This is an unofficial transcription of the Bankruptcy Reform Act of 1994, prepared by Robert J. Pfister for ease of reading and copying/pasting. The authoritative text is the United States Statutes at Large.

One Hundred Third Congress, Session II
Public Law 103-394 — 108 Stat. 4106 (H.R. 5116)
October 22, 1994

AN ACT *To amend title 11 of the United States Code.*

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 1994".

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

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TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

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

(1) by striking "commenced" and inserting "concluded", and

(2) by inserting before the period at the end the following: ", unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances".

SEC. 102. JURISDICTION TO REVIEW INTERLOCUTORY ORDERS INCREASING OR REDUCING CERTAIN TIME PERIODS FOR FILING PLAN.

Section 158(a) of title 28, United States Code, is amended by striking "from" the first place it appears and all that follows through "decrees,", and inserting the following:

"(1) from final judgments, orders, and decrees;

"(2) from interlocutory orders and decrees issued under section 1121(d) of title 11 increasing or reducing the time periods referred to in section 1121 of such title; and

"(3) with leave of the court, from other interlocutory orders and decrees;".

SEC. 103. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

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

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)",

(B) by adding "and" at the end, and

(C) by inserting after subparagraph (A), as so designated, the following:

"(B) such agreement contains a clear and conspicuous statement which advises the debtor that such agreement is not required under this title, under nonbankruptcy law, or under any agreement not in accordance with the provisions of this subsection;", and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking "such agreement" the last place it appears,

(B) in subparagraph (A)—

(i) by inserting "such agreement" after "(A)", and

(ii) by striking "and" at the end,

(C) in subparagraph (B)—

(i) by inserting "such agreement" after "(B)", and

(ii) by adding "and" at the end, and

(3) by adding at the end the following:

"(C) the attorney fully advised the debtor of the legal effect and consequences of—

"(i) an agreement of the kind specified in this subsection; and

"(ii) any default under such an agreement;".

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting "and was

not represented by an attorney during the course of negotiating such agreement" after "this section".

SEC. 104. POWERS OF BANKRUPTCY COURTS.

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

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

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

"(2) unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure, issue an order at any such conference prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including an order that—

"(A) sets the date by which the trustee must assume or reject an executory contract or unexpired lease; or

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

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

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

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

"(iv) sets a date by which a proponent of a plan, other than the debtor, shall solicit acceptances of such plan;

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

"(vi) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan.".

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

(1) by redesignating subsection (d) as subsection (e), and

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

(A) by inserting "(other than a decision not to abstain in a proceeding described in subsection (c)(2))" after "subsection", and

(B) by striking "Any" and inserting the following:

"(d) Any".

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

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

(2) by redesignating paragraph (2) as paragraph (4),

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

"(1) The judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the

consent of all the parties, appeals under subsection (a) unless the judicial council finds that—

"(A) there are insufficient judicial resources available in the circuit; or

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

Not later than 90 days after making the finding, the judicial council shall submit to the Judicial Conference of the United States a report containing the factual basis of such finding.

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

"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date such service is established, the judicial council of the circuit shall determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

"(C) On its own motion, after the expiration of the 3-year period beginning on the date a bankruptcy appellate panel service is established under paragraph (1), the judicial council of the circuit may determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

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

"(3) Bankruptcy judges appointed under paragraph (1) shall be appointed and may be reappointed under such paragraph.", and

(4) by inserting after paragraph (4), as so redesignated, the following:

"(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of such service may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

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

(d) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "(c)" and inserting "(2)", and

(2) by inserting after subsection (b) the following:

"(c)(1) Subject to subsection (b), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless—

"(A) the appellant elects at the time of filing the appeal; or

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

to have such appeal heard by the district court.".

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

(1) in subsection (a)(2) by striking "section 2072" and inserting "sections 2072 and 2075", and

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

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

"The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.".

SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99-554; 100 Stat. 3123), as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101-650; 104 Stat. 5115), or the bankruptcy administrator's designee may preside at the meeting of creditors convened under section 341(a) of title 11, United States Code. The bankruptcy administrator or the bankruptcy administrator's designee may preside at any meeting of equity security holders convened under section 341(b) of title 11, United States Code.

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

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

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

"(41) 'person' includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—

"(A) acquires an asset from a person—

"(i) as a result of the operation of a loan guarantee agreement; or

"(ii) as receiver or liquidating agent of a person;

"(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

"(C) is the legal or beneficial owner of an asset of—

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

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

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

SEC. 107. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.

Section 326(a) of title 11, United States Code, is amended by striking "fifteen" and all that follows through "$3,000" the last place it appears, and inserting the following:

"25 percent on the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, 5 percent on any amount in excess of $50,000 but not in excess of $1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of $1,000,000".

SEC. 108. DOLLAR ADJUSTMENTS.

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

(1) by striking "$100,000" each place it appears and inserting "$250,000", and

(2) by striking "$350,000" each place it appears and inserting "$750,000".

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

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000", and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

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

(1) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000",

(2) in paragraph (5) by striking "$2,000" and inserting "$4,000", and

(3) in paragraph (6) by striking "$900" and inserting "$1,800".

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

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000",

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400",

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400", and

(B) by striking "$4,000" and inserting "$8,000",

(4) in paragraph (4) by striking "$500" and inserting "$1,000",

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800", and

(B) by striking "$3,750" and inserting "$7,500",

(6) in paragraph (6) by striking "$750" and inserting "$1,500",

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000", and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

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

(1) by inserting "(a)" before "The", and

(2) by adding at the end the following:

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

> "(A) to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the most recent 3-year period ending immediately before January 1 preceding such April 1, and
>
> "(B) to round to the nearest $25 the dollar amount that represents such change.

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

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

SEC. 109. PREMERGER NOTIFICATION.

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

> "(A) notwithstanding subsection (a) of such section, the notification required by such subsection to be given by the debtor shall be given by the trustee; and
>
> "(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the 15th day after the date of the receipt, by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, of the notification required under such subsection (a), unless such waiting period is extended—

"(i) pursuant to subsection (e)(2) of such section, in the same manner as such subsection (e)(2) applies to a cash tender offer;

"(ii) pursuant to subsection (g)(2) of such section; or

"(iii) by the court after notice and a hearing.".

SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

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

(1) in subparagraph (D) by striking "or" at the end,

(2) in subparagraph (E) by inserting "or" at the end, and

(3) by adding at the end the following:

"(F) a member of a committee appointed under section 1102 of this title, if such expenses are incurred in the performance of the duties of such committee;".

SEC. 111. SUPPLEMENTAL INJUNCTIONS.

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

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

"(B) An injunction may be issued under subparagraph (A) to enjoin entities from taking legal action for the purpose of directly or indirectly collecting, recovering, or

receiving payment or recovery with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

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

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in such plan and by the obligation of such debtor or debtors to make future payments, including dividends;

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

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) subject to subsection (h), the court determines that—

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

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by such plan is likely to threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking confirmation of such plan—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), are set out in such plan and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) subject to subsection (h), pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands, or other comparable mechanisms, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order confirming the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization case, then after the time for appeal of the order that issues or affirms the plan—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

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

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

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A)(ii) or (iii) would, if this paragraph were not applicable, necessarily be liable to any entity by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A)(ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization, or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

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

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

"(I) the third party's ownership of a financial interest in the debtor, a past or present affiliate of the debtor, or a predecessor in interest of the debtor;

"(II) the third party's involvement in the management of the debtor or a predecessor in interest of the debtor, or service as an officer, director or employee of the debtor or a related party;

"(III) the third party's provision of insurance to the debtor or a related party; or

"(IV) the third party's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of the debtor or a related party, including but not limited to—

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

"(bb) acquiring or selling a financial interest in an entity as part of such a transaction.

"(iii) As used in this subparagraph, the term 'related party' means—

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

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

"(III) any entity that owned a financial interest in—

"(aa) the debtor;

"(bb) a past or present affiliate of the debtor; or

"(cc) a predecessor in interest of the debtor.

"(B) Subject to subsection (h), if, under a plan of reorganization, a kind of demand described in such plan is to be paid in whole or in part by a trust described in paragraph (2)(B)(i) in connection with which an injunction described in paragraph (1) is to be implemented, then such injunction shall be valid and enforceable with respect to a demand of such kind made, after such plan is confirmed, against the debtor or debtors involved, or against a third party described in subparagraph (A)(ii), if—

"(i) as part of the proceedings leading to issuance of such injunction, the court appoints a legal representative for the purpose of protecting the rights of persons that might subsequently assert demands of such kind, and

"(ii) the court determines, before entering the order confirming such plan, that identifying such debtor or debtors, or such third party (by name or as part of an identifiable group), in such injunction with respect to such demands for purposes of this subparagraph is fair and equitable with respect to the persons that might subsequently assert such demands, in light of the benefits provided, or to be provided, to such trust on behalf of such debtor or debtors or such third party.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

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

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

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

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

"(h) APPLICATION TO EXISTING INJUNCTIONS.—For purposes of subsection (g)—

"(1) subject to paragraph (2), if an injunction of the kind described in subsection (g)(1)(B) was issued before the date of the enactment of this Act, as part of a plan of reorganization confirmed by an order entered before such date, then the injunction shall be considered to meet the requirements of subsection (g)(2)(B) for purposes of subsection (g)(2)(A), and to satisfy subsection (g)(4)(A)(ii), if—

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

"(B) as part of the proceedings leading to issuance of such injunction and confirmation of such plan, the court had appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert demands described in subsection (g)(4)(B) with respect to such plan; and

"(C) such legal representative did not object to confirmation of such plan or issuance of such injunction; and

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

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

"(B) if such trust meets such requirements on the date such stay is lifted or dissolved, such trust shall be considered to have met such requirements continuously from the date of the enactment of this Act.".

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a), or in the amendments made by subsection (a), shall be construed to modify, impair, or supersede any other

authority the court has to issue injunctions in connection with an order confirming a plan of reorganization.

SEC. 112. AUTHORITY OF BANKRUPTCY JUDGES TO CONDUCT JURY TRIALS IN CIVIL PROCEEDINGS.

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

"(e) If the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the express consent of all the parties.".

SEC. 113. SOVEREIGN IMMUNITY.

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

"§ 106. Waiver of sovereign immunity

"(a) Notwithstanding an assertion of sovereign immunity, sovereign immunity is abrogated as to a governmental unit to the extent set forth in this section with respect to the following:

> "(1) Sections 105, 106, 107, 108, 303, 346, 362, 363, 364, 365, 366, 502, 503, 505, 506, 510, 522, 523, 524, 525, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 722, 724, 726, 728, 744, 749, 764, 901, 922, 926, 928, 929, 944, 1107, 1141, 1142, 1143, 1146, 1201, 1203, 1205, 1206, 1227, 1231, 1301, 1303, 1305, and 1327 of this title.
>
> "(2) The court may hear and determine any issue arising with respect to the application of such sections to governmental units.

"(3) The court may issue against a governmental unit an order, process, or judgment under such sections or the Federal Rules of Bankruptcy Procedure, including an order or judgment awarding a money recovery, but not including an award of punitive damages. Such order or judgment for costs or fees under this title or the Federal Rules of Bankruptcy Procedure against any governmental unit shall be consistent with the provisions and limitations of section 2412(d)(2)(A) of title 28.

"(4) The enforcement of any such order, process, or judgment against any governmental unit shall be consistent with appropriate nonbankruptcy law applicable to such governmental unit and, in the case of a money judgment against the United States, shall be paid as if it is a judgment rendered by a district court of the United States.

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

"(b) A governmental unit that has filed a proof of claim in the case is deemed to have waived sovereign immunity with respect to a claim against such governmental unit that is property of the estate and that arose out of the same transaction or occurrence out of which the claim of such governmental unit arose.

"(c) Notwithstanding any assertion of sovereign immunity by a governmental unit, there shall be offset against a claim or interest of a governmental unit any claim against such governmental unit that is property of the estate.".

SEC. 114. SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS ON AN INSURED DEPOSITORY INSTITUTION.

Rule 7004 of the Federal Rules of Bankruptcy Procedure is amended—

(1) in subdivision (b) by striking "In addition" and inserting "Except as provided in subdivision (h), in addition", and

(2) by adding at the end the following:

"(h) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION.—Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless—

"(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;

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

"(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.".

SEC. 115. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

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

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

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title; and

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d) of this title.".

SEC. 116. TAX ASSESSMENT.

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

"(9) under subsection (a), of—

"(A) an audit by a governmental unit to determine tax liability;

"(B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;

"(C) a demand for tax returns; or

"(D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).".

SEC. 117. ADDITIONAL TRUSTEE COMPENSATION.

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

(1) by inserting "(1)" after "(b)", and

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

"(2) The Judicial Conference of the United States—

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

"(B) may prescribe notice of appearance fees and fees charged against distributions in cases under this title;

to pay $15 to trustees serving in cases after such trustees' services are rendered. Beginning 1 year after the date of the enactment of the Bankruptcy Reform Act of 1994, such $15 shall be paid in addition to the amount paid under paragraph (1).".

TITLE II—COMMERCIAL BANKRUPTCY ISSUES

SEC. 201. AIRCRAFT EQUIPMENT AND VESSELS; ROLLING STOCK EQUIPMENT.

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

"§ 1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

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

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

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a citizen of the United States (as defined in section 40102 of title 49) holding an air carrier operating certificate issued by the Secretary of Transportation pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

"(B) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

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

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

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

> "(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and
>
> "(2) the term 'security interest' means a purchase-money equipment security interest.".

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

"§ 1168. Rolling stock equipment

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

> "(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform

all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

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

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

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

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

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

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

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

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.

"(d) With respect to equipment first placed in service after the date of enactment of this subsection, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.".

SEC. 202. LIMITATION ON LIABILITY OF NON-INSIDER TRANSFEREE FOR AVOIDED TRANSFER.

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

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

(2) by inserting after subsection (b) the following:

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

"(1) is avoided under section 547(b) of this title; and

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

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

SEC. 203. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.

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

(1) in subsection (c)(3)(B) by striking "10" and inserting "20", and

(2) in subsection (e)(2)(A) by inserting ", except as provided in subsection (c)(3)(B)" before the semicolon at the end.

SEC. 204. CONTINUED PERFECTION.

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

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

"(b)(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that—

"(A) permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection; or

"(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquires rights in such property before the date on which action is taken to effect such maintenance or continuation.

"(2) If—

"(A) a law described in paragraph (1) requires seizure of such property or commencement of an action to accomplish such perfection, or maintenance or continuation of perfection of an interest in property; and

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

such interest in such property shall be perfected, or perfection of such interest shall be maintained or continued, by giving notice within the time fixed by such law for such seizure or such commencement.".

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

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

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

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

"(ii) if the term of such lease has commenced, the lessee may retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the real property for the balance of the term of such lease and

for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.

"(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease and for the term of any renewal or extension of such lease, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such lease, but the lessee shall not have any other right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

"(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

"(D) In this paragraph, 'lessee' includes any successor, assign, or mortgagee permitted under the terms of such lease.

"(2)(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller and—

"(i) if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated under its terms, applicable nonbankruptcy law, or any agreement made by timeshare interest purchaser, the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by such rejection; or

"(ii) if the term of such timeshare interest has commenced, then the timeshare interest purchaser may retain its rights in such timeshare interest for the balance

of such term and for any term of renewal or extension of such timeshare interest to the extent that such rights are enforceable under applicable nonbankruptcy law.

"(B) If the timeshare interest purchaser retains its rights under subparagraph (A), such timeshare interest purchaser may offset against the moneys due for such timeshare interest for the balance of the term after the date of the rejection of such timeshare interest, and the term of any renewal or extension of such timeshare interest, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such timeshare plan, but the timeshare interest purchaser shall not have any right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.".

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

SEC. 206. CONTENTS OF PLAN.

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

(1) in paragraph (4) by striking "and" at the end,

(2) by redesignating paragraph (5) as paragraph (6), and

(3) by inserting after paragraph (4) the following:

"(5) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims; and".

SEC. 207. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

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

"(3) Third, allowed unsecured claims, but only to the extent of $4,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

"(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

"(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;".

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

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

(1) by inserting after paragraph (42) the following:

"(42A) 'production payment' means a term overriding royalty satisfiable in cash or in kind—

"(A) contingent on the production of a liquid or gaseous hydrocarbon from particular real property; and

"(B) from a specified volume, or a specified value, from the liquid or gaseous hydrocarbon produced from such property, and determined without regard to production costs;", and

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

"(56A) 'term overriding royalty' means an interest in liquid or gaseous hydrocarbons in place or to be produced from particular real property that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized;".

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

(1) in subparagraph (A) by striking "(A)" and inserting "(A)(i)",

(2) in subparagraph (B)—

(A) by striking "(B)" and inserting "(ii)",

(B) by striking "such interest" and inserting "the interest referred to in clause (i)", and

(C) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(B)(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

"(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 542 of this title;".

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

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

"(1) such a seller may not reclaim any such goods unless such seller demands in writing reclamation of such goods—

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

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

SEC. 210. INVESTMENT OF MONEY OF THE ESTATE.

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

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

(2) by adding at the end the following:

"unless the court for cause orders otherwise.".

SEC. 211. ELECTION OF TRUSTEE UNDER CHAPTER 11.

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

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

(2) by inserting after subsection (a) the following:

"(b) Except as provided in section 1163 of this title, on the request of a party in interest made not later than 30 days after the court orders the appointment of a trustee under subsection (a), the United States trustee shall convene a meeting of creditors for the purpose of electing one disinterested person to serve as trustee in the case. The election of a trustee shall be conducted in the manner provided in subsections (a), (b), and (c) of section 702 of this title.".

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

SEC. 212. RIGHTS OF PARTNERSHIP TRUSTEE AGAINST GENERAL PARTNERS.

Section 723(a) of title 11, United States Code, is amended by striking "for the full amount of the deficiency" and inserting "to the extent that under applicable nonbankruptcy law such general partner is personally liable for such deficiency".

SEC. 213. IMPAIRMENT OF CLAIMS AND INTERESTS.

(a) OBJECTION TO CLAIMS FILED UNTIMELY.—Section 502(b) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

"(9) proof of such claim is not timely filed, except to the extent tardily filed as permitted under paragraph (1), (2), or (3) of section 726(a) of this title or under

the Federal Rules of Bankruptcy Procedure, except that a claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide.".

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

(c) FILING OF REQUEST FOR ADMINISTRATIVE EXPENSES.—Section 503(a) of title 11, United States Code, is amended—

(1) by inserting "timely" after "may", and

(2) by inserting ", or may tardily file such request if permitted by the court for cause" before the period at the end.

(d) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124 of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting "or" at the end,

(2) in paragraph (2) by striking "; or" at the end and inserting a period, and

(3) by striking paragraph (3).

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

(a) POSTPETITION EFFECT OF SECURITY INTEREST.—Section 552(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)",

(2) by striking "rents," each place it appears, and

(3) by adding at the end the following:

"(2) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548 of this title, and notwithstanding section 546(b) of this title, if the debtor and an entity entered into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to amounts paid as rents of such property or the fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties, then such security interest extends to such rents and such fees, charges, accounts, or other payments acquired by the estate after the commencement of the case to the extent provided in such security agreement, except to any extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.".

(b) USE SALE, OR LEASE OF PROPERTY.—Section 363(a) of title 11, United States Code, is amended by inserting "and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties" after "property".

SEC. 215. AMENDMENT TO DEFINITION OF SWAP AGREEMENT.

Subparagraph (A) of the first paragraph (55) of section 101 of title 11, United States Code, is amended by inserting "spot foreign exchange agreement," after "forward foreign exchange agreement,".

SEC. 216. LIMITATION ON AVOIDING POWERS.

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

"(1) the later of—

"(A) 2 years after the entry of the order for relief; or

"(B) 1 year after the appointment or election of the first trustee under section 702, 1104, 1163, 1202, or 1302 of this title if such appointment or such election occurs before the expiration of the period specified in subparagraph (A); or".

SEC. 217. SMALL BUSINESSES.

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

"(51C) 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition do not exceed $2,000,000;".

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

(1) in paragraph (1) by striking "As" and inserting "Except as provided in paragraph (3), as"; and

(2) by adding at the end the following:

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

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

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

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

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

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

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

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

"(B) increase the 100-day period specified in paragraph (1) if the debtor shows that the need for an increase is caused by circumstances for which the debtor should not be held accountable.".

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

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

"(1) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(2) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement as long as the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed at least 10 days prior to the date of the hearing on confirmation of the plan; and

"(3) a hearing on the disclosure statement may be combined with a hearing on confirmation of a plan.".

SEC. 218. SINGLE ASSET REAL ESTATE.

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

"(51B) 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto having aggregate noncontingent, liquidated secured debts in an amount no more than $4,000,000;".

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

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

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

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate.".

SEC. 219. LEASES OF PERSONAL PROPERTY.

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

(1) in subparagraph (B) by striking "or" at the end,

(2) in subparagraph (C) by striking the period and inserting "; or",

(3) by adding at the end the following:

"(D) the satisfaction of any penalty rate or provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease.".

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

"(10) The trustee shall timely perform all of the obligations of the debtor, except those specified in section 365(b)(2), first arising from or after 60 days after the order for relief in a case under chapter 11 of this title under an unexpired lease of personal property (other than personal property leased to an individual primarily for personal, family, or household purposes), until such lease is assumed or rejected notwithstanding section 503(b)(1) of this title, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise with respect to the obligations or timely performance thereof. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f). Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.".

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

"This subsection also applies to property that is subject to any unexpired lease of personal property (to the exclusion of such property being subject to an order to grant relief from the stay under section 362).".

SEC. 220. EXEMPTION FOR SMALL BUSINESS INVESTMENT COMPANIES.

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

SEC. 221. PAYMENT OF TAXES WITH BORROWED FUNDS.

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

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

(2) by adding at the end the following:

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

SEC. 222. RETURN OF GOODS.

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

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

(b) SETOFF.—Section 553(b)(1) is amended by inserting "546(h)," after "365(h),".

SEC. 223. PROCEEDS OF MONEY ORDER AGREEMENTS.

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

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

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

(3) by inserting after paragraph (4) the following:

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

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.".

SEC. 224. TRUSTEE DUTIES; PROFESSIONAL FEES.

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

"(A)(i) reviewing, in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

"(ii) filing with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.".

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

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

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.

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

"(A) the time spent on such services;

"(B) the rates charged for such services;

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

"(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

"(E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

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

"(i) unnecessary duplication of services; or

"(ii) services that were not—

"(I) reasonably likely to benefit the debtor's estate; or

"(II) necessary to the administration of the case.

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

"(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 331, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.

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

SEC. 225. NOTICES TO CREDITORS.

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

"(c) If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name, address, and taxpayer identification number of the debtor, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice.".

TITLE III—CONSUMER BANKRUPTCY ISSUES

SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

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

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

(2) by inserting after subsection (b) the following:

"(c) Notwithstanding subsection (b)(2) and applicable nonbankruptcy law—

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

"(2) in a case in which the last payment on the original payment schedule for a claim secured only by a security interest in real property that is the debtor's principal residence is due before the date on which the final payment under the plan is due, the plan may provide for the payment of the claim as modified pursuant to section 1325(a)(5) of this title.".

SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.

Section 1328(a)(3) of title 11, United States Code, is amended by inserting ", or a criminal fine," after "restitution".

SEC. 303. IMPAIRMENT OF EXEMPTIONS.

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

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and

(B) by striking "(2)" and inserting "(B)",

(2) by redesignating paragraph (1) as subparagraph (A),

(3) by inserting "(1)" before "Notwithstanding", and

(4) by adding at the end the following:

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

"(i) the lien;

"(ii) all other liens on the property; and

"(iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

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

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

"(C) This paragraph shall not apply with respect to a judgment arising out of a mortgage foreclosure.".

SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.

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

"(12A) 'debt for child support' means a debt of a kind specified in section 523(a)(5) of this title for maintenance or support of a child of the debtor;".

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

"(2) under subsection (a) of this section—

"(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity; or

"(ii) the establishment or modification of an order for alimony, maintenance, or support; or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

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

(1) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth",

(2) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth", and

(3) by inserting after paragraph (6) the following:

"(7) Seventh, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

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

", other than a judicial lien that secures a debt—

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

"(ii) to the extent that such debt—

"(I) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(II) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

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

"(15) not of the kind described in paragraph (5) that is incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, a determination made in accordance with State or territorial law by a governmental unit unless—

"(A) the debtor does not have the ability to pay such debt from income or property of the debtor not reasonably necessary to be expended for the maintenance or support of the debtor or a dependent of the debtor and, if the debtor is engaged in a business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business; or

"(B) discharging such debt would result in a benefit to the debtor that outweighs the detrimental consequences to a spouse, former spouse, or child of the debtor;", and

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

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

(1) in paragraph (6) by striking "or" at the end,

(2) by redesignating paragraph (7) as paragraph (8), and

(3) by inserting after paragraph (6) the following:

"(7) to the extent such transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or".

(g) APPEARANCE BEFORE COURT.—Child support creditors or their representatives shall be permitted to appear and intervene without charge, and without meeting any special local court rule requirement for attorney appearances, in any bankruptcy case or proceeding in any bankruptcy court or district court of the United States if such creditors or representatives file a form in such court that contains information detailing the child support debt, its status, and other characteristics.

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

(1) in section 502(i) by striking "507(a)(7)" and inserting "507(a)(8)",

(2) in section 503(b)(1)(B)(i) by striking "507(a)(7)" and inserting "507(a)(8)",

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

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

(5) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)",

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

(7) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)", and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

SEC. 305. INTEREST ON INTEREST.

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

"(d) Notwithstanding subsection (a) of this section and sections 506(b), 1129(a)(7), and 1129(b) of this title, if it is proposed in a plan to cure a default the amount necessary to cure the default shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

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

"(d) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1225(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

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

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

SEC. 306. EXCEPTION TO DISCHARGE.

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

(1) by striking "$500" and inserting "$1,000",

(2) by striking "forty" and inserting "60", and

(3) by striking "twenty" and inserting "60".

SEC. 307. PAYMENTS UNDER CHAPTER 13.

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

SEC. 308. BANKRUPTCY PETITION PREPARERS.

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

"§ 110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions

"(a) In this section—

"(1) 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b)(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c)(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d)(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e)(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

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

"(f)(1) A bankruptcy petition preparer shall not use the word 'legal' or any similar term in any advertisements, or advertise under any category that includes the word 'legal' or any similar term.

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

"(g)(1) A bankruptcy petition preparer shall not collect or receive any payment from the debtor or on behalf of the debtor for the court fees in connection with filing the petition.

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

"(h)(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

"(2) The court shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of

services rendered for the documents prepared. An individual debtor may exempt any funds so recovered under section 522(b).

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

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

"(i)(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy papers, including papers specified in section 521(1) of this title, the negligence or intentional disregard of this title or the Federal Rules of Bankruptcy Procedure by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(A) the debtor's actual damages;

"(B) the greater of—

"(i) $2,000; or

"(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

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

"(j)(1) A debtor for whom a bankruptcy petition preparer has prepared a document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy petition preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

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

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

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

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in subclause (I), (II), or (III) of clause (i) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty

imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) The court shall award to a debtor, trustee, or creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

"(k) Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

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

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

SEC. 309. FAIRNESS TO CONDOMINIUM AND COOPERATIVE OWNERS.

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

"(16) for a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, but only if such fee or assessment is payable for a period during which—

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee or assessment for a period arising before entry of the order for relief in a pending or subsequent bankruptcy case.".

SEC. 310. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS AND IMPLEMENTS OF TRADE, ANIMALS, AND CROPS.

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

(1) in paragraph (1) by inserting "but subject to paragraph (3)" after "waiver of exemptions", and

(2) by adding at the end the following:

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

"(A) permits a person to voluntarily waive a right to claim exemptions under subsection (d) or prohibits a debtor from claiming exemptions under subsection (d); and

"(B) either permits the debtor to claim exemptions under State law without limitation in amount, except to the extent that the debtor has permitted the fixing of a consensual lien on any property or prohibits avoidance of a consensual lien on property otherwise eligible to be claimed as exempt property;

the debtor may not avoid the fixing of a lien on an interest of the debtor or a dependent of the debtor in property if the lien is a nonpossessory, nonpurchase-money security interest in implements, professional books, or tools of the trade of the

debtor or a dependent of the debtor or farm animals or crops of the debtor or a dependent of the debtor to the extent the value of such implements, professional books, tools of the trade, animals, and crops exceeds $5,000.".

SEC. 311. CONVERSION OF CASE UNDER CHAPTER 13.

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

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

> "(A) property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion; and
>
> "(B) valuations of property and of allowed secured claims in the chapter 13 case shall apply in the converted case, with allowed secured claims reduced to the extent that they have been paid in accordance with the chapter 13 plan.

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

SEC. 312. BANKRUPTCY FRAUD.

(a) IN GENERAL.—

> (1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—
>
> > (A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

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

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

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

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

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

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

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

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

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

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

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

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

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

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

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following:

"§ 156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Federal Rules of Bankruptcy

Procedure, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§ 157. Bankruptcy fraud

"A person who, having devised or intending to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title,

shall be fined under this title, imprisoned not more than 5 years, or both.".

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

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

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

"Sec. 156. Knowing disregard of bankruptcy law or rule.
"Sec. 157. Bankruptcy fraud.".

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

SEC. 313. PROTECTION AGAINST DISCRIMINATORY TREATMENT OF APPLICATIONS FOR STUDENT LOANS.

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

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

"(2) In this section, 'student loan program' means the program operated under part B, D, or E of title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.".

TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

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

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

> "(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax imposed by the District of Columbia, or a political subdivision of a State, if such tax comes due after the filing of the petition.".

SEC. 402. MUNICIPAL BANKRUPTCY.

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

TITLE V—TECHNICAL CORRECTIONS

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

(a) ALPHABETIZING AND REDESIGNATING DEFINITIONS.—Section 101 of title 11 of the United States Code, as amended by sections 208, 217, 218, and 304, is amended—

> (1) by redesignating paragraph (3) as paragraph (21B) and transferring such paragraph so as to insert it after paragraph (21A),
>
> (2) by redesignating paragraph (39) as paragraph (51A) and transferring such paragraph so as to insert it after paragraph (51),
>
> (3) by redesignating paragraphs (54) through (57), as so redesignated by section 2522(e) of Public Law 101-647, as paragraphs (53A) through (53D), respectively,

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

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

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

(A) in paragraph (6) by striking "section 761(9)" and inserting "section 761",

(B) in paragraph (22) by striking "section 741(7)" and inserting "section 741",

(C) in paragraph (35)(B) by striking "paragraphs (3)" and inserting "paragraphs (21B)",

(D) in paragraph (49)(B)(ii) by striking "section 761(13)" and inserting "section 761", and

(E) in paragraph (53A)(A), as so redesignated, by striking "section 741(2)" and inserting "section 741".

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

(A) in paragraph (6)—

(i) by striking "section 761(4)" and inserting "section 761",

(ii) by striking "section 741(7)" and inserting "section 741",

(iii) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(iv) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in paragraph (7)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

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

(A) by striking "section 557(b)(1)" and inserting "section 557(b)", and

(B) by striking "section 557(b)(2)" and inserting "section 557(b)".

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

(A) in subsection (e)—

(i) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subsection (f)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

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

(A) in subparagraph (B)—

(i) by striking "section 101(34), 741(5) or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subparagraph (C)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(6) Section 555 of title 11, United States Code, is amended by striking "section 741(7)" and inserting "section 741 of this title".

(7) Section 556 of title 11, United States Code, is amended by striking "section 761(4)" and inserting "section 761 of this title".

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

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 101(24)" and inserting "section 101",

(C) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101", and

(D) in clause (v) by striking "section 101(50)" and inserting "section 101".

(2) Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 761(4)" and inserting "section 761",

(C) in clause (iv) by striking "section 101(24)" and inserting "section 101",

(D) in clause (v)(I) by striking "section 101(41)" and inserting "section 101", and

(E) in clause (viii) by striking "section 101(50)" and inserting "section 101".

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

(1) in section 101—

(A) in paragraph (33)—

(i) in subparagraph (A) by striking "(12 U.S.C. 1813(u))", and

(ii) in subparagraph (B) by striking "(12 U.S.C. 1786(r))",

(B) in paragraph (34) by striking "(12 U.S.C. 1752(7))",

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

(D) in paragraph (48)—

(i) by striking "(15 U.S.C. 78q-1)", and

(ii) by striking "(15 U.S.C. 78c(12))",

(E) in paragraph (49)—

(i) in subparagraph (A)(xii)—

(I) by striking "(15 U.S.C. 77a et seq.)", and

(II) by striking "(15 U.S.C. 77c(b))", and

(ii) in subparagraph (B)(vi) by striking "(15 U.S.C. 77c(b))", and

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

(2) in section 109(b)(2) by striking "(12 U.S.C. 1813(h))",

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302",

(4) in section 346—

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

(B) in subsection (g)(1)(C) by striking "Internal Revenue Code of 1954 (26 U.S.C. 371)" and inserting "Internal Revenue Code of 1986",

(5) in section 348—

(A) in subsection (b) by striking "1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "1201(a), 1221, 1228(a), 1301(a), and 1305(a)", and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(6) in section 349(a) by striking "109(f)" and inserting "109(g)",

(7) in section 362—

(A) in subsection (a) by striking "(15 U.S.C. 78eee(a)(3))", and

(B) in subsection (b)—

(i) by striking "(15 U.S.C. 78eee(a)(3))",

(ii) in paragraph (10) by striking "or" at the end,

(iii) in paragraph (12)—

(I) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46", and

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)",

(iv) in paragraph (13)—

(I) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46",

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)", and

(III) by striking "or" at the end,

(v) in paragraph (15), as added by Public Law 101-508, by striking "or" at the end,

(vi) in paragraph (16), as added by Public Law 101-508—

(I) by striking "(20 U.S.C. 1001 et seq.)", and

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

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

(I) by striking the period at the end and inserting "; or",

(II) by redesignating such paragraph as paragraph (17), and

(III) by transferring such paragraph so as to insert such paragraph after paragraph (16),

(8) in section 363—

(A) in subsection (b)(2) by striking "(15 U.S.C. 18a)", and

(B) in subsection (c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304",

(9) in section 364—

(A) in subsection (a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304", and

(B) in subsection (f)—

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

(ii) by striking "(15 U.S.C. 77aaa et seq.)",

(10) in section 365—

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

(B) in subparagraphs (A) and (B) of subsection (g)(2) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(C) in subsection (n)(1)(B) by striking "to to" and inserting "to",

(D) in subsection (o) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)", and

(E) by striking subsection (p),

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

(A) in subsection (a)(9) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)", and

(B) in subsection (d) by striking "or (a)(6)" and inserting "(a)(6), (a)(7), (a)(8), or (a)(9)",

(12) in section 522—

(A) in subsection (b) by striking "Bankruptcy Rules" and inserting "Federal Rules of Bankruptcy Procedure", and

(B) in subsection (d)(10)(E)(iii)—

(i) by striking "408, or 409" the first place it appears and inserting "or 408", and

(ii) by striking "Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)" and inserting "Internal Revenue Code of 1986",

(13) in section 523—

(A) in subsection (a)—

(i) by striking "1141„" and inserting "1141,", and

(ii) in paragraph (2)(C) by striking "(15 U.S.C. 1601 et seq.)",

(B) in subsection (b)—

(i) by striking "(20 U.S.C. 1087–3)", and

(ii) by striking "(42 U.S.C. 294f)", and

(C) in subsection (e) by striking "depository institution or insured credit union" and inserting "insured depository institution",

(14) in section 524—

(A) in subsection (a)(3) by striking "1328(c)(1)" and inserting "1328(a)(1)",

(B) in subsection (c)(4) by striking "recission" and inserting "rescission", and

(C) in subsection (d)(1)(B)(ii) by adding "and" at the end,

(15) in section 525(a)—

(A) by striking "(7 U.S.C. 499a–499s)",

(B) by striking "(7 U.S.C. 181–229)", and

(C) by striking "(57 Stat. 422; 7 U.S.C. 204)",

(16) in section 542(e) by striking "to to" and inserting "to",

(17) in section 543(d)(1) by striking "section," and inserting "section",

(18) in section 549(b) inserting "the trustee may not avoid under subsection (a) of this section" after "involuntary case,",

(19) in section 553—

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

(B) in subsection (b)(1) by striking "362(b)(14)„" and inserting "362(b)(14),",

(20) in section 555 by striking "(15 U.S.C. 78aaa et seq.)",

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

(22) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307",

(23) in section 724(d) by striking "Internal Revenue Code of 1954 (26 U.S.C. 6323)" and inserting "Internal Revenue Code of 1986",

(24) in section 726(b)—

(A) inserting a comma after "section 1112", and

(B) by inserting "1009," after "chapter under section",

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

(26) in section 742 by striking "(15 U.S.C. 78aaa et seq.)",

(27) in section 743 by striking "342(a)" and inserting "342",

(28) in section 745(c) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986",

(29) in section 761—

(A) in paragraph (1) by striking "(7 U.S.C. 1 et seq.)",

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

(C) in paragraph (13) by striking "(7 U.S.C. 23)",

(30) in section 1104(d), as redesignated by section 211, inserting a comma after "interest",

(31) in section 1123(a)(1) inserting a comma after "title" the last place it appears,

(32) in section 1129—

(A) in subsection (a)—

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

(ii) in paragraph (12) inserting "of title 28" after "section 1930", and

(B) in subsection (d) by striking "(15 U.S.C. 77e)",

(33) in section 1145—

(A) in subsection (a)—

(i) by striking "does" and inserting "do",

(ii) by striking "(15 U.S.C. 77e)", and

(iii) in paragraph (3)(B)(i) by striking "(15 U.S.C. 78m or 78o(d))",

(B) in subsection (b)(1) by striking "(15 U.S.C. 77b(11))", and

(C) in subsection (d) by striking "(15 U.S.C. 77aaa et seq.)",

(34) in section 1166(2) by striking "(45 U.S.C. 791(b))",

(35) in section 1167—

(A) by striking "(45 U.S.C. 151 et seq.)", and

(B) by striking "(45 U.S.C. 156)",

(36) in section 1226(b)(2)—

(A) by striking "1202(d)" and inserting "1202(c)", and

(B) by striking "1202(e)" and inserting "1202(d)",

(37) in section 1302(b)(3) by striking "and" at the end,

(38) in section 1328(a)—

(A) in paragraph (2) by striking "(5) or (8)" and inserting "(5), (8), or (9)", and

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

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

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

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

TITLE VI—BANKRUPTCY REVIEW COMMISSION

SEC. 601. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 602. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 603. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

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

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 608; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 604. MEMBERSHIP.

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

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

(2) One member shall be appointed by the President pro tempore of the Senate.

(3) One member shall be appointed by the Minority Leader of the Senate.

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

(5) One member shall be appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Chief Justice.

Members of Congress, and officers and employees of the executive branch, shall be ineligible for appointment to the Commission.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

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

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 210 days after the date of enactment of this Act.

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

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 605. COMPENSATION OF THE COMMISSION.

(a) PAY.—

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

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 606. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director

and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

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

SEC. 607. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 608. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 609. TERMINATION.

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

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

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

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

SEC. 701. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 702. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

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

(b) APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), 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.

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

(B) The amendments made by sections 113 and 117 shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after the date of the enactment of this Act.

(C) Section 1110 of title 11, United States Code, as amended by section 201 of this Act, shall apply with respect to any lease, as defined in such section 1110(c) as so amended, entered into in connection with a settlement of any proceeding in any case pending under title 11 of the United States Code on the date of the enactment of this Act.

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

APPROVED October 22, 1994.