**This is an unofficial transcription of a 2020 excerpt amending the Bankruptcy Code,
prepared by Robert J. Pfister for ease of reading and copying/pasting.
The authoritative text is the United States Statutes at Large.**

One Hundred Sixteenth Congress, Session II
Public Law 116-260 — 134 Stat. 1182 (H.R. 133)
December 27, 2020

AN ACT *Making consolidated appropriations for the fiscal year ending September 30, 2021, providing coronavirus emergency response and relief, and for other purposes.*

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consolidated Appropriations Act, 2021".

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"(dd) the destination marketing organization employs not more than 300 employees; and

"(ee) the destination marketing organization—

"(AA) is described in section 501(c) of the Internal Revenue Code and is exempt from taxation under section 501(a) of such Code; or

"(BB) is a quasi-governmental entity or is a political subdivision of a State or local government, including any instrumentality of those entities.".

SEC. 319. PROHIBITION ON USE OF LOAN PROCEEDS FOR LOBBYING ACTIVITIES.

Section 7(a)(36)(F) of the Small Business Act (15 U.S.C. 636(a)(36)(F)) is amended by adding at the end the following:

"(vi) PROHIBITION.—None of the proceeds of a covered loan may be used for—

"(I) lobbying activities, as defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602);

"(II) lobbying expenditures related to a State or local election; or

"(III) expenditures designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before Congress or any State government, State legislature, or local legislature or legislative body.".

SEC. 320. BANKRUPTCY PROVISIONS.

(a) IN GENERAL.—Section 364 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1) The court, after notice and a hearing, may authorize a debtor in possession or a trustee that is authorized to operate the business of the debtor under section 1183, 1184, 1203, 1204, or 1304 of this title to obtain a loan under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), and such loan shall be treated as a debt to the extent the loan is not forgiven in accordance with section 7A of the Small Business Act or subparagraph (J) of such paragraph (37), as applicable, with priority equal to a claim of the kind specified in subsection (c)(1) of this section.

"(2) The trustee may incur debt described in paragraph (1) notwithstanding any provision in a contract, prior order authorizing the trustee to incur debt under this

section, prior order authorizing the trustee to use cash collateral under section 363, or applicable law that prohibits the debtor from incurring additional debt.

"(3) The court shall hold a hearing within 7 days after the filing and service of the motion to obtain a loan described in paragraph (1). Notwithstanding the Federal Rules of Bankruptcy Procedure, at such hearing, the court may grant relief on a final basis.".

(b) ALLOWANCE OF ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (8)(B), by striking "and" at the end;

(2) in paragraph (9), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(10) any debt incurred under section 364(g)(1) of this title.".

(c) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1191 of title 11, United States Code, is amended by adding at the end the following:

"(f) SPECIAL PROVISION RELATED TO COVID–19 PANDEMIC.—Notwithstanding section 1129(a)(9)(A) of this title and subsection (e) of this section, a plan that provides for payment of a claim of a kind specified in section 503(b)(10) of this title may be confirmed under subsection (b) of this section if the plan proposes to make payments on account of such claim when due under the terms of the loan giving rise to such claim.".

(d) CONFIRMATION OF PLAN FOR FAMILY FARMERS AND FISHERMEN.—Section 1225 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding section 1222(a)(2) of this title and subsection (b)(1) of this section, a plan that provides for payment of a claim of a kind specified in section 503(b)(10) of this title may be confirmed if the plan proposes to make payments on account of such claim when due under the terms of the loan giving rise to such claim.".

(e) CONFIRMATION OF PLAN FOR INDIVIDUALS.—Section 1325 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding section 1322(a)(2) of this title and subsection (b)(1) of this section, a plan that provides for payment of a claim of a kind specified in section 503(b)(10) of this title may be confirmed if the plan proposes to make payments on account of such claim when due under the terms of the loan giving rise to such claim.".

(f) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—The amendments made by subsections (a) through (e) shall—

(A) take effect on the date on which the Administrator submits to the Director of the Executive Office for United States Trustees a written determination that, subject to satisfying any other eligibility requirements, any debtor in possession or trustee that is authorized to operate the business of the debtor under section 1183, 1184, 1203, 1204, or 1304 of title 11, United States Code, would be eligible for a loan under paragraphs (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)); and

(B) apply to any case pending on or commenced on or after the date described in subparagraph (A).

(2) SUNSET.—

(A) IN GENERAL.—If the amendments made by subsections (a) through (e) take effect under paragraph (1), effective on the date that is 2 years after the date of enactment of this Act—

(i) section 364 of title 11, United States Code, is amended by striking subsection (g);

(ii) section 503(b) of title 11, United States Code, is amended—

(I) in paragraph (8)(B), by adding "and" at the end;

(II) in paragraph (9), by striking "; and" at the end and inserting a period; and

(III) by striking paragraph (10);

(iii) section 1191 of title 11, United States Code, is amended by striking subsection (f);

(iv) section 1225 of title 11, United States Code, is amended by striking subsection (d); and

(v) section 1325 of title 11, United States Code, is amended by striking subsection (d).

(B) APPLICABILITY.—Notwithstanding the amendments made by subparagraph (A) of this paragraph, if the amendments made by subsections (a) through (e) take effect under paragraph (1) of this subsection, such amendments shall apply to any case under title 11, United States Code,

commenced before the date that is 2 years after the date of enactment of this Act.

SEC. 321. OVERSIGHT.

(a) COMPLIANCE WITH OVERSIGHT REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), on and after the date of enactment of this Act, the Administrator shall comply with any data or information requests or inquiries made by the Comptroller General of the United States not later than 15 days (or such later date as the Comptroller General may specify) after receiving the request or inquiry.

(2) EXCEPTION.—If the Administrator is unable to comply with a request or inquiry described in paragraph (1) before the applicable date described in that paragraph, the Administrator shall, before such applicable date, submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a notification that includes a detailed justification for the inability of the Administrator to comply with the request or inquiry.

(b) TESTIMONY.—Not later than the date that is 120 days after the date of enactment of this Act, and not less than twice each year thereafter until the date that is 2 years after the date of enactment of this Act, the Administrator and the Secretary of the Treasury shall testify before the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding implementation of this Act and the amendments made by this Act.

SEC. 322. CONFLICTS OF INTEREST.

(a) DEFINITIONS.—In this section:

(1) CONTROLLING INTEREST.—The term "controlling interest" means owning, controlling, or holding not less than 20 percent, by vote or value, of the outstanding amount of any class of equity interest in an entity.

(2) COVERED ENTITY.—

(A) DEFINITION.—The term "covered entity" means an entity in which a covered individual directly or indirectly holds a controlling interest.

(B) TREATMENT OF SECURITIES.—For the purpose of determining whether an entity is a covered entity, the

[134 Stat. 2018–3215 omitted (1198 pages)]

(2) the term "covered band" means the band of electromagnetic spectrum between the frequencies of 3450 megahertz and 3550 megahertz, inclusive.

(c) WITHDRAWAL OR MODIFICATION OF FEDERAL GOVERNMENT ASSIGNMENTS.—The President, acting through the Assistant Secretary of Commerce for Communications and Information, shall—

(1) not later than 180 days after the date of enactment of this Act, in coordination with relevant Federal users, begin the process of withdrawing or modifying the assignments to Federal Government stations of the covered band as necessary for the Commission to comply with subsection (d); and

(2) not later than 30 days after completing any necessary withdrawal or modification under paragraph (1), notify the Commission that the withdrawal or modification is complete.

(d) REALLOCATION AND AUCTION.—

(1) IN GENERAL.—The Commission shall—

(A) revise the non-Federal allocation for the covered band to permit flexible-use services; and

(B) notwithstanding paragraph (15)(A) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), not later than December 31, 2021, begin a system of competitive bidding under that section to grant new initial licenses for the use of a portion or all of the covered band, subject to flexible-use service rules.

(2) EXEMPTION FROM NOTIFICATION REQUIREMENT.—The first sentence of section 113(g)(4)(A) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(4)(A)) shall not apply with respect to the system of competitive bidding required under paragraph (1)(B) of this subsection.

(3) PROCEEDS TO COVER 110 PERCENT OF FEDERAL RELOCATION OR SHARING COSTS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

TITLE X—BANKRUPTCY RELIEF

SEC. 1001. BANKRUPTCY RELIEF.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Section 541(b) of title 11, United States Code, is amended—

(A) in paragraph (9), in the matter following subparagraph (B), by striking "or";

(B) in paragraph (10)(C), by striking the period at the end and inserting "; or"; and

(C) by inserting after paragraph (10) the following:

"(11) recovery rebates made under section 6428 of the Internal Revenue Code of 1986.".

(2) SUNSET.—Effective on the date that is 1 year after the date of enactment of this Act, section 541(b) of title 11, United States Code, is amended—

(A) in paragraph (9), in the matter following subparagraph (B), by adding "or" at the end;

(B) in paragraph (10)(C), by striking "; or" and inserting a period; and

(C) by striking paragraph (11).

(b) DISCHARGE.—

(1) IN GENERAL.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(i) Subject to subsection (d), after notice and a hearing, the court may grant a discharge of debts dischargeable under subsection (a) to a debtor who has not completed payments to the trustee or a creditor holding a security interest in the principal residence of the debtor if—

"(1) the debtor defaults on not more than 3 monthly payments due on a residential mortgage under section 1322(b)(5) on or after March 13, 2020, to the trustee or creditor caused by a material financial hardship due, directly or indirectly, by the coronavirus disease 2019 (COVID–19) pandemic; or

"(2)(A) the plan provides for the curing of a default and maintenance of payments on a residential mortgage under section 1322(b)(5); and

"(B) the debtor has entered into a forbearance agreement or loan modification agreement with the holder or servicer (as defined in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)) of the mortgage described in subparagraph (A).".

(2) SUNSET.—Effective on the date that is 1 year after the date of enactment of this Act, section 1328 of title 11, United States Code, is amended by striking subsection (i).

(c) PROTECTION AGAINST DISCRIMINATORY TREATMENT.—

(1) IN GENERAL.—Section 525 of title 11, United States Code, is amended by adding at the end the following:

"(d) A person may not be denied relief under sections 4022 through 4024 of the CARES Act (15 U.S.C. 9056, 9057, 9058) because the person is or has been a debtor under this title.".

(2) SUNSET.—Effective on the date that is 1 year after the date of enactment of this Act, section 525 of title 11, United States Code, is amended by striking subsection (d).

(d) CARES FORBEARANCE CLAIMS.—

(1) FILING OF PROOFS OF CLAIMS OR INTERESTS.—Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(f)(1) In this subsection—

"(A) the term 'CARES forbearance claim' means a supplemental claim for the amount of a Federally backed mortgage loan or a Federally backed multifamily mortgage loan that was not received by an eligible creditor during the forbearance period of a loan granted forbearance under section 4022 or 4023 of the CARES Act (15 U.S.C. 9056, 9057);

"(B) the term 'eligible creditor' means a servicer (as defined in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)) with a claim for a Federally backed mortgage loan or a Federally backed multifamily mortgage loan of the debtor that is provided for by a plan under section 1322(b)(5);

"(C) the term 'Federally backed mortgage loan' has the meaning given the term in section 4022(a) of the CARES Act (15 U.S.C. 9056(a)); and

"(D) the term 'Federally backed multifamily mortgage loan' has the meaning given the term in section 4023(f) of the CARES Act (15 U.S.C. 9057(f)).

"(2)(A) Only an eligible creditor may file a supplemental proof of claim for a CARES forbearance claim.

"(B) If an underlying mortgage loan obligation has been modified or deferred by an agreement of the debtor and an eligible creditor of the mortgage loan in connection with a mortgage forbearance granted under section 4022 or 4023 of the CARES Act (15 U.S.C. 9056, 9057) in order to cure mortgage payments forborne under the forbearance, the proof of claim filed under subparagraph (A) shall include—

"(i) the relevant terms of the modification or deferral;

"(ii) for a modification or deferral that is in writing, a copy of the modification or deferral; and

"(iii) a description of the payments to be deferred until the date on which the mortgage loan matures.".

(2) ALLOWANCE OF CLAIMS OR INTERESTS.—Section 502(b)(9) of title 11, United States Code, is amended to read as follows:

"(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) or under the Federal Rules of Bankruptcy Procedure, except that—

"(A) 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) in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required; and

"(C) a CARES forbearance claim (as defined in section 501(f)(1)) shall be timely filed if the claim is filed before the date that is 120 days after the expiration of the forbearance period of a loan granted forbearance under section 4022 or 4023 of the CARES Act (15 U.S.C. 9056, 9057).".

(3) SUNSET.—Effective on the date that is 1 year after the date of enactment of this Act—

(A) section 501 of title 11, United States Code, is amended by striking subsection (f); and

(B) section 502(b)(9) of title 11, United States Code, is amended—

(i) in subparagraph (A), by adding "and" at the end;

(ii) in subparagraph (B), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (C).

(e) MODIFICATION OF PLAN AFTER CONFIRMATION.—

(1) IN GENERAL.—Section 1329 of title 11, United States Code, is amended by adding at the end the following:

"(e)(1) A debtor of a case for which a creditor files a proof of claim under section 501(f) may file a request for a modification of the plan to provide for the proof of claim.

"(2) If the debtor does not file a request for a modification of the plan under paragraph (1) on or before the date that is 30 days after the date on which a creditor files a claim under section 501(f), after notice, the court, on a motion of the court or on a motion of the United States trustee, the trustee, a bankruptcy administrator, or any party in interest, may request a modification of the plan to provide for the proof of claim.".

(2) SUNSET.—Effective on the date that is 1 year after the date of enactment of this Act, section 1329 of title 11, United States Code, is amended by striking subsection (e).

(f) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—

(1) IN GENERAL.—Section 365(d) of title 11, United States Code, is amended—

(A) in paragraph (3)—

(i) by inserting "(A)" after "(3)";

(ii) by inserting ", except as provided in subparagraph (B)" after "such 60-day period"; and

(iii) by adding at the end the following:

"(B) In a case under subchapter V of chapter 11, the time for performance of an obligation described in subparagraph (A) arising under any unexpired lease of nonresidential real property may be extended by the court if the debtor is experiencing or has experienced a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID–19) pandemic until the earlier of—

"(i) the date that is 60 days after the date of the order for relief, which may be extended by the court for an additional period of 60 days if the court determines that the debtor is continuing to experience a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID–19) pandemic; or

"(ii) the date on which the lease is assumed or rejected under this section.

"(C) An obligation described in subparagraph (A) for which an extension is granted under subparagraph (B) shall be treated as an administrative expense described in section 507(a)(2) for the purpose of section 1191(e)."; and

(B) in paragraph (4), by striking "120" each place it appears and inserting "210".

(2) SUNSET.—

(A) IN GENERAL.—Effective on the date that is 2 years after the date of enactment of this Act, section 365(d) of title 11, United States Code, is amended—

(i) in paragraph (3)—

(I) by striking "(A)" after "(3)";

(II) by striking ", except as provided in subparagraph (B)" after "such 60-day period"; and

(III) by striking subparagraphs (B) and (C); and

(ii) in paragraph (4), by striking "210" each place it appears and inserting "120".

(B) SUBCHAPTER V CASES FILED BEFORE SUNSET.—Notwithstanding the amendments made by subparagraph (A), the amendments made by paragraph (1) shall apply in any case commenced under subchapter V of chapter 11 of title 11, United States Code, before the date that is 2 years after the date of enactment of this Act.

(g) PREFERENCES.—

(1) IN GENERAL.—Section 547 of title 11, United States Code, is amended—

(A) in subsection (b), in the matter preceding paragraph (1), by striking "and (i)" and inserting ", (i), and (j)"; and

(B) by adding at the end the following:

"(j)(1) In this subsection:

"(A) The term 'covered payment of rental arrearages' means a payment of arrearages that—

"(i) is made in connection with an agreement or arrangement—

"(I) between the debtor and a lessor to defer or postpone the payment of rent and other periodic charges under a lease of nonresidential real property; and

"(II) made or entered into on or after March 13, 2020;

"(ii) does not exceed the amount of rental and other periodic charges agreed to under the lease of nonresidential real property described in clause (i)(I) before March 13, 2020; and

"(iii) does not include fees, penalties, or interest in an amount greater than the amount of fees, penalties, or interest—

"(I) scheduled to be paid under the lease of nonresidential real property described in clause (i)(I); or

"(II) that the debtor would owe if the debtor had made every payment due under the lease of nonresidential real property described in clause (i)(I) on time and in full before March 13, 2020.

"(B) The term 'covered payment of supplier arrearages' means a payment of arrearages that—

"(i) is made in connection with an agreement or arrangement—

"(I) between the debtor and a supplier of goods or services to defer or postpone the payment of amounts due under an executory contract for goods or services; and

"(II) made or entered into on or after March 13, 2020;

"(ii) does not exceed the amount due under the executory contract described in clause (i)(I) before March 13, 2020; and

"(iii) does not include fees, penalties, or interest in an amount greater than the amount of fees, penalties, or interest—

"(I) scheduled to be paid under the executory contract described in clause (i)(I); or

"(II) that the debtor would owe if the debtor had made every payment due under the executory contract described in clause (i)(I) on time and in full before March 13, 2020.

"(2) The trustee may not avoid a transfer under this section for—

"(A) a covered payment of rental arrearages; or

"(B) a covered payment of supplier arrearages.".

(2) SUNSET.—

(A) IN GENERAL.—Effective on the date that is 2 years after the date of enactment of this Act, section 547 of title 11, United States Code, is amended—

(i) in subsection (b), in the matter preceding paragraph (1), by striking ", (i), and (j)" and inserting "and (i)"; and

(ii) by striking subsection (j).

(B) CASES FILED BEFORE SUNSET.—Notwithstanding the amendments made by subparagraph (A), the amendments made by paragraph (1) shall apply in

any case commenced under title 11, United States Code, before the date that is 2 years after the date of enactment of this Act.

(h) TERMINATION OF UTILITY SERVICES.—

(1) IN GENERAL.—Section 366 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding any other provision of this section, a utility may not alter, refuse, or discontinue service to a debtor who does not furnish adequate assurance of payment under this section if the debtor—

"(1) is an individual;

"(2) makes a payment to the utility for any debt owed to the utility for service provided during the 20-day period beginning on the date of the order for relief; and

"(3) after the date on which the 20-day period beginning on the date of the order for relief ends, makes a payment to the utility for services provided during the pendency of case when such a payment becomes due.".

(2) SUNSET.—Effective on the date that is 1 year after the date of enactment of this Act, section 366 of title 11, United States Code, is amended by striking subsection (d).

(i) CUSTOMS DUTIES.—

(1) IN GENERAL.—Section 507(d) of title 11, United States Code, is amended—

(A) by striking ", (a)(8)";

(B) by inserting "or subparagraphs (A) through (E) and (G) of subsection (a)(8)" after "(a)(9)"; and

(C) inserting "or subparagraph" after "such subsection".

(2) SUNSET.—Effective on the date that is 1 year after the date of enactment of this Act, section 507(d) of title 11, United States Code, is amended—

(A) by inserting ", (a)(8)" before ", or (a)(9)";

(B) by striking "or subparagraphs (A) through (E) and (G) of subsection (a)(8)"; and

(C) by striking "or subparagraph" after "such subsection".

TITLE XI—WESTERN WATER AND INDIAN AFFAIRS

SEC. 1101. AGING INFRASTRUCTURE ACCOUNT.

Section 9603 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b) is amended by adding at the end the following:

"(d) AGING INFRASTRUCTURE ACCOUNT.—

"(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a special account, to be known as the 'Aging Infrastructure Account' (referred to in this subsection as the 'Account'), to provide funds to, and provide for the

[134 Stat. 3222–3304 omitted (83 pages)]

(B) sections 1374 through 1374.3 of title 4, California Code of Regulations (except for subsections (b) and (c) of section 1374 of that title), as in effect on the date of enactment of this Act; or

(C) the California standard.

APPROVED December 27, 2020.