 of title 28, United  
11 States Code, the Supreme Court of the United States may  
12 prescribe by general rules, the forms of process, writs,  
13 pleadings, and motions, and the practice and procedure  
14 in cases under title 11, United States Code, as may be  
15 necessary to carry out this Act before the effective date  
16 of this Act.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
18 Section 2075 of title 28, United States Code, is amended  
19 by striking the fourth undesignated paragraph.

20 (c) PLAIN WRITING.—In drafting the form required  
21 by section 1031(d) of title 11, as added by this Act, the  
22 Judicial Conference of the United States should comply  
23 with the requirements of the Plain Writing Act of 2010  
24 (5 U.S.C. 301 note).

25 “(1) “157A. Fraudulent transfers.”.

1 **SEC. 302. BANKRUPTCY RULES AMENDMENTS.**

2 Rule 7004 of the Federal Rules of Bankruptcy Proce-  
3 dure is amended by striking subdivision (h).

4 **SEC. 303. SENSE OF CONGRESS.**

5 It is the sense of Congress that the Judicial Con-  
6 ference of the United States should—

7 (1) promulgate a simplified version of the  
8 schedule of current income and current expenditures  
9 required under section 521(a)(1)(B)(ii) of title 11,  
10 United States Code, for debtors who, by virtue of  
11 section 521(c) of title 11, United States Code, are  
12 not subject to the documentation requirements of  
13 that section or the statement of annual income re-  
14 quired by section 521(a)(1)(B)(v) of title 11, United  
15 States Code; and

16 (2) draft rules that provide that, with respect to  
17 a case in which the debtor is an individual, the  
18 rights under section 542 of title 11, United States  
19 Code, may be enforced by motion.

20 **TITLE IV—FUNDING THE**  
21 **BANKRUPTCY SYSTEM**

22 **SEC. 401. BANKRUPTCY FEES.**

23 Title 28, United States Code, is amended—

24 (1) in section 589a(b), by amending paragraph  
25 (1) to read as follows:

1           “(1) 38.50 percent of the fees collected under  
2           section 1930(a)(1);” and  
3           (2) in section 1930—  
4           (A) in subsection (a)—  
5               (i) by amending paragraph (1) to read  
6               as follows:  
7               “(1) For a case commenced under chapter 10,  
8               \$250.”;  
9               (ii) in paragraph (6)(B)—  
10               (I) by striking “During each of  
11               fiscal years 2018 through 2022, if”  
12               and inserting “If”; and  
13               (II) by striking “\$200,000,000”  
14               and inserting “\$250,000,000”; and  
15               (iii) in the undesignated matter fol-  
16               lowing paragraph (7), by striking “chapter  
17               7, or 13 of title 11” and inserting “chapter  
18               7 or 10 of title 11”;  
19               (B) by redesignating subsections (c), (d),  
20               (e), and (f) as subsections (d), (e), (f), and (g),  
21               respectively;  
22               (C) by striking subsection (b) and insert-  
23               ing the following:

1 “(b) On April 1, 2022, and each April 1 thereafter,  
2 the dollar amounts in effect under paragraph (a)(6)(A)  
3 on the day before such April 1 shall be adjusted—

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

9 “(2) to round to the nearest \$25 the dollar  
10 amount that represents the change described in  
11 paragraph (1).

12 “(c) The Judicial Conference of the United States  
13 may prescribe additional fees in cases under title 11, other  
14 than cases under chapter 10 of that title, of the same kind  
15 as the Judicial Conference prescribes under section  
16 1914(b) of this title.”; and

17 (D) in subsection (g), as so redesignated—

18 (i) in paragraph (1), by striking “(1)  
19 Under” and all that follows and inserting  
20 the following: “(1)(A) Under the proce-  
21 dures prescribed by the Judicial Con-  
22 ference of the United States, the district  
23 court or the bankruptcy court may waive  
24 all fees payable to the clerk of the court in  
25 a case under chapter 10 of title 11 for an

1 individual if the court determines that such  
2 individual has income less than 150 per-  
3 cent of the income official poverty line (as  
4 defined by the Office of Management and  
5 Budget, and revised annually in accord-  
6 ance with section 673(2) of the Omnibus  
7 Budget Reconciliation Act of 1981) appli-  
8 cable to a family of the size involved and  
9 is unable to pay that fee in installments.

10 “(B) If the court determines that such an individual  
11 has income less than 100 percent of the income official  
12 poverty line applicable to a family of the size involved,  
13 such individual shall be conclusively presumed to be un-  
14 able to pay that fee in instalments.”; and

15 (ii) in paragraph (2), by striking  
16 “subsections (b) and (c)” and inserting  
17 “subsections (c) and (d)”.

18 **SEC. 402. TRUSTEE COMPENSATION.**

19 (a) AMENDMENTS.—Section 586 of title 28, United  
20 States Code, is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (3)—

23 (i) in the matter preceding subpara-  
24 graph (A), by striking “chapter 7, 11 (in-  
25 cluding subchapter V of chapter 11), 12,

1 13, or 15” and inserting “chapter 7, 10,  
 2 11 (including subchapter V of chapter 11),  
 3 12, or 15”; and

4 (ii) in subparagraph (C)—

5 (I) by striking “chapters 12 and  
 6 13 of title 11” and inserting “chap-  
 7 ters 10 and 12 of title 11”; and

8 (II) by striking “sections 1224,  
 9 1229, 1324, and 1329” and inserting  
 10 “sections 1024, 1025(k), 1224, and  
 11 1229”;

12 (B) by striking paragraph (6); and

13 (C) by redesignating paragraphs (7) and  
 14 (8) as paragraphs (6) and (7), respectively;

15 (2) by amending subsection (b) to read as fol-  
 16 lows:

17 “(b) If the number of cases under chapter 10 or 12  
 18 of title 11 or subchapter V of chapter 11 of title 11 com-  
 19 menced in a particular region so warrants, the United  
 20 States trustee for such region may, subject to the approval  
 21 of the Attorney General, appoint 1 or more individuals to  
 22 serve as standing trustee, or designate 1 or more assistant  
 23 United States trustees to serve in cases under such chap-  
 24 ter. The United States trustee may also establish, main-  
 25 tain, and supervise a panel of private trustees that are

1 eligible and available to serve as trustees in cases under  
2 chapter 10 of title 11. The United States trustee for such  
3 region shall supervise the performance of the duties of any  
4 such individual appointed under this subsection.”;

5 (3) in subsection (d)(1), by striking “under  
6 subchapter V of chapter 11 or chapter 12 or 13 of  
7 title 11” each place it appears and inserting “chap-  
8 ter 10 or 12 of title 11 or subchapter V of chapter  
9 11 of title 11”;

10 (4) in subsection (e)—

11 (A) in paragraph (1), in the matter pre-  
12 ceding subparagraph (A), by striking “under  
13 subchapter V of chapter 11 or chapter 12 or 13  
14 of title 11” and inserting “chapter 12 of title  
15 11 or subchapter V of chapter 11”;

16 (B) in paragraph (2)—

17 (i) in the matter preceding subpara-  
18 graph (A), by striking “under subchapter  
19 V of chapter 11 or chapter 12 or 13 of  
20 title 11” and inserting “chapter 12 of title  
21 11 or subchapter V of chapter 11 of title  
22 11”;

23 (ii) in subparagraph (A), by striking  
24 “under subchapter V of chapter 11 or  
25 chapter 12 or 13 of title 11” and inserting



1 “chapter 12 of title 11 or subchapter V of  
2 chapter 11 of title 11”; and

3 (iii) in subparagraph (B)(ii), by strik-  
4 ing “subparagraph (d)(1)(B)” and insert-  
5 ing “subparagraph (e)(1)(B)”;

6 (C) by redesignating paragraphs (3), (4),  
7 and (5) as paragraphs (5), (6), and (7), respec-  
8 tively; and

9 (D) by inserting after paragraph (2) the  
10 following:

11 “(3) The Attorney General, after consultation  
12 with a United States trustee that has appointed an  
13 individual under subsection (b) of this section to  
14 serve as standing trustee in cases under chapter 10  
15 of title 11, shall fix—

16 “(A) a maximum annual compensation for  
17 such individual consisting of—

18 “(i) an amount not to exceed the 1.25  
19 times the highest annual rate of basic pay  
20 in effect for a position at level IV of the  
21 Executive Schedule under section 5315 of  
22 title 5; and

23 “(ii) the cash value of employment  
24 benefits comparable to the employment  
25 benefits provided by the United States to

1 individuals who are employed by the  
2 United States at the same rate of basic  
3 pay to perform similar services during the  
4 same period of time; and

5 “(B) a percentage fee not to exceed 10  
6 percent.

7 “(4) An individual serving as standing trustee  
8 in cases under chapter 10 of title 11 shall collect  
9 such percentage fee from all payments received by  
10 such individual (including the value of property ten-  
11 dered to such individual) under plans in such cases  
12 for which such individual serves as standing trustee.  
13 Such individual shall pay to the United States trust-  
14 ee, and the United States trustee shall deposit in the  
15 United States Trustee System Fund—

16 “(A) any amount by which the actual com-  
17 pensation of such individual exceeds 5 percent  
18 upon all payments received under plans in such  
19 cases for which such individual serves as stand-  
20 ing trustee; and

21 “(B) any amount by which the percentage  
22 fee for all such cases exceeds—

23 “(i) such individual’s actual com-  
24 pensation for such cases, as adjusted under  
25 subparagraph (A) of paragraph (3); plus

1 “(ii) the actual, necessary expenses in-  
2 curred by such individual as standing  
3 trustee in such cases. Subject to the ap-  
4 proval of the Attorney General, any or all  
5 of the interest earned from the deposit of  
6 payments under plans by such individual  
7 may be utilized to pay actual, necessary ex-  
8 penses without regard to the percentage  
9 limitation contained in paragraph (3)(B) of  
10 this subsection.”; and

11 (5) by striking subsection (f).

12 (b) REGULATIONS.—Not later than 1 year after the  
13 date of enactment of this Act, the Attorney General shall  
14 promulgate regulations to implement a process for sub-  
15 stituting a trustee under section 1001 of title 11, United  
16 States Code, when necessary.

## 17 **TITLE V—BANKRUPTCY LIEN** 18 **FILING SYSTEM**

### 19 **SEC. 501. BANKRUPTCY LIEN FILING SYSTEM.**

20 (a) IN GENERAL.—Not later than 1 year after the  
21 date of enactment of this Act, the Director of the Execu-  
22 tive Office for United States Trustees shall establish a  
23 searchable electronic system for the filing of liens created  
24 by, or under, title 11, United States Code, including—

1           (1) liens created under section 1028(i)(1) of  
2           that title; and

3           (2) liens created pursuant to any order issued  
4           in a case under that title.

5           (b) REGULATIONS.—The Attorney General shall pro-  
6           mulgate any necessary regulations to effectuate the estab-  
7           lishment and operation of the filing system required under  
8           subsection (a), including regulations relating to the effect  
9           of the filing of a lien in the system.

## 10           **TITLE VI—MISCELLANEOUS**

### 11           **SEC. 601. EFFECTIVE DATE.**

12           The provisions of this Act and the amendments made  
13           by this Act shall take effect on the date that is 1 year  
14           after the date of enactment of this Act.

### 15           **SEC. 602. TRANSITION.**

16           A case commenced under title 11, United States  
17           Code, before the date that is 1 year after the date of enact-  
18           ment of this Act, and all matters and proceedings in or  
19           relating to any such case, shall be conducted and deter-  
20           mined as if this Act had not been enacted, and the sub-  
21           stantive rights of parties in connection with any such  
22           bankruptcy case, matter, or proceeding shall continue to  
23           be governed by the law applicable to such case, matter,  
24           or proceeding as if the Act had not been enacted.

1 **SEC. 603. SEVERABILITY.**

2       If any provision of this Act, an amendment made by  
3 this Act, or the application of such provision or amend-  
4 ment to any person or circumstance is held to be invalid  
5 or unconstitutional, the remainder of this Act, the amend-  
6 ments made by this Act, and the application of such provi-  
7 sions to any person or circumstance shall not be affected  
8 thereby.

○

117TH CONGRESS  
1ST SESSION**H. R. 4777**

To amend title 11, United States Code, to prohibit nonconsensual release of a nondebtor entity's liability to an entity other than the debtor, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

JULY 28, 2021

Mr. NADLER (for himself, Mrs. CAROLYN B. MALONEY of New York, and Mr. CICILLINE) introduced the following bill; which was referred to the Committee on the Judiciary

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**A BILL**

To amend title 11, United States Code, to prohibit nonconsensual release of a nondebtor entity's liability to an entity other than the debtor, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nondebtor Release  
5 Prohibition Act of 2021”.

6 **SEC. 2. PROHIBITION OF NONDEBTOR RELEASES.**

7 (a) IN GENERAL.—Chapter 1 of title 11, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 **“§ 113. Prohibition of nondebtor releases**

2 “(a) Except as provided in subsection (b) of this sec-  
3 tion, subsection (a)(3), (g), (h), or (i) of section 524, sec-  
4 tion 1201, and section 1301, the court may not—

5 “(1) with respect to the liability of an entity  
6 other than the debtor or the estate on, or the liabil-  
7 ity of property of an entity other than the debtor or  
8 the estate for, a claim or cause of action of an entity  
9 other than the debtor or the estate—

10 “(A) approve any provision, in a plan of  
11 reorganization or otherwise, for the discharge,  
12 release, termination, or modification of such li-  
13 ability; or

14 “(B) order the discharge, release, termi-  
15 nation, or modification of such liability; or

16 “(2) with respect to a claim or cause of action  
17 of an entity other than the debtor or the estate  
18 against an entity other than the debtor or the estate,  
19 or against property of an entity other than the debt-  
20 or or the estate, enjoin—

21 “(A) the commencement or continuation  
22 (including the issuance or employment of proc-  
23 ess) of a judicial, administrative, or other action  
24 or proceeding to assert, assess, collect, recover,  
25 offset, recoup, or otherwise enforce such claim  
26 or cause of action; or

1           “(B) any act to assert, assess, collect, re-  
2           cover, offset, recoup, or otherwise enforce such  
3           claim or cause of action.

4           “(b) Nothing in subsection (a) of this section shall  
5           affect any power the court may have—

6           “(1) to authorize a sale, transfer, or other dis-  
7           position of property free and clear of claims or inter-  
8           ests;

9           “(2) to prevent an entity other than the debtor  
10          or the estate from exercising control over or other-  
11          wise interfering with a right or interest (including a  
12          claim or cause of action) that is property of the es-  
13          tate;

14          “(3) to bar a claim or cause of action for in-  
15          demnity, reimbursement, contribution, or subroga-  
16          tion against an entity that the estate has released  
17          from a claim or cause of action for which the holder  
18          of the barred claim or cause of action also is or may  
19          be liable or has or may have secured;

20          “(4) under applicable nonbankruptcy law, title  
21          28, or the Federal Rules of Bankruptcy Procedure,  
22          with respect to any claim or cause of action the  
23          court is hearing under section 157(a) or 1334(b) of  
24          title 28;



1 “(5) to approve any disposition of a claim or  
2 cause of action of an entity other than the debtor or  
3 the estate to which such entity expressly consents in  
4 a signed writing provided that—

5 “(A) such consent is given only after clear  
6 and conspicuous notice to such entity of the  
7 proposed disposition in language appropriate  
8 for the typical holder of such claim or cause of  
9 action;

10 “(B) such consent cannot be given by—

11 “(i) accepting a proposed plan; or

12 “(ii) failing to accept or reject a pro-  
13 posed plan, failing to object to a proposed  
14 plan, or any other silence or inaction; and

15 “(C) treatment of such entity, and any  
16 claims or interests of such entity, under a plan  
17 cannot be more or less favorable by reason of  
18 such entity’s consent or failure to consent; or

19 “(6) to enjoin the commencement or continu-  
20 ation (including the issuance or employment of proc-  
21 ess) of a judicial, administrative, or other action or  
22 proceeding against an entity appointed or employed  
23 (or whose appointment or employment was ap-  
24 proved) by or under the auspices of the court, in an-  
25 other court and without leave of the court, with re-

1       spect to acts or omissions for which the entity was  
2       so appointed or employed.

3       “(c) In a case under chapter 11 of this title, no order  
4       or decree temporarily staying or enjoining, pursuant to  
5       this title, the commencement or continuation (including  
6       the issuance or employment of process) of a judicial, ad-  
7       ministrative, or other action or proceeding to assert, as-  
8       sess, collect, recover, offset, recoup, or otherwise enforce  
9       a claim or cause of action against an entity other than  
10      the debtor or the estate against an entity other than the  
11      debtor or the estate, or against property of an entity other  
12      than the debtor or the estate, shall extend (or be extended)  
13      beyond 90 days after the date of the order for relief with-  
14      out the express consent of the entity whose claim or cause  
15      of action is stayed or enjoined.

16      “(d) Nothing in subsection (b) or (c) shall be con-  
17      strued to authorize relief within the scope of subsection  
18      (b) or (c).”.

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

“113. Prohibition of nondebtor releases.”.

22      **SEC. 3. APPEAL OF NONDEBTOR STAYS.**

23      Section 158 of title 28, United States Code, is  
24      amended—

1 (1) in subsection (a), by striking “The” and in-  
2 serting “Except as provided in subsection (d)(3),  
3 the”; and

4 (2) by inserting after subsection (d)(2) the fol-  
5 lowing:

6 “(3)(A) The appropriate court of appeals shall  
7 have jurisdiction of appeals from all orders and de-  
8 crees (whether interlocutory or final) temporarily  
9 staying or enjoining (or increasing the duration of  
10 any temporary stay or injunction of) the commence-  
11 ment or continuation (including the issuance or em-  
12 ployment of process) of a judicial, administrative, or  
13 other action or proceeding to assert, assess, collect,  
14 recover, offset, recoup, or otherwise enforce a claim  
15 or cause of action of an entity other than the debtor  
16 or the estate against an entity other than the debtor  
17 or the estate, or against property of an entity other  
18 than the debtor or the estate, entered in a case  
19 under chapter 11 of title 11 by—

20 “(i) a bankruptcy judge under section 157  
21 of this title; or

22 “(ii) a district court under section 1334 of  
23 this title.

24 “(B) If an appeal is taken under subparagraph  
25 (A), the stay order or decree shall immediately ter-

1       minate and dissolve and be of no further force or ef-  
2       fect 90 days after its issuance by the bankruptcy  
3       judge or district court, unless the appeal is dis-  
4       missed or the court of appeals affirms the stay order  
5       or decree before that date.”.

6 **SEC. 4. DIVISIONAL MERGERS.**

7       Section 1112 of title 11, United States Code, is  
8       amended—

9               (1) by redesignating subsection (f) as sub-  
10       section (g); and

11              (2) by inserting after subsection (e) the fol-  
12       lowing:

13       “(f) On a request of a party in interest, and after  
14       notice and a hearing, the court shall dismiss a case under  
15       this chapter if the debtor or a predecessor of the debtor  
16       was the subject of, or was formed or organized in connec-  
17       tion with a divisional merger or equivalent transaction or  
18       restructuring that—

19              “(1) had the intent or foreseeable effect of—

20                      “(A) separating material assets from mate-  
21                      rial liabilities of an entity eligible to be a debtor  
22                      under this title; and

23                      “(B) assigning or allocating all or a sub-  
24                      stantial portion of those liabilities to the debtor,

1 or the debtor assuming or retaining all or a  
2 substantial portion of those liabilities; and  
3 “(2) occurred during the 10-year period pre-  
4 ceding the date of the filing of the petition.”.

5 **SEC. 5. RULE OF CONSTRUCTION.**

6 Nothing in this Act, or the amendments made by this  
7 Act, shall be construed to independently grant the court  
8 authority to issue nondebtor releases, injunctions, or stays  
9 in connection with an order for relief under chapter 11  
10 of title 11, United States Code, or in connection with an  
11 order confirming a plan of reorganization, nor shall any-  
12 thing in this Act or such amendments be construed to  
13 imply that any other provision of title 11 of such Code  
14 or of nonbankruptcy law grants such authority.

15 **SEC. 6. EFFECTIVE DATE.**

16 (a) IN GENERAL.—Except as provided in subsection  
17 (b), this Act and the amendments made by this Act shall  
18 take effect on the date of the enactment of this Act and  
19 shall apply to any case under title 11, United States Code,  
20 that is—

21 (1) pending in bankruptcy as of the date of the  
22 enactment of this Act; or

23 (2) filed or reopened on or after the date of the  
24 enactment of this Act.

1       (b) VALIDITY OF FINAL ORDERS.—Nothing in this  
2 Act, or the amendments made by this Act, shall affect the  
3 validity of any final judgment, order, or decree as applied  
4 under section 158 of title 28, United States Code, entered  
5 before the date of the enactment of this Act.

○



II

117TH CONGRESS  
1ST SESSION

# S. 2598

To amend title 11, United States Code, to improve the treatment of student loans in bankruptcy, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2021

Mr. DURBIN (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 11, United States Code, to improve the treatment of student loans in bankruptcy, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fostering Responsible  
5 Education Starts with Helping Students Through Ac-  
6 countability, Relief, and Taxpayer Protection Through  
7 Bankruptcy Act of 2021” or the “FRESH START  
8 Through Bankruptcy Act”.

1 **SEC. 2. EXCEPTIONS TO DISCHARGE.**

2 Section 523(a) of title 11, United States code, is  
3 amended by striking paragraph (8) and inserting the fol-  
4 lowing:

5 “(8) for an educational benefit overpayment or  
6 loan made, insured, or guaranteed by a govern-  
7 mental unit, or made under any program funded in  
8 whole or in part by a governmental unit or nonprofit  
9 institution, or for an obligation to repay funds re-  
10 ceived as an educational benefit, scholarship, or sti-  
11 pend received from a governmental unit or nonprofit  
12 institution, unless—

13 “(A) excepting such debt from discharge  
14 under this paragraph would impose an undue  
15 hardship on the debtor and the debtor’s de-  
16 pendants; or

17 “(B) the first payment on such debt be-  
18 came due before the 10-year period (exclusive of  
19 any applicable suspension of the repayment pe-  
20 riod) ending on the date of the filing of the pe-  
21 tition;

22 “(8A) unless excepting such debt from dis-  
23 charge under this paragraph would impose an undue  
24 hardship on the debtor and the debtor’s dependents,  
25 for—



1           “(A) an obligation to repay funds received  
2           as an educational benefit, scholarship, or sti-  
3           pend, other than an obligation described in  
4           paragraph (8); or

5           “(B) any educational loan, other than a  
6           loan described in paragraph (8), that is a quali-  
7           fied education loan, as defined in section  
8           221(d)(1) of the Internal Revenue Code of  
9           1986, incurred by a debtor who is an indi-  
10          vidual;”.

11 **SEC. 3. EFFECT OF DISCHARGE OF CERTAIN STUDENT**  
12 **LOANS.**

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

15          “(n)(1) In this subsection:

16               “(A) The term ‘cohort repayment rate’, with re-  
17               spect to a covered institution of higher education,  
18               means the percentage of student borrowers who are  
19               making at least some progress paying down their  
20               student loans within 3 years of entering repayment.

21               “(B) The term ‘covered institution of higher  
22               education’ means an institution of higher education  
23               (as defined in section 102 of the Higher Education  
24               Act of 1965 (20 U.S.C. 1002)) that—

1           “(i) is a participant in the Federal Direct  
2           Loan Program under part D of title IV of the  
3           Higher Education Act of 1965 (20 U.S.C.  
4           1087a et seq.); and

5           “(ii) has an enrollment of students that is  
6           not less than 33 percent students who have re-  
7           ceived a loan made, insured, or guaranteed  
8           under title IV of the Higher Education Act of  
9           1965 (20 U.S.C. 1070 et seq.)).

10          “(C) The term ‘covered student loan’ means the  
11          original principal of a loan—

12               “(i) the first payment on which became  
13               due before the 10-year period (exclusive of any  
14               applicable suspension of the repayment period)  
15               ending on the date of the filing of the petition;  
16               and

17               “(ii) used by the debtor to make a pay-  
18               ment to a covered institution of higher edu-  
19               cation on behalf of the debtor for the purpose  
20               of attaining an educational benefit.

21          “(D) The term ‘Federal Direct PLUS Loan’  
22          means a Federal Direct PLUS Loan under part D  
23          of title IV of the Higher Education Act of 1965 (20  
24          U.S.C. 1087a et seq.)

1       “(2) If a covered student loan is discharged in a  
2 bankruptcy case under this title, the covered institution  
3 of higher education to which the debtor of the bankruptcy  
4 case made a payment with the covered student loan shall  
5 pay to the Department of Education an amount deter-  
6 mined in accordance with the following:

7           “(A) An amount equal to 50 percent of the  
8 amount of the covered student loan that is dis-  
9 charged, if the covered institution of higher edu-  
10 cation, on the date on which the first payment on  
11 the covered student loan became due—

12           “(i) had a cohort default rate (as deter-  
13 mined under section 435(m) of the Higher Edu-  
14 cation Act of 1965 (20 U.S.C. 1085(m)) for  
15 each of the 3 fiscal years preceding that date  
16 that was equal to or more than 25 percent; and

17           “(ii) had a cohort repayment rate—

18           “(I) except for borrowers described in  
19 subclause (II), that was equal to or less  
20 than 20 percent; and

21           “(II) with respect to borrowers who  
22 were graduate or professional students who  
23 received a Federal Direct PLUS Loan for  
24 enrollment at the institution, that was  
25 equal to or less than 35 percent.

1           “(B) An amount equal to 30 percent of the  
2           amount of the covered student loan that is dis-  
3           charged, if the covered institution of higher edu-  
4           cation, on the date on which the first payment on  
5           the covered student loan became due—

6           “(i) had a cohort default rate (as deter-  
7           mined under section 435(m) of the Higher Edu-  
8           cation Act of 1965 (20 U.S.C. 1085(m)) for  
9           each of the 3 fiscal years preceding that date  
10          that was equal to or more than 20 percent and  
11          less than 25 percent; and

12          “(ii) had a cohort repayment rate—

13          “(I) except for borrowers described in  
14          subclause (II), that was equal to or less  
15          than 25 percent and more than 20 percent;  
16          and

17          “(II) with respect to borrowers who  
18          were graduate or professional students who  
19          received a Federal Direct PLUS Loan for  
20          enrollment at the institution, that was  
21          equal to or less than 40 percent and more  
22          than 35 percent.

23          “(C) An amount equal to 20 percent of the  
24          amount of the covered student loan that is dis-  
25          charged, if the covered institution of higher edu-

1 cation, on the date on which the first payment on  
2 the covered student loan became due—

3 “(i) had a cohort default rate (as deter-  
4 mined under section 435(m) of the Higher Edu-  
5 cation Act of 1965 (20 U.S.C. 1085(m)) for  
6 each of the 3 fiscal years preceding that date  
7 that was equal to or more than 15 percent and  
8 less than 20 percent; and

9 “(ii) had a cohort repayment rate—

10 “(I) except for borrowers described in  
11 subclause (II), that was equal to or less  
12 than 30 percent and more than 25 percent;  
13 and

14 “(II) with respect to borrowers who  
15 were graduate or professional students who  
16 received a Federal Direct PLUS Loan for  
17 enrollment at the institution, that was  
18 equal to or less than 45 percent and more  
19 than 40 percent.”.

20 **SEC. 4. EFFECTIVE DATE; APPLICABILITY.**

21 This Act and the amendments made by this Act  
22 shall—

23 (1) take effect on the date that is 180 days  
24 after the date of enactment of this Act; and

1           (2) apply to a petition filed or amended under  
2       this title on or after the effective date under para-  
3       graph (1) with respect to a debt for an educational  
4       benefit, overpayment, loan, scholarship, or stipend of  
5       a debtor.

○



II

## Calendar No. 307

117TH CONGRESS  
2D SESSION

# S. 2614

To provide for the modernization of electronic case management systems,  
and for other purposes.

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### IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2021

Mr. PORTMAN (for himself, Mr. WYDEN, Mr. DURBIN, Mr. HAWLEY, Mr. GRASSLEY, Mr. LEAHY, Mrs. FEINSTEIN, Mr. WHITEHOUSE, Mr. KENNEDY, Mr. COONS, Mr. BLUMENTHAL, Ms. HIRONO, Mr. BOOKER, Mr. PADILLA, and Mr. OSSOFF) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MARCH 15, 2022

Reported by Mr. DURBIN, with an amendment

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

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## A BILL

To provide for the modernization of electronic case  
management systems, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open Courts Act of  
5 2021”.

1 **SEC. 2. MODERNIZATION OF ELECTRONIC COURT RECORDS**  
2 **SYSTEMS.**

3 (a) **CONSOLIDATION.**—Not later than the date speci-  
4 fied in subsection (c), the Director of the Administrative  
5 Office of the United States Courts, in coordination with  
6 the Administrator of General Services, shall develop, de-  
7 liver, and sustain, consistent with the requirements of this  
8 section and section 3, one system for all public court  
9 records.

10 (b) **REQUIREMENTS OF SYSTEM.**—The system de-  
11 scribed under subsection (a) shall comply with the fol-  
12 lowing requirements:

13 (1) The system shall provide search functions,  
14 developed in coordination with the Administrator of  
15 General Services, for use by the public and by par-  
16 ties before the court.

17 (2) The system shall make public court records  
18 automatically accessible to the public upon filing.

19 (3) Any information made available through a  
20 website established pursuant to section 205 of the  
21 E-Government Act of 2002 shall be included in the  
22 system.

23 (4) Any website for the system shall substan-  
24 tially comply with the requirements under sub-  
25 sections (b) and (c) of section 205 of the E-Govern-  
26 ment Act of 2002.



1           (5) To the extent practicable, external websites  
2       shall be able to link to documents on the system.  
3       Each website established pursuant to section 205 of  
4       the E-Government Act of 2002 shall contain a link  
5       to the system.

6           (6) To the extent practicable, the system shall  
7       enable courts to automatically generate and submit,  
8       in a computer-readable format, the reports required  
9       by sections 2519(1) and 3103a(d)(1) of title 18,  
10      United States Code.

11      (c) DATA STANDARDS.—

12           (1) ESTABLISHMENT OF DATA STANDARDS.—  
13      The Director of the Administrative Office of the  
14      United States Courts, in coordination with the Ad-  
15      ministrators of General Services and the Archivist of  
16      the United States, shall establish data standards for  
17      the system established under subsection (a).

18           (2) REQUIREMENTS.—The data standards es-  
19      tablished under paragraph (1) shall, to the extent  
20      reasonable and practicable—

21           (A) incorporate widely accepted common  
22      data elements;

23           (B) incorporate a widely accepted, non-  
24      proprietary, full text searchable, platform-inde-  
25      pendent computer-readable format; and

1           (C) be capable of being continually up-  
2           graded as necessary.

3           (3) DEADLINES.—Not later than 6 months  
4           after the date of enactment of this Act, the Director  
5           of the Administrative Office of the United States  
6           Courts shall issue guidance to all Federal courts on  
7           the data standards established under this section.

8           (d) USE OF TECHNOLOGY.—In carrying out the du-  
9           ties under subsection (a), the Director shall use modern  
10          technology in order—

11          (1) to improve security, data accessibility, data  
12          quality, affordability, and performance; and

13          (2) to minimize the burden on pro se litigants.

14          (e) DATE SPECIFIED.—The date specified in this  
15          subsection is the date that is 2 years after the date of  
16          the enactment of this Act, unless the Administrator of  
17          General Services certifies to Congress, by not later than  
18          90 days after such date of enactment, that an additional  
19          period of time is required. If the Administrator so cer-  
20          tifies, the date specified in this subsection is the date that  
21          is 3 years after the date of enactment of this Act.

22          (f) FUNDS FOR ESTABLISHMENT, OPERATION, AND  
23          MAINTENANCE OF MODERNIZED COURT RECORDS SYS-  
24          TEM.—

1           (1) SHORT TERM ACCESS FEES TO FUND ES-  
2           TABLISHMENT OF MODERNIZED COURT RECORDS  
3           SYSTEM.—

4           (A) IN GENERAL.—Section 303 of the Ju-  
5           diciary Appropriations Act, 1992 (title III of  
6           Public Law 102–140; 105 Stat. 807) (28  
7           U.S.C. 1913 note) is amended—

8           (i) in subsection (a), by inserting  
9           “‘The Judicial Conference shall prescribe a  
10          schedule of additional fees for any person  
11          other than a government agency who ac-  
12          crues such fees for access in an amount of  
13          \$25,000 or greater in any quarter. All fees  
14          collected shall be deposited as offsetting  
15          collections to the Judiciary Information  
16          Technology Fund pursuant to section  
17          612(c)(1)(A) of title 28, United States  
18          Code, to reimburse expenses incurred in  
19          carrying out section 2 of the Open Courts  
20          Act of 2021.” before “‘The Director of the  
21          Administrative Office of the United States  
22          Courts’”; and

23          (ii) in subsection (b), by striking “All  
24          fees hereafter” and inserting “Except as

1 otherwise provided in this section, all fees  
2 hereafter”.

3 (B) EXCESS FEES.—Amounts deposited in  
4 the Judiciary Information Technology Fund  
5 pursuant to the amendments made by subpara-  
6 graph (A) and not used to reimburse expenses  
7 incurred in carrying out section 2 of this Act  
8 may be used pursuant to section 612(a) of title  
9 28, United States Code.

10 (C) EFFECTIVE DATE.—The amendment  
11 made by subparagraph (A) shall take effect on  
12 the date of enactment of this Act.

13 (2) FILING FEES TO FUND OPERATION AND  
14 MAINTENANCE OF MODERNIZED COURT RECORDS  
15 SYSTEM.—

16 (A) IN GENERAL.—Section 303 of the Ju-  
17 diciary Appropriations Act, 1992 (title III of  
18 Public Law 102-140; 105 Stat. 807) (28  
19 U.S.C. 1913 note) is amended by striking sub-  
20 sections (a) and (b), and inserting the fol-  
21 lowing:

22 “(a) To cover the costs of carrying out section 2 of  
23 the Open Courts Act of 2021, the Judicial Conference  
24 may, only to the extent necessary, prescribe schedules of  
25 reasonable filing fees, pursuant to sections 1913, 1914,

1 1926, 1930, and 1932 of title 28, United States Code,  
2 which—

3 “(1) shall be based on the extent of use of the  
4 system described under such section 2 for purposes  
5 of such action;

6 “(2) shall in addition be based on factors in-  
7 cluding the nature of the action and claim for relief,  
8 the amount of damages demanded, the estimated  
9 complexity of the type of action, and the interests of  
10 justice;

11 “(3) may be prescribed for the filing of a coun-  
12 terclaim;

13 “(4) shall not apply in the case of a pro se liti-  
14 gant or litigant who certifies their financial hard-  
15 ship; and

16 “(5) shall not be a basis for denying access to  
17 the courts of the United States.

18 “(b) The Judicial Conference and the Director shall  
19 transmit each schedule of fees prescribed under subsection  
20 (a) to Congress at least 90 days before the schedule be-  
21 comes effective. All fees collected under subsection (a)  
22 shall be deposited as offsetting collections to the Judiciary  
23 Information Technology Fund pursuant to section  
24 612(c)(1)(A) of title 28, United States Code, to reimburse

1 expenses incurred in carrying out section 2 of the Open  
2 Courts Act of 2021.

3 “(c) The Judicial Conference shall review a schedule  
4 of fees prescribed under subsection (a) three years after  
5 it becomes effective and every three years thereafter to  
6 ensure that the fees meet the requirements of this section.  
7 If the fees do not meet the requirements of this section,  
8 the Judicial Conference shall prescribe a new schedule of  
9 fees pursuant to subsection (a) and submit the new sched-  
10 ule of fees to Congress pursuant to subsection (b).

11 “(d) Amounts deposited to the Judiciary Information  
12 Technology Fund pursuant to this section and not used  
13 to reimburse expenses incurred in carrying out section 2  
14 of the Open Courts Act of 2021 may be used pursuant  
15 to section 612(a) of title 28, United States Code.”.

16 (B) EFFECTIVE DATE.—The amendment  
17 made by subparagraph (A) shall take effect on  
18 the date specified in subsection (e).

19 **SEC. 3. PUBLIC ACCESS TO ELECTRONIC COURT RECORDS**  
20 **SYSTEM REQUIREMENT.**

21 (a) IN GENERAL.—Not later than the date specified  
22 in subsection (d), the Director of the Administrative Office  
23 of the United States Courts, in coordination with the Ad-  
24 ministrator of General Services, shall make all materials

1 in the system established under section 2 publicly acces-  
2 sible, free of charge.

3 (b) USE OF TECHNOLOGY.—In providing public ac-  
4 cess under subsection (a), the Director shall, in coordina-  
5 tion with the Administrator of General Services, use mod-  
6 ern technology in order—

7 (1) to improve security, data accessibility, ease  
8 of public access, affordability, and performance; and

9 (2) to minimize the burden on pro se litigants.

10 (c) DATE SPECIFIED.—The date specified in this  
11 subsection is the date that is 2 years after the date of  
12 the enactment of this Act, unless the Administrator of  
13 General Services certifies to Congress, by not later than  
14 90 days after such date of enactment, that an additional  
15 period of time is required. If the Administrator so cer-  
16 tifies, the date specified in this subsection is the date that  
17 is 3 years after the date of enactment of this Act.

18 (d) FUNDING FOR PUBLIC ACCESS TO MODERNIZED  
19 ELECTRONIC COURT RECORDS SYSTEM.—

20 (1) IN GENERAL.—Section 303 of the Judiciary  
21 Appropriations Act, 1992 (title III of Public Law  
22 102–140, 105 Stat. 807) (28 U.S.C. 1913 note) is  
23 amended by adding at the end the following:

24 “(c)(1) To cover the costs of ensuring the public ac-  
25 cessibility, free of charge, of all materials in the system

1 described under sections 2 and 3 of the Open Courts Act  
2 of 2021 in accordance with section 3 of such Act, the Judi-  
3 cial Conference shall collect an annual fee from Federal  
4 agencies equal to the Public Access to Court Electronic  
5 Records access fees paid by those agencies in 2018, as  
6 adjusted for inflation. All fees collected under this sub-  
7 section shall be deposited as offsetting collections to the  
8 Judiciary Information Technology Fund pursuant to sec-  
9 tion 612(c)(1)(A) of title 28, United States Code, to reim-  
10 burse expenses incurred in providing services in accord-  
11 ance with section 3 of the Open Courts Act of 2021.

12       “(2) To cover any additional marginal costs of ensur-  
13 ing the public accessibility, free of charge, of all materials  
14 in the system described under sections 2 and 3 of the  
15 Open Courts Act of 2021 in accordance with section 3 of  
16 such Act, the Judicial Conference may prescribe schedules  
17 of reasonable filing fees, pursuant to sections 1913, 1914,  
18 1926, 1930, and 1932 of title 28, United States Code.  
19 The schedules—

20               “(A) shall be based on the extent of use of the  
21 system described under such section 2;

22               “(B) shall, in addition, be based on factors in-  
23 cluding the nature of the type of action and claim  
24 for relief, the amount of damages demanded, the es-



1       timated complexity of the type of action, and the in-  
2       terests of justice;

3           “(C) may be prescribed for the filing of a coun-  
4       terclaim;

5           “(D) shall not apply to a pro se litigant or a  
6       litigant who certifies their financial hardship; and

7           “(E) shall not be a basis for denying access to  
8       the courts of the United States.

9       ~~“(3)(A)~~ The Judicial Conference and the Director  
10     shall transmit each schedule of fees prescribed under this  
11     subsection to Congress at least 90 days before the sched-  
12     ule becomes effective. All fees collected under this sub-  
13     section shall be deposited as offsetting collections to the  
14     Judiciary Information Technology Fund pursuant to sec-  
15     tion 612(c)(1)(A) of title 28, United States Code, to reim-  
16     burse expenses incurred in providing services in accord-  
17     ance with section 3 of the Open Courts Act of 2021.

18       ~~“(B)~~ The Judicial Conference shall review a schedule  
19     of fees prescribed under this paragraph three years after  
20     it becomes effective and every three years thereafter to  
21     ensure that the fees meet the requirements of this para-  
22     graph. If the fees do not meet the requirements of this  
23     paragraph, the Judicial Conference shall prescribe a new  
24     schedule of fees pursuant to this paragraph and submit

1 the new schedule of fees to Congress pursuant to subpara-  
2 graph (A).

3 “(C) Amounts deposited to the Judiciary Information  
4 Technology Fund pursuant to this subsection and not used  
5 to reimburse expenses incurred in carrying out section 3  
6 of the Open Courts Act of 2021 may be used to reimburse  
7 expenses incurred in carrying out section 2 of the Open  
8 Courts Act of 2021. Amounts not used to reimburse ex-  
9 penses incurred in carrying out section 2 of the Open  
10 Courts Act of 2021 may be used pursuant to section  
11 612(a) of title 28, United States Code.”.

12 (2) EFFECTIVE DATE.—The amendment made  
13 by paragraph (1) shall take effect beginning on the  
14 date specified in subsection (d).

15 **SEC. 4. RULE OF CONSTRUCTION.**

16 Nothing in this Act, or the amendments made by this  
17 Act, shall be construed to—

18 (1) affect the filing fees or other filing proce-  
19 dures for prisoners; or

20 (2) abrogate, limit, or modify the requirements  
21 described in section 1915 of title 28, United States  
22 Code.

23 **SEC. 5. DIGITAL ACCESSIBILITY STANDARDS.**

24 The system described under sections 2 and 3 of this  
25 Act or the amendments made by such sections shall com-

1 ply with relevant digital accessibility standards established  
2 pursuant to section 508 of the Rehabilitation Act of 1973.

3 **SEC. 6. GAO REVIEW.**

4 (a) IN GENERAL.—Not later than 180 days after the  
5 date of enactment of this Act, and quarterly thereafter,  
6 the Comptroller General of the United States shall notify  
7 Congress whether the Director of the Administrative Of-  
8 fice of United States Courts has—

9 (1) produced additional usable functionality of  
10 the system described under sections 2 and 3 of this  
11 Act;

12 (2) held live, publicly accessible demonstrations  
13 of software in development; and

14 (3) allowed the Comptroller General or a des-  
15 ignee to attend all sprint reviews held during the ap-  
16 plicable period.

17 (b) AUDIT.—Not later than 180 days after the date  
18 of the enactment of this Act, and annually thereafter, the  
19 Comptroller General of the United States shall—

20 (1) conduct an audit of the system established  
21 under this Act, including the compliance of vendors  
22 with the quality assessment surveillance plan, code  
23 quality, and whether the system is meeting the needs  
24 of users; and

1           ~~(2)~~ shall submit to Congress a report that con-  
2           tains—

3                   ~~(A)~~ the results of the audit required under  
4           paragraph ~~(1)~~; and

5                   ~~(B)~~ any recommendations to improve the  
6           system established under this Act.

7   **SECTION 1. SHORT TITLE.**

8           *This Act may be cited as the “Open Courts Act of*  
9   *2021”.*

10 **SEC. 2. MODERNIZATION OF ELECTRONIC FEDERAL COURT**  
11 **RECORDS SYSTEMS.**

12           (a) *CONSOLIDATION.*—*Not later than the date specified*  
13 *in subsection (e), the Director of the Administrative Office*  
14 *of the United States Courts, in coordination with the Ad-*  
15 *ministrator of General Services, shall develop, deliver, and*  
16 *sustain, consistent with the requirements of this section and*  
17 *section 3, one system for all public Federal court records.*

18           (b) *REQUIREMENTS OF SYSTEM.*—*The system de-*  
19 *scribed under subsection (a) shall comply with the following*  
20 *requirements:*

21                   (1) *The system shall provide search functions,*  
22 *developed in coordination with the Administrator of*  
23 *General Services, for use by the public and by parties*  
24 *before the court.*

1           (2) *The system shall make public Federal court*  
2           *records automatically accessible to the public upon*  
3           *filing.*

4           (3) *The home page for public access to the system*  
5           *shall include a notice displayed to first-time visitors,*  
6           *as determined through a mechanism that does not re-*  
7           *quire registration or impose a fee, that users will not*  
8           *use the system for an unlawful purpose. Access to doc-*  
9           *uments through other means, including under para-*  
10          *graph (6), may not be conditioned upon acknowl-*  
11          *edging such notice.*

12          (4) *Any information made available through a*  
13          *website established pursuant to section 205 of the E-*  
14          *Government Act of 2002 (44 U.S.C. 3501 note) shall*  
15          *be included in the system.*

16          (5) *Any website for the system shall substantially*  
17          *comply with the requirements under subsections (b)*  
18          *and (c) of section 205 of the E-Government Act of*  
19          *2002 (44 U.S.C. 3501 note).*

20          (6) *To the extent practicable, external websites*  
21          *shall be able to link to documents on the system. Each*  
22          *website established pursuant to section 205 of the E-*  
23          *Government Act of 2002 (44 U.S.C. 3501 note) shall*  
24          *contain a link to the system.*

1           (7) *To the extent practicable, the system shall en-*  
2           *able courts to automatically generate and submit, in*  
3           *a computer-readable format, the reports required by*  
4           *sections 2519(1) and 3103a(d)(1) of title 18, United*  
5           *States Code.*

6           (c) *DATA STANDARDS.—*

7           (1) *ESTABLISHMENT OF DATA STANDARDS.—The*  
8           *Director of the Administrative Office of the United*  
9           *States Courts, in coordination with the Administrator*  
10          *of General Services and the Archivist of the United*  
11          *States, shall establish data standards for the system*  
12          *established under subsection (a).*

13          (2) *REQUIREMENTS.—The data standards estab-*  
14          *lished under paragraph (1) shall, to the extent reason-*  
15          *able and practicable—*

16                (A) *incorporate widely accepted common*  
17                *data elements;*

18                (B) *incorporate a widely accepted, non-*  
19                *proprietary, full text searchable, platform-inde-*  
20                *pendent computer-readable format; and*

21                (C) *be capable of being continually up-*  
22                *graded as necessary.*

23          (3) *DEADLINES.—Not later than 270 days after*  
24          *the date of enactment of this Act, the Director of the*  
25          *Administrative Office of the United States Courts*

1       *shall issue guidance to all Federal courts on the data*  
2       *standards established under this subsection.*

3       *(d) USE OF TECHNOLOGY.—In carrying out the duties*  
4       *under subsection (a), the Director of the Administrative Of-*  
5       *fice of the United States Courts shall use modern tech-*  
6       *nology—*

7               *(1) to improve security, data accessibility, data*  
8               *quality, affordability, and performance; and*

9               *(2) to minimize the burden on pro se litigants.*

10       *(e) DATE SPECIFIED.—The date specified in this sub-*  
11       *section is the date that is 2 years after the date of enactment*  
12       *of this Act, unless the Administrator of General Services*  
13       *certifies to Congress, by not later than 90 days after the*  
14       *date of enactment of this Act, that an additional period*  
15       *of time is required. If the Administrator so certifies, the*  
16       *date specified in this subsection is the date that is 3 years*  
17       *after the date of enactment of this Act.*

18       *(f) FUNDS FOR ESTABLISHMENT, OPERATION, AND*  
19       *MAINTENANCE OF MODERNIZED COURT RECORDS SYS-*  
20       *TEM.—*

21               *(1) SHORT TERM ACCESS FEES TO FUND ESTAB-*  
22               *LISHMENT OF MODERNIZED COURT RECORDS SYS-*  
23               *TEM.—*

24               *(A) IN GENERAL.—Section 303 of the Judi-*  
25               *ciary Appropriations Act, 1992 (title III of Pub-*

1            *lic Law 102–140; 105 Stat. 807) (28 U.S.C.*  
2            *1913 note) is amended—*

3                    *(i) in subsection (a), by inserting “The*  
4                    *Judicial Conference shall prescribe, after*  
5                    *providing public notice and an opportunity*  
6                    *for public comment, a schedule of additional*  
7                    *fees for any person other than a government*  
8                    *agency that accrues such fees for access in*  
9                    *an amount of \$25,000 or greater in any*  
10                   *quarter. All fees collected under the pre-*  
11                   *ceding sentence shall be deposited as offset-*  
12                   *ting collections to the Judiciary Informa-*  
13                   *tion Technology Fund pursuant to section*  
14                   *612(c)(1)(A) of title 28, United States Code,*  
15                   *to reimburse expenses incurred in carrying*  
16                   *out sections 2 and 3 of the Open Courts Act*  
17                   *of 2021.” before “The Director of the Ad-*  
18                   *ministrative Office of the United States*  
19                   *Courts”; and*

20                   *(ii) in subsection (b), in the second*  
21                   *sentence, by striking “All” and inserting*  
22                   *“Except as otherwise provided in this sec-*  
23                   *tion, all”.*

24                   *(B) EXCESS FEES.—Amounts deposited in*  
25                   *the Judiciary Information Technology Fund*



1           pursuant to the amendments made by subpara-  
2           graph (A) may only be used for purposes of this  
3           Act.

4           (C) *EFFECTIVE DATE.*—The amendments  
5           made by subparagraph (A) shall take effect on  
6           the date of enactment of this Act.

7           (2) *FILING FEES TO FUND OPERATION AND MAIN-*  
8           *TENANCE OF MODERNIZED COURT RECORDS SYS-*  
9           *TEM.*—

10           (A) *IN GENERAL.*—Section 303 of the Judi-  
11           ciary Appropriations Act, 1992 (title III of Pub-  
12           lic Law 102–140; 105 Stat. 807) (28 U.S.C.  
13           1913 note) is amended by striking subsections  
14           (a) and (b), and inserting the following:

15           “(a) To cover the costs of carrying out section 2 of the  
16           Open Courts Act of 2021, the Judicial Conference may,  
17           after providing public notice and an opportunity for public  
18           comment and only to the extent necessary to cover such costs  
19           not otherwise provided by appropriations, prescribe sched-  
20           ules of reasonable filing fees, pursuant to sections 1913,  
21           1914, 1926, 1930, and 1932 of title 28, United States Code,  
22           which—

23           “(1) shall be based on the extent of use of the sys-  
24           tem described under such section 2 for purposes of  
25           carrying out such section 2;

1           “(2) shall be based on factors to ensure that such  
2           schedules are graduated, including the cause of action  
3           and claim for relief, the status of the filer in the ac-  
4           tion and the financial hardship an additional fee  
5           would place on the filer, the amount of damages de-  
6           manded, the estimated complexity of the type of ac-  
7           tion, and the interests of justice;

8           “(3) may be prescribed for the filing of a coun-  
9           terclaim;

10           “(4) shall not apply in the case of a pro se liti-  
11           gant, a first time litigant who is an individual, or  
12           a litigant who certifies their financial hardship; and

13           “(5) shall not be a basis for denying access to the  
14           courts of the United States.

15           “(b)(1) The Judicial Conference and the Director of  
16           the Administrative Office of the United States Courts (in  
17           this section referred to as the ‘Director’) shall transmit each  
18           schedule of fees prescribed under subsection (a) to Congress  
19           at least 90 days before the schedule becomes effective. All  
20           fees collected under subsection (a) shall be deposited as off-  
21           setting collections to the Judiciary Information Technology  
22           Fund pursuant to section 612(c)(1)(A) of title 28, United  
23           States Code, to reimburse expenses incurred in carrying out  
24           section 2 of the Open Courts Act of 2021.

1       “(2) *The Judicial Conference shall review a schedule*  
2 *of fees prescribed under subsection (a) 3 years after the*  
3 *schedule becomes effective and every 3 years thereafter to*  
4 *ensure that the fees meet the requirements of this section.*  
5 *If the fees do not meet the requirements of this section, the*  
6 *Judicial Conference shall, after providing public notice and*  
7 *an opportunity for public comment, prescribe a new sched-*  
8 *ule of fees pursuant to subsection (a) and submit the new*  
9 *schedule of fees to Congress pursuant to this subsection.*

10       “(c) *A court, upon motion, may waive any fee imposed*  
11 *under subsection (a) in the interest of justice.”.*

12               (B) *EFFECTIVE DATE.—The amendment*  
13 *made by subparagraph (A) shall take effect on*  
14 *the date specified in subsection (e).*

15       (g) *REPORT.—Not later than 90 days after the date*  
16 *of enactment of this Act, the Director of the Administrative*  
17 *Office of the United States Courts shall submit to the Com-*  
18 *mittee on the Judiciary of the Senate and the Committee*  
19 *on the Judiciary of the House of Representatives a report*  
20 *on the amount of appropriations necessary to carry out sub-*  
21 *sections (a) through (d).*

22       **SEC. 3. PUBLIC ACCESS TO ELECTRONIC FEDERAL COURT**  
23               **RECORDS SYSTEM REQUIREMENT.**

24       (a) *IN GENERAL.—Not later than the date specified*  
25 *in subsection (c), the Director of the Administrative Office*

1 *of the United States Courts, in coordination with the Ad-*  
2 *ministrator of General Services, shall make all materials*  
3 *in the system established under section 2 publicly accessible,*  
4 *free of charge, and without requiring registration.*

5 (b) *USE OF TECHNOLOGY.—In providing public access*  
6 *under subsection (a), the Director of the Administrative Of-*  
7 *fice of the United States Courts shall, in coordination with*  
8 *the Administrator of General Services, use modern tech-*  
9 *nology—*

10 (1) *to improve security, data accessibility, ease*  
11 *of public access, affordability, and performance; and*

12 (2) *to minimize the burden on pro se litigants.*

13 (c) *DATE SPECIFIED.—The date specified in this sub-*  
14 *section is the date that is 2 years after the date of enactment*  
15 *of this Act, unless the Administrator of General Services*  
16 *certifies to Congress, by not later than 90 days after the*  
17 *date of enactment of this Act, that an additional period*  
18 *of time is required. If the Administrator so certifies, the*  
19 *date specified in this subsection is the date that is 3 years*  
20 *after the date of enactment of this Act.*

21 (d) *FUNDING FOR PUBLIC ACCESS TO MODERNIZED*  
22 *ELECTRONIC COURT RECORDS SYSTEM.—*

23 (1) *IN GENERAL.—Section 303 of the Judiciary*  
24 *Appropriations Act, 1992 (title III of Public Law*  
25 *102–140; 105 Stat. 807) (28 U.S.C. 1913 note), as*

1        *amended by section 2(f)(2)(A) of this Act, is amended*  
2        *by adding at the end the following:*

3        *“(d)(1) To cover the costs of ensuring the public acces-*  
4        *sibility, free of charge, of all materials in the system de-*  
5        *scribed under sections 2 and 3 of the Open Courts Act of*  
6        *2021 in accordance with section 3 of such Act, the Adminis-*  
7        *trative Office of the United States Courts shall collect an*  
8        *annual fee from Federal agencies equal to the Public Access*  
9        *to Court Electronic Records access fees paid by those agen-*  
10       *cies in 2021, as adjusted for inflation. For any Federal*  
11       *agency that did not pay Public Access to Court Electronic*  
12       *Records access fees in fiscal year 2021, the Administrative*  
13       *Office of the United States Courts may collect fees based*  
14       *on a standard annual fee determined by the Judicial Con-*  
15       *ference. All fees collected under this subsection shall be de-*  
16       *posited as offsetting collections to the Judiciary Informa-*  
17       *tion Technology Fund pursuant to section 612(c)(1)(A) of*  
18       *title 28, United States Code, to reimburse expenses incurred*  
19       *in providing services in accordance with section 3 of the*  
20       *Open Courts Act of 2021.*

21       *“(2) To cover any additional marginal costs of ensur-*  
22       *ing the public accessibility, free of charge, of all materials*  
23       *in the system described under sections 2 and 3 of the Open*  
24       *Courts Act of 2021 in accordance with section 3 of such*  
25       *Act, the Judicial Conference may, after providing public*

1 *notice and an opportunity for public comment and only*  
2 *to the extent necessary to cover such costs not otherwise pro-*  
3 *vided by appropriations, prescribe schedules of reasonable*  
4 *filing fees, pursuant to sections 1913, 1914, 1926, 1930, and*  
5 *1932 of title 28, United States Code, which—*

6           “(A) *shall be based on the extent of use of the*  
7           *system described under such section 2;*

8           “(B) *shall, in addition, be based on factors to en-*  
9           *sure that such schedules are graduated, including the*  
10          *cause of action and claim for relief, the status of the*  
11          *filer in the action and the financial hardship an ad-*  
12          *ditional fee would place on the filer, the amount of*  
13          *damages demanded, the estimated complexity of the*  
14          *type of action, and the interests of justice;*

15          “(C) *may be prescribed for the filing of a coun-*  
16          *terclaim;*

17          “(D) *shall not apply to a pro se litigant, a first*  
18          *time litigant who is an individual, or a litigant who*  
19          *certifies their financial hardship; and*

20          “(E) *shall not be a basis for denying access to*  
21          *the courts of the United States.*

22          “(3)(A) *The Judicial Conference and the Director shall*  
23          *transmit each schedule of fees prescribed under this sub-*  
24          *section to Congress at least 90 days before the schedule be-*  
25          *comes effective. All fees collected under this subsection shall*

1 *be deposited as offsetting collections to the Judiciary Infor-*  
2 *mation Technology Fund pursuant to section 612(c)(1)(A)*  
3 *of title 28, United States Code, to reimburse expenses in-*  
4 *curring in providing public access in accordance with sec-*  
5 *tion 3 of the Open Courts Act of 2021.*

6 “(B) *The Judicial Conference shall review a schedule*  
7 *of fees prescribed under this subsection 3 years after the*  
8 *schedule becomes effective and every 3 years thereafter to*  
9 *ensure that the fees meet the requirements of this subsection.*  
10 *If the fees do not meet the requirements of this subsection,*  
11 *the Judicial Conference shall prescribe a new schedule of*  
12 *fees pursuant to this subsection and submit the new schedule*  
13 *of fees to Congress pursuant to subparagraph (A).*

14 “(C) *Amounts deposited to the Judiciary Information*  
15 *Technology Fund pursuant to this subsection and not used*  
16 *to reimburse expenses incurred in carrying out section 3*  
17 *of the Open Courts Act of 2021 may be used to reimburse*  
18 *expenses incurred in carrying out section 2 of that Act and*  
19 *not for any other purpose.”.*

20 (2) *EFFECTIVE DATE.—The amendment made by*  
21 *paragraph (1) shall take effect on the date specified*  
22 *in subsection (c).*

23 **SEC. 4. DIGITAL ACCESSIBILITY STANDARDS.**

24 *The system described under sections 2 and 3 of this*  
25 *Act shall comply with relevant digital accessibility stand-*

1 *ards established pursuant to section 508 of the Rehabilita-*  
2 *tion Act of 1973 (29 U.S.C. 794d).*

3 **SEC. 5. GAO REVIEW.**

4 *(a) IN GENERAL.—Not later than 1 year after the date*  
5 *of enactment of this Act, and quarterly thereafter, the*  
6 *Comptroller General of the United States shall notify Con-*  
7 *gress whether the Director of the Administrative Office of*  
8 *United States Courts has—*

9 *(1) produced additional usable functionality of*  
10 *the system described under sections 2 and 3 of this*  
11 *Act;*

12 *(2) held live, publicly accessible demonstrations*  
13 *of software in development; and*

14 *(3) allowed the Comptroller General or a des-*  
15 *ignee to attend all sprint reviews held during the ap-*  
16 *plicable period.*

17 *(b) AUDIT.—Not later than 1 year after the date of*  
18 *enactment of this Act, and annually thereafter, the Comp-*  
19 *troller General of the United States shall—*

20 *(1) conduct an audit of the system established*  
21 *under this Act, including the compliance of vendors*  
22 *with the quality assessment surveillance plan, code*  
23 *quality, and whether the system is meeting the needs*  
24 *of users; and*

25 *(2) submit to Congress a report that contains—*



1                   (A) the results of the audit; and  
 2                   (B) any recommendations to improve the  
 3                   system established under this Act.

4 **SEC. 6. CYBERSECURITY REVIEW.**

5           The Judicial Conference and the Administrative Office  
 6 of the United States Courts, as applicable, shall ensure the  
 7 cybersecurity of the system described under sections 2 and  
 8 3 of this Act, in coordination with the relevant cybersecu-  
 9 rity expert agencies in the executive branch and consistent  
 10 with the relevant cybersecurity standards that would apply  
 11 if the system would be operated by an agency in the execu-  
 12 tive branch.

13 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

14           There are authorized to be appropriated such sums as  
 15 may be necessary to carry out sections 2 and 3 of this Act.

16 **SEC. 8. RULE OF CONSTRUCTION.**

17           Nothing in this Act, or the amendments made by this  
 18 Act, shall be construed to—

19                   (1) affect the filing fees or other filing procedures  
 20                   for prisoners; or

21                   (2) abrogate, limit, or modify the requirements  
 22                   described in section 1915 of title 28, United States  
 23                   Code.

Calendar No. 307

117TH CONGRESS  
2D SESSION

**S. 2614**

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**A BILL**

To provide for the modernization of electronic case  
management systems, and for other purposes.

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MARCH 15, 2022

Reported with an amendment



II

117TH CONGRESS  
1ST SESSION

# S. 2827

To amend title 28, United States Code, to modify venue requirements relating to bankruptcy proceedings.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2021

Mr. CORNYN (for himself and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to modify venue requirements relating to bankruptcy proceedings.

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 This Act may be cited as the “Bankruptcy Venue Re-  
5 form Act of 2021”.

### 6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) bankruptcy law provides a number of venue  
9 options for filing bankruptcy under chapter 11 of

1 title 11, United States Code, including, with respect  
2 to the entity filing bankruptcy—

3 (A) any district in which the place of in-  
4 corporation of the entity is located;

5 (B) any district in which the principal  
6 place of business or principal assets of the enti-  
7 ty are located; and

8 (C) any district in which an affiliate of the  
9 entity has filed a pending case under title 11,  
10 United States Code;

11 (2) the wide range of permissible bankruptcy  
12 venue options has led to an increase in companies  
13 filing for bankruptcy outside of their home district—  
14 the district in which the principal place of business  
15 or principal assets of the company is located;

16 (3) the practice described in paragraph (2) is  
17 known as “forum shopping”;

18 (4) forum shopping has resulted in a concentra-  
19 tion of bankruptcy cases in a limited number of dis-  
20 tricts;

21 (5) forum shopping—

22 (A) prevents small businesses, employees,  
23 retirees, creditors, and other important stake-  
24 holders from fully participating in bankruptcy

1 cases that have tremendous impacts on their  
2 lives, communities, and local economies; and

3 (B) deprives district courts of the United  
4 States and courts of appeals of the United  
5 States of the opportunity to contribute to the  
6 development of bankruptcy law in the jurisdic-  
7 tions of those district courts; and

8 (6) reducing forum shopping in the bankruptcy  
9 system will strengthen the integrity of, and build  
10 public confidence and ensure fairness in, the bank-  
11 ruptcy system.

12 (b) PURPOSE.—The purpose of this Act is to prevent  
13 the practice of forum shopping in cases filed under chapter  
14 11 of title 11, United States Code.

15 **SEC. 3. VENUE OF CASES UNDER TITLE 11.**

16 Title 28, United States Code, is amended—

17 (1) by striking section 1408 and inserting the  
18 following:

19 **“§ 1408. Venue of cases under title 11**

20 **“(a) PRINCIPAL PLACE OF BUSINESS WITH RE-**  
21 **SPECT TO CERTAIN ENTITIES.—**

22 **“(1) IN GENERAL.—**Except as provided in para-  
23 graph (2), for the purposes of this section, if an en-  
24 tity is subject to the reporting requirements of sec-  
25 tion 13 or 15(d) of the Securities Exchange Act of

1       1934 (15 U.S.C. 78m, 78o(d)), the term ‘principal  
2       place of business’, with respect to the entity, means  
3       the address of the principal executive office of the  
4       entity as stated in the last annual report filed under  
5       that Act before the commencement of a case under  
6       title 11 of which the entity is the subject.

7           “(2) EXCEPTION.—With respect to an entity  
8       described in paragraph (1), the definition of the  
9       ‘principal place of business’ under that paragraph  
10      shall apply for purposes of this section unless an-  
11      other address is shown to be the principal place of  
12      business of the entity by clear and convincing evi-  
13      dence.

14          “(b) VENUE.—Except as provided in section 1410,  
15      a case under title 11 may be commenced only in the dis-  
16      trict court for the district—

17           “(1) in which the domicile, residence, or prin-  
18      cipal assets in the United States of an individual  
19      who is the subject of the case have been located—

20           “(A) for the 180 days immediately pre-  
21      ceding such commencement; or

22           “(B) for a longer portion of the 180-day  
23      period immediately preceding such commence-  
24      ment than the domicile, residence, or principal

1           assets in the United States of the individual  
2           were located in any other district;

3           “(2) in which the principal place of business or  
4           principal assets in the United States of an entity,  
5           other than an individual, that is the subject of the  
6           case have been located—

7                   “(A) for the 180 days immediately pre-  
8                   ceding such commencement; or

9                   “(B) for a longer portion of the 180-day  
10                  period immediately preceding such commence-  
11                  ment than the principal place of business or  
12                  principal assets in the United States of the en-  
13                  tity were located in any other district; or

14                  “(3) in which there is pending a case under  
15                  title 11 concerning an affiliate that directly or indi-  
16                  rectly owns, controls, or holds 50 percent or more of  
17                  the outstanding voting securities of, or is the general  
18                  partner of, the entity that is the subject of the later  
19                  filed case, but only if the pending case was properly  
20                  filed in that district in accordance with this section.

21                  “(c) LIMITATIONS.—

22                   “(1) IN GENERAL.—For the purposes of para-  
23                   graphs (2) and (3) of subsection (b), no effect shall  
24                   be given to a change in the ownership or control of  
25                   an entity that is the subject of the case, or of an af-

1        affiliate of the entity, or to a transfer of the principal  
2        place of business or principal assets in the United  
3        States, or to the merger, dissolution, spinoff, or divi-  
4        sive merger of an entity that is the subject of the  
5        case, or of an affiliate of the entity, to another dis-  
6        trict, that takes place—

7                “(A) within 1 year before the date on  
8                which the case is commenced; or

9                “(B) for the purpose, in whole or in part,  
10              of establishing venue.

11              “(2) PRINCIPAL ASSETS.—

12              “(A) PRINCIPAL ASSETS OF AN ENTITY  
13              OTHER THAN AN INDIVIDUAL.—For the pur-  
14              poses of subsection (b)(2) and paragraph (1) of  
15              this subsection—

16              “(i) the term ‘principal assets’ does  
17              not include cash or cash equivalents; and

18              “(ii) any equity interest in an affiliate  
19              is located in the district in which the hold-  
20              er of the equity interest has its principal  
21              place of business in the United States, as  
22              determined in accordance with subsection  
23              (b)(2).

24              “(B) EQUITY INTERESTS OF INDIVID-  
25              UALS.—For the purposes of subsection (b)(1),



1 if the holder of any equity interest in an affil-  
2 iate is an individual, the equity interest is lo-  
3 cated in the district in which the domicile or  
4 residence in the United States of the holder of  
5 the equity interest is located, as determined in  
6 accordance with subsection (b)(1).

7 “(d) BURDEN.—On any objection to, or request to  
8 change, venue under paragraph (2) or (3) of subsection  
9 (b) of a case under title 11, the entity that commences  
10 the case shall bear the burden of establishing by clear and  
11 convincing evidence that venue is proper under this sec-  
12 tion.

13 “(e) OUT-OF-STATE ADMISSION FOR GOVERNMENT  
14 ATTORNEYS.—The Supreme Court shall prescribe rules,  
15 in accordance with section 2075, for cases or proceedings  
16 arising under title 11, or arising in or related to cases  
17 under title 11, to allow any attorney representing a gov-  
18 ernmental unit to be permitted to appear on behalf of the  
19 governmental unit and intervene without charge, and with-  
20 out meeting any requirement under any local court rule  
21 relating to attorney appearances or the use of local coun-  
22 sel, before any bankruptcy court, district court, or bank-  
23 ruptcy appellate panel.”; and

24 (2) by striking section 1412 and inserting the  
25 following:

1   **“§ 1412. Change of venue**

2           “(a) IN GENERAL.—Notwithstanding that a case or  
3   proceeding under title 11, or arising in or related to a case  
4   under title 11, is filed in the correct division or district,  
5   a district court may transfer the case or proceeding to a  
6   district court for another district or division—

7           “(1) in the interest of justice; or

8           “(2) for the convenience of the parties.

9           “(b) INCORRECTLY FILED CASES OR PRO-  
10   CEEDINGS.—If a case or proceeding under title 11, or arising  
11   in or related to a case under title 11, is filed in a  
12   division or district that is improper under section 1408(b),  
13   the district court shall—

14           “(1) immediately dismiss the case or proceeding;  
15   or

16           “(2) if it is in the interest of justice, immediately  
17   transfer the case or proceeding to any district court for any  
18   district or division in which the case or proceeding could have  
19   been brought.

20           “(c) OBJECTIONS AND REQUESTS RELATING TO  
21   CHANGES IN VENUE.—Not later than 14 days after the  
22   filing of an objection to, or a request to change, venue  
23   of a case or proceeding under title 11, or arising in or  
24   related to a case under title 11, the court shall enter an  
25   order granting or denying the objection or request.”.

○



117TH CONGRESS  
2D SESSION

**S. 3823**

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**AN ACT**

To amend title 11, United States Code, to modify the eligibility requirements for a debtor under chapter 13, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bankruptcy Threshold  
3 Adjustment and Technical Corrections Act”.

4 **SEC. 2. BANKRUPTCY AMENDMENTS.**

5 (a) DEFINITION OF SMALL BUSINESS DEBTOR.—  
6 Section 101(51D)(B) of title 11, United States Code, is  
7 amended—

8 (1) in clause (i), by inserting “under this title”  
9 after “affiliated debtors”; and

10 (2) in clause (iii), by striking “an issuer” and  
11 all that follows and inserting “a corporation de-  
12 scribed in clause (ii).”.

13 (b) ADJUSTMENTS FOR INFLATION.—Section 104 of  
14 title 11, United States Code, is amended—

15 (1) in subsection (a), by inserting “1182(1),”  
16 after “707(b),”; and

17 (2) in subsection (b), by inserting “1182(1),”  
18 after “707(b),”.

19 (c) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—  
20 Section 109 of title 11, United States Code is amended  
21 by striking subsection (e) and inserting the following:

22 “(e) Only an individual with regular income that  
23 owes, on the date of the filing of the petition, noncontin-  
24 gent, liquidated debts of less than \$2,750,000 or an indi-  
25 vidual with regular income and such individual’s spouse,  
26 except a stockbroker or a commodity broker, that owe, on

1 the date of the filing of the petition, noncontingent, liq-  
2 uidated debts that aggregate less than \$2,750,000 may  
3 be a debtor under chapter 13 of this title.”.

4 (d) DEFINITION OF DEBTOR.—Section 1182(1) of  
5 title 11, United States Code, is amended to read as fol-  
6 lows:

7 “(1) DEBTOR.—The term ‘debtor’—

8 “(A) subject to subparagraph (B), means a  
9 person engaged in commercial or business ac-  
10 tivities (including any affiliate of such person  
11 that is also a debtor under this title and exclud-  
12 ing a person whose primary activity is the busi-  
13 ness of owning single asset real estate) that has  
14 aggregate noncontingent liquidated secured and  
15 unsecured debts as of the date of the filing of  
16 the petition or the date of the order for relief  
17 in an amount not more than \$7,500,000 (ex-  
18 cluding debts owed to 1 or more affiliates or in-  
19 siders) not less than 50 percent of which arose  
20 from the commercial or business activities of  
21 the debtor; and

22 “(B) does not include—

23 “(i) any member of a group of affili-  
24 ated debtors under this title that has ag-  
25 gregate noncontingent liquidated secured

1 and unsecured debts in an amount greater  
2 than \$7,500,000 (excluding debt owed to 1  
3 or more affiliates or insiders);

4 “(ii) any debtor that is a corporation  
5 subject to the reporting requirements  
6 under section 13 or 15(d) of the Securities  
7 Exchange Act of 1934 (15 U.S.C. 78m,  
8 78o(d)); or

9 “(iii) any debtor that is an affiliate of  
10 a corporation described in clause (ii).”.

11 (e) TRUSTEE.—Section 1183(b)(5) of title 11, United  
12 States Code, is amended—

13 (1) by striking “possession, perform” and in-  
14 serting “possession—

15 “(A) perform”;

16 (2) in subparagraph (A), as so designated—

17 (A) by striking “, including operating the  
18 business of the debtor”; and

19 (B) by adding “and” at the end; and

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

21 “(B) be authorized to operate the business  
22 of the debtor;”.

23 (f) CONFIRMATION OF PLAN.—Section 1191(c) of  
24 title 11, United States Code, is amended by striking para-  
25 graph (3) and inserting the following:

1 “(3)(A) The debtor will be able to make all pay-  
2 ments under the plan; or

3 “(B)(i) there is a reasonable likelihood that the  
4 debtor will be able to make all payments under the  
5 plan; and

6 “(ii) the plan provides appropriate remedies,  
7 which may include the liquidation of nonexempt as-  
8 sets, to protect the holders of claims or interests in  
9 the event that the payments are not made.”.

10 (g) TECHNICAL CORRECTIONS TO THE BANKRUPTCY  
11 ADMINISTRATION IMPROVEMENT ACT.—Section 589a of  
12 title 28, United States Code is amended—

13 (1) in subsection (c) by striking “subsection  
14 (a)” and inserting “subsections (a) and (f)”; and

15 (2) in subsection (f)(1)—

16 (A) in the matter preceding subparagraph  
17 (A), by striking “subsections (b) and (c)” and  
18 inserting “subsection (b)(5)”; and

19 (B) in subparagraph (A), by inserting  
20 “needed to offset the amount” after  
21 “amounts”.

22 (h) EFFECTIVE DATE; APPLICABILITY.—

23 (1) IN GENERAL.—Subsections (b) and (c) and  
24 the amendments made by subsections (b) and (c)

1 shall take effect on the date of enactment of this  
2 Act.

3 (2) RETROACTIVE APPLICATION OF CERTAIN  
4 AMENDMENTS.—The amendments made by sub-  
5 sections (a), (d), (e), and (f) shall apply with respect  
6 to any case that—

7 (A) is commenced under title 11, United  
8 States Code, on or after March 27, 2020; and

9 (B) with respect to a case that was com-  
10 menced on or after March 27, 2020 and before  
11 the date of enactment of this Act, is pending on  
12 the date of enactment of this Act.

13 (3) EFFECTIVE DATE OF TECHNICAL CORREC-  
14 TIONS TO BAIA.—The amendments made by sub-  
15 section (g) shall take effect as if enacted on October  
16 1, 2021.

17 (i) SUNSETS.—

18 (1) IN GENERAL.—Effective on the date that is  
19 2 years after the date of enactment of this Act—

20 (A) subsection (e) of section 109 of title  
21 11, United States Code is amended to read as  
22 such subsection read on the day before the date  
23 of enactment of this Act; and

24 (B) section 1182(1) of title 11, United  
25 States Code, is amended to read as follows:



1           “(1) DEBTOR.—The term ‘debtor’ means a  
2           small business debtor.”.

3           (2) AMOUNTS.—For purposes of applying sub-  
4           section (e) of section 109 of title 11, United States  
5           Code, as amended by paragraph (1)(A), the amounts  
6           specified in such subsection shall be the amounts  
7           that were in effect on the day before the date of en-  
8           actment of this Act.

Passed the Senate April 7, 2022.

Attest:

*Secretary.*

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 3823**

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**AN ACT**

To amend title 11, United States Code, to modify the eligibility requirements for a debtor under chapter 13, and for other purposes.

# Faculty

**William (Bill) A. Brandt, Jr.** is the founder and executive chairman of Development Specialists, Inc. in New York and has been involved in thousands of insolvency and restructuring cases over his long career. He has often advised members of Congress on insolvency policy and was the principal author of the amendment to the Bankruptcy Code which permits the election of trustees in chapter 11 cases. Mr. Brandt currently serves as the chapter 11 trustee in the largest cross-national insolvency pending in the U.S., China Fishery Group, and serves as a chapter 11 trustee for the San Luis & Rio Grande Railroad in southern Colorado. He served on ABI's Commission for the Reform of Chapter 11, and in 2015 he completed serving his third and final consecutive term as chair of the Illinois Finance Authority, having first been appointed by the governor in 2008 and confirmed unanimously by the Illinois Senate that same year, then subsequently reappointed as chair in 2010 and 2012. He is also part of the ownership group that controls Chicago's second-largest daily newspaper, *The Chicago Sun-Times*. More recently, in the political realm Mr. Brandt was a member of the U.S. Electoral College for the 2016 presidential election, serving as an elector from the State of Illinois. Mr. Brandt has written for a number of publications spanning a broad spectrum of thought, including *Maclean's*, *Canada's Weekly Newsmagazine*, *Corporate Board Member* and *Urban Land*. He is a frequent commentator on topics of corporate restructuring, bankruptcy, municipal insolvency and related public policy issues, and regularly appears on a host of both cable and broadcast outlets. Mr. Brandt was a member of the National Advisory Council for the Institute of Governmental Studies at the University of California at Berkeley from 2006-18, serving as chair for the last two years. Mr. Brandt served several terms as a member of ABI's Board of Directors and as a member of the Advisory Board for the *ABI Law Review*. He is an advisory board member of ABI's annual New York City Bankruptcy Conference, having earlier served for 15 years in a similar capacity for ABI's Bankruptcy Battleground West program. In 2020, he received the New York Institute of Credit's 46th Annual Leadership in Credit Education Award for Dedication and Commitment to NYIC and the Credit Industry. Mr. Brandt received his B.A. from St. Louis University and his M.A. from the University of Chicago, where he also completed further post-graduate work toward a doctoral degree.

**Robert J. Keach** is a shareholder at Bernstein, Shur, Sawyer & Nelson, P.A. in Portland, Maine, and co-chairs its Business Restructuring and Insolvency Practice Group. He focuses on the representation of various parties in workouts and bankruptcy cases, including debtors, creditors, creditors' committees, lessors and third parties acquiring troubled companies and/or their assets. Mr. Keach served as co-chair of ABI's Commission to Study the Reform of Chapter 11. He also is a Fellow of the American College of Bankruptcy and a former ABI President (2009-2010). Mr. Keach has appeared as a panelist on national bankruptcy, lender liability and creditors' rights programs, and is the author of several articles on bankruptcy and creditors' rights appearing in the *ABI Law Review*, *Commercial Law Journal* and *ABI Journal*, among other publications. He also is a contributing author to *Collier Guide to Chapter 11: Key Topics and Selected Industries* (2011 Ed.). Mr. Keach is recognized as a "Star Individual" in Corporate M&A/Bankruptcy in *Chambers USA*, *The Best Lawyers in America* (10-Year Certificate) and *New England Super Lawyers* (Bankruptcy and Top 100 Lawyers in New England). He also is Board Certified in Business Bankruptcy Law by the American Board of Certification. Mr. Keach served as the chapter 11 trustee in the railroad reorganization case of *Montreal Maine & Atlantic Railway, Ltd.*, and as the fee examiner in both the *Exide Technologies*

case in Delaware and the *In re AMR Corporation* case (the chapter 11 cases of American Airlines and its parent and certain affiliates). In addition, he *inter alia* represented ad hoc committees in the *Homebanc Mortgage*, *New Century TRS Holdings* and *Nortel Networks* cases in Delaware, as well as a public utilities commission in the *FairPoint Communications* case in the Southern District of New York. Mr. Keach received his J.D. in 1980 from the University of Maine.