

## Calendar No. 416

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2370**

To amend title 11, United States Code, to make bankruptcy organization more efficient for small business debtors, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Mr. WHITEHOUSE (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MAY 24, 2012

Reported by Mr. LEAHY, without amendment

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**A BILL**

To amend title 11, United States Code, to make bankruptcy organization more efficient for small business debtors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Reor-  
5 ganization Efficiency and Clarity Act”.

1 **SEC. 2. FLEXIBILITY IN CONFIRMATION.**

2 Section 1129(e) of title 11, United States Code, is  
3 amended by striking “45 days” and inserting “90 days”.

4 **SEC. 3. CLARITY IN PERIODIC REPORTING REQUIREMENTS.**

5 Section 308(b) of title 11, United States Code, is  
6 amended—

7 (1) in paragraph (4), by adding “and” at the  
8 end;

9 (2) in paragraph (5), by striking “; and” at the  
10 end and inserting a period; and

11 (3) by striking paragraph (6).

12 **SEC. 4. RETAINING PROFESSIONAL SERVICES.**

13 (a) IN GENERAL.—Section 327 of title 11, United  
14 States Code, is amended by adding at the end the fol-  
15 lowing:

16 “(g) Notwithstanding subsection (a), a person is not  
17 disqualified for employment under this section by a small  
18 business debtor solely because such person holds a claim  
19 of less than \$5,000 that arose prior to the date of com-  
20 mencement of the case.”.

21 (b) ADJUSTMENTS TO DOLLAR AMOUNT.—Section  
22 104 of title 11, United States Code, is amended by insert-  
23 ing “327(g),” after “303(b),”.

24 **SEC. 5. ENFORCEMENT OF SMALL BUSINESS SELECTION.**

25 Section 1112(b)(4) of title 11, United States Code,  
26 is amended—

1           (1) by redesignating subparagraphs (O) and  
2           (P) as subparagraphs (P) and (Q), respectively; and

3           (2) by inserting after subparagraph (N) the fol-  
4           lowing:

5                     “(O) failure of a small business debtor to  
6                     designate itself as a small business debtor;”.

7   **SEC. 6. REPORT.**

8           Not later than 12 months after the date of enactment  
9           of this Act, the Comptroller General of the United States,  
10          in consultation with the Administrative Office of United  
11          States Courts and the Executive Office of United States  
12          Trustees, shall submit a report to Congress detailing—

13                   (1) the number and percentage of all cases filed  
14                   under chapter 11 of title 11, United States Code, in  
15                   which the debtor is a small business debtor, as that  
16                   term is defined in section 101(51D) of title 11,  
17                   United States Code;

18                   (2) the number of cases and rates of confirma-  
19                   tions for small business debtors in cases filed under  
20                   chapter 11 of title 11, United States Code, as com-  
21                   pared with—

22                             (A) all debtors in cases filed under that  
23                             chapter 11;

24                             (B) all debtors in cases filed under that  
25                             chapter 11 that are not small business debtors;

1 (C) debtors in cases filed under that chap-  
2 ter 11 that—

3 (i) are not small business debtors; and

4 (ii) have less than \$5,000,000 in debt;

5 (D) debtors in cases filed under that chap-  
6 ter 11 that—

7 (i) are not small business debtors; and

8 (ii) have less than \$10,000,000 in  
9 debt;

10 (E) debtors in cases filed under chapter 12  
11 of title 11, United States Code; and

12 (F) debtors in cases filed under that chap-  
13 ter 13 that are business cases;

14 (3) the number of cases filed under chapter 11  
15 of title 11, United States Code, in which the debtor  
16 has less than \$2,190,000 in debt outstanding, but  
17 does not designate itself a small business debtor;

18 (4) recommendations for improving the con-  
19 firmation rate for small business debtors; and

20 (5) an analysis on whether the definition of the  
21 term “small business debtor” should be amended to  
22 include businesses with—

23 (A) less than \$5,000,000 in debt; and

24 (B) less than \$10,000,000 in debt.



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