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1 TITLE III--AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

2 Sec. 300. This title may be cited as the ``Omnibus
3 Bankruptcy Improvements Act of 1984``.

4 Subtitle A--Consumer Credit Amendments

5 Sec. 301. Section 109 of title 11, United States Code, is
6 amended by adding at the end thereof the following new
7 subsection:

8 `` (f) Notwithstanding any other provision of this
9 section, no individual may be a debtor under this title who
10 has been a debtor in a case pending under this title at any
11 time in the preceding 180 days if--

12 `` (1) the case was dismissed by the court for willful
13 failure of the debtor to abide by orders of the court, or
14 to appear before the court in proper prosecution of the
15 case; or

16 `` (2) the debtor requested and obtained the voluntary
17 dismissal of the case following the filing of a request
18 for relief from the automatic stay provided by section
19 362 of this title.``.

20 Sec. 302. Section 342 of title 11, United States Code, is
21 amended--

22 (1) by inserting `` (a) `` before `` There shall be
23 given``, and

24 (2) by adding at the end thereof the following new
25 subsection:

26 `` (b) Prior to the commencement of a case under this
27 title by an individual whose debts are primarily consumer
28 debts, the clerk shall give written notice to such individual
29 that indicates each chapter of this title under which such
30 individual may proceed.``.

31 Sec. 303. Section 349(a) of title 11, United States Code,
32 is amended by inserting before the period at the end thereof
33 ``; nor does the dismissal of a case under this title

1 prejudice the debtor with regard to the filing of a
2 subsequent petition under this title, except as provided in
3 section 109(f) of this title''.

4 Sec. 304. Section 362 of title 11, United States Code, is
5 amended by adding at the end thereof the following new
6 subsection:

7 ''(h) An individual injured by any willful violation of a
8 stay provided by this section shall recover actual damages,
9 including costs and attorneys' fees, and, in appropriate
10 circumstances, may recover punitive damages.''.
11

12 Sec. 305. Section 521 of title 11, United States Code, is
13 amended--

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

16 (2) in paragraph (1) by inserting ''a schedule of
17 current income and current expenditures,'' after
18 ''liabilities,'', and

19 (3) by inserting after paragraph (1) the following
20 new paragraph:

21 ''(2) If an individual debtor's schedule of assets
22 and liabilities includes consumer debts which are secured
23 by property of the estate--

24 ''(A) within thirty days after the date of the
25 filing of a petition under chapter 7 of this title or
26 on or before the date of the meeting of creditors,
27 whichever is earlier, or within such additional time
28 as the court, for cause, within such period fixes,
29 the debtor shall file with the clerk a statement of
30 his intention with respect to the retention or
31 surrender of such property and, if applicable,
32 specifying that such property is claimed as exempt,
33 that the debtor intends to redeem such property, or
34 that the debtor intends to reaffirm debts secured by
such property;

1 ''(B) within forty-five days after the filing of
2 a notice of intent under this section, or within such
3 additional time as the court, for cause, within such
4 forty-five day period fixes, the debtor shall perform
5 his intention with respect to such property, as
6 specified by subparagraph (A) of this paragraph; and

7 ''(C) nothing in subparagraphs (A) and (B) of
8 this paragraph shall alter the debtor's or the
9 trustee's rights with regard to such property under
10 this title;''.

11 Seq. 306. (a) Section 522(b) of title 11, United States
12 Code, is amended by striking out ''Notwithstanding'' and all
13 that follows through ''either--'' and inserting in lieu
14 thereof the following: ''Notwithstanding section 541 of this
15 title, an individual debtor may exempt from property of the
16 estate the property listed in either paragraph (1) or, in the
17 alternative, paragraph (2) of this subsection. In joint
18 cases filed under section 302 of this title and individual
19 cases filed under section 301 or 303 of this title by or
20 against debtors who are husband and wife, and whose estates
21 are ordered to be jointly administered under Rule 1015(b) of
22 the Bankruptcy Rules, one debtor may not elect to exempt
23 property listed in paragraph (1) and the other debtor elect
24 to exempt property listed in paragraph (2) of this
25 subsection. If the parties cannot agree on the alternative
26 to be elected, they shall be deemed to elect paragraph (1),
27 where such election is permitted under the law of the
28 jurisdiction where the case is filed. Such property is--''.

29 (b) Section 522(d)(3) of title 11, United States Code, is
30 amended by inserting ''or \$4,000 in aggregate value'' after
31 ''item''.

32 (c) Section 522(d)(5) of title 11, United States Code, is
33 amended to read as follows:

34 ''(5) The debtor's aggregate interest in any

1 property, not to exceed in value \$400 plus up to \$3,750
2 of any unused amount of the exemption provided under
3 paragraph (1) of this subsection.''.

4 (d) Section 522(m) of title 11, United States Code, is
5 amended to read as follows:

6 '(m) Subject to the limitation in subsection (b), this
7 section shall apply separately with respect to each debtor in
8 a joint case.''.

9 Sec. 307. (a) Section 523(a)(2) of title 11, United
10 States Code, is amended--

11 (1) in subparagraph (A) by striking out ''or'' at the
12 end thereof,

13 (2) in subparagraph (B) by inserting ''or'' at the
14 end thereof, and

15 (3) by adding at the end thereof the following new
16 subparagraph:

17 '(C) for purposes of subparagraph (A) of this
18 paragraph, consumer debts owed to a single creditor
19 and aggregating more than \$500 for 'luxury goods or
20 services' incurred by an individual debtor on or
21 within forty days before the order for relief under
22 this title, or cash advances aggregating more than
23 \$1,000 that are extensions of consumer credit under
24 an open end credit plan obtained by an individual
25 debtor on or within twenty days before the order for
26 relief under this title, are presumed to be
27 nondischargeable; 'luxury goods or services' do not
28 include goods or services reasonably acquired for the
29 support or maintenance of the debtor or a dependent
30 of the debtor; an extension of consumer credit under
31 an open end credit plan is to be defined for purposes
32 of this subparagraph as it is defined in the Consumer
33 Credit Protection Act (15 U.S.C. 1601 et seq.);''.

34 (b) Section 523(d) of title 11, United States Code, is

1 amended to read as follows:

2 “(d) If a creditor requests a determination of
3 dischargeability of a consumer debt under subsection (a)(2)
4 of this section, and such debt is discharged, the court shall
5 grant judgment in favor of the debtor for the costs of, and a
6 reasonable attorney’s fee for, the proceeding if the court
7 finds that the position of the creditor was not substantially
8 justified, except that the court shall not award such costs
9 and fees if special circumstances would make the award
10 unjust.”.

11 Sec. 308. (a) Section 524(a)(2) of title 11, United
12 States Code, is amended by striking out “or from property of
13 the debtor,”.

14 (b) Section 524(c) of title 11, United States Code, is
15 amended--

16 (1) by striking out paragraph (2),

17 (2) by redesignating paragraphs (3) and (4) as
18 paragraphs (5) and (6), respectively, and

19 (3) by inserting after paragraph (1) the following
20 new paragraphs:

21 “(2) such agreement contains a clear and conspicuous
22 statement which advises the debtor that the agreement may
23 be rescinded at any time prior to discharge or within
24 sixty days after such agreement is filed with the court,
25 whichever occurs later, by giving notice of rescission to
26 the holder of such claim;

27 “(3) such agreement has been filed with the court
28 and, if applicable, accompanied by a declaration or an
29 affidavit of the attorney that represented the debtor
30 during the course of negotiating an agreement under this
31 subsection, which states that such agreement--

32 “(A) represents a fully informed and voluntary
33 agreement by the debtor; and

34 “(B) does not impose an undue hardship on the

1 debtor or a dependent of the debtor;

2 ``(4) the debtor has not rescinded such agreement at
3 any time prior to discharge or within sixty days after
4 such agreement is filed with the court, whichever occurs
5 later, by giving notice of recission to the holder of
6 such claim;'' and

7 (4) by amending paragraph (6), as so redesignated, to
8 read as follows:

9 ``(6)(A) in a case concerning an individual who was
10 not represented by an attorney during the course of
11 negotiating an agreement under this subsection, the court
12 approves such agreement as--

13 ``(1) not imposing an undue hardship on the
14 debtor or a dependent of the debtor; and

15 ``(11) in the best interest of the debtor.

16 ``(B) Subparagraph (A) shall not apply to the extent
17 that such debt is a consumer debt secured by real
18 property.''.

19 (c) Section 524(d)(2) of title 11, United States Code, is
20 amended by striking out ``subsection (c)(4)'' and inserting
21 in lieu thereof ``subsection (c)(6)''.

22 (d) Section 524 of title 11, United States Code, is
23 amended by adding at the end thereof the following new
24 subsection:

25 ``(f) Nothing contained in subsection (c) or (d) of this
26 section prevents a debtor from voluntarily repaying any
27 debt.''.

28 Sec. 309. Section 525 of title 11, United States Code, is
29 amended--

30 (1) by inserting ``(a)'' before ``Except'',

31 (2) by inserting ``the'' before ``Perishable'', and

32 (3) by adding at the end thereof the following new
33 subsection:

34 ``(b) No private employer may terminate the employment

1 of, or discriminate with respect to employment against, an
2 individual who is or has been a debtor under this title, a
3 debtor or bankrupt under the Bankruptcy Act, or an individual
4 associated with such debtor or bankrupt, solely because such
5 debtor or bankrupt--

6 “(1) is or has been a debtor under this title or a
7 debtor or bankrupt under the Bankruptcy Act;

8 “(2) has been insolvent before the commencement of a
9 case under this title or during the case but before the
10 grant or denial of a discharge; or

11 “(3) has not paid a debt that is dischargeable in a
12 case under this title or that was discharged under the
13 Bankruptcy Act.”.

14 Sec. 310. Section 547(c) of title 11, United States Code,
15 is amended--

16 (1) in paragraph (5) by striking out “or” at the
17 end thereof,

18 (2) in paragraph (6) by striking out the period at
19 the end thereof and inserting in lieu thereof “; or”,
20 and

21 (3) by adding at the end thereof the following new
22 paragraph:

23 “(7) if, in a case filed by an individual debtor
24 whose debts are primarily consumer debts, the aggregate
25 value of all property that constitutes or is affected by
26 such transfer is less than \$600.”.

27 Sec. 311. (a) Section 704 of title 11, United States
28 Code, is amended--

29 (1) by redesignating paragraphs (3), (4), (5), (6),
30 (7), and (8) as paragraphs (4), (5), (6), (7), (8), and
31 (9), respectively, and

32 (2) by inserting after paragraph (2) the following
33 new paragraph:

34 “(3) ensure that the debtor shall perform his

1 intention as specified in section 521(2)(B) of this
2 title;''.

3 (b)(1) Section 1106(a)(1) of title 11, United States
4 Code, is amended by striking out ``704(4), 704(6), 704(7),
5 and 704(8)'' and inserting in lieu thereof ``704(5), 704(7),
6 704(8), and 704(9)''.

7 (2) Section 1304(c) of title 11, United States Code, is
8 amended by striking out ``section 704(7)'' and inserting in
9 lieu thereof ``section 704(8)''.

10 (3) Section 15103(f) of title 11, United States Code, is
11 amended by striking out ``704(8),'' and inserting in lieu
12 thereof ``704(9),''.

13 (4) Section 151301(b)(1) of title 11, United States Code,
14 is amended by striking out ``and 704(8)'' and inserting in
15 lieu thereof `` , 704(7), and 704(9)''.

16 Sec. 312. Section 707 of title 11, United States Code, is
17 amended--

18 (1) by inserting ``(a)'' before ``The court may'' and

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

21 `` (b) After notice and a hearing, the court, on its own
22 motion and not at the request or suggestion of any party in
23 interest, may dismiss a case filed by an individual debtor
24 under this chapter whose debts are primarily consumer debts
25 if it finds that the granting of relief would be a
26 substantial abuse of the provisions of this chapter. There
27 shall be a presumption in favor of granting the relief
28 requested by the debtor.''.
29

30 Sec. 313. Section 1301 of title 11, United States Code,
31 is amended by adding at the end thereof the following new
32 subsection:

33 `` (d) Twenty days after the filing of a request under
34 subsection (c)(2) of this section for relief from the stay
provided by subsection (a) of this section, such stay is

1 terminated with respect to the party in interest making such
2 request, unless the debtor or any individual that is liable
3 on such debt with the debtor files and serves upon such party
4 in interest a written objection to the taking of the proposed
5 action.''.
6

7 Sec. 314. Section 1302(b) of title 11, United States
8 Code, is amended--

9 (1) by amending paragraph (1) to read as follows:

10 ``(1) perform the duties specified in sections
11 704(2), 704(3), 704(4), 704(5), 704(6), 704(7), and
12 704(9) of this title;'';

13 (2) in paragraph (2) by striking out ``and'' at the
14 end thereof,

15 (3) in paragraph (3) by striking out the period and
16 inserting in lieu thereof ``; and'', and

17 (4) by adding at the end thereof the following new
18 paragraph:

19 ``(4) ensure that the debtor commences making timely
20 payments under section 1326 of this title.''.
21

22 Sec. 315. Section 1307(c) of title 11, United States
23 Code, is amended--

24 (1) by redesignating paragraphs (4), (5), (6), and
25 (7) as paragraphs (5), (6), (7), and (8), respectively,
26 and

27 (2) by inserting after paragraph (3) the following
28 new paragraph:

29 ``(4) failure to commence making timely payments
30 under section 1326 of this title;''.

31 Sec. 316. Section 1322(b)(1) of title 11, United States
32 Code, is amended to read as follows:

33 ``(1) designate a class or classes of unsecured
34 claims, as provided in section 1122 of this title, but
may not discriminate unfairly against any class so
designated; however, such plan may treat claims for a

1 consumer debt of the debtor if an individual is liable on
2 such consumer debt with the debtor differently than other
3 unsecured claims;''.

4 Sec. 317. Section 1325 of title 11, United States Code,
5 is amended--

6 (1) in subsection (a) by striking out ``The'' and
7 inserting in lieu thereof ``Except as provided in
8 subsection (b), the'',

9 (2) by redesignating subsection (b) as subsection
10 (c), and

11 (3) by inserting after subsection (a) the following
12 new subsection:

13 `` (b)(1) If the trustee or the holder of an allowed
14 unsecured claim objects to the confirmation of the plan, then
15 the court may not approve the plan unless, as of the
16 effective date of the plan--

17 `` (A) the value of the property to be distributed
18 under the plan on account of such claim is not less than
19 the amount of such claim; or

20 `` (B) the plan provides that all of the debtor's
21 projected disposable income to be received in the three-
22 year period beginning on the date that the first payment
23 is due under the plan will be applied to make payments
24 under the plan.

25 `` (2) For purposes of this subsection, 'disposable
26 income' means income which is received by the debtor and
27 which is not reasonably necessary to be expended--

28 `` (A) for the maintenance or support of the debtor or
29 a dependent of the debtor; or

30 `` (B) if the debtor is engaged in business, for the
31 payment of expenditures necessary for the continuation,
32 preservation, and operation of such business.''.
33

34 Sec. 318. (a) Section 1326 of title 11, United States
Code, is amended--

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

3 (2) by inserting before such subsections the
4 following new subsection:

5 `` (a)(1) Unless the court orders otherwise, the debtor
6 shall commence making the payments proposed by a plan within
7 30 days after the plan is filed.

8 `` (2) A payment made under this subsection shall be
9 retained by the trustee until confirmation or denial of
10 confirmation of a plan. If a plan is confirmed, the trustee
11 shall distribute any such payment in accordance with the
12 plan. If a plan is not confirmed, the trustee shall return
13 any such payments to the debtor, after deducting any unpaid
14 claim allowed under section 503(b) of this title.``.

15 (b) Section 15103(f) of title 11, United States Code, is
16 amended by striking out ``1326(a),`` and inserting in lieu
17 thereof ``1326(b),``.

18 Sec. 319. Section 1329(a) of title 11, United States
19 Code, is amended by striking out ``At`` and all that follows
20 through ``modified to--``, and inserting in lieu thereof the
21 following: ``At any time after confirmation but before the
22 completion of payments under a plan, the plan may be
23 modified, upon request of the debtor, the trustee, or the
24 holder of an allowed unsecured claim, to--``.

25 Sec. 320. The Supreme Court shall prescribe general rules
26 implementing the practice and procedure to be followed under
27 section 707(b) of title 11, United States Code. Section 2075
28 of title 28, United States Code, shall apply with respect to
29 the general rules prescribed under this section.

30 Sec. 321. Rule 2002 of the Bankruptcy Rules is amended
31 by adding at the end thereof the following new subdivision:

32 `` (n) In a voluntary case commenced under the Code by an
33 individual debtor whose debts are primarily consumer debts,
34 the clerk, or some other person as the court may direct,

1 shall give the trustee and all creditors notice by mail of
 2 the order for relief not more than 20 days after the entry of
 3 such order.''.

4 Sec. 322. Official Bankruptcy Form No. 1, referred to in
 5 Rule 1002 of the Bankruptcy Rules, is amended--

6 (1) by inserting after paragraph (5) the following:

7 '(6) If petitioner is an individual whose debts are
 8 primarily consumer debts. Petitioner is aware that [he or
 9 she] may proceed under chapter 7 or 13 of title 11,
 10 United States Code, understands the relief available
 11 under each such chapter, and chooses to proceed under
 12 chapter 7 of such title.

13 '(7) If petitioner is an individual whose debts are
 14 primarily consumer debts and such petitioner is
 15 represented by an attorney. A declaration or an affidavit
 16 in the form of Exhibit 'B' is attached to and made a part
 17 of this petition.'', and

18 (2) by inserting after Exhibit ''A'' at the end
 19 thereof the following new exhibit:

20 'Exhibit 'B'

21 'If petitioner is an individual whose debts are
 22 primarily consumer debts, this Exhibit 'B' shall be completed
 23 and attached to the petition pursuant to paragraph (7)
 24 thereof.

25 'Caption as in Form No. 1

26

27

'FOR COURT USE ONLY

'Date Petition Filed

'Case Number

'Bankruptcy Judge

28 'I, , the attorney for the
 29 petitioner named in the foregoing petition, declare that I
 30 have informed the petitioner that [he or she] may proceed
 31 under chapter 7 or 13 of title 11, United States Code, and
 32 have explained the relief available under each such chapter.

1 (1) in the first sentence of subsection (c) thereof,
2 by striking out ``The'' and inserting in lieu thereof
3 ``Except as provided in subsection (d) of this section,
4 the''; and

5 (2) by redesignating subsection (d) as subsection
6 (e); and

7 (3) by inserting after subsection (c) the following:

8 `` (d) In the case of a seller who is a producer of grain
9 sold to a grain storage facility, owned or operated by the
10 debtor, in the ordinary course of such seller's business (as
11 such terms are defined in section 557 of this title) or in
12 the case of a United States fisherman who has caught fish
13 sold to a fish processing facility owned or operated by the
14 debtor in the ordinary course of such fisherman's business,
15 the rights and powers of the trustee under sections 544(a),
16 545, 547, and 549 of this title are subject to any statutory
17 or common law right of such producer or fisherman to reclaim
18 such grain or fish if the debtor has received such grain or
19 fish while insolvent, but--

20 `` (1) such producer or fisherman may not reclaim any
21 grain or fish unless such producer or fisherman demands,
22 in writing, reclamation of such grain or fish before ten
23 days after receipt thereof by the debtor; and

24 `` (2) the court may deny reclamation to such a
25 producer or fisherman with a right of reclamation that
26 has made such a demand only if the court secures such
27 claim by a lien.''.
28

29 Sec. 352. (a) Chapter 5 of title 11, United States Code,
30 is amended by adding at the end thereof the following new
31 section:

32 ``§ 557. Expedited determination of interests in, and
33 abandonment or other disposition of grain assets

34 `` (a) This section applies only in a case concerning a
debtor that owns or operates a grain storage facility and

1 only with respect to grain and the proceeds of grain. This
2 section does not affect the application of any other section
3 of this title to property other than grain and proceeds of
4 grain.

5 “(b) In this section--

6 “(1) ‘grain’ means wheat, corn, flaxseed, grain
7 sorghum, barley, oats, rye, soybeans, other dry edible
8 beans, or rice;

9 “(2) ‘grain storage facility’ means a site or
10 physical structure regularly used to store grain for
11 producers, or to store grain acquired from producers for
12 resale; and

13 “(3) ‘producer’ means an entity which engages in the
14 growing of grain.

15 “(c)(1) Notwithstanding sections 362, 363, 365, and 554
16 of this title, on the court’s own motion the court may, and
17 on the request of the trustee or an entity that claims an
18 interest in grain or the proceeds of grain the court shall,
19 expedite the procedures for the determination of interests in
20 and the disposition of grain and the proceeds of grain, by
21 shortening to the greatest extent feasible such time periods
22 as are otherwise applicable for such procedures and by
23 establishing, by order, a timetable having a duration of not
24 to exceed 120 days for the completion of the applicable
25 procedure specified in subsection (d) of this section. Such
26 time periods and such timetable may be modified by the court,
27 for cause, in accordance with subsection (f) of this section.

28 “(2) The court shall determine the extent to which such
29 time periods shall be shortened, based upon--

30 “(A) any need of an entity claiming an interest in
31 such grain or the proceeds of grain for a prompt
32 determination of such interest;

33 “(B) any need of such entity for a prompt
34 disposition of such grain;

1 “(C) the market for such grain;

2 “(D) the conditions under which such grain is

3 stored;

4 “(E) the costs of continued storage or disposition

5 of such grain;

6 “(F) the orderly administration of the estate;

7 “(G) the appropriate opportunity for an entity to

8 assert an interest in such grain; and

9 “(H) such other considerations as are relevant to

10 the need to expedite such procedures in the case.

11 “(d) The procedures that may be expedited under

12 subsection (c) of this section include--

13 “(1) the filing of and response to--

14 “(A) a claim of ownership;

15 “(B) a proof of claim;

16 “(C) a request for abandonment;

17 “(D) a request for relief from the stay of

18 action against property under section 362 (a) of this

19 title;

20 “(E) a request for determination of secured

21 status;

22 “(F) a request for determination of whether such

23 grain or the proceeds of grain--

24 “(i) is property of the estate;

25 “(ii) must be turned over to the estate; or

26 “(iii) may be used, sold, or leased; and

27 “(G) any other request for determination of an

28 interest in such grain or the proceeds of grain;

29 “(2) the disposition of such grain or the proceeds

30 of grain, before or after determination of interests in

31 such grain or the proceeds of grain, by way of--

32 “(A) sale of such grain;

33 “(B) abandonment;

34 “(C) distribution; or

1 ``(D) such other method as is equitable in the
2 case;

3 ``(3) subject to sections 701, 702, 703, 1104, and
4 1302 of this title, the appointment of a trustee or
5 examiner and the retention and compensation of any
6 professional person required to assist with respect to
7 matters relevant to the determination of interests in or
8 disposition of such grain or the proceeds of grain; and

9 ``(4) the determination of any dispute concerning a
10 matter specified in paragraph (1), (2), or (3) of this
11 subsection.

12 ``(e)(1) Any governmental unit that has regulatory
13 jurisdiction over the operation or liquidation of the debtor
14 or the debtor's business shall be given notice of any request
15 made or order entered under subsection (c) of this section.

16 ``(2) Any such governmental unit may raise, and may
17 appear and be heard on, any issue relating to grain or the
18 proceeds of grain in a case in which a request is made, or an
19 order is entered, under subsection (c) of this section.

20 ``(3) The trustee shall consult with such governmental
21 unit before taking any action relating to the disposition of
22 grain in the possession, custody, or control of the debtor or
23 the estate.

24 ``(f) The court may extend the period for final
25 disposition of grain or the proceeds of grain under this
26 section beyond 120 days if the court finds that--

27 ``(1) the interests of justice so require in light of
28 the complexity of the case; and

29 ``(2) the interests of those claimants entitled to
30 distribution of grain or the proceeds of grain will not
31 be materially injured by such additional delay.

32 ``(g) Unless an order establishing an expedited procedure
33 under subsection (c) of this section, or determining any
34 interest in or approving any disposition of grain or the

1 proceeds of grain, is stayed pending appeal--

2 “(1) the reversal or modification of such order on
3 appeal does not affect the validity of any procedure,
4 determination, or disposition that occurs before such
5 reversal or modification, whether or not any entity knew
6 of the pendency of the appeal; and

7 “(2) neither the court nor the trustee may delay,
8 due to the appeal of such order, any proceeding in the
9 case in which such order is issued.

10 “(h)(1) The trustee may recover from grain and the
11 proceeds of grain the reasonable and necessary costs and
12 expenses allowable under section 503(b) of this title
13 attributable to preserving or disposing of grain or the
14 proceeds of grain, but may not recover from such grain or the
15 proceeds of grain any other costs or expenses.

16 “(2) Notwithstanding section 326(a) of this title, the
17 dollar amounts of money specified in such section include the
18 value, as of the date of disposition, of any grain that the
19 trustee distributes in kind.

20 “(1) In all cases where the quantity of a specific type
21 of grain held by a debtor operating a grain storage facility
22 exceeds ten thousand bushels, such grain shall be sold by the
23 trustee and the assets thereof distributed in accordance with
24 the provisions of this section.”.

25 (b) The table of sections of chapter 5 of title 11,
26 United States Code, is amended by adding at the end thereof
27 the following new item:

 “557. Expedited determination of interests in and
 disposition of grain.”.

28 Sec. 353. Section 901(a) of title 11, United States
29 Code, is amended by inserting “557,” after “553,”.

30 Sec. 354. Rule 3001 of the Bankruptcy Rules is amended
31 by adding at the end thereof the following new subdivision:

32 “(g) To the extent not inconsistent with the United
33 States Warehouse Act or applicable State law, a warehouse

1 receipt, scale ticket, or similar document of the type
2 routinely issued as evidence of title by a grain storage
3 facility, as defined in section 557 of title 11, shall
4 constitute prima facie evidence of the validity and amount of
5 a claim of ownership of a quantity of grain.''.
6

6 Subtitle C--Leasehold Management Amendments

7 Sec. 361. This subtitle may be cited as the ``Leasehold
8 Management Bankruptcy Amendments Act of 1983''.

9 Sec. 362. (a) Section 365 of title 11, United States
10 Code, is amended by amending subsections (a), (b), (c), and
11 (d) to read as follows:

12 `` (a) Except as provided in sections 765 and 766 of this
13 title and in subsections (b), (c), and (d) of this section,
14 the trustee, subject to the court's approval, may assume or
15 reject any executory contract or unexpired lease of the
16 debtor.

17 `` (b)(1) If there has been a default in an executory
18 contract or unexpired lease of the debtor, the trustee may
19 not assume such contract or lease unless, at the time of
20 assumption of such contract or lease, the trustee--

21 `` (A) cures, or provides adequate assurance that the
22 trustee will promptly cure, such default;

23 `` (B) compensates, or provides adequate assurance
24 that the trustee will promptly compensate, a party other
25 than the debtor to such contract or lease, for any actual
26 pecuniary loss to such party resulting from such default;
27 and

28 `` (C) provides adequate assurance of future
29 performance under such contract or lease.

30 `` (2) Paragraph (1) of this subsection does not apply to
31 a default that is a breach of a provision relating to--

32 `` (A) the insolvency or financial condition of the
33 debtor at any time before the closing of the case;

34 `` (B) the commencement of a case under this title; or

1 “(C) the appointment of or taking possession by a
2 trustee in a case under this title or a custodian before
3 such commencement.

4 “(3) For the purposes of paragraph (1) of this
5 subsection and paragraph (2)(B) of subsection (f), adequate
6 assurance of future performance of a lease of real property
7 in a shopping center includes adequate assurance--

8 “(A) of the source of rent and other consideration
9 due under such lease, and in the case of an assignment,
10 that the financial condition and operating performance of
11 the proposed assignee and its guarantors, if any, shall
12 be similar to the financial condition and operating
13 performance of the debtor and its guarantors, if any, as
14 of the time the debtor became the lessee under the lease;

15 “(B) that any percentage rent due under such lease
16 will not decline substantially;

17 “(C) that assumption or assignment of such lease is
18 subject to all the provisions thereof, including (but not
19 limited to) provisions such as a radius, location, use,
20 or exclusivity provision, and will not breach any such
21 provision contained in any other lease, financing
22 agreement, or master agreement relating to such shopping
23 center; and

24 “(D) that assumption or assignment of such lease
25 will not disrupt any tenant mix or balance in such
26 shopping center.

27 “(4) Notwithstanding any other provision of this
28 section, if there has been a default in an unexpired lease of
29 the debtor, other than a default of a kind specified in
30 paragraph (2) of this subsection, the trustee may not require
31 a lessor to provide services or supplies incidental to such
32 lease before assumption of such lease unless the lessor is
33 compensated under the terms of such lease for any services
34 and supplies provided under such lease before assumption of

1 such lease.

2 “(c) The trustee may not assume or assign any executory
3 contract or unexpired lease of the debtor, whether or not
4 such contract or lease prohibits or restricts assignment of
5 rights or delegation of duties, if--

6 “(1)(A) applicable law excuses a party, other than
7 the debtor, to such contract or lease from accepting
8 performance from or rendering performance to an entity
9 other than the debtor or the debtor in possession or an
10 assignee of such contract or lease, whether or not such
11 contract or lease prohibits or restricts assignment of
12 rights or delegation of duties; and

13 “(B) such party does not consent to such assumption
14 or assignment; or

15 “(2) such contract is a contract to make a loan, or
16 extend other debt financing or financial accommodations,
17 to or for the benefit of the debtor, or to issue a
18 security of the debtor; or

19 “(3) such lease of nonresidential real property has
20 been terminated under applicable nonbankruptcy law prior
21 to the order for relief.

22 “(d)(1) In a case under chapter 7 of this title, if the
23 trustee does not assume or reject an executory contract or
24 unexpired lease of residential real property or of personal
25 property of the debtor within 60 days after the order for
26 relief, or within such additional time as the court, for
27 cause, within such 60-day period, fixes, then such contract
28 or lease is deemed rejected.

29 “(2) In a case under chapter 9, 11, or 13 of this title,
30 the trustee may assume or reject an executory contract or
31 unexpired lease of residential real property or of personal
32 property of the debtor at any time before the confirmation of
33 a plan but the court, on the request of any party to such
34 contract or lease, may order the trustee to determine within

1 a specified period of time whether to assume or reject such
2 contract or lease.

3 “(3) The trustee shall timely perform all the
4 obligations of the debtor, except those specified in section
5 365(b)(2), arising from and after the order for relief under
6 any unexpired lease of nonresidential real property, until
7 such lease is assumed or rejected, notwithstanding section
8 503(b)(1) of this title. The court may extend, for cause, the
9 time for performance of any such obligation that arises
10 within 60 days after the date of the order for relief, but
11 the time for performance shall not be extended beyond such
12 60-day period. This subsection shall not be deemed to affect
13 the trustee’s obligations under the provisions of subsection
14 (b) or (f) of this section. Acceptance of any such
15 performance does not constitute waiver or relinquishment of
16 the lessor’s rights under such lease or under this title.

17 “(4) Notwithstanding paragraphs (1) and (2), in a case
18 under any chapter of this title, if the trustee does not
19 assume or reject an unexpired lease of nonresidential real
20 property under which the debtor is the lessee within 60 days
21 after the date of the order for relief, or within such
22 additional time as the court, for cause, within such 60-day
23 period, fixes, then such lease is deemed rejected, and the
24 trustee shall immediately surrender such nonresidential real
25 property to the lessor.”.

26 (b) Section 365 is further amended by adding at the end
27 thereof the following new subsection:

28 “(1) If an unexpired lease under which the debtor is the
29 lessee is assigned pursuant to this section, the lessor of
30 the property may require a deposit or other security for the
31 performance of the debtor’s obligations under the lease
32 substantially the same as would have been required by the
33 landlord upon the initial leasing to a similar tenant.

34 “(m) For purposes of this section 365 and sections

1 541(b)(2) and 362(b)(9), leases of real property shall
2 include any rental agreement to use real property.''.

3 Sec. 363. (a) Section 541(b) of title 11, United States
4 Code, is amended to read as follows:

5 '(b) Property of the estate does not include--

6 '(1) any power that the debtor may exercise solely
7 for the benefit of an entity other than the debtor; or

8 '(2) any interest of the debtor as a lessee under a
9 lease of nonresidential real property that has terminated
10 at the expiration of the stated term of such lease before
11 the commencement of the case under this title, and ceases
12 to include any interest of the debtor as a lessee under a
13 lease of nonresidential real property that has terminated
14 at the expiration of the stated term of such lease during
15 the case.''.
16

17 (b) Section 362 (b) of title 11 of the United States Code
18 is amended by--

19 (1) striking out 'or' at the end of paragraph (7),

20 (2) replacing the period after paragraph (8) with ';
21 or', and

22 (3) adding the following after paragraph (8):

23 '(9) under subsection (a) of this section, of any
24 act by a lessor to the debtor under a lease of
25 nonresidential real property that has terminated by the
26 expiration of the stated term of the lease before the
27 commencement of or during a case under this title to
28 obtain possession of such property.''.
29

30 Subtitle D--Amendments to Title 11, Section 523 Relating to
31 the Discharge of Debts Incurred by Persons Driving While
32 Intoxicated

33 Sec. 371. Section 523(a) of title 11, United States Code,
34 is amended by--

(1) striking out 'or' at the end of paragraph (8);

and

1 (2) by adding the following new paragraph after such
2 paragraph:

3 ``(9) to any entity, to the extent that such debt
4 arises from a judgment or consent decree entered in a
5 court of record against the debtor wherein liability was
6 incurred by such debtor as a result of the debtor's
7 operation of a motor vehicle while legally intoxicated
8 under the laws or regulations of any jurisdiction within
9 the United States or its territories wherein such motor
10 vehicle was operated and within which such liability was
11 incurred; or''.

12 Subtitle E--Referees Salary and Expense Fund

13 Sec. 381. This subtitle may be cited as the ``Referees
14 Salary and Expense Fund Act of 1984''.

15 Sec. 382. Section 403(e) of the Act of November 6, 1978
16 (92 Stat. 2683; Public Law 95-598), is amended to read as
17 follows:

18 ``(e) Notwithstanding subsection (a) of this section--

19 ``(1) a fee may not be charged under section
20 40c(2)(a) of the Bankruptcy Act in a case pending under
21 such Act after September 30, 1979, to the extent that
22 such fee exceeds \$200,000;

23 ``(2) a fee may not be charged under section
24 40c(2)(b) of the Bankruptcy Act in a case in which the
25 plan is confirmed after September 30, 1978, or in which
26 the final determination as to the amount of such fee is
27 made after September 30, 1979, notwithstanding an earlier
28 confirmation date, to the extent that such fee exceeds
29 \$100,000;

30 ``(3) after September 30, 1979, all moneys collected
31 for payment into the referees' salary and expense fund in
32 cases filed under the Bankruptcy Act shall be collected
33 and paid into the general fund of the Treasury; and

34 ``(4) any balance in the referees' salary and expense

1 fund in the Treasury on October 1, 1979, shall be
2 transferred to the general fund of the Treasury and the
3 referees' salary and expense fund account shall be
4 closed.''.

5 Subtitle F--Amendments Regarding Repurchase Agreements

6 Sec. 391. Section 101 of title 11, United States Code, is
7 amended--

8 (1) by redesignating paragraphs (35), (36), (37),
9 (38), (39), (40), and (41), as paragraphs (37), (38),
10 (39), (40), (41), (42), and (43), respectively, and

11 (2) by inserting after paragraph (34) the following
12 new paragraphs:

13 `` (35) 'repo participant' means an entity that, on
14 any day during the period beginning 90 days before the
15 date of the filing of the petition, has an outstanding
16 repurchase agreement with the debtor;

17 `` (36) 'repurchase agreement' (which definition also
18 applies to a reverse repurchase agreement) means an
19 agreement, including related terms, which provides for
20 the transfer of certificates of deposit, eligible
21 bankers' acceptances, or securities that are direct
22 obligations of, or that are fully guaranteed as to
23 principal and interest by, the United States or any
24 agency of the United States against the transfer of funds
25 by the transferee of such certificates of deposit,
26 eligible bankers' acceptances, or securities with a
27 simultaneous agreement by such transferee to transfer to
28 the transferor thereof certificates of deposit, eligible
29 bankers' acceptances, or securities as described above,
30 at a date certain not later than one year after such
31 transfers or on demand, against the transfer of funds;''.

32 Sec. 392. Section 362(b) of title 11, United States Code,
33 is amended--

34 (a) by redesignating paragraphs (7) and (8) as

1 paragraphs (8) and (9), respectively, and

2 (b) by inserting after paragraph (6) the following
3 new paragraph:

4 `` (7) under subsection (a) of this section, of the
5 setoff by a repo participant, of any mutual debt and
6 claim under or in connection with repurchase agreements
7 that constitutes the setoff of a claim against the debtor
8 for a margin payment, as defined in section 741(5) or
9 761(15) of this title, or settlement payment, as defined
10 in section 741(8) of this title, arising out of
11 repurchase agreements against cash, securities, or other
12 property held by or due from such repo participant to
13 margin, guarantee, secure or settle repurchase
14 agreements;''.

15 Sec. 393. Section 546 of title 11, United States Code, is
16 amended by inserting after subsection (e), as redesignated by
17 section 251, the following:

18 `` (f) Notwithstanding sections 544, 545, 547, 548(a)(2),
19 and 548(b) of this title, the trustee may not avoid a
20 transfer that is a margin payment, as defined in section
21 741(5) or 761(15) of this title, or settlement payment, as
22 defined in section 741(8) of this title, made by or to a repo
23 participant, in connection with a repurchase agreement and
24 that is made before the commencement of the case, except
25 under section 548(a)(1) of this title.''.

26 Sec. 394. Section 548(d)(2) of title 11, United States
27 Code, is amended--

28 (1) in subparagraph (A) by striking out ``and'' at
29 the end thereof;

30 (2) in subparagraph (B) by striking out the period at
31 the end thereof and inserting in lieu thereof ``; and'';
32 and by inserting after paragraph (B) the following new
33 subparagraph:

34 `` (C) a repo participant that receives a margin

1 payment, as defined in section 741(5) or 761(15) of this
2 title, or settlement payment, as defined in section
3 741(8) of this title, in connection with a repurchase
4 agreement, takes for value to the extent of such
5 payment.''.

6 Sec. 395. Section 553(b)(1) of title 11, United States
7 Code, is amended by inserting `` , 362(b)(7),'' after
8 ``362(b)(6)''.

9 Sec. 396. (a) Chapter 5 of title 11, United States Code,
10 is amended by adding at the end thereof the following new
11 section:

12 ``§ 559. Contractual right to liquidate a repurchase
13 agreement

14 ``The exercise of a contractual right of a repo
15 participant to cause the liquidation of a repurchase
16 agreement because of a condition of the kind specified in
17 section 365(e)(1) of this title shall not be stayed, avoided,
18 or otherwise limited by operation of any provision of this
19 title or by order of a court or administrative agency in any
20 proceeding under this title, unless, where the debtor is a
21 stockbroker or securities clearing agency, such order is
22 authorized under the provisions of the Securities Investor
23 Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any
24 statute administered by the Securities and Exchange
25 Commission. In the event that a repo participant liquidates
26 one or more repurchase agreements with a debtor and under the
27 terms of one or more such agreements has agreed to deliver
28 assets subject to repurchase agreements to the debtor, any
29 excess of the market prices received on liquidation of such
30 assets (or if any such assets are not disposed of on the date
31 of liquidation of such repurchase agreements, at the prices
32 available at the time of liquidation of such repurchase
33 agreements from a generally recognized source or the most
34 recent closing bid quotation from such a source) over the sum

1 of the stated repurchase prices and all expenses in
2 connection with the liquidation of such repurchase agreements
3 shall be deemed property of the estate, subject to the
4 available rights of setoff. As used in this section, the term
5 'contractual right' includes a right set forth in a rule or
6 bylaw, applicable to each party to the repurchase agreement,
7 of a national securities exchange, a national securities
8 association, or a securities clearing agency, and a right,
9 whether or not evidenced in writing, arising under common
10 law, under law merchant or by reason of normal business
11 practice.''.
12

13 (b) The analysis of sections for chapter 5 of title 11,
14 United States Code, is amended by adding at the end thereof
15 the following new item:

16 ''559. Contractual right to liquidate a repurchase
17 agreement.''.
18

19 Subtitle G--Amendments to Title 11, Section 365 of the United
20 States Code to Provide Adequate Protection for Timeshare
21 Consumers
22

23 Sec. 401. Title 11, United States Code, section 101 is
24 hereby amended by--
25

26 (1) redesignating paragraph (43), as redesignated by
27 section 391, as paragraph (44); and
28

29 (2) adding the following paragraph after paragraph
30 (42), as redesignated in section 391:
31

32 ''(43) 'timeshare plan' means and shall include that
33 interest purchased in any arrangement, plan, scheme, or
similar device, but not including exchange programs,
whether by membership, agreement, tenancy in common,
sale, lease, deed, rental agreement, license, right to
use agreement, or by any other means, whereby a
purchaser, in exchange for consideration, receives a
right to use accommodations, facilities, or recreational
sites, whether improved or unimproved, for a specific
period of time less than a full year during any given

1 year, but not necessarily for consecutive years, and
2 which extends for a period of more than three years. A
3 'timeshare interest' is that interest purchased in a
4 timeshare plan which grants the purchaser the right to
5 use and occupy accommodations, facilities, or
6 recreational sites, whether improved or unimproved,
7 pursuant to a timeshare plan.''

8 Sec. 402. Section 365(h)(1) of title 11, United States
9 Code, is amended to read as follows:

10 '(h)(1) If the trustee rejects an unexpired lease of
11 real property of the debtor under which the debtor is the
12 lessor, or a timeshare interest under a timeshare plan under
13 which the debtor is the timeshare interest seller, the lessee
14 or timeshare interest purchaser under such lease or timeshare
15 plan may treat such lease or timeshare plan as terminated by
16 such rejection, where the disaffirmance by the trustee
17 amounts to such a breach as would entitle the lessee or
18 timeshare interest purchaser to treat such lease as
19 terminated by virtue of its own terms, applicable
20 nonbankruptcy law, or other agreements the lessee or
21 timeshare interest purchaser has made with other parties; or,
22 in the alternative, the lessee or timeshare interest
23 purchaser may remain in possession of the leasehold or
24 timeshare interest under any lease or timeshare plan the term
25 of which has commenced for the balance of such term and for
26 any renewal or extension of such term that is enforceable by
27 such lessee or timeshare interest purchaser under applicable
28 nonbankruptcy law.''

29 Sec. 403. Section 365(h)(2) of title 11, United States
30 Code, is amended to read as follows:

31 '(2) If such lessee or timeshare interest purchaser
32 remains in possession as provided in paragraph (1) of this
33 subsection, such lessee or timeshare interest purchaser may
34 offset against the rent reserved under such lease or moneys

1 due for such timeshare interest for the balance of the term
2 after the date of the rejection of such lease or timeshare
3 interest, and any such renewal or extension thereof, any
4 damages occurring after such date caused by the
5 nonperformance of any obligation of the debtor under such
6 lease or timeshare plan after such date, but such lessee or
7 timeshare interest purchaser does not have any rights against
8 the estate on account of any damages arising after such date
9 from such rejection, other than such offset.''.

10 Sec. 404. Section 365(1)(1) of title 11, United States
11 Code, is amended to read as follows:

12 '(1)(1) If the trustee rejects an executory contract of
13 the debtor for the sale of real property or for the sale of a
14 timeshare interest under a timeshare plan, under which the
15 purchaser is in possession, such purchaser may treat such
16 contract as terminated, or, in the alternative, may remain in
17 possession of such real property or timeshare interest.''.
18

18 Subtitle H--Bankruptcy Oversight

19 Sec. 411. The Director of the Administrative Office of
20 the United States Courts shall compile statistics in a manner
21 to be prescribed by such Director, which shall show--

22 (1) the assets and liabilities of debtors in
23 bankruptcy, including the estimated income and expenses
24 of individuals filing for relief under the provisions of
25 title 11, as such information may be available to the
26 court from the petitions filed by such debtors;

27 (2) a summary of the amount of debt discharged in
28 cases under each chapter of title 11, and the total
29 amount of disbursements to creditors by the bankruptcy
30 courts in such cases; and

31 (3) the average amount of time elapsed between the
32 filing of the case and payments to creditors in cases
33 under each chapter of title 11.

34 Such statistics shall be compiled for each judicial district

1 on an annual basis.

2 Subtitle I--Miscellaneous Amendments to Title 11

3 Sec. 421. (a) Section 101(2)(D) of title 11 of the United
4 States Code is amended by striking out ``or all`` after
5 ``business``.

6 (b) Section 101(8)(B) of title 11 of the United States
7 Code is amended by striking out the colon at the end thereof
8 and inserting in lieu thereof a semicolon.

9 (c) Section 101(9)(B) of title 11 of the United States
10 Code is amended by inserting ``348(d),`` after ``section``.

11 (d) Section 101(14) of title 11 of the United States Code
12 is amended by inserting ``and`` after ``trust,``.

13 (e) Section 101(24) of title 11 of the United States Code
14 is amended by striking out ``stock broker`` and inserting in
15 lieu thereof ``stockbroker``.

16 (f) Section 101(26)(B)(ii) of title 11 of the United
17 States Code is amended by--

18 (1) striking out ``separate`` each place it appears
19 and inserting in lieu thereof ``nonpartnership``; and

20 (2) striking out ``(A) (ii) and inserting in lieu
21 thereof ``(A)``.

22 (g) Section 101 (30) of title 11 of the United States
23 Code is amended to read as follows:

24 (30) ``person`` includes individual, partnership, and
25 corporation, but does not include governmental unit,
26 Provided, however, That any governmental unit that
27 acquires an asset from a person as a result of operation
28 of a loan guarantee agreement, or as receiver or
29 liquidating agent of a person, will be considered a
30 person for purposes of section 1102 of this title.

31 (h) Section 101(38)(B)(vi) of title 11 of the United
32 States Code, as redesignated by section 391 of this Act, is
33 amended by--

34 (1) striking out ``certificate specified in clause

1 on an annual basis.

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4 States Code is amended by striking out ``or all`` after
5 ``business``.

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19 and inserting in lieu thereof ``nonpartnership``; and

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21 thereof ``(A)``.

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23 Code is amended to read as follows:

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25 corporation, but does not include governmental unit,
26 Provided, however, That any governmental unit that
27 acquires an asset from a person as a result of operation
28 of a loan guarantee agreement, or as receiver or
29 liquidating agent of a person, will be considered a
30 person for purposes of section 1102 of this title.

31 (h) Section 101(38)(B)(vi) of title 11 of the United
32 States Code, as redesignated by section 391 of this Act, is
33 amended by--

34 (1) striking out ``certificate specified in clause

1 (xii) of subparagraph (A)'' and inserting in lieu thereof
2 ''certificate of a kind specified in subparagraph
3 (A)(xii)''; and

4 (2) striking out ''the subject of such a registration
5 statement'' and inserting in lieu thereof ''required to
6 be the subject of a registration statement''.

7 (1) Section 101(44) of title 11 of the United States
8 Code, as so redesignated, is amended by striking out the
9 period and inserting in lieu thereof ''and foreclosure of the
10 debtor's equity of redemption; and''.

11 (j) Section 101 of title 11 of the United States Code is
12 amended--

13 (1) by redesignating paragraphs (41) through (44), as
14 previously redesignated, as paragraphs (45) through (48);

15 (2) by redesignating paragraphs (21) through (40) as
16 paragraphs (24) through (43), respectively;

17 (3) by redesignating paragraphs (19) and (20) as
18 paragraphs (20) and (21), respectively;

19 (4) by inserting after paragraph (18) the following:

20 ''(19) 'financial institution' means a person
21 that is a commercial or savings bank, industrial
22 savings bank, savings and loan association, or trust
23 company and, when any such person is acting as agent
24 or custodian for a customer in connection with a
25 securities contract, as defined in section 741(7) of
26 this title, such customer;'';

27 (5) by inserting after paragraph (21) as redesignated
28 herein the following:

29 ''(22) 'forward contract' means a contract (other
30 than a commodity contract) for the purchase, sale, or
31 transfer of a commodity, or product or byproduct
32 thereof, with a maturity date more than two days
33 after the date the contract is entered into;

34 ''(23) 'forward contract merchant' means a person

1 whose business consists in whole or in part of
2 entering into forward contracts as or with merchants
3 in commodities;'';

4 (6) by inserting after paragraph (43) the following:

5 ''(44) 'State' includes the District of Columbia
6 and Puerto Rico, except for the purpose of defining
7 who may be a debtor under chapter 9 of this title;'';

8 and

9 (7) by inserting after paragraph (48) the following:

10 ''(49) 'United States', when used in a
11 geographical sense, includes all locations where the
12 judicial jurisdiction of the United States extends,
13 including territories and possessions of the United
14 States;''.

15 Sec. 422. Section 102 of title 11 of the United States
16 Code is amended by striking out ''continued'' and inserting
17 in lieu thereof ''contained'' in paragraph (8).

18 Sec. 423. Section 103(c) of title 11 of the United States
19 Code is amended by striking out ''stockholder'' and inserting
20 in lieu thereof ''stockbroker''.

21 Sec. 424. Section 106 of title 11, United States Code, is
22 amended to read as follows:

23 ''§ 106. Waiver of sovereign immunity

24 ''(a) The filing of a proof of claim against the estate
25 by a governmental unit is a waiver by that governmental unit
26 of sovereign immunity with respect to claims arising out of
27 the same transaction or occurrence out of which such
28 governmental unit's filed claim arose.

29 ''(b) Where a governmental unit files a proof of claim
30 and where such claim is allowed, the estate may offset
31 against such allowed claim or interest any claim against such
32 governmental unit that is property of the estate.

33 ''(c) A provision of this title that contains 'creditor,'
34 'entity,' or 'governmental unit' applies to governmental

1 units, and a determination by the court of an issue arising
2 under such a provision binds governmental units without
3 regard to sovereign immunity.''.
4

5 Sec. 425. (a) Subsections (a)(1), (b)(1), and (c)(1) of
6 section 108 of title 11 of the United States Code are each
7 amended by striking out ``and`` each place it appears and
8 inserting in lieu thereof ``or``.

9 (b) Subsections (a), (b), and (c) of section 108 of title
10 11 of the United States Code are each amended by inserting
11 ``nonbankruptcy`` after ``applicable`` and after ``entered in
12 a`` each place such terms appear.

13 (c) Section 108(a) of title 11 of the United States Code
14 is amended by inserting `` , or any person to whose rights the
15 trustee succeeds,`` after ``debtor``.

16 (d) Section 108 of title 11 of the United States Code is
17 amended--

18 (1) in subsection (c) by inserting after ``bankruptcy
19 court`` the following: ``or for taking other collection
20 action, including levy,``.

21 (2) by adding after subsection (c) the following:

22 `` (d) If applicable nonbankruptcy law or an agreement
23 suspends the period of limitation for assessing a tax
24 liability of the debtor as of the commencement of a case
25 under this title, such suspension does not expire before 90
26 days following the earlier of--

27 `` (1) termination or expiration of the stay under
28 section 362 of this title, or

29 `` (2) the date, determined under sections 362(b)(9)
30 and 505(c) of this title, after which assessment of such
31 tax liability is permitted.

32 `` (e) If applicable nonbankruptcy law fixes a period for
33 filing a petition or otherwise commencing an action in the
34 United States Tax Court, or in a similar judicial or
35 administrative forum under State or local law, and if any

1 such act is stayed under section 362 of this title, such
2 period does not expire before 60 days after termination or
3 expiration of the stay with respect to any such petition or
4 action.''.
5

6 Sec. 426. (a) Section 109 of title 11 of the United
7 States Code, is amended by striking out ``in the United
8 States,`` the first place it appears.

9 (b) Section 109(c)(5)(D) of title 11 of the United States
10 Code of this Act is amended by striking out ``preference``
11 and inserting in lieu thereof ``transfer that is avoidable
12 under section 547 of this title``.

13 (c) Section 109(d) of title 11 of the United States Code
14 is amended by striking out ``stockholder`` and inserting in
15 lieu thereof ``stockbroker``.

16 Sec. 427. Section 303(b) of title 11 of the United States
17 Code is amended by inserting ``against a person`` after
18 ``involuntary case``.

19 Sec. 428. Section 303(j)(2) of title 11 of the United
20 States Code is amended by striking out ``debtors`` and
21 inserting in lieu thereof ``debtor``.

22 Sec. 429. Section 321(b) of title 11 of the United States
23 Code is amended by striking out ``a case`` and inserting in
24 lieu thereof ``the case``.

25 Sec. 430. Section 322(b)(1) of title 11 of the United
26 States Code is amended by inserting ``required to be`` after
27 ``bond``.

28 Sec. 431. (a) Section 326(a) of title 11 of the United
29 States Code is amended by striking out all the language
30 beginning with ``three percent`` through ``\$50,000`` the
31 second place the latter appears and inserting in lieu thereof
32 ``and three percent on any amount in excess of \$3,000``.

33 (b) Section 326(d) of title 11 of the United States Code
34 is amended to read as follows:

``(d) The court may deny allowance of compensation for

1 services or reimbursement of expenses of the trustee if the
2 trustee failed to make diligent inquiry into facts that would
3 permit denial of allowance under section 328(c) of this title
4 or, with knowledge of such facts, employed a professional
5 person under section 327 of this title.''.
6

7 (c) Section 327(c) of title 11 of the United States Code
8 is amended to read as follows:

9 ''(c) In a case under chapter 7 or 11 of this title, a
10 person is not disqualified for employment under this section
11 solely because of such person's employment by or
12 representation of a creditor, unless there is objection by
13 another creditor, in which case the court shall disapprove
14 such employment if there is an actual conflict of
15 interest.''.
16

17 Sec. 432. Section 328(a) of title 11 of the United States
18 Code is amended by striking out ''unanticipatable'' and
19 inserting in lieu thereof ''not capable of being
20 anticipated''.
21

22 Sec. 433. (a) Section 329(a) of title 11 of the United
23 States Code is amended by striking out ''and'' the first
24 place it appears and inserting in lieu thereof ''or''.
25

26 (b) Section 329(b)(1) of title 11 of the United States
27 Code is amended by striking out ''trustee'' and inserting in
28 lieu thereof ''estate''.
29

30 Sec. 434. Section 330(a) of title 11 of the United States
31 Code is amended--
32

33 (1) by striking out ''to any parties in interest and
34 to the United States trustee''; and

35 (2) in paragraph (1), by striking out ''time, the
36 nature, the extent, and the value of such services'' and
37 inserting in lieu thereof ''nature, the extent, and the
38 value of such services, the time spent on such
39 services''.
40

41 Sec. 435. (a) Section 330(b) of title 11 of the United

1 States Code is amended by striking out ``\$20`` and inserting
2 in lieu thereof ``\$45``.

3 (b) Section 330 of title 11 of the United States Code is
4 amended by adding at the end thereof the following new
5 subsection:

6 ``(c) Unless the court orders otherwise, in a case under
7 chapter 13 of this title the compensation paid to the trustee
8 serving in the case shall not be less than \$10 per month from
9 any distribution under the plan during the administration of
10 the plan``.

11 Sec. 436. (a) Section 341(b) of title 11 of the United
12 States Code is amended to read as follows:

13 ``(b)(1) In a case under chapter 13 of this title, the
14 court may order a meeting of creditors.

15 ``(2) The court may order a meeting of any equity
16 security holders``.

17 (b) Section 341 (a) of title 11, United States Code, is
18 amended by inserting ``chapter 7 or chapter 11 of`` after
19 ``under``.

20 Sec. 437. Section 342 of title 11 of the United States
21 Code as amended by section 302 is further amended by amending
22 subsection (a) to read as follows:

23 ``(a) There shall be given such notice as is appropriate,
24 including notice to any holder of a community claim, of an
25 order for relief in a case under this title``.

26 Sec. 438. Section 343 of title 11 of the United States
27 Code is amended by striking out ``examiner`` the last place
28 it appears and inserting in lieu thereof ``examine``.

29 Sec. 439. Section 344 of title 11 of the United States
30 Code is amended by inserting before the period ``or in
31 accordance with such regulations as may be promulgated by the
32 Attorney General``.

33 Sec. 440. Section 345 of title 11 of the United States
34 Code is amended by adding at the end thereof a new subsection

1 (c) as follows:

2 `` (c) An entity with which such moneys are deposited or
3 invested is authorized to deposit or invest such moneys as
4 may be required under this section.``.

5 Sec. 441. (a) Section 346(c)(2) of title 11 of the United
6 States Code is amended by striking out ``operation`` and
7 inserting in lieu thereof ``corporation``.

8 (b) Section 346(f) of title 11 of the United States Code
9 is amended by striking out ``State or local``.

10 (c) Section 346(g)(2) of title 11 of the United States
11 Code is amended by striking out ``as adjusted under
12 subsection (j)(5) of this section,``.

13 (d) Section 346(j) of title 11 of the United States Code
14 is amended by striking out paragraphs (3), (4), (5), (6), and
15 (7).

16 Sec. 442. Section 350(b) of title 11 of the United States
17 Code is amended by striking out ``a`` and inserting in lieu
18 thereof ``A``.

19 Sec. 443. Section 361(1) of title 11 of the United States
20 Code is amended by inserting ``a cash payment or`` after
21 ``make``.

22 Sec. 444. (a) Section 362(a) of title 11 of the United
23 States Code is amended--

24 (1) in paragraph (1), by inserting ``action or``
25 after ``other``;

26 (2) in paragraph (3), by inserting ``or to exercise
27 control over property of the estate`` after ``estate``
28 the second place it appears; and

29 (3) in paragraph (8) by striking out ``Court
30 concerning the debtor`` and inserting in lieu thereof
31 ``court or similar administrative or judicial forum under
32 State or local law, concerning the debtor``.

33 (b) Section 362(b) of title 11 of the United States Code
34 is amended--

1 (1) In paragraph (3), by inserting "or to the extent
2 that such act is accomplished within the period provided
3 under section 547(e)(2) (A) of this title" after
4 "title";

5 (2) In paragraph (6), by--

6 (A) inserting "or due from" after "held by";

7 and

8 (B) striking out "or secure commodity
9 contracts" and inserting in lieu thereof "secure,
10 or settle commodity contracts", and by inserting
11 "financial institution," after "stockbroker" each
12 time it appears.

13 (3) In paragraph (8) as redesignated by section 392,
14 by--

15 (A) striking out "said" and inserting in lieu
16 thereof "the"; and

17 (B) striking out "or" the last place it
18 appears;

19 (4) In paragraph (9) as redesignated by section 392,
20 by striking out the period and inserting in lieu thereof
21 a semicolon; and

22 (5) by adding after paragraph (9) the following new
23 paragraphs:

24 "(10) under subsection (a) of this section, of the
25 filing of any continuation statement or the refiling of
26 any notice of a Federal tax lien required by
27 nonbankruptcy law properly filed under such law before
28 the date of the filing of the petition; or

29 "(11) under subsection (a) of this section, of the
30 presentment of a negotiable instrument and the giving of
31 notice of and protesting dishonor of such an
32 instrument."

33 (c) Section 362(c)(2)(B) of title 11 of the United States
34 Code is amended by striking out "and" and inserting in lieu

1 thereof ``or``.

2 (d) Section 362(d)(2) of title 11 of the United States
3 Code is amended--

4 (1) by inserting ``under subsection (a) of this
5 section`` after ``property`` the first place it appears;
6 and

7 (2) in subparagraph (B), by inserting ``in a case
8 under chapter 11 of this title or to an effective plan in
9 a case under chapter 13 of this title, as the case may
10 be`` after ``reorganization``.

11 (e) Section 362(e) of title 11 of the United States Code
12 is amended--

13 (1) in the first sentence by inserting ``the
14 conclusion of`` after ``pending``; and

15 (2) by striking out the last sentence and inserting
16 in lieu thereof the following: ``The court shall order
17 such stay continued in effect pending the conclusion of
18 the final hearing under subsection (d) of this section if
19 there is a reasonable likelihood that the party opposing
20 relief from such stay will prevail at the conclusion of
21 such final hearing. If the hearing under this subsection
22 is a preliminary hearing, then such final hearing shall
23 be commenced not later than thirty days after the
24 conclusion of such preliminary hearing.``.

25 (f) Section 362(f) of title 11 of the United States Code
26 is amended by--

27 (1) striking out ``The`` and inserting in lieu
28 thereof ``Upon request of a party in interest, the``; and

29 (2) inserting ``with or`` after ``court,``.

30 Sec. 445. (a) Section 363(a) of title 11 of the United
31 States Code is amended by--

32 (1) inserting ``whenever acquired`` after
33 ``equivalents``; and

34 (2) inserting ``and includes the proceeds, products,