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REPORT
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# EXTENSION OF CHAPTER 12 OF THE BANKRUPTCY CODE

FEBRUARY 26, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

# R E P O R T

[To accompany H.R. 256]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 256) to extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

TABLE OF CONTENTS

| | *Page* |
|---|---|
| Purpose and Summary | 2 |
| Background and Need for the Legislation | 2 |
| Hearings | 2 |
| Committee Consideration | 2 |
| Vote of the Committee | 3 |
| Committee Oversight Findings | 3 |
| Performance Goals and Objectives | 3 |
| New Budget Authority and Tax Expenditures | 3 |
| Congressional Budget Office Cost Estimate | 4 |
| Constitutional Authority Statement | 5 |
| Section-by-Section Analysis and Discussion | 5 |
| Changes in Existing Law Made by the Bill, as Reported | 5 |
| Markup Transcript | 6 |

89–006

## PURPOSE AND SUMMARY

H.R. 256 retroactively reenacts chapter 12 of the Bankruptcy Code, a specialized form of bankruptcy relief for family farmers, effective as of July 1, 2000. In addition, the bill extends this temporary form of bankruptcy relief for 11 months until June 1, 2001.

## BACKGROUND AND NEED FOR THE LEGISLATION

On January 30, 2001, Representative Nick Smith (R-Mich.) introduced H.R. 256, a bill to reenact and extend chapter 12 of title 11 of the United States Code. Chapter 12 is a specialized form of bankruptcy relief available only to a "family farmer with regular annual income,"[1] a defined term.[2] This form of bankruptcy relief permits eligible family farmers, under the supervision of a bankruptcy trustee,[3] to reorganize their debts pursuant to a repayment plan.[4] The special attributes of chapter 12 make it better suited to meet the particularized needs of family farmers in financial distress than other forms of bankruptcy relief, such as chapter 11 (business reorganization) and chapter 13 (individual reorganization).[5]

Statistically, chapter 12 is not extensively used. According to the most recent data released by the Administrative Office, only 551 family farmer bankruptcy cases were filed for the 12-month period ending September 30, 2000.[6] For the same 12-month period in 1999, 811 chapter 12 cases were filed.[7]

Chapter 12 was enacted on a temporary 7-year basis as part of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 in response to the farm financial crisis of the early 1980's.[8] It has been subsequently extended on several occasions.[9] The most recent extension, however, expired on July 1, 2000.[10]

## HEARINGS

No hearings were held on H.R. 256.

## COMMITTEE CONSIDERATION

On February 14, 2001, the committee met in open session and ordered favorably reported the bill H.R. 256 by a vote of 24 to 0, a quorum being present.

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[1] 11 U.S.C. § 109(f).

[2] 11 U.S.C. § 101(19). The term encompasses "a family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12" of the Bankruptcy Code. The Bankruptcy Code, in turn, defines the terms "farmer" and "farming operation". 11 U.S.C. § 101(20), (21).

[3] 11 U.S.C. § 1202.

[4] 11 U.S.C. § 1222.

[5] For example, chapter 12 is typically less complex and expensive than chapter 11, a form of bankruptcy relief generally utilized to effectuatelarge corporate reorganizations. Chapter 13, on the other hand, is a form of bankruptcy relief for limited to individuals with typically debts in lower amounts than permitted for eligibility purposes under chapter 12. *Cf.* 11 U.S.C. § 109(e), 101(18).

[6] Administrative Office of the U.S. Courts, News Release, *Bankruptcy Filings Decrease in Fiscal Year 2000*, at 1 (Nov. 21, 2000).

[7] *Id.* at 2.

[8] Pub. L. No. 99–554, 100 Stat. 3088, 3105 (1986).

[9] See, e.g., Pub. L. No. 103–65, 107 Stat. 311 (1993); Pub. L. No. 105–277, 112 Stat. 2681, 2681–610 (1998); Pub. L. No. 106–5, 113 Stat. 9 (1999).

[10] Pub. L. No. 106–70, 113 Stat. 1031 (1999).

## VOTE OF THE COMMITTEE

1. Motion to report the bill favorably. Passed 24 to 0.

| AYES | NAYS |
|---|---|
| Mr. Sensenbrenner | |
| Mr. Gekas | |
| Mr. Coble | |
| Mr. Smith | |
| Mr. Goodlatte | |
| Mr. Chabot | |
| Mr. Barr | |
| Mr. Hutchinson | |
| Mr. Cannon | |
| Mr. Graham | |
| Mr. Bachus | |
| Mr. Hostettler | |
| Mr. Green | |
| Mr. Keller | |
| Ms. Hart | |
| Mr. Flake | |
| Mr. Nadler | |
| Mr. Scott | |
| Mr. Watt | |
| Ms. Jackson Lee | |
| Ms. Waters | |
| Mr. Delahunt | |
| Ms. Baldwin | |
| Mr. Schiff | |

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## PERFORMANCE GOALS AND OBJECTIVES

The bill is intended to improve the bankruptcy system by streamlining case administration for family farmer bankruptcy cases.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, February 26, 2001.*

Hon. F. JAMES SENSENBRENNER Jr., *Chairman,*
*Committee on the Judiciary,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 256, a bill to extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers Jr.
Ranking Member

*H.R. 256—A bill to extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted*

H.R. 256 would extend chapter 12 of title 11 of the U.S. Code until June 1, 2001. Chapter 12, which was created by the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554), specifies bankruptcy procedures available only to family farmers with regular annual income and is intended to facilitate an efficient and expeditious bankruptcy process. The authorization for such bankruptcy proceedings expired July 1, 2000.

CBO estimates that enacting H.R. 256 would have no significant budgetary impact. It would result in a small loss of offsetting collections to the U.S. Trustee System Fund, thus causing an insignificant increase in net outlays from this fund in 2001. In addition, CBO estimates that enacting H.R. 256 would result in a negligible loss of offsetting receipts and revenues in 2001. Because H.R. 256 would affect direct spending and governmental receipts pay-as-you-go procedures would apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Based on information from the Executive Office of the United States Trustees, CBO expects that, without the temporary extension of chapter 12, family farmers filing for bankruptcy would split their filings about evenly between chapter 11 and chapter 13. Chapter 12 has a $200 filing fee and does not require the bankrupt party to pay quarterly fees to the government. Chapter 11, in contrast, requires an $800 filing fee as well as quarterly filing fees. (On average, $1,000 is collected per case.) Chapter 13 requires only a $130 filing fee.

Bankruptcy fees are recorded in three different places in the budget. Portions of the fees are recorded as governmental receipts

(revenues), as offsetting collections to the appropriation for the U.S. Trustee System Fund, and as offsetting receipts to the Administrative Office of the United States Courts (AOUSC). The percentage of the fees allocated among these accounts varies by chapter. Because only 300 to 400 bankruptcy cases are likely to be affected by the bill, it would have only a small effect on the amount of fees collected in 2001.

The CBO staff contact for this estimate is Lanette J. Walker, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8, clause 4 of the Constitution.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Section 1. Amendments.* This provision amends section 149 of title I of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999[12] to provide that chapter 12 of title 11 of the United States Code, as in effect on June 30, 2000, is reenacted for the period beginning on July 1, 2000 and ending on June 1, 2001. It also specifies that all cases commenced or pending under chapter 12 shall be conducted and determined under such chapter as if such chapter were continued in effect after July 1, 2000.

*Section 2. Effective date.* The amendments made by section 1 of H.R. 256 take effect on July 1, 2000.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**SECTION 149 OF DIVISION C OF THE OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999**

SEC. 149. (a) Chapter 12 of title 11 of the United States Code, as in effect on **[**September 30, 1999**]** *June 30, 2000*, is hereby reenacted for the period beginning on **[**October 1, 1999**]** *July 1, 2000*, and ending on **[**July 1, 2000**]** *June 1, 2001*.

(b) All cases commenced or pending under chapter 12 of title 11, United States Code, as reenacted under subsection (a), and all matters and proceedings in or relating to such cases, shall be conducted and determined under such chapter as if such chapter were continued in effect after **[**July 1, 2000**]** *June 1, 2001*. The substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the laws ap-

[12] Pub. L. No. 105–277, 112 Stat. 2681, 2681–610 (1998).

plicable to such cases, matters, and proceedings as if such chapter were continued in effect after [July 1, 2000] *June 1, 2001.*

MARKUP TRANSCRIPT

# BUSINESS MEETING

## WEDNESDAY, FEBRUARY 14, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.*

The committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner (chairman of the committee) presiding.

Chairman SENSENBRENNER. Pursuant to notice, I now call up the bill H.R. 256——

Ms. WATERS. Mr. Chairman?

Chairman SENSENBRENNER [continuing]. To extend for 11 additional months the period for which Chapter 12 of Title XI of the United States Code is reenacted for purpose of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and——

Mr. WATT. I object, Mr. Chairman.

Chairman SENSENBRENNER. The Clerk will read.

The CLERK. To extend the 11 additional months, the period for which Chapter 12 of Title XI of the United States Code is enacted. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. Section 1, Amendments. Section 149 of Title I of Division C of Public Law 105-277 as amended by Public Law 106-5 and Public Law 106-70 is amended. One, by striking "July 1, 2000" each place it appears and inserting "June 1, 2001" and, two, in Subsection (aa) by striking "September 30, 1999" and inserting "June 30, 2000" and (B) by striking "October 1, 1999" and inserting "July 1, 2000." Section 2 effective date. The amendments made by Section 1 shall take effect on July 1, 2000.

Chairman SENSENBRENNER. The question is on favorably reporting the bill.

Mr. WATT. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from North Carolina seek——

Mr. WATT. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

Mr. Chairman, I sincerely hope—I know people are going to question me when I say this, but I sincerely hope this is not the way we conduct business the entire term, but, if necessary, it will be.

I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on favorably reporting the bill.

Ms. BALDWIN. Mr. Chairman?

Chairman SENSENBRENNER. The gentlewoman from Wisconsin.

Ms. BALDWIN. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is—the gentlewoman is recognized for 5 minutes.

Ms. BALDWIN. I won't take all that time. I want to thank the chairman for bringing this bill up. I was proud to co-sponsor this with Representative Smith of Michigan and it would immediately restore much-needed bankruptcy protection for family farmers. I represent a district where this is sorely missed, and it needs to be reinstated and I urge a positive vote.

I yield back.

Ms. WATERS. Mr. Chairman?

Chairman SENSENBRENNER. Does the gentlewoman yield back?

For what purpose does the gentlewoman from California——

Ms. WATERS. I move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5——

Ms. WATERS. I would like the record to reflect that I have four amendments that I would have offered to this legislation had the opportunity—to the bankruptcy legislation—had the opportunity been there for me to do it, and I would like Mr. Gekas to know that Mr. Watt offered to you an opportunity to deal with our concerns about how you have managed the bill today.

Mr. Watt, in essence, said that in addition to you appearing not to know the bill and not responding in any real way to our questions and our concerns, when you said to us at one point that, in essence, there will be no changes to this bill, that even in one section where you would like to see a change before you would do it here in this committee, but you would take it to the Rules Committee. But, in essence, what you said to us is you can present all the amendments you want today, they will not be supported in any shape, form, or fashion, no matter how reasonable they are, no matter how much it could improve the bill, and you demonstrated that, again, in a way that I perhaps have not seen before.

So these concerns are concerns that you should not just ignore, and let me just say I could almost see it if it was Maxine Waters, but Mel Watt is a very cooperative man. He is forever reaching his hand across the aisle to have a relationship with you people and——

[Laughter.]

Ms. WATERS. And to have him treated the way that he was treated today is just unforgivable. So I want you to know that you have just cut off the possibility of having one of the most reasonable people on this side of the aisle work with you in a cooperative way.

Again, if it was Maxine Waters, I could understand, but do it to Mel Watt? My goodness.

I yield to the——

Mr. WATT. Will the gentlelady yield.

Ms. JACKSON LEE. Two of us are trying to yield. I will yield first to the gentleman.

Mr. WATT. I want to thank the gentlelady for her ringing endorsement of my bipartisan tendencies, and just insert for the record I like the record to reflect that I offered only one of the 14 amendments that I indicated in my opening statement that I was planning to offer. So, clearly, I object to the procedure. I have 13 other amendments that I would like to have offered to this bill, and on the basis that I started off with, to try to improve the bill so

that I could support it, but apparently that just was not to be today.

Ms. JACKSON LEE. Will the gentlelady yield?

Mr. WATT. So I appreciate the gentlelady yielding. I yield back to her.

Ms. WATERS. I yield to the gentlelady.

Ms. JACKSON LEE. I thank the gentlelady.

Let me just emphasize or support the fact that I think all of the Members on this side in this instance have attempted to start this first legislative effort out in a collaborative way; one, supporting the chairman's viewpoint that the jurisdiction of this legislation should be in the Judiciary Committee. I was not able to offer one, two, three, four, five, six, seven amendments, and my understanding was that we would work through this. In fact, I made commitments to stay in Washington to be able to do this even tomorrow. I have a great concern in the domestic support issues that were not able to be elaborated on through an amendment. We didn't get a chance to fully discuss the whole idea of frivolous lawsuits being brought against debtors, people who are trying to put their lives back together. Disaster relief is something that this legislation misses, and I thought that we were going to take the time today, Mr. Chairman, to work through these amendments.

In fact, I might have been able to convince some of my colleagues on the other side of the aisles if they had only listened. So I have an ongoing objection. I will submit these into the record as well as offer these as we move toward the floor, but I hope that this is not an indication of how we will be working together in the future.

I yield back to the gentlelady.

Chairman SENSENBRENNER. For what purpose does the gentleman from Pennsylvania seek recognition?

Mr. GEKAS. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 brief minutes.

Mr. GEKAS. Reasonable people are going to have to agree that in my position with pride of authorship and eagerness to see this bill passed that I tried to stand firm on the principles that were enunciated in this bill.

When the occasion arose and it was not clear what an amendment would do, I—even though I felt that we should reject the amendment, I made good offices available for the purpose of reviewing it in the future. That is not inconsistent with countless bills that we have entertained over the time that we have shared on this committee. I will continue to do so. I feel very strongly we have an excellent piece of legislation.

To the extent that the Baldwin and Schiff amendments were questionable and which require review on my part, I asserted that I would do so. Where is the umbrage taken on a position like that when we have been doing that forever? This is part of the legislative process——

Mr. WATT. Would the gentleman yield?

Mr. GEKAS [continuing]. The author and the mover of the legislation standing firm on his legislation, but yielding to further modification of it as the time rolls on. That does not quash the minority. It was up for a vote each time, and the majority voted with me to

stand firm for the time being on all of these provisions and then modify when we can.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. GEKAS. I apologize to no one for the strength of my efforts to preserve the sanctity of this bill.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. WATT. Would the gentleman yield?

Chairman SENSENBRENNER. Does the gentleman yield or yield back?

Ms. JACKSON LEE. Would the gentleman yield?

Mr. GEKAS. I would like to yield back so I can get out of here, but I will yield.

Ms. JACKSON LEE. Would the gentleman yield?

Mr. GEKAS. I yield back.

Chairman SENSENBRENNER. Okay. The question is on the motion to report the bill H.R. 256 favorably.

Mr. NADLER. Mr. Chairman?

Chairman SENSENBRENNER. All those in favor will say aye.

Opposed, no.

The ayes appear to have it.

Mr. WATT. Mr. Chairman, I ask for a recorded vote.

Chairman SENSENBRENNER. A recorded vote will be ordered. Those in favor of reporting the bill favorably will as your names are called answer aye; those opposed, no. And the Clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Gekas?

Mr. GEKAS. Aye.

The CLERK. Mr. Gekas, aye.

Mr. Coble?

Mr. COBLE. Aye.

The CLERK. Mr. Coble, aye.

Mr. Smith?

Mr. SMITH. Aye.

The CLERK. Mr. Smith, aye.

Mr. Gallegly?

[No response.]

The CLERK. Mr. Goodlatte?

Mr. GOODLATTE. Aye.

The CLERK. Mr. Goodlatte, aye.

Mr. Chabot?

Mr. CHABOT. Aye.

The CLERK. Mr. Chabot, aye.

Mr. Barr?

Mr. BARR. Aye.

The CLERK. Mr. Barr, aye.

Mr. Jenkins?

[No response.]

The CLERK. Mr. Hutchinson?

Mr. HUTCHINSON. Aye.

The CLERK. Mr. Hutchinson, aye.

Mr. Cannon?

Mr. CANNON. Aye.

The CLERK. Mr. Cannon, aye.

Mr. Graham?
Mr. GRAHAM. Aye.
The CLERK. Mr. Graham, aye.
Mr. Bachus?
Mr. BACHUS. Aye.
The CLERK. Mr. Bachus, aye.
Mr. Scarborough?
Mr. SCARBOROUGH.
[No response.]
The CLERK. Mr. Hostettler?
Mr. HOSTETTLER. Aye.
The CLERK. Mr. Hostettler, aye.
Mr. Green?
Mr. GREEN. Aye.
The CLERK. Mr. Green, aye.
Mr. Keller?
Mr. KELLER. Aye.
The CLERK. Mr. Keller, aye.
Mr. Issa?
[No response.]
The CLERK. Ms. Hart?
Ms. HART. Aye.
The CLERK. Ms. Hart, aye.
Mr. Flake?
Mr. FLAKE. Aye.
The CLERK. Mr. Flake, aye.
Mr. Conyers?
[No response.]
The CLERK. Mr. Frank?
[No response.]
The CLERK. Mr. Berman?
[No response.]
The CLERK. Mr. Boucher?
[No response.]
The CLERK. Mr. Nadler?
Mr. NADLER. Aye.
The CLERK. Mr. Nadler, aye.
Mr. Scott?
Mr. SCOTT. Aye.
The CLERK. Mr. Scott, aye.
Mr. Watt?
Mr. WATT. Aye.
The CLERK. Mr. Watt, aye.
Ms. Lofgren?
[No response.]
The CLERK. Ms. Jackson Lee?
Ms. JACKSON LEE. Aye.
The CLERK. Ms. Jackson Lee, aye.
Ms. Waters?
Ms. WATERS. Aye.
The CLERK. Ms. Waters, aye.
Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
Mr. DELAHUNT. Aye.

The CLERK. Mr. Delahunt, aye.
Mr. Wexler?
[No response.]
The CLERK. Ms. Baldwin?
Ms. BALDWIN. Aye.
The CLERK. Ms. Baldwin, aye.
Mr. Weiner?
[No response.]
The CLERK. Mr. Schiff?
Mr. SCHIFF. Aye.
The CLERK. Mr. Schiff, aye.
Mr. Chairman?
Chairman SENSENBRENNER. Aye.
The CLERK. Mr. Chairman, aye.

Chairman SENSENBRENNER. Are there additional Members in the room who wish to either record their vote or change their vote? If not, the Clerk will report.

The CLERK. Mr. Chairman, there are 24 ayes and zero nays.

Chairman SENSENBRENNER. And the motion is agreed to.

Mr. NADLER. Mr. Chairman?

Chairman SENSENBRENNER. All Members will be given 2 days as provided by House Rules in which to submit additional dissenting supplemental or minority rules.

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