

In the Senate of the United States,

September 27, 2017.

Resolved, That the bill from the House of Representatives (H.R. 2266) entitled “An Act to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges; and for other purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Bankruptcy Judgeship*
3 *Act of 2017”.*

4 ***SEC. 2. EXTENSION OF TEMPORARY OFFICE OF BANK-***
5 ***RUPTCY JUDGES IN CERTAIN JUDICIAL DIS-***
6 ***TRICTS.***

7 *(a) TEMPORARY OFFICE OF BANKRUPTCY JUDGES AU-*
8 *THORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF*
9 *2005.—*

(1) *EXTENSIONS.*—*The temporary office of bankruptcy judges authorized for the following districts by subsection (b) of the Bankruptcy Judgeship Act of 2005 (28 U.S.C. 152 note) are extended until the applicable vacancy specified in paragraph (2) in the office of a bankruptcy judge for the respective district occurs:*

(A) *The district of Delaware.*

(B) *The southern district of Florida.*

(C) *The district of Maryland.*

(D) *The eastern district of Michigan.*

(E) *The district of Nevada.*

(F) *The eastern district of North Carolina.*

(G) *The district of Puerto Rico.*

(H) *The eastern district of Virginia.*

(2) *VACANCIES.*—

(A) *SINGLE VACANCIES.*—*Except as provided in subparagraphs (B), (C), and (D), the 1st vacancy in the office of a bankruptcy judge for each district specified in paragraph (1)—*

- (i) *occurring more than 5 years after the date of the enactment of this Act, and*
- (ii) *resulting from the death, retirement, resignation, or removal of a bankruptcy judge,*

1 *shall not be filled.*

2 (B) *DISTRICT OF DELAWARE.—The 1st, 2d,*
 3 *3d, and 4th vacancies in the office of a bank-*
 4 *ruptcy judge for the district of Delaware—*

5 (i) *occurring 5 years or more after the*
 6 *date of the enactment of this Act, and*

7 (ii) *resulting from the death, retire-*
 8 *ment, resignation, or removal of a bank-*
 9 *ruptcy judge,*

10 *shall not be filled.*

11 (C) *DISTRICT OF MARYLAND.—*

12 (i) *The 1st vacancy in the office of a*
 13 *bankruptcy judge for the district of Mary-*
 14 *land—*

15 (I) *occurring more than 5 years*
 16 *after the date of the enactment of this*
 17 *Act, and*

18 (II) *resulting from the death, re-*
 19 *tirement, resignation, or removal of a*
 20 *bankruptcy judge,*

21 *shall not be filled.*

22 (ii) *The 2d and 3d vacancies in the of-*
 23 *fice of a bankruptcy judge for the district of*
 24 *Maryland resulting from the death, retire-*

1 *ment, resignation, or removal of a bank-*
 2 *ruptcy judge, shall not be filled.*

3 *(D) SOUTHERN DISTRICT OF FLORIDA.—*

4 *The 1st and 2d vacancies in the office of a bank-*
 5 *ruptcy judge for the southern district of Flor-*
 6 *ida—*

7 *(i) occurring more than 5 years after*
 8 *the date of the enactment of this Act, and*

9 *(ii) resulting from the death, retire-*
 10 *ment, resignation, or removal of a bank-*
 11 *ruptcy judge,*
 12 *shall not be filled.*

13 *(3) APPLICABILITY OF PROVISIONS.—Except as*
 14 *provided in paragraphs (1) and (2), all other provi-*
 15 *sions of subsection (b) of the Bankruptcy Judgeship*
 16 *Act of 2005 (28 U.S.C. 152 note) and section 2 of the*
 17 *Temporary Bankruptcy Judgeships Extension Act of*
 18 *2012 (28 U.S.C. 152 note) remain applicable to the*
 19 *temporary office of bankruptcy judges referred to in*
 20 *paragraph (1).*

21 *(b) TEMPORARY OFFICE OF BANKRUPTCY JUDGES EX-*
 22 *TENDED BY THE BANKRUPTCY JUDGESHIP ACT OF 2005*
 23 *AND THE TEMPORARY BANKRUPTCY JUDGESHIPS EXTEN-*
 24 *SION ACT OF 2012.—*

(1) *EXTENSIONS.*—*The temporary office of bankruptcy judges authorized by section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) and extended by subsection (c) of the Bankruptcy Judgeship Act of 2005 (28 U.S.C. 152 note) and further extended by section 2 of the Temporary Bankruptcy Judgeships Extension Act of 2012 (28 U.S.C. 152 note) for the district of Delaware and the district of Puerto Rico are extended until the applicable vacancy specified in paragraph (2) in the office of a bankruptcy judge for the respective district occurs.*

(2) *VACANCIES.*—

(A) *DISTRICT OF DELAWARE.*—*The 5th vacancy in the office of a bankruptcy judge for the district of Delaware—*

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(B) *DISTRICT OF PUERTO RICO.*—*The 2d vacancy in the office of a bankruptcy judge for the district of Puerto Rico—*

1 (i) occurring more than 5 years after
 2 the date of the enactment of this Act, and
 3 (ii) resulting from the death, retire-
 4 ment, resignation, or removal of a bank-
 5 ruptcy judge,
 6 shall not be filled.

7 (3) *APPLICABILITY OF OTHER PROVISIONS.*—*Ex-*
 8 cept as provided in paragraphs (1) and (2), all other
 9 provisions of section 3 of the Bankruptcy Judgeship
 10 Act of 1992 (28 U.S.C. 152 note), subsection (c) of the
 11 Bankruptcy Judgeship Act of 2005 (28 U.S.C. 152
 12 note), and section 2 of the Temporary Bankruptcy
 13 Judgeships Extension Act of 2012 (28 U.S.C. 152
 14 note) remain applicable to the temporary office of
 15 bankruptcy judges referred to in paragraph (1).

16 **SEC. 3. TEMPORARY OFFICE OF BANKRUPTCY JUDGE AU-**
 17 **THORIZED.**

18 (a) *APPOINTMENTS.*—*The following bankruptcy judges*
 19 *shall be appointed in the manner prescribed in section*
 20 *152(a)(1) of title 28, United States Code, for the appoint-*
 21 *ment of bankruptcy judges provided for in section 152(a)(2)*
 22 *of that title:*

23 (1) *Two additional bankruptcy judges for the*
 24 *district of Delaware.*

1 (2) *One additional bankruptcy judge of the mid-*
 2 *dle district of Florida.*

3 (3) *One additional bankruptcy judge for the east-*
 4 *ern district of Michigan.*

5 (b) *VACANCIES.—*

6 (1) *DISTRICT OF DELAWARE.—The 6th and 7th*
 7 *vacancies in the office of a bankruptcy judge for the*
 8 *district of Delaware—*

9 (A) *occurring 5 years or more after the ap-*
 10 *pointment date of the bankruptcy judge ap-*
 11 *pointed under paragraph (1) to such office, and*

12 (B) *resulting from the death, retirement,*
 13 *resignation, or removal of a bankruptcy judge,*
 14 *shall not be filled.*

15 (2) *MIDDLE DISTRICT OF FLORIDA.—The 1st va-*
 16 *cancy in the office of a bankruptcy judge for the mid-*
 17 *dle district of Florida—*

18 (A) *occurring 5 years or more after the ap-*
 19 *pointment date of the bankruptcy judge ap-*
 20 *pointed under paragraph (1) to such office, and*

21 (B) *resulting from the death, retirement,*
 22 *resignation, or removal of a bankruptcy judge,*
 23 *shall not be filled.*

(3) *EASTERN DISTRICT OF MICHIGAN.*—*The 2d vacancy in the office of a bankruptcy judge for the eastern district of Michigan—*

(A) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office, and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

SEC. 4. BANKRUPTCY FEES.

(a) *AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE.*—*Section 1930(a)(6) of title 28, United States Code, is amended—*

(1) by striking “(6) In” and inserting “(6)(A) Except as provided in subparagraph (B), in”; and

(2) by adding at the end the following:

“(B) During each of fiscal years 2018 through 2022, if the balance in the United States Trustee System Fund as of September 30 of the most recent full fiscal year is less than \$200,000,000, the quarterly fee payable for a quarter in which disbursements equal or exceed \$1,000,000 shall be the lesser of 1 percent of such disbursements or \$250,000.”.

(b) *DEPOSITS OF CERTAIN FEES FOR FISCAL YEARS 2018 THROUGH 2022.*—*Notwithstanding section 589a(b) of*

1 *title 28, United States Code, for each of fiscal years 2018*
 2 *through 2022—*

3 *(1) 98 percent of the fees collected under section*
 4 *1930(a)(6) of such title shall be deposited as offsetting*
 5 *collections to the appropriation “United States Trust-*
 6 *ee System Fund”, to remain available until expended;*
 7 *and*

8 *(2) 2 percent of the fees collected under section*
 9 *1930(a)(6) of such title shall be deposited in the gen-*
 10 *eral fund of the Treasury.*

11 *(c) APPLICATION OF AMENDMENTS.—The amendments*
 12 *made by this section shall apply to quarterly fees payable*
 13 *under section 1930(a)(6) of title 28, United States Code,*
 14 *as amended by this section, for disbursements made in any*
 15 *calendar quarter that begins on or after the date of enact-*
 16 *ment of this Act.*

17 **SEC. 5. CLARIFICATION OF RULE ALLOWING DISCHARGE TO**
 18 **GOVERNMENTAL CLAIMS ARISING FROM THE**
 19 **DISPOSITION OF FARM ASSETS UNDER CHAP-**
 20 **TER 12 BANKRUPTCIES.**

21 *(a) IN GENERAL.—Subchapter II of chapter 12 of title*
 22 *11, United States Code, is amended by adding at the end*
 23 *the following:*

1 **“§ 1232. Claim by a governmental unit based on the**
 2 **disposition of property used in a farming**
 3 **operation**

4 “(a) *Any unsecured claim of a governmental unit*
 5 *against the debtor or the estate that arises before the filing*
 6 *of the petition, or that arises after the filing of the petition*
 7 *and before the debtor’s discharge under section 1228, as a*
 8 *result of the sale, transfer, exchange, or other disposition*
 9 *of any property used in the debtor’s farming operation—*

10 “(1) *shall be treated as an unsecured claim aris-*
 11 *ing before the date on which the petition is filed;*

12 “(2) *shall not be entitled to priority under sec-*
 13 *tion 507;*

14 “(3) *shall be provided for under a plan; and*

15 “(4) *shall be discharged in accordance with sec-*
 16 *tion 1228.*

17 “(b) *For purposes of applying sections 1225(a)(4),*
 18 *1228(b)(2), and 1229(b)(1) to a claim described in sub-*
 19 *section (a) of this section, the amount that would be paid*
 20 *on such claim if the estate of the debtor were liquidated*
 21 *in a case under chapter 7 of this title shall be the amount*
 22 *that would be paid by the estate in a chapter 7 case if the*
 23 *claim were an unsecured claim arising before the date on*
 24 *which the petition was filed and were not entitled to pri-*
 25 *ority under section 507.*

1 “(c) For purposes of applying sections 523(a),
 2 1228(a)(2), and 1228(c)(2) to a claim described in sub-
 3 section (a) of this section, the claim shall not be treated
 4 as a claim of a kind specified in subparagraph (A) or (B)
 5 of section 523(a)(1).

6 “(d)(1) A governmental unit may file a proof of claim
 7 for a claim described in subsection (a) that arises after the
 8 date on which the petition is filed.

9 “(2) If a debtor files a tax return after the filing of
 10 the petition for a period in which a claim described in sub-
 11 section (a) arises, and the claim relates to the tax return,
 12 the debtor shall serve notice of the claim on the govern-
 13 mental unit charged with the responsibility for the collec-
 14 tion of the tax at the address and in the manner designated
 15 in section 505(b)(1). Notice under this paragraph shall state
 16 that the debtor has filed a petition under this chapter, state
 17 the name and location of the court in which the case under
 18 this chapter is pending, state the amount of the claim, and
 19 include a copy of the filed tax return and documentation
 20 supporting the calculation of the claim.

21 “(3) If notice of a claim has been served on the govern-
 22 mental unit in accordance with paragraph (2), the govern-
 23 mental unit may file a proof of claim not later than 180
 24 days after the date on which such notice was served. If the
 25 governmental unit has not filed a timely proof of the claim,

1 the debtor or trustee may file proof of the claim that is con-
 2 sistent with the notice served under paragraph (2). If a
 3 proof of claim is filed by the debtor or trustee under this
 4 paragraph, the governmental unit may not amend the proof
 5 of claim.

6 “(4) A claim filed under this subsection shall be deter-
 7 mined and shall be allowed under subsection (a), (b), or
 8 (c) of section 502, or disallowed under subsection (d) or (e)
 9 of section 502, in the same manner as if the claim had aris-
 10 en immediately before the date of the filing of the petition.”.

11 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

12 (1) *IN GENERAL.*—Subchapter II of chapter 12 of
 13 title 11, United States Code, is amended—

14 (A) in section 1222(a)—

15 (i) in paragraph (2), by striking “un-
 16 less—” and all that follows through “the
 17 holder” and inserting “unless the holder”;

18 (ii) in paragraph (3), by striking
 19 “and” at the end;

20 (iii) in paragraph (4), by striking the
 21 period at the end and inserting “; and”;
 22 and

23 (iv) by adding at the end the following:

1 “(5) subject to section 1232, provide for the treat-
 2 ment of any claim by a governmental unit of a kind
 3 described in section 1232(a).”;

4 (B) in section 1228—

5 (i) in subsection (a)—

6 (I) in the matter preceding para-
 7 graph (1)—

8 (aa) by inserting a comma
 9 after “all debts provided for by the
 10 plan”; and

11 (bb) by inserting a comma
 12 after “allowed under section 503
 13 of this title”; and

14 (II) in paragraph (2), by striking
 15 “the kind” and all that follows and in-
 16 serting “a kind specified in section
 17 523(a) of this title, except as provided
 18 in section 1232(c).”; and

19 (ii) in subsection (c)(2), by inserting “,
 20 except as provided in section 1232(c)” be-
 21 fore the period at the end; and

22 (C) in section 1229(a)—

23 (i) in paragraph (2), by striking “or”
 24 at the end;

1 (ii) in paragraph (3), by striking the
 2 period at the end and inserting “; or”; and
 3 (iii) by adding at the end the fol-
 4 lowing:

5 “(4) provide for the payment of a claim de-
 6 scribed in section 1232(a) that arose after the date on
 7 which the petition was filed.”.

8 (2) *TABLE OF SECTIONS.*—The table of sections
 9 for subchapter II of chapter 12 of title 11, United
 10 States Code, is amended by adding at the end the fol-
 11 lowing:

“1232. Claim by a governmental unit based on the disposition of property used
 in a farming operation.”.

12 (c) *EFFECTIVE DATE.*—The amendments made by this
 13 section shall apply to—

14 (1) any bankruptcy case—

15 (A) that is pending on the date of enact-
 16 ment of this Act;

17 (B) in which the plan under chapter 12 of
 18 title 11, United States Code, has not been con-
 19 firmed on the date of enactment of this Act; and

20 (C) relating to which an order of discharge
 21 under section 1228 of title 11, United States
 22 Code, has not been entered; and

- 1 (2) *any bankruptcy case that commences on or*
- 2 *after the date of enactment of this Act.*

Attest:

Secretary.

115TH CONGRESS
1ST SESSION

H.R. 2266

AMENDMENT