**This is an unofficial transcription of a 1988 amendment of the Bankruptcy Code,
prepared by Robert J. Pfister for ease of reading and copying/pasting.
The authoritative text is the United States Statutes at Large.**

One Hundredth Congress, Session II
Public Law 100-597 — 102 Stat. 3028 (S. 1863)
November 3, 1988

AN ACT *To amend the bankruptcy law to provide for special revenue bonds, and for other purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF MUNICIPALITY.

Section 101(31) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "and a municipality" after "partnership"; and

(B) in clause (ii) by striking "and" at the end;

(2) in subparagraph (B)(ii) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) with reference to a municipality, financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or

"(ii) unable to pay its debts as they become due;".

SEC. 2. WHO MAY BE A DEBTOR.

Section 109(c)(3) of title 11, United States Code, is amended by striking "or unable to meet such entity's debts as such debts mature".

SEC. 3. APPLICABILITY OF SECTIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," after "1129(a)(3),".

SEC. 4. DEFINITION OF SPECIAL REVENUES.

Section 902 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

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

"(2) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems;

"(B) special excise taxes imposed on particular activities or transactions;

"(C) incremental tax receipts from the benefited area in the case of tax-increment financing;

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions; or

"(E) taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor;".

SEC. 5. AUTOMATIC STAY.

Section 922 of title 11, United States Code, is amended by adding at the end the following:

"(c) If the debtor provides, under section 362, 364, or 922 of this title, adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under section 362 or 922 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

SEC. 6. AVOIDING POWERS.

Section 926 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "If"; and

(2) by adding at the end the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 7. CLAIMS PAYABLE SOLELY FROM SPECIAL REVENUES.

Chapter 9 of title 11, United States Code, is amended—

(1) by redesignating section 927 as section 930; and

(2) by inserting after section 926 the following:

"§ 927. Limitation on recourse

"The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

SEC. 8. POST PETITION EFFECT OF SECURITY INTEREST.

Title 11 of the United States Code is amended by inserting after section 927, as added by section 7, the following:

"§ 928. Post petition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system shall be subject to the necessary operating expenses of such project or system, as the case may be.".

SEC. 9. MUNICIPAL LEASES.

Title 11 of the United States Code is amended by inserting after section 928, as added by section 8, the following:

"§ 929. Municipal leases

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

SEC. 10. CONFIRMATION.

Section 943(b) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

SEC. 11. TECHNICAL AMENDMENT.

The table of sections of chapter 9 of title 11, United States Code, is amended by striking the item relating to section 927 and inserting the following:

"927. Limitation on recourse.
"928. Post petition effect of security interest.
"929. Municipal leases.
"930. Dismissal.".

SEC. 12. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

APPROVED November 3, 1988.