

pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

“(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

“(B) meet the standards of the American Correctional Association;

“(C) comply with all applicable State and local laws and regulations;

“(D) have approved fire, security, escape, and riot plans; and

“(E) comply with any other regulations that the Marshals Service deems appropriate.

“(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).”.

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Gun-Free School
Zones Act of
1990.
18 USC 921 note.

SEC. 1702. GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the “Gun-Free School Zones Act of 1990”.

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:
“(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

“(B) Subparagraph (A) shall not apply to the possession of a firearm—

“(i) on private property not part of school grounds;

“(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

“(iii) which is—

“(I) not loaded; and

“(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

“(iv) by an individual for use in a program approved by a school in the school zone;

“(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

“(vi) by a law enforcement officer acting in his or her official capacity; or

“(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

“(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

“(B) Subparagraph (A) shall not apply to the discharge of a firearm—

“(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection."

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code."

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(q) shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor."

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act.

18 USC 921 note.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.

18 USC 922 note.

SEC. 1703. REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.

(a) REPORT.—Not less than six months after the date of enactment of this Act, the United States Sentencing Commission shall transmit to the respective Judiciary Committees of the Senate and House of Representatives a report on mandatory minimum sentencing provisions in Federal law.

(b) COMPONENTS OF REPORT.—The report mandated by subsection (a) shall include:

(1) a compilation of all mandatory minimum sentencing provisions in Federal law;

(2) an assessment of the effect of mandatory minimum sentencing provisions on the goal of eliminating unwarranted sentencing disparity;

(3) a projection of the impact of mandatory minimum sentencing provisions on the Federal prison population;

(4) an assessment of the compatibility of mandatory minimum sentencing provisions and the sentencing guidelines system established by the Sentencing Reform Act of 1984;

(5) a description of the interaction between mandatory minimum sentencing provisions and plea agreements;

(6) a detailed empirical research study of the effect of mandatory minimum penalties in the Federal system;

(7) a discussion of mechanisms other than mandatory minimum sentencing laws by which Congress can express itself with respect to sentencing policy, such as:

(A) specific statutory instructions to the Sentencing Commission;

(B) general statutory instructions to the Sentencing Commission;

(C) increasing or decreasing the maximum sentence authorized for particular crimes;

(D) Sense of Congress resolutions; and

(8) any other information that the Commission would contribute to a thorough assessment of mandatory minimum sentencing provisions.

(c) AMENDMENT OF REPORT.—The Commission may amend or update the report mandated by subsection (a) at any time after its transmittal.

45 USC 446.

SEC. 1704. RAILROAD POLICE OFFICERS.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

TITLE XVIII—CORRECTIONAL OPTIONS INCENTIVES AMENDMENTS

SEC. 1801. CORRECTIONAL OPTIONS GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subpart 2 of part E of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3760 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 the following:

“CHAPTER A—GRANTS TO PUBLIC AND PRIVATE ENTITIES”.

- (2) in section 510 by striking “subpart” each place it appears and inserting “chapter”, 42 USC 3760.
- (3) in section 511— 42 USC 3761.
 - (A) in the heading by striking “DISCRETIONARY”, and
 - (B) by inserting “(other than chapter B of this subpart)” after “this part”,
- (4) in section 513— 42 USC 3763.
 - (A) in subsection (a)(1) by inserting “or 515” after “511”, and
 - (B) in subsection (b) by inserting “applicable” after “all the” each place it appears,
- (5) in section 514(2) by striking “public agency or private nonprofit organization within which the program or project has been conducted” and inserting “applicant that conducts such program or project”, 42 USC 3764.
- (6) by redesignating sections 513 and 514 as sections 517 and 518, respectively, and
- (7) by inserting after section 512 the following:

“CHAPTER B—GRANTS TO PUBLIC AGENCIES

“CORRECTIONAL OPTIONS GRANTS

“Sec. 515. (a) The Director, in consultation with the Director of the National Institute of Corrections, may make— 42 USC 3762a.

“(1) 4 grants in each fiscal year, in various geographical areas throughout the United States, to public agencies for correctional options (including the cost of construction) that provide alternatives to traditional modes of incarceration and offender release programs—

“(A) to provide more appropriate intervention for youthful offenders who are not career criminals, but who, without such intervention, are likely to become career criminals or more serious offenders;

Juvenile delinquency.

“(B) to provide a degree of security and discipline appropriate for the offender involved;

“(C) to provide diagnosis, and treatment and services (including counseling, substance abuse treatment, education, job training and placement assistance while under correctional supervision, and linkage to similar outside services), to increase the success rate of offenders who decide to pursue a course of lawful and productive conduct after release from legal restraint;

“(D) to reduce criminal recidivism by offenders who receive punishment through such alternatives;

“(E) to reduce the cost of correctional services and facilities by reducing criminal recidivism; and

“(F) to provide work that promotes development of industrial and service skills in connection with a correctional option;

“(2) grants to private nonprofit organizations—

“(A) for any of the purposes specified in subparagraphs (A) through (F) of paragraph (1);

"(B) to undertake educational and training programs for criminal justice personnel;

"(C) to provide technical assistance to States and local units of government; and

"(D) to carry out demonstration projects which, in view of previous research or experience, are likely to be a success in more than one jurisdiction;

in connection with a correctional option (excluding the cost of construction); and

"(3) grants to public agencies to establish, operate, and support boot camp prisons.

"(b) The selection of applicants to receive grants under subsection (a)(1) and (2) shall be based on their potential for developing or testing various innovative alternatives to traditional modes of incarceration and offender release programs. In selecting the applicants to receive grants under subsection (a)(3), the Director shall—

"(1) consider the overall quality of an applicant's shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling literacy education, vocational education, and job training programs during incarceration or after release; and

"(2) give priority to States that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

"(c) The Director shall consult with the Commission on Alternative Utilization of Military Facilities created by Public Law 100-456 in order to identify military facilities that may be used as sites for correctional programs receiving assistance under this chapter.

"ALLOCATION OF FUNDS; ADMINISTRATIVE PROVISIONS

42 USC 3762b.

"SEC. 516. (a) Of the total amount appropriated for this chapter in any fiscal year, 80 percent shall be used to make grants under section 515(a)(1), 10 percent for section 515(a)(2), and 10 percent for section 515(a)(3).

"(b) A grant made under section 515(a)(1) or (a)(3) may be made for an amount up to 75 percent of the cost of the correctional option contained in the approved application.

"(c) The Director shall—

Regulations.

"(1) not later than 90 days after funds are first appropriated to carry out this chapter, issue rules to carry out this chapter; and

"(2) not later than 180 days after funds are first appropriated to carry out this chapter—

Reports.

"(A) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing such rules; and

"(B) request applications for grants under this chapter.

"CHAPTER C—GENERAL REQUIREMENTS".

(b) EVALUATION.—Section 520(a)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766(a)(2)) is amended by striking "section 511" and inserting "sections 511 and 515".

(c) **DEFINITION.**—Section 901(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

- (1) in paragraph (20) by striking “and” at the end,
- (2) in paragraph (21) by striking the period at the end, and
- (3) by adding at the end the following:

“(22) ‘correctional option’ includes community-based incarceration, weekend incarceration, boot camp prison, electronic monitoring of offenders, intensive probation, and any other innovative punishment designed to have the greatest impact on offenders who can be punished more effectively in an environment other than a traditional correctional facility; and

“(23) ‘boot camp prison’ includes a correctional facility in which inmates are required to participate in a highly regimented program that provides strict discipline, physical training, and hard labor, together with extensive rehabilitative activities and with educational, job training, and drug treatment support.”.

(d) **TECHNICAL AMENDMENTS.**—The table of contents of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

- (1) by inserting after the heading relating to subpart 2 of part E the following:

“Chapter A—Grants to Public and Private Entities”,

- (2) in the item relating to section 511 by striking “discretionary”, and

- (3) by striking the items relating to sections 513 and 514, and inserting the following:

“CHAPTER B—GRANTS TO PUBLIC AGENCIES

“Sec. 515. Correctional options grants.

“Sec. 516. Allocation of funds; administrative provisions.

“CHAPTER C—GENERAL REQUIREMENTS

“Sec. 517. Application requirements.

“Sec. 518. Period of award.”.

(e) **CONFORMING AMENDMENTS.**—Section 1001(a) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by inserting after paragraph (5) the following:

“(6) There are authorized to be appropriated \$220,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out chapter B of subpart 2 of part E of this title.”.

Appropriation
authorization.

SEC. 1802. CONVEYANCE OF PROPERTY AND FACILITIES AT MILITARY INSTALLATIONS.

(a) **IN GENERAL.**—Chapter 159 of title 10, United States Code, is amended by adding at the end the following:

“§ 2693. Conveyance of certain property

“(a) Except as provided in subsection (b), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary shall—

- (1) provide adequate notification of the availability of such real property or facility within the Department of Defense;

"(2) if the real property or facility remains available after such notification, notify the Attorney General of its availability; and

"(3) if the Attorney General certifies that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, convey the real property or facility, without reimbursement, to the public agencies referred to in section 515(a)(1) or 515(a)(3) of title I of such Act for such utilization.

"(b) The provisions of this section shall not apply—

"(1) to real property and facilities to which title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is applicable; and

"(2) during any portion of a fiscal year after four conveyances have been made under this section in such fiscal year."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2693. Conveyance of certain property."

SEC. 1803. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

(a) AMENDMENT.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"IMPROVEMENT OF CRIMINAL JUSTICE RECORDS

42 USC 3759.

"SEC. 509. (a) Subject to subsection (d), each State which receives funds under section 506 in a fiscal year shall allocate not less than 5 percent of such funds to the improvement of criminal justice records.

"(b) The improvement referred to in subsection (a) shall include—

"(1) the completion of criminal histories to include the final dispositions of all arrests for felony offenses;

"(2) the full automation of all criminal justice histories and fingerprint records; and

"(3) the frequency and quality of criminal history reports to the Federal Bureau of Investigation.

"(c) The Director, in consultation with the Director of the Bureau of Justice Statistics, shall establish guidelines for the fulfillment of the requirements specified in subsections (a) and (b) of this section.

"(d) In accordance with such guidelines as the Director shall issue and on the request of a State, the Director may—

"(1) waive compliance with subsection (a) by such State; or

"(2) authorize such State to reduce the minimum amount such State is required to allocate under subsection (a);

if the Director, in the discretion of the Director, finds that the quality of the State's criminal justice records does not warrant expending the amount allocated under subsection (a)."

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 508 the following:

"Sec. 509. Improvement of criminal justice records."

Reports.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to any fiscal year beginning before the date of the enactment of this Act. 42 USC 3759 note.

SEC. 1804. TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNODEFICIENCY VIRUS.

Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a)(1) by striking “subsection (e)” and inserting “subsections (e) and (f)”,

(2) by redesignating subsection (f) as subsection (g), and

(3) by inserting after subsection (e) the following:

“(f)(1) For any fiscal year beginning more than 2 years after the effective date of this subsection—

“(A) 90 percent of the funds allocated under subsection (a), taking into consideration subsection (e) but without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

“(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

“(2) Paragraph (1)(A) refers to a State that does not have in effect, and does not enforce, in such fiscal year, a law that requires the State at the request of the victim of a sexual act—

“(A) to administer, to the defendant convicted under State law of such sexual act, a test to detect in such defendant the presence of the etiologic agent for acquired immune deficiency syndrome;

“(B) to disclose the results of such test to such defendant and to the victim of such sexual act; and

“(C) to provide to the victim of such sexual act counseling regarding HIV disease, HIV testing, in accordance with applicable law, and referral for appropriate health care and support services.

“(3) For purposes of this subsection—

“(A) the term ‘convicted’ includes adjudicated under juvenile proceedings; and

“(B) the term ‘sexual act’ has the meaning given such term in subparagraph (A) or (B) of section 2245(1) of title 18, United States Code.”.

TITLE XIX—ANABOLIC STEROIDS CONTROL ACT OF 1990

Anabolic
Steroids Control
Act of 1990.

SEC. 1901. SHORT TITLE.

This Act may be cited as the “Anabolic Steroids Control Act of 1990”. 21 USC 801 note.

SEC. 1902. ANABOLIC STEROID PENALTIES.

(a) ADDITION OF ANABOLIC STEROIDS TO SCHEDULE III.—Schedule III of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end the following:

“(e) Anabolic steroids.”.

(b) **DEFINITION OF ANABOLIC STEROID.**—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

“(41)(A) The term ‘anabolic steroid’ means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes—

- “(i) boldenone,
- “(ii) chlorotestosterone,
- “(iii) clostebol,
- “(iv) dehydrochlormethyltestosterone,
- “(v) dihydrotestosterone,
- “(vi) drostanolone,
- “(vii) ethylestrenol,
- “(viii) fluoxymesterone,
- “(ix) formebolone,
- “(x) mesterolone,
- “(xi) methandienone,
- “(xii) methandranone,
- “(xiii) methandriol,
- “(xiv) methandrostenolone,
- “(xv) methenolone,
- “(xvi) methyltestosterone,
- “(xvii) mibolerone,
- “(xviii) nandrolone,
- “(xix) norethandrolone,
- “(xx) oxandrolone,
- “(xxi) oxymesterone,
- “(xxii) oxymetholone,
- “(xxiii) stanolone,
- “(xxiv) stanozolol,
- “(xxv) testolactone,
- “(xxvi) testosterone,
- “(xxvii) trenbolone, and

“(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

“(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration.

“(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).”

21 USC 829 note.

(c) **EFFECT OF SCHEDULING ON PRESCRIPTIONS.**—Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

21 USC 802 note.

(d) **EFFECTIVE DATE.**—This section and the amendment made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 1903. REGULATIONS BY ATTORNEY GENERAL.

21 USC 802 note.

(a) **ABUSE POTENTIAL.**—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, may, by regulation, exempt any compound, mixture, or preparation containing a substance in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse.

(b) **DRUGS FOR TREATMENT OF RARE DISEASES.**—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse, the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) **DATE OF ISSUANCE OF REGULATIONS.**—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act, except that the regulations required under section 3(a) shall be issued not later than 180 days after the date of enactment of this Act.

SEC. 1904. AMENDMENT TO THE FOOD, DRUG, AND COSMETIC ACT.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

“(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition, where such use has been authorized by the Secretary of Health and Human Services under section 505 and pursuant to the order of a physician, is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

“(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

“(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

“(4) As used in this subsection the term ‘human growth hormone’ means somatrem, somatropin, or an analogue of either of them.

“(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.”

SEC. 1905. CONVICTION FOR VIOLATION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

Repeal.
21 USC 333a.

SEC. 1906. DEMONSTRATION PROGRAMS REGARDING ANABOLIC STEROIDS.

Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)) is amended—

(1) in paragraph (10)(B), by striking “and” after the semicolon at the end;

(2) in paragraph (11)(B), by striking the period at the end and inserting “; and”; and

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

“(12) develop and support innovative demonstration programs designed to identify and deter the improper use or abuse of anabolic steroids by students, especially students in secondary schools.”.

SEC. 1907. CLERICAL CORRECTION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting “(a)” before “It shall be unlawful” in the first undesignated paragraph.

TITLE XX—ASSET FORFEITURE

SEC. 2001. AMENDMENTS RELATING TO THE SPECIAL FORFEITURE FUND.

(a) **ASSETS FORFEITURE FUND AMENDMENT.**—Section 524(c)(9) of title 28, United States Code, is amended—

(1) in the first sentence, by striking out “(9) There” and inserting in lieu thereof “(9)(A) There”; and

(2) by striking out the second sentence and inserting in lieu thereof the following:

“(B) Subject to subparagraph (C), in each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may transfer from the Fund not more than \$150,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988. Such transfers shall be made at the end of each quarter of the fiscal year involved and on a quarterly pro rata basis.

“(C) Transfers under subparagraph (B) may be made only from excess unobligated amounts and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1).

“(D) At the end of each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may retain in the Fund not more than \$15,000,000, or, if determined by the Attorney General to be necessary for asset-specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in preceding fiscal year.”.

(b) **SPECIAL FORFEITURE FUND AMENDMENT.**—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

“(b) **DEPOSITS.**—Deposits in the Fund shall be made by transfer from the Department of Justice Assets Forfeiture Fund in the manner provided in section 524(c)(9) of title 28, United States Code.”.

SEC. 2002. CLARIFICATION OF ATTORNEY GENERAL'S AUTHORITY TO WARRANT CLEAR TITLE UPON TRANSFER OF FORFEITED PROPERTY.

Section 524(c) of title 28, United States Code, is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph:

"(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property."

SEC. 2003. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting after "sell" the following: ", by public sale or any other commercially feasible means,".

SEC. 2004. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting after "this title" each place it appears the following: "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products".

SEC. 2005. ADDITIONAL FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended to read as follows:

"(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to—

"(i) a civil or criminal forfeiture under the Controlled Substances Act or the Controlled Substances Import and Export Act;

"(ii) a criminal forfeiture under chapter 96 of title 18;

"(iii) a civil forfeiture under section 981 of title 18; or

"(iv) a criminal forfeiture under section 982 of title 18."

SEC. 2006. REPORT TO CONGRESS.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) in the matter before subparagraph (A), by striking out "two";

(2) by striking out "and" at the end of subparagraph (A);

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new subparagraph:

"(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Attorney General, in consultation with the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition)."

SEC. 2007. FORFEITURE OF DRUG PARAPHERNALIA.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(10) Any drug paraphernalia (as defined in section 1822 of the Mail Order Drug Paraphernalia Control Act)."

SEC. 2008. FORFEITURE OF A FIREARM USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

“(11) Any firearm (as defined in section 921 of title 18, United States Code) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.”

TITLE XXI—PERKINS GRANT EXPANSION**SEC. 2101. POLICE RECRUITMENT EDUCATION PROGRAM.**

(a) **AMENDMENT.**—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended—

(1) by striking “or” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting “; or”; and

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

“(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies.”

(b) **CONFORMING AMENDMENT.**—Section 465(a)(3)(i) of such Act (20 U.S.C. 1087ee(a)(3)(i)) is amended by striking “(A) or (C)” and inserting “(A), (C), or (F)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply only to loans made on or after the date of enactment of this Act under part E of title IV of the Higher Education Act of 1965.

20 USC 1087ee
note.

TITLE XXII—FIREARMS PROVISIONS**SEC. 2201. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NON-RESIDENTS.**

Section 922(a)(5) of title 18, United States Code, is amended by striking “resides” the first place such term appears and all that follows through “(or other than that in which its place of business is located if the transferor is a corporation or other business entity);” and inserting “does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;”.

SEC. 2202. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS

(a) **IN GENERAL.**—Section 922(j) of title 18, United States Code, is amended by striking “or which constitutes,” and inserting “which constitutes, or which has been shipped or transported in,”.

(b) **ALTERATION OF SERIAL NUMBER OF FIREARM.**—Section 922(k) of title 18, United States Code, is amended by inserting “or to possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce” after “altered”.

SEC. 2203. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO SECTION 923(d)(1)(B).—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking “(h)” and inserting “(n)”.

(b) AMENDMENT TO SECTION 925(a)(1).—Section 925(a)(1) of title 18, United States Code, is amended by inserting “possession,” before “or importation”.

(c) AMENDMENTS TO SECTION 925(c).—Section 925(c) of title 18, United States Code, is amended—

(1) by striking “conviction” the first and third places such term appears and inserting “disability”; and

(2) by striking “by reason of such a conviction”.

(d) AMENDMENTS TO SECTION 924(a).—Section 924(a) of title 18, United States Code, is amended by striking “, and shall become eligible for parole as the Parole Commission shall determine” each place such term appears. This amendment shall be effective with respect to any offense committed after November 1, 1987.

Effective date.
18 USC 924 note.

SEC. 2204. AMENDMENTS RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) SEMIAUTOMATIC RIFLE DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(28) The term ‘semiautomatic rifle’ means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.”.

(b) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

“(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

“(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

“(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary.”.

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking “or (k)” and inserting “(k), or (q)”.

SEC. 2205. PROHIBITION AGAINST POSSESSION OF FIREARMS IN FEDERAL COURT FACILITIES.

(a) PROHIBITION.—Section 930 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting “(other than a Federal court facility)” before the second comma;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

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

“(d)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

“(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (c).”;

(4) in subsection (f) (as so redesignated by paragraph (2) of this subsection), by adding at the end the following:

“(3) The term ‘Federal court facility’ means the courtroom, judges’ chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.”; and

(5) in subsection (g) (as so redesignated by paragraph (2) of this subsection)—

(A) by inserting “and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility,” after the first comma;

(B) by inserting “or (d)” before “with respect to”; and

(C) by inserting “or (d), as the case may be” before the period.

18 USC 930 note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to conduct engaged in after the date of the enactment of this Act.

TITLE XXIII—CHEMICAL DIVERSION AND TRAFFICKING

SEC. 2301. CHEMICAL DIVERSION AND TRAFFICKING.

(a) **NEW LISTED PRECURSOR CHEMICALS.**—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by adding at the end the following:

“(M) Methylamine.

“(N) Ethylamine.

“(O) D-lysergic acid.

“(P) Propionic anhydride.

“(Q) Insosafrole.

“(R) Safrole.

“(S) Piperonal.

“(T) N-Methylephedrine.

“(U) N-ethylephedrine.

“(V) N-methylpseudoephedrine.

“(W) N-ethylpseudoephedrine.

“(X) Hydriotic acid.

“(Y) Any salt, optical isomer, or salt of an optical isomer of the chemicals listed in subparagraphs (M) through (X) of this paragraph.”.

(b) **CONFORMING REPEAL.**—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by striking subparagraph (E).

TITLE XXIV—DRUG PARAPHERNALIA

SEC. 2401. DRUG PARAPHERNALIA.

(a) **IN GENERAL.**—The Controlled Substances Act is amended by adding at the end of part D the following:

"DRUG PARAPHERNALIA

"SEC. 422. (a) It is unlawful for any person—

21 USC 863.

"(1) to sell or offer for sale drug paraphernalia;

"(2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or

"(3) to import or export drug paraphernalia."

(b) **TRANSFER OF REMAINING EXISTING PROVISIONS RELATING TO DRUG PARAPHERNALIA.**—Subsections (b) through (f) of section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) are transferred to appear as subsections (b) through (f) of the section 422 added to the Controlled Substances Act by this section.

21 USC 857, 863.

(c) **TECHNICAL CORRECTIONS TO TRANSFERRED PROVISIONS.**—The provisions of law transferred by subsection (b) are amended—

21 USC 863.

(1) in subsection (b), by striking "not more than \$100,000" and inserting "under title 18, United States Code"; and

(2) in subsection (f), by striking "This subtitle" and inserting "This section".

(d) **CONFORMING REPEAL.**—Subtitle O of title I of the Anti-Drug Abuse Act of 1986 is repealed.

21 USC 801 note, 857 and note.

TITLE XXV—BANKING LAW ENFORCEMENT

Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990.

SEC. 2500. SHORT TITLE.

This title may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990".

18 USC 1001 note.

Subtitle A—Enhanced Criminal Penalties

SEC. 2501. CONCEALMENT OF ASSETS FROM FDIC, RTC, OR NCUA ESTABLISHED AS CRIMINAL OFFENSE.

(a) **IN GENERAL.**—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution

"Whoever—

"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13, of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

"(2) corruptly impedes or endeavors to impede the functions of such Corporation, Board, or conservator; or

"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation, Board, or conservator,

shall be fined under this title or imprisoned not more than 5 years, or both."

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution."

SEC. 2502. PROHIBITION ON CONTROL OF OR PARTICIPATION IN DEPOSITORY INSTITUTION BY CERTAIN CONVICTED PERSONS.

(a) **FDIC INSURED DEPOSITORY INSTITUTIONS.**—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended to read as follows:

"(a) **PROHIBITION.**—

"(1) **IN GENERAL.**—Except with the prior written consent of the Corporation—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured depository institution;

"(ii) own or control, directly or indirectly, any insured depository institution; or

"(iii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution; and

"(B) any insured depository institution may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) **MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.**—

"(A) **IN GENERAL.**—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, or 1956 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Corporation may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) **EXCEPTION BY ORDER OF SENTENCING COURT.**—

"(i) **IN GENERAL.**—On motion of the Corporation, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of

paragraph (1) to such person if granting the exception is in the interest of justice.

“(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.”.

SEC. 2503. CRIME OF OBSTRUCTING AN EXAMINER.

(a) **IN GENERAL.**—Chapter 73 of title 18, United States Code (relating to obstruction of justice) is amended by inserting after section 1516 the following new section:

“§ 1517. Obstructing examination of financial institution

“Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1516 the following new item:

“1517. Obstructing examination of financial institution.”.

SEC. 2504. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) **RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.**—Section 215(a) of title 18, United States Code, is amended by striking “20” and inserting “30”.

(b) **THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.**—Section 656 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(c) **LENDING, CREDIT, AND INSURANCE INSTITUTIONS.**—Section 657 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(d) **BANK ENTRIES, REPORTS, AND TRANSACTIONS.**—Section 1005 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(e) **FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.**—Section 1006 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(f) **FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.**—Section 1007 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(g) **FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.**—Section 1014 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(h) **FRAUDS AND SWINDLES AFFECTING FINANCIAL INSTITUTIONS.**—The last sentence of section 1341 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(i) **WIRE FRAUDS AFFECTING FINANCIAL INSTITUTIONS.**—The last sentence of section 1343 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(j) **BANK FRAUD.**—Section 1344 of title 18, United States Code, is amended by striking “20” and inserting “30”.

SEC. 2505. STATUTE OF LIMITATIONS FOR RICO OFFENSES INVOLVING FINANCIAL INSTITUTIONS.

(a) **IN GENERAL.**—Section 3293 of title 18, United States Code, is amended—

- (1) by striking “or” at the end of paragraph (1);
- (2) by inserting “or” at the end of paragraph (2); and
- (3) by inserting after paragraph (2) the following new paragraph:

“(3) section 1963, to the extent that the racketeering activity involves a violation of section 1344;”.

18 USC 3293
note.

(b) **SCOPE OF APPLICATION.**—The amendments made by subsection (a) shall apply to any offense committed before the date of the enactment of this section, if the statute of limitations applicable to that offense had not run as of such date.

SEC. 2506. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

- (1) by inserting “section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications), 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), ” after “section 875 (relating to interstate communications);”; and
- (2) by inserting “section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution,” after “section 1203 (relating to hostage taking);”.

18 USC 994 note.

SEC. 2507. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) **INCREASED PENALTIES.**—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code, or section 1341 or 1343 affecting a financial institution (as defined in section 20 of title 18, United States Code), shall be assigned not less than offense level 24 under chapter 2 of the sentencing guidelines if the defendant derives more than \$1,000,000 in gross receipts from the offense.

(b) **AMENDMENTS TO SENTENCING GUIDELINES.**—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

SEC. 2508. RESTORATION OF PROPERTY FOR VICTIMS OF BANK CRIMES.

Section 981(e) of title 18, United States Code, is amended—

- (1) by striking out “or” at the end of paragraph (4);
- (2) by striking the period at the end of paragraph (5) and inserting a semicolon; and
- (3) by adding after paragraph (5) the following new paragraph:

“(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or”.

SEC. 2509. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.

Section 3663(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

"(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement."

SEC. 2510. FINANCIAL CRIME KINGPIN STATUTE.

(a) **CONTINUING FINANCIAL CRIME ENTERPRISES.**—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Continuing financial crimes enterprise

Penalties.

"(a) Whoever—

"(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

"(2) receives \$5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be fined not more than \$10,000,000 if an individual, or \$20,000,000 if an organization, and imprisoned for a term of not less than 10 years and which may be life.

"(b) For purposes of subsection (a), the term 'continuing financial crimes enterprise' means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of this title, or section 1341 or 1343 affecting a financial institution, committed by at least 4 persons acting in concert."

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"225. Continuing financial crimes enterprise".

Subtitle B—Protecting Assets From Wrongful Disposition

SEC. 2521. INJUNCTIVE RELIEF; PREJUDGMENT ATTACHMENTS.

(a) **INJUNCTIVE RELIEF.**—

(1) **APPLICATION BY CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTIONS.**—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by inserting after paragraph (17) (as added by section 2511 of this title) the following new paragraphs:

"(18) **ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.**—Subject to paragraph (19), any court of competent jurisdiction may, at the request of—

"(A) the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13); or

“(B) any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation or such conservator under the control of the court and appointing a trustee to hold such assets.

“(19) STANDARDS.—

“(A) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (18) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

“(B) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation or a conservator pursuant to paragraph (18) may be requested under the laws of such State.”

(2) APPLICATION BY CONSERVATOR OR LIQUIDATING AGENT FOR INSURED CREDIT UNION.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (F) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraphs:

“(G) ATTACHMENT OF ASSETS AND INJUNCTIVE RELIEF.—Subject to subparagraph (H), any court of competent jurisdiction may, at the request of the Board (in the Board's capacity as conservator or liquidating agent for any insured credit union or in the Board's corporate capacity in the exercise of any authority under section 207), issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Board under the control of the court and appointing a trustee to hold such assets.

“(H) STANDARDS.—

“(i) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (G) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

“(ii) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by clause (i)), the relief sought by the Board pursuant to subparagraph (G) may be requested under the laws of such State.”

(b) PREJUDGMENT ATTACHMENTS.—

(1) APPROPRIATE FEDERAL BANKING AGENCIES.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end the following new paragraph:

“(4) PREJUDGMENT ATTACHMENT.—

“(A) IN GENERAL.—In any action brought by an appropriate Federal banking agency (excluding the Corporation

when acting in a manner described in section 11(d)(18) pursuant to this section, or in actions brought in aid of, or to enforce an order in, any administrative or other civil action for money damages, restitution, or civil money penalties brought by such agency, the court may, upon application of the agency, issue a restraining order that—

“(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

“(ii) appoints a temporary receiver to administer the restraining order.

“(B) STANDARD.—A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages, restitution, or civil money penalties, is sought by such agency, is appropriate.”.

(2) ATTORNEY GENERAL.—Section 1345 of title 18, United States Code, is amended—

(1) by striking the 1st sentence and inserting the following:

“(a)(1) If a person is—

“(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title; or

“(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title),

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

“(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

“(A) to enjoin such alienation or disposition of property; or

“(B) for a restraining order to—

“(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

“(ii) appoint a temporary receiver to administer such restraining order.

(3) A permanent or temporary injunction or restraining order shall be granted without bond.”; and

(2) by redesignating the material remaining in such section as subsection (b).

SEC. 2522. NONDISCHARGE OF DEBTS IN FEDERAL BANKRUPTCY INVOLVING OBLIGATIONS ARISING FROM A BREACH OF FIDUCIARY DUTY; DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a) by—

(A) striking “or” at the end of paragraph (9);

(B) striking the period at the end of paragraph (10) and inserting a semicolon; and

(C) adding at the end thereof the following new paragraphs:

"(11) provided in any final judgment, unreviewable order, or consent order or decree entered in any court of the United States or of any State, issued by a Federal depository institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union; or

"(12) for malicious or reckless failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution, except that this paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency;"; and

(2) by adding at the end thereof the following new subsections:

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a) (4) or (11)."; and

(3) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2) Paragraph (1) shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt described in subsection (a)(2), (a)(4), (a)(6), or (a)(11) owed to such institution by an institution-affiliated party unless the receiver, conservator, or liquidating agent was appointed in time to reasonably comply, or for a Federal depository institutions regulatory agency acting in its corporate capacity as a successor to such receiver, conservator, or liquidating agent to reasonably comply, with subsection (a)(3)(B) as a creditor of such institution-affiliated party with respect to such debt."

(b) EXCEPTION TO EXEMPTIONS.—Section 522(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end;

(2) in paragraph (2) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(3) a debt of a kind specified in section 523(a)(4) or 523(a)(6) of this title owed by an institution-affiliated party of an insured depository institution to a Federal depository institutions regulatory agency acting in its capacity as conservator, receiver, or liquidating agent for such institution."

(c) ASSUMPTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end thereof the following:

"(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed (consistent with the debtor's other obligations under section 507), and shall immediately cure any deficit under, any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or its predecessors or successors, to maintain the capital of an insured

depository institution, and any claim for a subsequent breach of the obligations thereunder shall be entitled to priority under section 507. This subsection shall not extend any commitment that would otherwise be terminated by any act of such an agency.”.

(d) **COMMITMENTS TO MAINTAIN THE CAPITAL OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS.**—Section 507(a) of title 11, United States Code, is amended by adding at the end the following new paragraph:

“(8) Eighth, allowed unsecured claims based upon any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution.”.

(e) **DEFINITIONS.**—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (32) through (53) as paragraphs (36) through (57), respectively;

(2) by inserting before paragraph (36), as so redesignated, the following:

“(33) ‘institution-affiliated party’—

“(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

“(B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r));

“(34) ‘insured credit union’ has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

“(35) ‘insured depository institution’—

“(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

“(B) includes an insured credit union (except in the case of paragraphs (3) and (33)(A) of this subsection);”;

(3) by redesignating paragraphs (3) through (31) as paragraphs (4) through (32), respectively; and

(4) by inserting after paragraph (2) the following:

“(3) ‘Federal depository institutions regulatory agency’ means—

“(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act);

“(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

“(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

“(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been

appointed conservator or receiver, the Federal Deposit Insurance Corporation;”.

SEC. 2523. REGULATION OF GOLDEN PARACHUTES AND OTHER BENEFITS WHICH ARE SUBJECT TO MISUSE.

(a) **FDIC INSURED DEPOSITORY INSTITUTIONS.**—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

“(k) **AUTHORITY TO REGULATE OR PROHIBIT CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.**—

“(1) **GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.**—The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

“(2) **FACTORS TO BE TAKEN INTO ACCOUNT.**—The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action pursuant to paragraph (1) which may include such factors as the following:

“(A) Whether there is a reasonable basis to believe that the institution-affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the depository institution or depository institution holding company that has had a material effect on the financial condition of the institution.

“(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for the insolvency of the depository institution or depository institution holding company, the appointment of a conservator or receiver for the depository institution, or the depository institution’s troubled condition (as defined in the regulations prescribed pursuant to section 32(f)).

“(C) Whether there is a reasonable basis to believe that the institution-affiliated party has materially violated any applicable Federal or State banking law or regulation that has had a material effect on the financial condition of the institution.

“(D) Whether there is a reasonable basis to believe that the institution-affiliated party has violated or conspired to violate—

“(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code; or

“(ii) section 1341 or 1343 of such title affecting a federally insured financial institution.

“(E) Whether the institution-affiliated party was in a position of managerial or fiduciary responsibility.

“(F) The length of time the party was affiliated with the insured depository institution or depository institution holding company and the degree to which—

“(i) the payment reasonably reflects compensation earned over the period of employment; and

“(ii) the compensation involved represents a reasonable payment for services rendered.

“(3) **CERTAIN PAYMENTS PROHIBITED.**—No insured depository institution or depository institution holding company may prepay the salary or any liability or legal expense of any institution-affiliated party if such payment is made—

"(A) in contemplation of the insolvency of such institution or holding company or after the commission of an act of insolvency; and

"(B) with a view to, or has the result of—

"(i) preventing the proper application of the assets of the institution to creditors; or

"(ii) preferring one creditor over another.

"(4) GOLDEN PARACHUTE PAYMENT DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'golden parachute payment' means any payment (or any agreement to make any payment) in the nature of compensation by any insured depository institution or depository institution holding company for the benefit of any institution-affiliated party pursuant to an obligation of such institution or holding company that—

"(i) is contingent on the termination of such party's affiliation with the institution or holding company; and

"(ii) is received on or after the date on which—

"(I) the insured depository institution or depository institution holding company, or any insured depository institution subsidiary of such holding company, is insolvent;

"(II) any conservator or receiver is appointed for such institution; or

"(III) the institution's appropriate Federal banking agency determines that the insured depository institution is in a troubled condition (as defined in the regulations prescribed pursuant to section 32(f));

"(IV) the insured depository institution has been assigned a composite rating by the appropriate Federal banking agency or the Corporation of 4 or 5 under the Uniform Financial Institutions Rating System; or

"(V) the insured depository institution is subject to a proceeding initiated by the Corporation to terminate or suspend deposit insurance for such institution.

"(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

"(C) CERTAIN PAYMENTS NOT INCLUDED.—The term 'golden parachute payment' shall not include—

"(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory benefit plan;

"(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Board determines, by regulation or order, to be permissible; or

"(iii) any payment made by reason of the death or disability of an institution-affiliated party.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term 'indemnification payment' means any payment (or any agreement to make any payment) by any insured depository institution or depository institution holding company for the benefit of any person who is or was an institution-affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the appropriate Federal banking agency which results in a final order under which such person—

"(i) is assessed a civil money penalty;

"(ii) is removed or prohibited from participating in conduct of the affairs of the insured depository institution; or

"(iii) is required to take any affirmative action described in section 8(b)(6) with respect to such institution.

"(B) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(C) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

"(I) the determination, after such date, of the liability for the payment of such amount; or

"(II) the liquidation, after such date, of the amount of such payment.

"(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any insured depository institution or depository institution holding company from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the institution or holding company which is described in paragraph (5)(A)."

(b) NCUA INSURED CREDIT UNIONS DEPOSITORY INSTITUTIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) REGULATION OF CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—

"(1) **GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.**—The Board may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

"(2) **FACTORS TO BE TAKEN INTO ACCOUNT.**—The Board shall prescribe, by regulation, the factors to be considered by the Board in taking any action pursuant to paragraph (1) which may include such factors as the following:

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"(A) Whether there is a reasonable basis to believe that the institution-affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the credit union that has had a material affect on the financial condition of the credit union.

"(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for the insolvency of the credit union, the appointment of a conservator or liquidating agent for the credit union, or the credit union's troubled condition (as defined in prescribed by the Board pursuant to paragraph (4)(A)(ii)(III)).

"(C) Whether there is a reasonable basis to believe that the institution-affiliated party has materially violated any applicable Federal or State banking law or regulation that has had a material affect on the financial condition of the credit union.

"(D) Whether there is a reasonable basis to believe that the institution-affiliated party has violated or conspired to violate—

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code; or

"(ii) section 1341 or 1343 of such title affecting a financial institution.

"(E) Whether the institution-affiliated party was in a position of managerial or fiduciary responsibility.

"(F) The length of time the party was affiliated with the credit union and the degree to which—

"(i) the payment reasonably reflects compensation earned over the period of employment; and

"(ii) the compensation involved represents a reasonable payment for services rendered.

"(3) **CERTAIN PAYMENTS PROHIBITED.**—No credit union may prepay the salary or any liability or legal expense of any institution-affiliated party if such payment is made—

"(A) in contemplation of the insolvency of such credit union or after the commission of an act of insolvency; and

"(B) with a view to, or has the result of—

"(i) preventing the proper application of the assets of the credit union; or

"(ii) preferring one creditor over another.

"(4) **GOLDEN PARACHUTE PAYMENT DEFINED.**—For purposes of this subsection—

"(A) **IN GENERAL.**—The term 'golden parachute payment' means any payment (or any agreement to make any payment) in the nature of compensation by any credit union for the benefit of any institution-affiliated party pursuant to an obligation of such credit union that—

"(i) is contingent on the termination of such party's affiliation with the credit union; and

"(ii) is received on or after the date on which—

"(I) the credit union is insolvent;

"(II) any conservator or liquidating agent is appointed for such credit union; or

"(III) the Board determines that the credit union is in a troubled condition (as defined in regulations which the Board shall prescribe);

"(IV) the credit union has been assigned a composite rating by the Board of 4 or 5 under the Uniform Financial Institutions Rating System (as applicable with respect to credit unions); or

"(V) the credit union is subject to a proceeding initiated by the Board to terminate or suspend deposit insurance for such credit union.

"(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

"(C) CERTAIN PAYMENTS NOT INCLUDED.—The term 'golden parachute payment' shall not include—

"(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory retirement or severance benefit plan;

"(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Board determines, by regulation or order, to be permissible; or

"(iii) any payment made by reason of the death or disability of an institution-affiliated party.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term 'indemnification payment' means any payment (or any agreement to make any payment) by any credit union for the benefit of any person who is or was an institution-affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Board which results in a final order under which such person—

"(i) is assessed a civil money penalty;

"(ii) is removed or prohibited from participating in conduct of the affairs of the credit union; or

"(iii) is required to take any affirmative action described in section 206(e)(3) with respect to such credit union.

"(B) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

“(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

“(C) PAYMENT.—The term ‘payment’ includes—

“(i) any direct or indirect transfer of any funds or any asset; and

“(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

“(I) the determination, after such date, of the liability for the payment of such amount; or

“(II) the liquidation, after such date, of the amount of such payment.

“(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any credit union from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the credit union which is described in paragraph (5)(A).”.

SEC. 2524. AMENDMENTS RELATING TO CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C)—

(A) by inserting “1032,” after “1014,”; and

(B) by inserting “or a violation of section 1341 or 1343 of such title affecting a financial institution” before the period;

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(B) by striking all that appears before subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) and inserting the following:

“(h)(1) Any property—

“(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

“(i) may be seized by the Attorney General; or

“(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

“(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

“(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—”;

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 2525. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION, FDIC, OR NCUA.

(a) CIVIL FORFEITURE.—

(1) **IN GENERAL.**—Section 981(a)(1) of title 18, United States Code, is amended by adding the following new subparagraphs:

"(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

"(i) section 666(a)(1) (relating to Federal program fraud);

"(ii) section 1001 (relating to fraud and false statements);

"(iii) section 1031 (relating to major fraud against the United States);

"(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

"(v) section 1341 (relating to mail fraud); or

"(vi) section 1343 (relating to wire fraud),

if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

"(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly."

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 981(e) of title 18, United States Code, is amended by inserting after paragraph (6) (as added by section 108(3) of this Act) the following new paragraph:

"(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act)".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under—

"(A) section 666(a)(1) (relating to Federal program fraud);

"(B) section 1001 (relating to fraud and false statements);

"(C) section 1031 (relating to major fraud against the United States);

"(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

“(E) section 1341 (relating to mail fraud); or

“(F) section 1343 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

“(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.”.

SEC. 2526. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS AND RECEIVERS OF DEPOSITORY INSTITUTIONS BY CONVICTED FELONS.

(a) **FDIC INSURED DEPOSITORY INSTITUTIONS.**—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

“(p) **CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.**—

“(1) **CONVICTED DEBTORS.**—Except as provided in paragraph (2), any individual who—

“(A) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit such an offense, affecting any insured depository institution for which any conservator or receiver has been appointed; and

“(B) is in default on any loan or other extension of credit from such insured depository institution which, if not paid, will cause substantial loss to the institution, any deposit insurance fund, the Corporation, the FSLIC Resolution Fund, or the Resolution Trust Corporation,

may not purchase any asset of such institution from the conservator or receiver.

“(2) **SETTLEMENT OF CLAIMS.**—Paragraph (1) shall not apply to the sale or transfer by the Corporation of any asset of any insured depository institution to any individual if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of—

“(A) 1 or more claims that have been, or could have been, asserted by the Corporation against the individual; or

“(B) obligations owed by the individual to any insured depository institution, the FSLIC Resolution Fund, the Resolution Trust Corporation, or the Corporation.”.

(b) INSURED CREDIT UNIONS.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end the following new subsection:

“(q) PROHIBITION ON CERTAIN ACQUISITIONS OF ASSETS.—

“(1) CONVICTED DEBTORS.—Except as provided in paragraph

(2), any individual who—

“(A) has been convicted of an offense under section 215, 657, 1006, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit any such offense, affecting any insured credit union for which the Board is appointed conservator or liquidating agent; and

“(B) is in default on any loan or other extension of credit from such insured credit union which, if not paid, will cause substantial loss to the credit union, the National Credit Union Share Insurance Fund, or the Board, may not purchase any asset of such credit union from the conservator or liquidating agent.

“(2) SETTLEMENT OF CLAIMS.—Paragraph (1) shall not apply to the sale or transfer by the Board of any asset of any insured credit union to any individual if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of—

“(A) 1 or more claims that have been, or could have been, asserted by the Board against the individual; or

“(B) obligations owed by the individual to the insured credit union or the Board.”

(c) LIMITATION ON RTC ASSET SALES.—Section 21A(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(f)) is amended to read as follows:

“(f) LIMITATION ON CERTAIN CORPORATION ACTIVITIES.—

“(1) CERTAIN SALES PROHIBITED.—The Corporation shall prescribe regulations to prohibit the sale of assets of a failed institution by the Corporation to any person who—

“(A)(i) has defaulted, or was a member of a partnership or an officer or director of a corporation which has defaulted, on 1 or more obligations the aggregate amount of which exceed \$1,000,000 to such failed institution;

“(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

“(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any institution subject to the jurisdiction of the Corporation pursuant to paragraph (3)(A);

“(B) participated, as an officer or director of such failed institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed institution;

“(C) has been removed from, or prohibited from participating in the affairs of, such failed institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

“(D) has demonstrated a pattern or practice of defalcation regarding obligations to such failed institution.

“(2) SETTLEMENT OF CLAIMS; DEFINITIONS.—

“(A) SETTLEMENT OF CLAIMS.—Nothing in this subsection shall prohibit the Corporation from selling or otherwise

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transferring any asset to any person if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of obligations owed by the person to the failed institution or the Corporation.

“(B) DEFINITIONS.—For purposes of paragraph (1)—

“(i) DEFAULT.—The term ‘default’ means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.

“(ii) AFFILIATE.—The term ‘affiliate’ has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.”.

SEC. 2527. EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

(a) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (p) (as added by section 2526 of this title) the following new subsection:

“(q) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

“(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution’s director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be decided not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal.

“(2) SCHEDULING.—Consistent with section 1657 of title 18, United States Code, a court of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution’s director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution. As far as practicable the court shall give such case priority on its docket.

“(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.”.

(b) CONFORMING AMENDMENT.—Section 1657 of title 18, United States Code, is amended by inserting “section 11, 12, or 13 of the Federal Deposit Insurance Act” after “consideration of any action brought under”.

SEC. 2528. FRAUDULENT CONVEYANCES AVOIDABLE BY CONSERVATORS AND RECEIVERS.

(a) INSURED DEPOSITORY INSTITUTIONS OTHER THAN INSURED CREDIT UNIONS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

“(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver for any insured depository institution, and any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision may avoid a transfer of any interest of an institution-affiliated party, or any person who the Corporation or conservator determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation or conservator was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured depository institution, the Corporation or other conservator, or any other appropriate Federal banking agency.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation or any conservator described in such subparagraph may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEEE OR OBLIGEE.—The Corporation or any conservator described in subparagraph (A) may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the Corporation and any conservator described in subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code."

(b) INSURED CREDIT UNIONS.—Section 207(b) of the Federal Credit Union Act (12 U.S.C. 1787(b)) is amended by adding at the end the following new paragraph:

"(16) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Board, as conservator or liquidating agent for any insured credit union, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Board determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Board becomes conservator or liquidating agent if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured credit union or the Board.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Board may recover,

for the benefit of the insured credit union, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

“(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

“(ii) any immediate or mediate transferee of any such initial transferee.

“(C) RIGHTS OF TRANSFEEE OR OBLIGEE.—The Board may not recover under subparagraph (B) from—

“(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

“(ii) any immediate or mediate good faith transferee of such transferee.

“(D) RIGHTS UNDER THIS PARAGRAPH.—The rights of the Board under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.”.

Subtitle C—Improved Procedures for Handling Banking-Related Cases

SEC. 2531. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in paragraph (1)(c)—

(A) by inserting “section 215 (relating to bribery of bank officials),” before “section 224”;

(B) by inserting “section 1014 (relating to loans and credit applications generally; renewals and discounts),” before “sections 1503,”;

(C) by inserting “section 1032 (relating to concealment of assets),” before “section 1084”;

(D) by inserting “section 1344 (relating to bank fraud),” before “sections 2251 and 2252”; and

(E) by striking “the section in chapter 65 relating to destruction of an energy facility,”; and

(2) in paragraph (1)—

(A) by striking the 1st subparagraph which is designated as “(m)”;

(B) by striking “and” at the end of the 2d subparagraph designated as “(m)” (as determined before the amendment made by subparagraph (A) of this paragraph);

(C) by striking the period at the end of subparagraph (n) and inserting “; and”; and

(D) by adding at the end the following new subparagraph:

“(o) any conspiracy to commit any offense described in any subparagraph of this paragraph.”; and

(3) in paragraph (1)(j), by striking “any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code” and inserting “any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or subsection

(i) or (n) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

SEC. 2532. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) **APPROPRIATE FEDERAL BANKING AGENCIES, GENERALLY.**—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) **FOREIGN INVESTIGATIONS.**—

"(1) **REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.**—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) **PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.**—

"(A) **IN GENERAL.**—Any appropriate Federal banking agency may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) **INVESTIGATION BY FEDERAL BANKING AGENCY.**—An appropriate Federal banking agency may, in such agency's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) **FACTORS TO CONSIDER.**—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) **TREATMENT OF FOREIGN BANKING AUTHORITY.**—For purposes of any Federal law or appropriate Federal banking agency regulation relating to the collection or transfer of information by any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) **RULE OF CONSTRUCTION.**—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter."

(b) **FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.**—Section 11 of the Federal Deposit Insurance Act (1

U.S.C. 1821) is amended by inserting after subsection (q) (as added by section 2527 of this Act) the following new subsection:

“(r) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

“(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

“(2) may each maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.”.

(c) NATIONAL CREDIT UNION ADMINISTRATION, GENERALLY.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after subsection (t) (as added by section 2503(l) of this Act) the following new subsection:

“(u) FOREIGN INVESTIGATIONS.—

“(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the Board may—

“(A) request the assistance of any foreign banking authority; and

“(B) maintain an office outside the United States.

“(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

“(A) IN GENERAL.—The Board may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

“(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The Board may, in the Board’s discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the Board.

“(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the Board shall consider—

“(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of the Board or any appropriate Federal banking agency; and

“(ii) whether compliance with the request would prejudice the public interest of the United States.

“(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or Board regulation relating to the collection or transfer of information by the Board or any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

“(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of the Board or any other

Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.”.

(d) FOREIGN INVESTIGATIONS BY BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by inserting after subsection (q) (as added by section 2526(b) of this Act) the following new subsection:

“(r) FOREIGN INVESTIGATIONS.—The Board, as conservator or liquidating agent of any insured credit union and for purposes of carrying out any power, authority, or duty with respect to an insured credit union—

“(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 206(u); and

“(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.”.

SEC. 2533. EXTENSION OF STATUTE OF LIMITATIONS FOR CIVIL PENALTIES.

Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end the following:

“(g) STATUTE OF LIMITATIONS.—A civil action under this section may not be commenced later than 10 years after the cause of action accrues.”.

SEC. 2534. CLARIFICATION OF SUBPOENA AUTHORITY FOR FDIC, RTC, AND NCUA ACTING AS CONSERVATOR, RECEIVER, OR LIQUIDATING AGENT.

(a) FDIC AND RTC AUTHORITY.—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

“(I) SUBPOENA AUTHORITY.—

“(i) IN GENERAL.—The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 8(n), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

“(ii) AUTHORITY OF BOARD OF DIRECTORS.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board of Directors or their designees (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by, or with the written approval of, the Board of Directors of such Corporation or their designees).

“(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Cor-

poration, in any capacity, might otherwise have under section 10(c) of this Act.”.

(b) **NCUA AUTHORITY.**—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (I) (as so redesignated by section 202(b) of this Act) as subparagraph (J) and by inserting after subparagraph (H) (as added by such section) the following new subparagraph:

“(I) **SUBPOENA AUTHORITY.**—

“(i) **IN GENERAL.**—The Board may, as conservator or liquidating agent and for purposes of carrying out any power, authority, or duty with respect to an insured credit union (including determining any claim against the credit union and determining and realizing upon any asset of any person in the course of collecting money due the credit union), exercise any power established under section 206(p), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

“(ii) **AUTHORITY OF BOARD.**—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board or their designees.

“(iii) **RULE OF CONSTRUCTION.**—This subsection shall not be construed as limiting any rights that the Board, in any capacity, might otherwise have under section 206(p).”.

Subtitle D—Structural Reforms to Improve the Federal Response to Crimes Affecting Financial Institutions

SEC. 2536. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT. 28 USC 509 note.

(a) **ESTABLISHMENT.**—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel (hereafter in this title referred to as the “Special Counsel”).

(b) **RESPONSIBILITY.**—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) **SUNSET.**—The provisions of this section shall cease to apply at the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 2537. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL. 28 USC 509 note.

(a) **APPOINTMENT.**—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **RESPONSIBILITIES.**—The Special Counsel shall—

(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel

provision of chapter 40 of title 28, United States Code, any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;

(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensure that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) **COMPENSATION.**—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

28 USC 509 note. **SEC. 2538. ASSIGNMENT OF PERSONNEL.**

There shall be assigned to the Financial Institutions Fraud Unit such personnel as the Attorney General deems necessary to provide an appropriate level of enforcement activity in the area of fraud and other criminal activity in and against the financial services industry.

28 USC 509 note. **SEC. 2539. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.**

(a) **ESTABLISHMENT.**—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) **SUPERVISION.**—The Attorney General shall determine how each task force shall be supervised and may provide for the supervision of any task force by the Special Counsel.

(c) **SENIOR INTERAGENCY GROUP.**—

(1) **ESTABLISHMENT.**—The Attorney General shall establish a senior interagency group to assist in identifying the most significant financial institution fraud cases and in allocating investigative and prosecutorial resources where they are most needed.

(2) **MEMBERSHIP.**—The senior interagency group shall be chaired by the Special Counsel and shall include senior officials from—

(A) the Department of Justice, including representatives of the Federal Bureau of Investigation, the Advisory Committee of United States Attorneys, and other relevant entities;

(B) the Department of the Treasury;

(C) the Office of Thrift Supervision;

(D) the Resolution Trust Corporation;

(E) the Federal Deposit Insurance Corporation;

(F) the Office of the Comptroller of the Currency;

(G) the Board of Governors of the Federal Reserve System; and

(H) the National Credit Union Administration.

(3) **DUTIES.**—This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 2540. RTC ENFORCEMENT DIVISION.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end thereof the following new subparagraph:

"(G) The Corporation shall maintain an executive-level position and dedicated staff to assist and advise the Corporation and other agencies in pursuing cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. These personnel shall have such duties as the Corporation establishes, including the duty to compile and publish a report to the Congress on the coordinated pursuit of claims by all Federal financial institution regulatory agencies, including the Department of Justice and the Securities and Exchange Commission. The report shall be published before December 31, 1990 and updated semiannually after such date."

Reports.

Subtitle E—Reporting Requirements

SEC. 2546. REPORTING REQUIREMENTS.

28 USC 522 note.

(a) IN GENERAL.—

(1) DATA COLLECTION.—The Attorney General shall compile and collect data concerning—

(A) the nature and number of civil and criminal investigations, prosecutions, and related proceedings, and civil enforcement and recovery proceedings, in progress with respect to banking law offenses under sections 981, 1008, 1032, and 3322(d) of title 18, United States Code, and section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and conspiracies to commit any such offense, including inactive investigations of such offenses;

(B) the number of—

(i) investigations, prosecutions, and related proceedings described in subparagraph (A) which are inactive as of the close of the reporting period but have not been closed or declined; and

(ii) unaddressed referrals which allege criminal misconduct involving offenses described in subparagraph (A),

and the reasons such matters are inactive and the referrals unaddressed;

(C) the nature and number of such matters closed, settled, or litigated to conclusion; and

(D) the results achieved, including convictions and pre-trial diversions, fines and penalties levied, restitution assessed and collected, and damages recovered, in such matters.

(2) ANALYSIS AND REPORT.—The Attorney General shall analyze and report to the Congress on the data described in paragraph (1) and its coordination and other related activities named in section 2539(c)(2) and shall provide such report on the data monthly through December 31, 1991, and quarterly after such date.

(b) SPECIFIC OF REPORT.—The report required by subsection (a) shall—

(1) categorize data as to various types of financial institutions and appropriate dollar loss categories;

(2) disclose data for each Federal judicial district;

(3) describe the activities of the Financial Institution Fraud Unit; and

(4) list—

(A) the number of institutions, categorized by failed and open institutions, in which evidence of significant fraud, unlawful activity, insider abuse or serious misconduct has been alleged or detected;

(B) civil, criminal, and administrative enforcement actions, including those of the Federal financial institutions regulatory agencies, brought against offenders;

(C) any settlements or judgments obtained against offenders;

(D) indictments, guilty pleas, or verdicts obtained against offenders; and

(E) the resources allocated in pursuit of investigations, prosecutions, and sentencings (including indictments, guilty pleas, or verdicts obtained against offenders) and related proceedings.

Public
information.

SEC. 2547. CIVIL DISCLOSURE.

(a) PROVISIONS APPLICABLE TO FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended to read as follows:

“(u) PUBLIC DISCLOSURES OF FINAL ORDERS AND AGREEMENTS.—

“(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public on a monthly basis—

“(A) any written agreement or other written statement for which a violation may be enforced by the appropriate Federal banking agency, unless the appropriate Federal banking agency, in its discretion, determines that publication would be contrary to the public interest;

“(B) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other law; and

“(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

“(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

“(3) REPORTS TO CONGRESS.—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Congress.

“(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to subsection (i). A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

"(5) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(6) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The appropriate Federal banking agency may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2).

"(7) RETENTION OF DOCUMENTS.—Each Federal banking agency shall keep and maintain a record, for a period of at least 6 years, of all documents described in paragraph (1) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by such agency under this section or any other laws.

"(8) DISCLOSURES TO CONGRESS.—No provision of this subsection may be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee of the Congress."

(2) PUBLIC HEARINGS.—Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by striking "Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest."

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to all written agreements which are entered into and all written statements which become effective after the date of the enactment of this Act.

12 USC 1818
note.

(b) AMENDMENT OF FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended to read as follows:

"(s) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The Board shall publish and make available to the public on a monthly basis—

"(A) any written agreement or other written statement for which a violation may be enforced by the Board, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) **REPORTS TO CONGRESS.**—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Congress.

"(4) **TRANSCRIPT OF HEARING.**—A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to subsection (k). A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

"(5) **DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.**—If the Board makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(6) **DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.**—The Board may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2).

Reports.

"(7) **RETENTION OF DOCUMENTS.**—The Board shall keep and maintain a record, for a period of at least 6 years, of all documents described in paragraph (1) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by such agency under this section or any other laws.

"(8) **DISCLOSURES TO CONGRESS.**—No provision of this subsection may be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee of the Congress."

(2) **PUBLIC HEARING.**—Section 206(j)(1) of the Federal Credit Union Act (12 U.S.C. 1786(j)(1)) is amended by striking "Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest."

SEC. 2548. REPORT ON COURT BUSINESS IMPACT OF SAVINGS AND LOAN CRISIS.

Section 604(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(24) Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis."

Subtitle F—National Commission on Financial Institution Reform, Recovery, and Enforcement

SEC. 2551. ESTABLISHMENT.

There is hereby established a commission to be known as the National Commission on Financial Institution Reform, Recovery, and Enforcement (hereafter in this title referred to as the "Commission").

SEC. 2552. DUTIES OF THE COMMISSION.

The Commission shall—

(1) examine and identify the origin and causes of the problems in the savings and loan industry that led to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including consideration of the role of—

(A) State and Federal regulation of savings and loan associations, including capital and accounting standards;

(B) supervision of, and supervisory resources allocated to, savings and loan associations by, or under the authority of, State and Federal Governments;

(C) State and Federal statutes concerning savings and loan associations, including asset powers legislation;

(D) macroeconomic changes and regional recessions;

(E) competitive factors;

(F) unprecedented fraud and abuse by persons in or connected with savings and loan associations; and

(G) deposit insurance, including changes in the amount insured and in technology;

(2) recommend, on the basis of the Commission's examination and investigations under this section, further legislative, regulatory, supervisory, and other administrative changes that will—

(A) improve the safety and soundness of depository associations, the Federal deposit insurance funds, and other Federal insurance programs;

(B) facilitate civil and criminal enforcement actions concerning financial institutions; and

(C) prevent the recurrence of the problems identified in the savings and loan industry; and

(3) recommend any other reforms which the Commission determines to be appropriate.

SEC. 2553. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 8 members appointed as follows:

(1) 2 individuals appointed by the President.

(2) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of

whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) **ELIGIBILITY.**—No member, officer, or employee of the executive, legislative, or judicial branch of the Federal Government or of any State or local government may be a member of the Commission.

(c) **TERMS.**—

(1) **IN GENERAL.**—Each member shall be appointed for the life of the Commission.

(2) **VACANCY.**—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) **PROHIBITION ON COMPENSATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) **TRAVEL EXPENSES.**—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) **QUORUM.**—5 members of the Commission shall constitute a quorum but 3 members may hold hearings.

(f) **CHAIRPERSON.**—The Chairperson of the Commission shall be elected by the Commission from among its members.

(g) **MEETINGS.**—The Commission shall meet at the call of the Chairperson or of 5 members of the Commission.

(h) **PROXY VOTING.**—Members of the Commission may vote by proxy.

SEC. 2554. POWERS OF COMMISSION; HEARINGS AND SESSIONS.

(a) **IN GENERAL.**—The Commission may, for the purposes of carrying out this subtitle, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) **WITNESSES; ADMINISTRATION OF OATHS.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and, in the case of a subpoena, to subsection (c), the Commission may call witnesses and administer oaths or affirmations to witnesses appearing before the Commission.

(2) **COORDINATION OF CERTAIN TESTIMONY AND EVIDENCE.**—(A) In any case where the Commission intends to call a witness or receive evidence (including a witness or evidence to be subpoenaed in accordance with subsection (c)) to provide testimony concerning a specific savings and loan association or the role of any person in connection therewith, the Commission shall, in writing not less than 21 days prior to the taking of such testimony or receiving such evidence, provide the Attorney General, the Director of the Office of Thrift Supervision, and the Chairperson of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation with—

(i) the name of the savings and loan association involved;

(ii) the date and location of the testimony or the receipt of evidence; and

(iii) as appropriate, the name of the witness and a specific identification of the subject matter about which such witness is to testify or provide evidence, or the specific nature of the evidence to be received.

(B) If the Attorney General, the Director of the Office of Thrift Supervision, or the Chairperson of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation determines that taking such testimony or receiving such evi-

dence (including witnesses or evidence to be subpoenaed in accordance with subsection (c)) would impair, impede, or compromise the investigation, prosecution, or adjudication of a criminal, civil, or administrative matter or proceeding, the Attorney General, the Director, or the Chairperson shall promptly notify the Commission of that determination.

(C) The Commission shall decide whether to proceed to call a witness or to receive evidence after considering any determination under subparagraph (B)—

(i) on the basis of the Commission's determination that taking such testimony or receiving such evidence is specifically necessary to carry out the duties of the Commission; and

(ii) upon an affirmative vote of not fewer than 5 members of the Commission (or not fewer than 6 members of the Commission in the case of a witness or evidence to be subpoenaed).

(D) The Commission shall notify the official who made the determination under subparagraph (B) of the Commission's determination under subparagraph (C).

(c) SUBPOENA POWER.—

(1) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) **ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—**The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) **FEES AND TRAVEL EXPENSES.—**Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) **NO LIABILITY FOR OTHER EXPENSES.—**The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(2) FAILURE TO OBEY A SUBPOENA.—

(A) **APPLICATION TO COURT.—**If a person refuses to obey a subpoena issued under this subsection, the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) **JURISDICTION OF COURT.—**The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) **FAILURE TO COMPLY WITH ORDER.—**Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) **SERVICE OF SUBPOENAS.—**The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) **SERVICE OF PROCESS.—**All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) **INTERIM REPORT.**—Not later than 60 days after the date of the enactment of this Act, the Commission may submit a report to the Congress concerning the ability of the Commission to obtain information and evidence necessary to carry out its duties under this subtitle and including such recommendations concerning additional authority as the Commission deems appropriate.

(f) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission administrative support services on a reimbursable basis.

(g) **POWERS OF MEMBERS AND AGENTS.**—Except for actions that require a vote of the Commission, any member or agent authorized by the Commission may take any action the Commission may take.

SEC. 2555. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) **STAFF.**—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) **EXPERTS AND CONSULTANTS.**—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 2556. REPORT.

(a) **REPORT REQUIRED.**—The Commission shall submit a final report to the President and the Congress not later than 9 months after the election of the Chairperson under section 3(f).

(b) **CONTENTS.**—The final report shall, consistent with the duties of the Commission set forth in section 2562 of this title, contain a detailed statement of the findings, conclusions, and recommendations of the Commission.

SEC. 2557. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by section 2566(a) of this Act.

SEC. 2558. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed \$1,000,000 to carry out the purposes of this Act.

Subtitle G—Authorizations

SEC. 2559. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) **ADDITIONAL APPROPRIATION FOR DEPARTMENT OF JUSTICE.**—Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

“(a) **IN GENERAL.**—

“(1) **AUTHORIZATION.**—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, \$162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.

“(2) **ALLOCATIONS.**—With respect to fiscal years 1991 and 1992, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

“(A) Federal Bureau of Investigation: \$78,300,000.

“(B) The offices of the United States attorneys: \$65,000,000.

“(C) The criminal division of the Department of Justice: \$8,800,000.

“(D) The civil division of the Department of Justice: \$7,000,000.

“(E) The tax division of the Department of Justice: \$3,400,000.”.

(b) **ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.**—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, \$16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986, and related statutes, involving insured depository institutions.

(c) **ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.**—Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

“SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.

“(a) **IN GENERAL.**—There are authorized to be appropriated to the Federal court system \$25,000,000 for fiscal year 1991 and \$28,000,000 for each of fiscal years 1992 and 1993 to carry out such system's duties under this Act.”.

Subtitle H—Actions Against Persons Committing Bank Fraud Crimes

SEC. 2560. SHORT TITLE.

This subtitle may be cited as the “Financial Institutions Anti-Fraud Enforcement Act of 1990”.

Financial
Institutions
Anti-Fraud
Enforcement
Act of 1990,
12 USC 4201
note.

CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO THE UNITED STATES

12 USC 4201.

SEC. 2561. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.

(a) **IN GENERAL.**—Any person may file a declaration of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) **PLACE OF FILING.**—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

12 USC 4202.

SEC. 2562. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 2561 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;

(3) contain at least 1 new factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a violation described in paragraph (2) known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

12 USC 4203.

SEC. 2563. CONFIDENTIALITY OF DECLARATIONS.

(a) **PERIOD OF CONFIDENTIALITY.**—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2561 until—

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2566(b);

(2) the declarant receives notice of an award pursuant to section 2566(c); or

(3) the declarant is granted a contract to pursue an action under section 2565(b) or 2567.

(b) **MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.**—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is

required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) **LOSS OF RIGHTS.**—A declarant who discloses, except as provided by this title, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. 2564. INELIGIBILITY TO FILE VALID DECLARATIONS.

12 USC 4204.

(a) **IN GENERAL.**—A declaration filed pursuant to section 811 and in accordance with sections 2562 and 2563 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 951(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) **DEFINITION.**—For the purposes of subsection (a)(5), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) **NOTICE OF INVALIDITY.**—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2562, or that a declaration has been disclosed in violation of section 2563, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2565 or 2566.

SEC. 2565. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS AWARDS.

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) **CIVIL ACTION.**—If the Attorney General determines that a cause of action referred to in section 2561 based on the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) **CRIMINAL CONVICTION.**—(1) When the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to receive not less than \$5,000 and not more than \$100,000, any such award to be paid from the Financial Institution Information Award Fund established under section 2569.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) **SHARE OF FUNDS AND ASSETS.**—(1) When the United States acquires funds or assets pursuant to the execution of a judgment, order, or settlement and the Attorney General determines that the judgment, order, or settlement was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor.

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(f) APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgment, order or settlement.

SEC. 2566. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY. 12 USC 4206.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) JUDGMENT, ORDER, OR SETTLEMENT.—(1) When the United States obtains a judgment, order, or settlement based in whole or in part on a valid declaration filed under section 2561, the Attorney General shall notify the declarant in writing of such fact.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under subsection (c) or (d) of section 2565 upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2564 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

(e) **TIME FOR NOTICES.**—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) **CONFIDENTIALITY OF NOTICES.**—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2563.

12 USC 4207.

SEC. 2567. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) **NOTIFICATION.**—(1) If, pursuant to section 2566(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2566(d)(2), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) **CONTENTS OF RESPONSE.**—In response to a notification under subsection (a)(1), the Attorney General shall—

- (1) grant a contract pursuant to chapter 4; or
- (2) proceed with an action.

(c) **GRANT OF CONTRACT.**—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

12 USC 4208.

SEC. 2568. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2566.

12 USC 4209.

SEC. 2569. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

(a) **ESTABLISHMENT.**—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section 2565(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund such funds as are necessary to maintain the Fund at a level not to exceed \$5,000,000.

SEC. 2570. SOURCES OF PAYMENTS TO DECLARANTS.

12 USC 4210.

Notwithstanding any other law, an award under this title may be paid to a declarant, or to an individual providing information, from the amounts recovered through civil actions based in whole or in part on the information provided in a valid declaration under this title.

SEC. 2571. GOVERNMENT ACCOUNTABILITY; PUBLIC REPORTS ON PROCESSING OF DECLARATIONS. 12 USC 4211.

(a) **IN GENERAL.**—In addition to the written statements of reasons provided individual declarants under section 2566, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) **CONTENTS OF REPORT.**—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections 2562, 2563, and 2564;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all rewards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) **CONFIDENTIALITY.**—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

SEC. 2572. PROTECTION FOR DECLARANTS.

12 USC 4212.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 2573. PROMULGATION OF REGULATIONS.

12 USC 4213.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS**SEC. 2576. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS.** 12 USC 4221.

(a) **IN GENERAL.**—After the United States obtains a final judgment or settlement in any action referred to in section 2561, any person may file a declaration identifying specific assets which might be

recovered by the United States in satisfaction of that judgment or settlement.

(b) **PLACE OF FILING.**—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

12 USC 4222.

SEC. 2577. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 2576 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section 2576.

12 USC 4223.

SEC. 2578. CONFIDENTIALITY OF DECLARATIONS.

(a) **PERIOD OF CONFIDENTIALITY.**—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2576 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2581(b);

(2) the declarant receives notice of an award pursuant to section 2581(c); or

(3) the declarant is granted a contract to pursue an action under section 2580(b) or 2582.

(b) **MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.**—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) **LOSS OF RIGHTS.**—A declarant who discloses, except as provided by this chapter, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

12 USC 4224.

SEC. 2579. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) **IN GENERAL.**—A declaration filed pursuant to section 2576 and in accordance with sections 2577 and 2578 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 2561, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration identifies an asset or assets the nature, location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(5), the term “original source” means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2577, or that a declaration has been disclosed in violation of section 2578, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2580 or 2581.

SEC. 2580. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS. 12 USC 4225.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) SHARE OF ASSETS.—When the United States recovers any asset or assets specifically identified in a valid declaration filed under section 2576 and the Attorney General determines that the asset or assets would not have been recovered if the declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

(d) **PROHIBITION OF DOUBLE AWARDS.**—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(e) **APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.**—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgement, order, or settlement.

12 USC 4226.

SEC. 2581. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) **NOTICE OF DECISION NOT TO PURSUE.**—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) **JUDGMENT, ORDER, OR SETTLEMENT.**—(1) When the United States obtains a final judgment, order, or settlement transferring to the United States title to an asset or assets identified in a valid declaration filed under section 831, the Attorney General shall notify the declarant in writing of the entry of the judgment, order, or settlement.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 2580(c) upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) **NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.**—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2579 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) **CONFIDENTIALITY OF NOTICES.**—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2578.

SEC. 2582. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR. 12 USC 4227.

(a) **NOTIFICATION.**—(1) If, pursuant to section 2581(d)(1)(B), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2581(d)(1)(B), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) **CONTENTS OF RESPONSE.**—In response to a notification under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) **GRANT OF CONTRACT.**—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. 2583. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL. 12 USC 4228.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2581.

SEC. 2584. PROTECTION FOR DECLARANTS.

12 USC 4229.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 2585. PROMULGATION OF REGULATIONS.

12 USC 4230.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS

SEC. 2586. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

(1) in paragraph (1) by striking “, in an amount that exceeds \$50,000,”; and

(2) by amending paragraph (2) to read as follows:

“(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation”.

SEC. 2587. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

“§ 3059A. Special rewards for information relating to certain financial institution offenses

“(a)(1) In special circumstances and in the Attorney General’s sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1032, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

“(2) The amount of a payment under paragraph (1) shall not exceed \$50,000 and shall be paid from the Financial Institution Information Award Fund established under section 2569 of the Financial Institutions Anti-Fraud Enforcement Act of 1990.

“(b) A person is not eligible for a payment under this subsection (a) if—

“(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

“(2) the furnished information consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information;

“(3) the person is an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) which withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) who such party owed a fiduciary duty to disclose;

“(4) the person is a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

“(5) the person knowingly participated in the violation of the section with respect to which the payment would be made.

“(c) For the purposes of this subsection (b)(2), the term ‘original source’ means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

“(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

“(e)(1) A person who—

“(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and

conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

“(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution,

may, in a civil action, obtain all relief necessary to make the person whole.

“(2) Relief under paragraph (1) shall include—

“(A)(i) reinstatement with the same seniority status;

“(ii) 2 times the amount of back pay plus interest; and

“(iii) interest on the backpay,

that the plaintiff would have had but for the discrimination; and

“(B) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney’s fees.”

(b) **TECHNICAL AMENDMENT.**—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

“3059A. Special rewards for information relating to certain financial institution offenses”.

CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

SEC. 2588. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL. 12 USC 4241.

(a) **IN GENERAL.**—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 2561 or section 2580.

(b) **TERMS AND CONDITIONS.**—Each contract under subsection (a) shall include the provisions described in section 2591 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States.

(c) **LIMITATION OF FEE.**—The amount of the contingency fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the contingency fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

(d) **CONTINGENT FEES.**—Notwithstanding section 3302(b) of title 31, United States Code, a contract under this section shall provide that a fee that the United States pays private counsel for services is payable from the amount recovered and shall be based on a percentage of the civil penalties or assets recovered.

SEC. 2589. CONTRACT DECISIONS NONREVIEWABLE.

12 USC 4242.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General’s decision to refuse to enter into a contract for legal services referred to in section 2588.

12 USC 4243. SEC. 2590. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section 2588 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 2591.

12 USC 4244. SEC. 2591. CONTRACT PROVISIONS.

A contract made with a private counsel under section 2588 shall include—

- Reports.
- (1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;
 - (2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating to matters handled pursuant to the contract during the preceding month and the progress made during that period; and
 - (3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

12 USC 4245. SEC. 2592. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 2588 may not be asserted unless the counterclaim has been served directly on the Attorney General and the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

12 USC 4246. SEC. 2593. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees and other expenses of litigation as part of the costs.

12 USC 4247. SEC. 2594. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

Subtitle I—Technical and Miscellaneous Amendments

SEC. 2595. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO REFERENCES TO BANKING INSTITUTIONS AND AGENCIES.

(a) IN GENERAL.—

(1) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(A) by inserting "depository institution holding company," before "national bank" the 1st place such term appears in the 1st sentence;

(B) by inserting "or holding company" after "such bank" each place such term appears in the 1st paragraph; and

(C) by adding at the end of the 2d paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3 of the Federal Deposit Insurance Act."

(2) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(A) by striking "Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, the Resolution Trust Corporation, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(3) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(A) by inserting "or company" after "such bank" each place such term appears in the 1st paragraph;

(B) by striking "bank or savings and loan" and inserting "depository institution"; and

(C) by adding at the end of the 6th undesignated paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act."

(4) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(A) by striking "Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(5) LOANS AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS.—Section 1014 of title 18, United States Code, is amended—

(A) by striking "the Federal Home Loan Bank System," and inserting "the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by inserting a comma after "Resolution Trust Corporation".

(b) INDICTMENTS AND INFORMATION DISMISSED BEFORE PERIOD OF LIMITATIONS.—Section 3289 of title 18, United States Code, is amended by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," where such term appears and inserting such term after "expiration of the applicable statute of limitations,".

SEC. 2596. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) CEASE AND DESIST AUTHORITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(1) in paragraph (6), by inserting “or remedy” after “to take affirmative action to correct”; and

(2) in paragraph (4), by striking “subsections (c), (d), (h), (i), (k), (l), (m), and (n)” and inserting “subsections (c) through (s) and subsection (u)”.

(b) TEMPORARY ORDERS.—Section 8(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)(1)) is amended—

(1) by inserting “or remedy” after “to take affirmative action to prevent”; and

(2) by striking “(b)(6)(B)” and inserting “(b)(6)”.

(c) RIGHT TO FINANCIAL PRIVACY.—Section 1101(6)(B) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6)(B)) by striking “3(f)(1)” and inserting “4(f)(1)”.

(d) VIOLATIONS TO WHICH CIVIL MONEY PENALTIES APPLIES.—Section 951(c)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by inserting “287, 1001, 1032,” before “1341;” and

(2) by adding at the end thereof the following new flush sentence:

“This section shall apply to violations occurring on or after August 10, 1984.”

SEC. 2597. AMENDMENTS TO INCLUDE VARIOUS ENTITIES WHICH ENGAGE IN INTERNATIONAL BANKING BUSINESS WITHIN THE UNITED STATES WITHIN THE SCOPE OF FINANCIAL CRIME PROVISIONS.

(a) DEFINITION OF FINANCIAL INSTITUTION.—Section 20 of title 18, United States Code, is amended—

(1) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

“(7) a Federal Reserve bank or a member bank of the Federal Reserve System;

“(8) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; or

“(9) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978).”.

(b) OFFER OF LOAN OR GRATUITY TO BANK EXAMINER.—Section 212 of title 18, United States Code, is amended—

(1) in the 1st undesignated paragraph—

(A) by striking “System or the deposits of which” and inserting “System, or the deposits of which”; and

(B) by inserting “or which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “deposits of which are insured by the Federal Deposit Insurance Corporation;” and

(C) by inserting “branch, agency, organization,” after “who examines or has authority to examine such bank;” and

(2) in the 2d undesignated paragraph—

(A) by striking "System or insured" and inserting "System, insured"; and

(B) by inserting "branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "financial institutions,".

(c) ACCEPTANCE OF LOAN OR GRATUITY BY BANK EXAMINER.—

Section 213 of title 18, United States Code, is amended—

(1) by striking "System or financial institutions the deposits of which" and inserting "System, financial institutions the deposits of which";

(2) by inserting "which are branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which are organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "deposits of which are insured by the Federal Deposit Insurance Corporation,";

(3) by inserting "branch, agency," after "accepts a loan or gratuity from any bank,".

(d) CUSTODIANS, GENERALLY, MISUSING PUBLIC FUNDS.—Section 648 of title 18, United States Code, is amended by inserting "including any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978)," after "or deposits in any bank".

(e) THEFT BY EXAMINER.—Section 655 of title 18, United States Code, is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "System or which is insured" and inserting "System, which is insured";

(B) by inserting "which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "by the Federal Deposit Insurance Corporation,"; and

(C) by inserting "branch, agency, or organization," after "premises of such bank,"; and

(2) in the 2d undesignated paragraph—

(A) by striking "System or banks the deposits of which" and inserting "System, banks the deposits of which"; and

(B) by inserting "branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "are insured by the Federal Deposit Insurance Corporation,".

(f) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code (as amended by section 2104(b) of this subtitle) is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "national bank, or insured bank" and inserting "national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,";

(B) by inserting "insured bank, branch, agency, or organization" after "receiver of a national bank,";

(C) by inserting “, branch, agency, or organization” after “misapplies any of the moneys, funds or credits of such bank”;

(D) by inserting “branch, agency, or organization,” after “custody or care of such bank,”; and

(2) in the 2d undesignated paragraph—

(A) by striking “and” after “one of the Federal Reserve banks,”; and

(B) by inserting before the period the following: “; and the term ‘branch or agency of a foreign bank’ means a branch or agency described in section 20(9) of this title”.

(g) **CERTIFICATION OF CHECKS.**—Section 1004 of title 18, United States Code, is amended—

(1) by striking “or” after “Federal Reserve bank” and inserting a comma;

(2) by inserting “insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “member bank of the Federal Reserve System,”; and

(3) by inserting “, branch, agency, or organization,” after “has been regularly deposited in the bank”.

(h) **BANK ENTRIES, REPORTS, AND TRANSACTIONS.**—Section 1005 of title 18, United States Code (as amended by section 2104(d) of this subtitle) is amended—

(1) in the 1st undesignated paragraph—

(A) by striking “national bank or insured bank” and inserting “national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,”; and

(B) by inserting “, branch, agency, or organization” after “of such bank” each place such term appears;

(2) in the 3d undesignated paragraph, by striking “bank or company” each place such term appears and inserting “bank, company, branch, agency, or organization”; and

(3) in the last undesignated paragraph—

(A) by striking “and” after “one of the Federal Reserve banks,”; and

(B) by inserting before the period the following: “; and the term ‘branch or agency of a foreign bank’ means a branch or agency described in section 20(9) of this title”.

(i) **FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.**—Section 1014 of title 18, United States Code (as amended by section 2104(g) of this subtitle) is amended by inserting “a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “or the National Credit Union Administration Board”.

(j) **FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.**—Section 1030(e)(4) of title 18, United States Code, is amended—

(1) by striking “and” at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(H) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978); and

"(I) an organization operating under section 25 or section 25(a) of the Federal Reserve Act.".

(k) DISCLOSURE OF INFORMATION FROM A BANK EXAMINATION REPORT.—Section 1906 of title 18, United States Code, is amended—

(1) by striking "System, or bank insured" and inserting "System, any bank insured";

(2) by inserting ", any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or any organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "by the Federal Deposit Insurance Corporation";

(3) by inserting "branch, agency, or organization," after "proper officers of such bank,";

(4) by inserting "or a Federal branch or Federal agency (as such terms are defined in paragraphs (5) and (6) of section 1(b) of the International Banking Act of 1978)" after "national bank";

(5) by inserting ", an uninsured State branch or State agency (as such terms are defined in paragraphs (11) and (12) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act" after "as to a State member bank";

(6) by inserting ", including any insured branch (as defined in section 3(s) of the Federal Deposit Insurance Act)," after "any other insured bank"; and

(7) by inserting "or organization" after "board of directors of such bank".

(l) BANK ROBBERY AND INCIDENTAL CRIMES.—Section 2113(f) of title 18, United States Code, is amended by inserting "including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978)," after "operating under the laws of the United States,".

TITLE XXVI—LICIT OPIUM IMPORTS

SEC. 2601. UNITED STATES POLICY REGARDING IMPORTATION OF NARCOTIC RAW MATERIAL.

India.
Turkey.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine the advisability of continued reliance on the "80-20 rule" (21 C.F.R. sec. 1312.13) by which at least 80 percent of United States imports of narcotics raw material must come from India and Turkey.

(b) AGENCIES TO BE INVOLVED.—This review shall include information and views from the Department of State, the Administrator of the Drug Enforcement Administration, and the Secretary of the Department of Health and Human Services, the Secretary of Commerce and any other agencies the President determines appropriate.

(c) NATURE AND CONTENTS.—This review shall include—

(1) a report on the extent of the diversion taking place from the licit to the illicit market in India from the farm gate through the stockpile;

(2) an evaluation of the efforts being made by the Government of India to stop diversion from the licit to the illicit market, to

Reports.

limit its stockpile of opium gum, and to limit and regulate the amount of land and number of farmers devoted to poppy cultivation, and the success or failure of these efforts;

(3) a description of the steps the President has taken to encourage these actions on the part of the Indian government, what further steps are contemplated and what action will be taken if Indian action proves ineffective;

(4) an assessment of whether continued reliance on the 80-20 rule serves to encourage these actions, an assessment of what circumstances would make continued reliance on the rule unacceptable to the President, and proposals for executive or legislative modification of the rule under those circumstances;

(5) an assessment of the feasibility of India converting from the opium gum to the concentrated poppy straw method of opium production;

(6) an assessment of the effects on United States supplies of narcotic raw material in the absence of 80-20; and

(7) an evaluation of the potential for market manipulation under the 80-20 rule.

President.

(d) REPORT TO CONGRESS.—The President shall report the results of this review to Congress not later than April 1, 1991.

TITLE XXVII—SENTENCING FOR METHAMPHETAMINE OFFENSES

28 USC 994 note. SEC. 2701. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission is instructed to amend the existing guidelines for offenses involving smokable crystal methamphetamine under section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) so that convictions for offenses involving smokable crystal methamphetamine will be assigned an offense level under the guidelines which is two levels above that which would have been assigned to the same offense involving other forms of methamphetamine.

TITLE XXVIII—DRUG ENFORCEMENT GRANTS

SEC. 2801. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.

BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

42 USC 3793.
Appropriation
authorization.

“(5) There are authorized to be appropriated \$900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.”.

TITLE XXIX—PRISONS

SEC. 2901. REPORT WITH RESPECT TO FEDERAL PRISON INDUSTRIES

Section 4124 of title 18, United States Code, is amended—

(1) in the first paragraph by inserting “(a)” before “The”

(2) in the second paragraph by inserting "(b)" before "Disputes"; and

(3) by adding at the end the following:

"(c) Each Federal department, agency, and institution subject to the requirements of subsection (a) shall separately report to the General Services Administration all of its acquisitions of products and services from Federal Prison Industries, and that reported information shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act. Each report published by the Federal Procurement Data System that contains the information collected by the System shall include a statement to accompany the information reported by the department, agency, or institution under the preceding sentence as follows: 'Under current law, sales by Federal Prison Industries are considered intragovernmental transfers. The purpose of reporting sales by Federal Prison Industries is to provide a complete overview of acquisitions by the Federal Government during the reporting period.'"

"(d) Within 90 days after the date of the enactment of this subsection, Federal Prison Industries shall publish a catalog of all products and services which it offers for sale. This catalog shall be updated periodically to the extent necessary to ensure that the information in the catalog is complete and accurate."

Government
publications.

SEC. 2902. PRERELEASE CUSTODY.

(a) IN GENERAL.—Section 3624(c) of title 18, United States Code, is amended by inserting after the first sentence the following: "The authority provided by this subsection may be used to place a prisoner in home confinement."

(b) EFFECTIVE DATE.—Section 3624(c) of title 18, United States Code, as amended by this section, shall apply with respect to all inmates, regardless of the date of their offense.

18 USC 3624
note.

SEC. 2903. DRUG TREATMENT FOR PRISONERS.

Section 3621(b) of title 18, United States Code, is amended by adding at the end the following: "The Bureau shall, to the extent practicable, make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable condition of substance addiction or abuse."

SEC. 2904. FUNCTIONAL LITERACY REQUIREMENT FOR ALL INDIVIDUALS IN FEDERAL CORRECTIONAL INSTITUTIONS.

Section 3624 of title 18, United States Code, is amended by adding at the end the following:

"(f) MANDATORY FUNCTIONAL LITERACY REQUIREMENT.—

"(1) The Attorney General shall direct the Bureau of Prisons to have in effect a mandatory functional literacy program for all mentally capable inmates who are not functionally literate in each Federal correctional institution within 6 months from the date of the enactment of this Act.

"(2) Each mandatory functional literacy program shall include a requirement that each inmate participate in such program for a mandatory period sufficient to provide the inmate with an adequate opportunity to achieve functional literacy, and appropriate incentives which lead to successful completion of such programs shall be developed and implemented.

"(3) As used in this section, the term 'functional literacy' means—

"(A) an eighth grade equivalence in reading and mathematics on a nationally recognized standardized test;

"(B) functional competency or literacy on a nationally recognized criterion-referenced test; or

"(C) a combination of subparagraphs (A) and (B).

"(4) Non-English speaking inmates shall be required to participate in an English-As-A-Second-Language program until they function at the equivalence of the eighth grade on a nationally recognized educational achievement test.

"(5) The Chief Executive Officer of each institution shall have authority to grant waivers for good cause as determined and documented on an individual basis.

Reports.

"(6) A report shall be provided to Congress on an annual basis summarizing the results of this program, including the number of inmate participants, the number successfully completing the program, the number who do not successfully complete the program, and the reasons for failure to successfully complete the program."

18 USC 4121
note.

SEC. 2905. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted inmates confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved.

(2) A Federal prisoner may be excused from the requirement to work only as necessitated by—

(A) security considerations;

(B) disciplinary action;

(C) medical certification of disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

(D) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.

SEC. 2906. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in—one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance; and"; and

(3) in paragraph (2), as redesignated by paragraph (1) of this section, by amending subparagraph (B) to read as follows:

“(B) reasonable charges for room and board, as determined by regulations issued by the chief State correctional officer, in the case of a State prisoner.”.

SEC. 2907. COST SAVING MEASURES.

18 USC 4042
note.

The Director of the Federal Bureau of Prisons (referred to as the “Director”) shall, to the extent practicable, take such measures as are appropriate to cut costs of construction. Such measures may include reducing expenditures for amenities including, for example, color television or pool tables.

SEC. 2908. REPORT BY SECRETARY OF LABOR.

18 USC 1761
note.

The Secretary of Labor shall submit to the Congress not later than March 1, 1991, and not less often than annually thereafter, reports which describe in detail the extent and manner of compliance by State Prison Industry Enhancement Certification programs with the requirements set forth in 18 U.S.C. 1761(c).

TITLE XXX—SHOCK INCARCERATION

SEC. 3001. SHOCK INCARCERATION PROGRAM.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

“§ 4046. Shock incarceration program

“(a) The Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of imprisonment of more than 12, but not more than 30, months, if such person consents to that placement.

“(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to—

“(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

“(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

“(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureau for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following:

“4046. Shock incarceration program.”.

SEC. 3002. AUTHORIZATION OF APPROPRIATIONS.

18 USC 4046
note.

There are authorized to be appropriated for fiscal year 1990 and each fiscal year thereafter such sums as may be necessary to carry out the shock incarceration program established under the amendments made by this Act.

Criminal
Victims
Protection
Act of 1990.

TITLE XXXI—BANKRUPTCY AND RESTITUTION

11 USC 101 note. SEC. 3101. SHORT TITLE.

This title may be cited as the "Criminal Victims Protection Act of 1990".

SEC. 3102. NONDISCHARGEABILITY OF CERTAIN DEBTS ARISING FROM UNLAWFUL DRIVING WHILE INTOXICATED OR IMPAIRED.

(a) AMENDMENT TO CHAPTER 5.—Section 523(a)(9) of title 11, United States Code, is amended to read as follows:

"(9) for death or personal injury caused by the debtor's operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance; or".

(b) AMENDMENT TO CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended by inserting "or 523(a)(9)" after "523(a)(5)".

SEC. 3103. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION IMPOSED FOR COMMITTING CRIMES.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,
(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) for restitution included in a sentence on the debtor's conviction of a crime."

11 USC 523 note. SEC. 3104. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

TITLE XXXII—MISCELLANEOUS

28 USC 509 note. SEC. 3201. AUTHORIZATION OF APPROPRIATIONS FOR HUMANITARIAN EXPENSES.

(a) FEDERAL BUREAU OF INVESTIGATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Federal Bureau of Investigation \$25,000, to be expended in the discretion of the Director of the Federal Bureau of Investigation to pay humanitarian expenses incurred—

(1) by an employee of the Bureau as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee incident to the serious illness, serious injury, or death of such employee occurring while on official business.

(b) DRUG ENFORCEMENT ADMINISTRATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Drug Enforcement Administration \$25,000, to be

expended at the discretion of the Administrator of the Drug Enforcement Administration to pay humanitarian expenses incurred—

(1) by an employee of the Administration as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

SEC. 3202. BANNING OF ISOPROPAL NITRITE AND OTHER NITRITES.

15 USC 2057b.

(a) **IN GENERAL.**—Except as provided in subsection (b), volatile alkyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) **LAWFUL PURPOSES.**—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) **DEFINITIONS.**—For purposes of this section, the term “commercial purpose” means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) **EFFECTIVE DATE.**—This section shall take effect 90 days after the date of the enactment of this Act.

TITLE XXXIII—MISCELLANEOUS PROVISIONS

SEC. 3301. UNDERCOVER OPERATIONS OF INTERNAL REVENUE SERVICE.

(a) **EXTENSION OF PROGRAM.**—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking “1989” and “1990” and inserting “1991” and “1992”, respectively.

26 USC 7608
note.

(b) **GAO STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of undercover investigative operations of the Internal Revenue Service which were conducted using any authority provided in subsection (c) of section 7608 of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the use of the proceeds of such operations,

(B) the results of such operations, and

(C) the financial audits conducted by the Internal Revenue Service under such subsection.

(2) **REPORT.**—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 3302. DISCLOSURE OF RETURNS ON CERTAIN CASH TRANSACTIONS.

(a) **EXTENSION OF PROGRAM.**—Paragraph (3) of section 7601(b) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking “2-year period” inserting “4-year period”.

26 USC 6103
note.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the disclosure of returns to Federal agencies under paragraph (8) of section 6103(i) of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the Federal agencies requesting disclosure under such paragraph,

(B) the use of the information so disclosed, and

(C) the effect of the use of such information on the administration of Federal criminal statutes.

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 3303. FELONY CLASSIFICATION FOR FAILURE TO FILE RETURN ON CERTAIN CASH TRANSACTIONS.

26 USC 7203.

(a) IN GENERAL.—The last sentence of section 7203 of the Internal Revenue Code of 1986 (relating to willful failure to file return, etc.) is amended by striking “by substituting” and inserting “by substituting ‘felony’ for ‘misdemeanor’ and”.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the criminal penalties established under section 7203 of the Internal Revenue Code of 1986 for violations of section 6050I of such Code. The study shall include an evaluation of—

(A) the number of cases in which such penalties have been sought for such violations, and

(B) any change in the effectiveness of such penalties by reason of the amendment made by subsection (a).

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

26 USC 7203
note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

26 USC 6103
note.

SEC. 3304. CONFIDENTIALITY OF TAX RETURN INFORMATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

(b) DEFINITIONS.—For purposes of this section, the terms “return” and “return information” have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.

42 USC 3721
note.

**TITLE XXXIV—NATIONAL COMMISSION
TO SUPPORT LAW ENFORCEMENT**

SEC. 3401. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 3402. ESTABLISHMENT.

There is hereby established the National Commission to Support Law Enforcement (hereafter in this title referred to as the "Commission").

SEC. 3403. DUTIES.

(a) **IN GENERAL.**—The Commission shall study and include in the report made under section 3407 recommendations for changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) **FUNDING.**—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) **EMPLOYMENT.**—The conditions of law enforcement employment.

(3) **INFORMATION.**—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) **RESEARCH AND TRAINING.**—The status of law enforcement research and education and training.

(5) **EQUIPMENT AND RESOURCES.**—The adequacy of equipment, physical resources, and human resources.

(6) **COOPERATION.**—The cooperation among Federal, State, and local law enforcement agencies.

(7) **RESPONSIBILITY.**—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) **IMPACT.**—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) **CONSULTATION.**—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 3404. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 19 members as follows:

(1) 5 individuals from national law enforcement organizations representing law enforcement officers, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) 5 individuals from national law enforcement organizations representing law enforcement management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) 2 individuals with academic expertise regarding law enforcement issues, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(4) 2 Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) 1 individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) 1 individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) **COMPENSATION.**—

(1) **IN GENERAL.**—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of service on the Commission.

(2) **TRAVEL EXPENSES.**—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 3405. EXPERTS AND CONSULTANTS.

(a) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) **ADMINISTRATIVE SUPPORT.**—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 3406. POWERS OF COMMISSION.

(a) **HEARINGS.**—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) **DELEGATION OF AUTHORITY.**—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) **INFORMATION.**—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head

of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) **GIFTS AND DONATIONS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 3407. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this title, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

SEC. 3408. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 3407.

TITLE XXXV—TECHNICAL AND MINOR SUBSTANTIVE AMENDMENTS

SEC. 3501. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended—

(1) by striking “, with the personal approval of the Attorney General or the Solicitor General”; and

(2) by adding at the end the following: “The Government may not further prosecute such appeal without the personal approval of the Attorney General, the Solicitor General, or a deputy solicitor general designated by the Solicitor General.”

SEC. 3502. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking “10 years” and inserting in lieu thereof “15 years”.

SEC. 3503. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting “(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)” after “and this section shall apply”.

SEC. 3504. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 1.

The item relating to section 17 in the table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by striking “Defense” and inserting “defense”.

SEC. 3505. CORRECTION TO SECTION 12.

Section 12 of title 18, United States Code, is amended by striking “every officer and employee of that Service, whether he has taken the oath of office” and inserting “every officer and employee of that

Service, whether or not such officer or employee has taken the oath of office".

SEC. 3506. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 3.

The table of sections at the beginning of chapter 3 of title 18, United States Code, is amended—

(1) in the item relating to section 47, by inserting "; pollution of watering holes" after "burros"; and

(2) by striking the items related to sections 42 through 44 and inserting the following:

"42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations."

SEC. 3507. CORRECTION TO SECTION 114.

Section 114 of title 18, United States Code, is amended by striking "and imprisoned" and inserting "or imprisoned".

SEC. 3508. CORRECTION TO SECTION 115.

Section 115 of title 18, United States Code, is amended by striking "The Central" and inserting "the Central".

SEC. 3509. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 11.

The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended—

(1) in the item relating to section 203, by striking "of Members" and inserting "to Members"; and

(2) in the item relating to section 204, by striking "Court of Claims" and inserting "United States Claims Court or United States Court of Appeals for the Federal Circuit".

SEC. 3510. CROSS REFERENCE UPDATE FOR SECTION 209.

Subsection (d) of section 209 of title 18, United States Code, is amended by striking "Government Employees Training Act" and all that follows through the end of such subsection and inserting "chapter 41 of title 5."

SEC. 3511. CORRECTION TO SECTION 219.

Section 219(c) of title 18, United States Code, is amended by striking "Governments" and inserting "Government".

SEC. 3512. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 23.

The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended—

(1) by striking the item relating to section 434; and

(2) in the item relating to section 437, by striking "Indian" and all that follows through "supplies" and inserting "Federal employees contracting or trading with Indians."

SEC. 3513. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 25.

The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended—

(1) in the item relating to section 491, by striking "used" and all that follows through "coins" and inserting "or paper used as money.";

(2) in the item relating to section 496, by striking "entry certificates" and inserting "matters"; and

(3) in the item relating to section 501, by inserting “, postage meter stamps,” after “stamps”.

SEC. 3514. MARGIN CORRECTION IN SECTION 510.

Subsection (a) of section 510 of title 18, United States Code, is amended—

(1) by inserting a semicolon after “or signature” in paragraph (2); and

(2) so that the matter beginning with “shall be fined” and all that follows through the end of such subsection is flush against the left margin.

SEC. 3515. CORRECTIONS TO SECTION 513.

Section 513(c)(3) of title 18, United States Code, is amended—

(1) by striking “(15 U.S.C. 1693(c))”; and

(2) by inserting a comma after “profit-sharing agreement”.

SEC. 3516. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 29.

The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended—

(1) in the item relating to section 603, by striking “Place of solicitation” and inserting “Making political contributions”; and

(2) in the item relating to section 607, by striking “Making political contributions” and inserting “Place of solicitation”.

SEC. 3517. CORRECTION OF HEADING OF SECTION 665.

(a) The heading of section 665 of title 18, United States Code, is amended by striking the colons and inserting semicolons.

(b) Section 665(c) of title 18, United States Code, is amended by striking “Any person whoever” and inserting “Whoever”.

SEC. 3518. PUNCTUATION CORRECTION TO HEADING FOR CHAPTER 33.

The heading at the beginning of chapter 33 of title 18, United States Code, is amended by inserting a comma after “insignia”.

SEC. 3519. REDESIGNATION OF SECOND SECTION 798.

(a) **GENERALLY.**—The second section 798 of title 18, United States Code, is redesignated as section 798A.

(b) **TABLE OF SECTIONS.**—The item relating to the second section 798 in the table of sections at the beginning of chapter 37 of title 18, United States Code, is amended by striking “798” and inserting “798A”.

(c) **CROSS REFERENCE CONFORMING AMENDMENT.**—Section 14 of title 18, United States Code, is amended by striking “798” the first place it appears and all that follows through “799” and inserting “798, 798A, 799”.

SEC. 3520. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 40.

The item relating to section 843 in the table of sections at the beginning of chapter 40 of title 18, United States Code, is amended by striking “Licensing” and inserting “Licenses”.

SEC. 3521. CORRECTION TO SECTION 842.

Section 842 of title 18, United States Code, is amended—

(1) in subsection (d)(5), by striking the period and inserting “; or”; and

(2) in subsection (i)(3), by striking the period and inserting “; or”.

SEC. 3522. CORRECTION TO SECTION 844.

Section 844 of title 18, United States Code, is amended by striking the comma that immediately follows a comma.

SEC. 3523. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 44.

The item relating to section 928 in the table of sections at the beginning of chapter 44 of title 18, United States Code, is amended by striking “clause”.

SEC. 3524. CORRECTION TO SECTION 922.

Section 922(b)(1) is amended by striking the period at the end and inserting a semicolon.

SEC. 3525. CORRECTION TO SECTION 923.

Section 923(a)(3)(B) is amended by inserting a comma after “devices”.

SEC. 3526. AMENDMENTS RELATING TO THE UNDETECTABLE FIREARMS ACT OF 1988.

(a) **REDESIGNATION IN TITLE 18.**—Section 924 of title 18, United States Code, is amended by redesignating the second subsection (f) and subsection (g) as subsections (g) and (h), respectively.

18 USC 924.

(b) **REDESIGNATION IN ORIGINAL ACT.**—Section 2(f)(2)(B) of the Undetectable Firearms Act of 1988 is amended by inserting “and subsections (g) and (h) of such section are hereby redesignated as subsections (f) and (g), respectively” before the semicolon.

SEC. 3527. ELIMINATION OF REDUNDANT WORDS.

Section 924(c)(1) of title 18, United States Code, is amended by striking “imprisonment for” the 4th place it appears.

SEC. 3528. INSERTION OF MISSING PARENTHESES.

Section 924(a)(1) is amended by striking “3” and inserting “(3)”.

SEC. 3529. ADDITIONAL CORRECTIONS TO SECTION 924.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by striking “subsections” and inserting “subsection”; and

(B) by inserting a comma after “years”.

(2) in subsection (e)(2)(A)(ii), by striking “and”; and

(3) in subsection (e)(2)(B)(ii), by striking the period and inserting “; and”.

SEC. 3530. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 45.

The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by striking the item relating to section 968.

SEC. 3531. CORRECTION TO SECTION 981.

Section 981(d) of title 18, United States Code, is amended by adding a period at the end.

SEC. 3532. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 47.

The item relating to section 1031 in the table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting a period after "1031".

SEC. 3533. CORRECTION OF CROSS REFERENCE IN SECTION 1030.

Section 1030 of title 18, United States Code, is amended by striking "paragraph r" and inserting "paragraph y".

SEC. 3534. ELIMINATION OF SUPERFLUOUS PUNCTUATION IN SECTION 1113.

Section 1113 of title 18, United States Code, is amended by striking the final period.

SEC. 3535. CAPITALIZATION AND AGENCY REFERENCE CORRECTIONS IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended—

- (1) by striking "secret service" and inserting "Secret Service";
- (2) by striking "any officer or employee of the Department of Health, Education, and Welfare," and inserting "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and
- (3) by striking "the Federal Savings and Loan Insurance Corporation,".

SEC. 3536. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 53.

The table of sections at the beginning of chapter 53 of title 18, United States Code, is amended by striking the item relating to section 1157.

SEC. 3537. CORRECTION TO SECTION 1168.

Section 1168(a) of title 18, United States Code, is amended by striking "and be imprisoned for" and inserting "or imprisoned".

SEC. 3538. CROSS REFERENCE CORRECTION IN SECTION 1201.

Section 1201(a)(3) of title 18, United States Code, is amended—

- (1) by striking "101(36)" and inserting "101(38)"; and
- (2) by striking ", as amended (49 U.S.C. 1301(36))".

SEC. 3539. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 57.

The table of sections at the beginning of chapter 57 of title 18, United States Code, is amended by striking the item relating to section 1232.

SEC. 3540. CORRECTION OF HEADING OF SECTION 1262.

The heading of section 1262 of title 18, United States Code, is amended by striking "state" and inserting "State".

SEC. 3541. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 63.

The item relating to section 1342 in the table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by striking "and" and inserting "or".

SEC. 3542. CORRECTION TO SECTION 1345.

Section 1345 of title 18, United States Code, is amended by inserting a comma after "of this title".

SEC. 3543. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 65.

The item relating to section 1366 in the table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by inserting a period after "1366".

SEC. 3544. CORRECTION OF QUOTATION MARK.

Section 1365(g)(1)(A) of title 18, United States Code, is amended by inserting an open quotation mark before "device".

SEC. 3545. CORRECTION OF CROSS REFERENCE.

Section 1366(c) of title 18, United States Code, is amended by striking "49 U.S.C. 1671" and inserting "section 2 of the Natural Gas Pipeline Safety Act of 1968".

SEC. 3546. ELIMINATION OF EXECUTED CLERICAL AMENDMENT.

Section 1366 of title 18, United States Code, is amended by striking subsection (d).

SEC. 3547. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 67.

The table of sections at the beginning of chapter 67 of title 18, United States Code, is amended by striking the item relating to section 1383.

SEC. 3548. CORRECTION TO SECTION 1466.

Section 1466(b) of title 18, United States Code, is amended—

(1) by striking "this subsection" and inserting "this section"; and

(2) by striking "subsection (b)" and inserting "this subsection".

SEC. 3549. CROSS REFERENCE CORRECTION TO SECTION 1467.

Section 1467(h)(4) of title 18, United States Code, is amended by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 3550. CORRECTION TO SECTION 1546.

Section 1546(a) of title 18, United States Code, is amended by striking "Shall be fined not more than in accordance with this title" and inserting "Shall be fined under this title".

SEC. 3551. CORRECTION TO SECTION 1716A.

Section 1716A(a) of title 18, United States Code, is amended by striking "shall be under this title" and inserting "shall be fine under this title or".

SEC. 3552. CORRECTION TO HEADING OF SECTION 1717.

(a) **GENERALLY.**—The heading of section 1717 of title 18, United States Code, is amended by striking "; opening letters".

(b) **CONFORMING AMENDMENT.**—The item relating to section 1717 in the table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by striking "; opening letters".

SEC. 3553. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 84.

The table of sections at the beginning of chapter 84 of title 18, United States Code, is amended by adding at the end the following "1752. Temporary residences and offices of the President and others."

SEC. 3554. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 91.

The table of sections at the beginning of chapter 91 of title 18, United States Code, is amended by striking the item relating to section 1862.

SEC. 3555. CORRECTION TO SECTION 1864.

Section 1864 of title 18, United States Code, is amended—

- (1) by striking “and” at the end of subsection (d)(1)(D); and
- (2) in subsection (d)(2)(E), by striking the period at the end and inserting “; and”.

SEC. 3556. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 93.

The table of sections at the beginning of chapter 93 of title 18, United States Code, is amended—

- (1) in the item relating to section 1906, by striking “by bank examiner” and inserting “from a bank examination report”; and
- (2) by striking the item relating to section 1914.

SEC. 3557. CORRECTIONS TO SECTION 1956.

Section 1956 of title 18, United States Code, is amended—

- (1) in subsection (c)(7)(A), by striking “the Currency and Foreign Transactions Reporting Act” and inserting “subchapter II of chapter 53 of title 31”;
- (2) in subsection (c)(7)(D)—
 - (A) by striking “or section 2113” and inserting “section 2113”;
 - (B) by striking “theft) of this title,” and inserting “theft), or”; and
 - (C) by inserting “of this title” after “2319 (relating to copyright infringement)”;
 - (D) by striking “paraphernalia” and inserting “paraphernalia”; and
 - (E) by striking the final period.

SEC. 3558. CORRECTION TO SECTION 1958.

Section 1958(b) of title 18, United States Code, is amended by striking “1952B” and inserting “1959”.

SEC. 3559. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 96.

The item relating to section 1962 in the table of sections at the beginning of chapter 96 of title 18, United States Code, is amended by striking “racketeering”.

SEC. 3560. CORRECTION TO SECTION 1961.

Section 1961(1) of title 18, United States Code, is amended—

- (1) by striking “section 1029 (relative” and inserting “section 1029 (relating”; and
- (2) by striking “sections 2251 through 2252 (relating to sexual exploitation of children).”.

SEC. 3561. CORRECTION TO SECTION 1963.

Section 1963(a) of title 18, United States Code, is amended by striking “or both.” and inserting “or both”.

SEC. 3562. CORRECTION OF HEADING OF SECTION 2114.

The heading of section 2114 of title 18, United States Code, is amended by inserting a comma after “money”.

SEC. 3563. PUNCTUATION CORRECTION TO SECTION 2251(a).

Section 2251(a) of title 18, United States Code, is amended by striking "in," and inserting "in."

SEC. 3564. CORRECTIONS TO SECTION 2253.

Section 2253 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" and inserting "section 2251"; and

(2) in subsection (h)(4), by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 3565. CORRECTIONS TO SECTION 2254.

Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" each place it appears and inserting "section 2251";

(2) in subsection (e), by inserting "INAPPLICABILITY OF CERTAIN SECTIONS.—" after "(e)"; and

(3) in subsection (f)—

(A) by striking "subchapter" and inserting "section"; and

(B) in paragraph (1), by striking "pursuant to section 1616 of title 19" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 3566. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 111.

The item relating to section 2271 in the table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by striking "vessel" and inserting "vessels".

SEC. 3567. CORRECTION OF HEADING OF SECTION 2318.

The heading of section 2318 of title 18, United States Code, is amended by striking the comma.

SEC. 3568. CROSS REFERENCE CORRECTIONS IN SECTION 2516.

Section 2516(j) of title 18, United States Code, is amended by striking "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or section 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

SEC. 3569. CORRECTIONS TO SECTION 3013.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)(i), by striking "a infraction" and inserting "an infraction"; and

(2) in subsection (a)(1)(B)(iii), by striking the period at the end and inserting a semicolon.

SEC. 3570. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 203.

The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the item relating to section 3054.

SEC. 3571. CORRECTION TO SECTION 3058.

Section 3058 of title 18, United States Code, is amended by striking "beligerent" and inserting "belligerent".

SEC. 3572. CORRECTION TO SECTION 3077.

Section 3077 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking the comma before the close quotation mark and inserting a comma after that mark;

(2) in each of paragraphs (1), (2), (3), and (5), by striking the period at the end and inserting a semicolon; and

(3) in paragraph (6), by striking the period at the end and inserting “; and”.

SEC. 3573. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 205.

The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3112; and

(2) by striking “3117” the last place it appears and inserting “3118”.

SEC. 3574. REDESIGNATION OF DUPLICATE SECTION 3117.

Section 3117 of title 18, United States Code, that relates to implied consent for certain tests, is redesignated as section 3118.

SEC. 3575. CORRECTION TO SECTION 3124.

Section 3124(b) of title 18, United States Code, is amended by striking “subsection 3123(b)” and inserting “section 3123(b)”.

SEC. 3576. CLARIFYING REENACTMENT OF PORTION OF SECTION 3154.

Paragraph (1) of section 3154 of title 18, United States Code, is amended by striking “community” and all that follows through the end of such paragraph and inserting “community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release.”.

SEC. 3577. PUNCTUATION CORRECTION TO SECTION 3165.

Section 3165(e)(2) of title 18, United States Code, is amended by striking “twelve-calendar month” and inserting “twelve-calendar-month”.

SEC. 3578. SPELLING CORRECTION TO SECTION 3166.

Section 3166(b)(8) of title 18, United States Code, is amended by striking “extention” and inserting “extension”.

SEC. 3579. STYLE CORRECTION TO SECTION 3170.

Subsections (a) and (b) of section 3170 of title 18, United States Code, are each amended by striking “(c)” and inserting “3166(c)” in lieu thereof.

SEC. 3580. CORRECTION TO SECTION 3289.

Section 3289 of title 18, United States Code, is amended by inserting a comma after “information” the second place it appears.

SEC. 3581. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 224.

The item relating to section 3526 in the table of sections at the beginning of chapter 224 of title 18, United States Code, is amended by inserting “; reimbursement of expenses” after “governments”.

SEC. 3582. CORRECTION TO SECTION 3521.

Section 3521 of title 18, United States Code, is amended—

- (1) in the final sentence of subsection (b)(1), by inserting “(G)” after “subparagraph”; and
- (2) in subsection (d)(3), by inserting “the” before “Civil Rights Division”.

SEC. 3583. CORRECTION TO SECTION 3562.

Section 3562(b)(2) of title 18, United States Code, is amended by inserting “of the Federal Rules of Criminal Procedure” after “rule 35”.

SEC. 3584. CORRECTION TO SECTION 3563.

Section 3563 of title 18, United States Code, is amended—

- (1) in subsection (a), by striking “defendent” and inserting “defendant”; and
- (2) in subsection (b)(3)—
 - (A) by striking “pursuant to the provisions of section 3663 and 3664” and inserting “under sections 3663 and 3664”; and
 - (B) by inserting “section” before “3663(a)”.

SEC. 3585. CORRECTION TO SECTION 3565.

Section 3565(a)(1) of title 18, United States Code, is amended by striking “of modifying” and inserting “or modifying”.

SEC. 3586. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER C OF CHAPTER 227.

The table of sections at the beginning of subchapter C of chapter 227 of title 18, United States Code, is amended—

- (1) in the item relating to section 3572, by inserting “and related matters” after “fines”; and
- (2) in the item relating to section 3573, by striking “revision” and inserting “remission”.

SEC. 3587. CORRECTION TO SECTION 3572.

Section 3572(c)(2) of title 18, United States Code, is amended by inserting “of the Federal Rules of Criminal Procedure” after “rule 35”.

SEC. 3588. CORRECTION TO SECTION 3582.

Section 3582(b)(2) of title 18, United States Code, is amended by inserting “of the Federal Rules of Criminal Procedure” after “rule 35”.

SEC. 3589. CORRECTION TO SECTION 3583.

Section 3583 of title 18, United States Code, is amended—

- (1) in subsection (d)(2), by inserting a comma after “3553(a)(2)(B)”;
- (2) in subsection (e)—
 - (A) by striking “or” at the end of paragraph (2);
 - (B) by striking the period at the end of paragraph (3) and inserting “; or”; and
 - (C) by redesignating paragraph (5) as paragraph (4).

SEC. 3590. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER A OF CHAPTER 229.

The item relating to section 3607 in the table of sections at the beginning of subchapter A of chapter 229 of title 18, United States Code, is amended by striking “possessor” and inserting “possessors”.

SEC. 3591. CORRECTION TO SECTION 3611.

Section 3611 of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 3592. CORRECTION TO SECTION 3612.

Section 3612(a) of title 18, United States Code, is amended by striking "604(a)(17)" each place it appears and inserting "604(a)(18)".

SEC. 3593. CORRECTION TO SECTION 3613.

Section 3613(c) is amended by striking the period before the final quotation mark and inserting a period after such mark.

SEC. 3594. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 232.

The item relating to section 3669 in the table of sections at the beginning of chapter 232 of title 18, United States Code, is amended by striking "Conveyance" and inserting "Conveyances".

SEC. 3595. CROSS REFERENCE UPDATE FOR SECTION 3663.

Section 3663(f)(4) of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 3596. CROSS REFERENCE UPDATE FOR SECTION 3664.

Section 3664(a) of title 18, United States Code, is amended by striking "3579" and inserting "3663".

SEC. 3597. CORRECTION TO TABLE OF CHAPTERS FOR PART III.

The table of chapters for part III of title 18, United States Code, is amended—

(1) by inserting after the item relating to chapter 305 the following:

"306. Transfer to or from foreign countries 4100";
and

(2) by inserting after the item relating to chapter 317 the following:

"319. National Institute of Corrections 4351".

SEC. 3598. CROSS REFERENCE CORRECTION TO SECTION 4109.

Section 4109(a) of title 18, United States Code, is amended—

(1) by striking "the Criminal Justice Act (18 U.S.C. 3006A)" and inserting "section 3006A of this title"; and

(2) by striking "the Criminal Justice Act (18 U.S.C. 3006(a))" and inserting "section 3006A of this title".

SEC. 3599. CORRECTION TO SECTION 4013.

Section 4013 of title 18, United States Code, is amended by striking "(a)".

SEC. 3599A. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 307.

The item relating to section 4126 in the table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by striking "fund" and inserting "Fund".

SEC. 3599B. CORRECTION TO HEADING OF SECTION 4106A.

The heading at the beginning of section 4106A of title 18, United States Code, is amended by inserting "of" before "offenders" the second place it appears.

SEC. 3599C. CORRECTION TO SECTION 4106A.

Section 4106A(b)(1)(C) of title 18, United States Code, is amended by adding a period at the end.

SEC. 3599D. CORRECTION TO SECTION 4246.

Section 4246(g) of title 18, United States Code, is amended by striking "subchapter" and inserting "chapter".

SEC. 3599E. CORRECTION TO SECTION 4285.

Section 4285 of title 18, United States Code, is amended by striking "exced" and inserting "exceed".

SEC. 3599F. CORRECTION TO SECTION 4352.

Section 4352(c) of title 18, United States Code, is amended by striking "this shall" and inserting "this chapter shall".

SEC. 3599G. CORRECTION TO SECTION 5032.

The 4th paragraph of section 5032 of title 18, United States Code, is amended by striking "offenses set forth in this subsection" and inserting "offenses set forth in this paragraph".

SEC. 3599H. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 403.

The item relating to section 5042 in the table of sections at the beginning of chapter 403 of title 18, United States Code, is amended by striking "Probation" and inserting "probation".

SEC. 3599I. DEFINITIONS FOR CONTROLLED SUBSTANCES ACT.

Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking "stimulent" each place it appears and inserting "stimulant".

SEC. 3599J. SECTION 1010 OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking "suspervised" each place it appears and inserting "supervised".

SEC. 3599K. SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are each amended by striking "any of the substance" and inserting "any of the substances".

SEC. 3599L. SECTIONS 405, 405A, and 405B OF THE CONTROLLED SUBSTANCES ACT.

Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (which are redesignated by this Act) (21 U.S.C. 845(b), 845a(b), and 845b(c)) are each amended by striking "have become final" and inserting "has become final".

SEC. 3599M. SECTION 510 OF THE CONTROLLED SUBSTANCES ACT.

Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

TITLE XXXVI—FEDERAL DEBT COLLECTION

Federal Debt
Collection
Procedures Act
of 1990.
Courts.
28 USC 1 note.

SEC. 3601. This title may be cited as the "Federal Debt Collection Procedures Act of 1990".

Subtitle A—Debt Collection Procedures

SEC. 3611. Title 28 of the United States Code is amended by inserting after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter	
"A. Definitions and general provisions	3001
"B. Prejudgment remedies	3101
"C. Postjudgments remedies	3201
"D. Fraudulent transfers	3301

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

- "Sec.
- "3001. Applicability of chapter.
- "3002. Definitions.
- "3003. Rules of construction.
- "3004. Service of process; enforcement; notice.
- "3005. Application of chapter to judgments.
- "3006. Affidavit requirements.
- "3007. Perishable personal property.
- "3008. Proceedings before United States magistrates.
- "3009. United States marshals' authority to designate keeper.
- "3010. Co-owned property.
- "3011. Assessment of surcharge on a debt.
- "3012. Joinder of additional defendant.
- "3013. Modification or protective order; supervision of enforcement.
- "3014. Exempt property.
- "3015. Discovery as to debtor's financial condition.

"§ 3001. Applicability of chapter

"(a) IN GENERAL.—Except as provided in subsection (b), the chapter provides the exclusive civil procedures for the United States—

"(1) to recover a judgment on a debt; or

"(2) to obtain, before judgment on a claim for a debt, a remedy in connection with such claim.

"(b) LIMITATION.—To the extent that another Federal law specifies procedures for recovering on a claim or a judgment for a debt arising under such law, those procedures shall apply to such claim or judgment to the extent those procedures are inconsistent with this chapter.

"(c) AMOUNTS OWING OTHER THAN DEBTS.—This chapter shall not apply with respect to an amount owing that is not a debt or to a claim for an amount owing that is not a debt.

"§ 3002. Definitions

"As used in this chapter:

"(1) 'Counsel for the United States' means—

"(A) a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, or an attorney with the United States Department of Justice or with a Federal agency who has litigation authority; and

"(B) any private attorney authorized by contract made in accordance with section 3718 of title 31 to conduct litigation for collection of debts on behalf of the United States.

"(2) 'Court' means any court created by the Congress of the United States, excluding the United States Tax Court.

"(3) 'Debt' means—

"(A) an amount that is owing to the United States on account of a direct loan, or loan insured or guaranteed, by the United States; or

"(B) an amount that is owing to the United States on account of a fee, duty, lease, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond forfeiture, reimbursement, recovery of a cost incurred by the United States, or other source of indebtedness to the United States, but that is not owing under the terms of a contract originally entered into by only persons other than the United States;

and includes any amount owing to the United States for the benefit of an Indian tribe or individual Indian, but excludes any amount to which the United States is entitled under section 3011(a).

"(4) 'Debtor' means a person who is liable for a debt or against whom there is a claim for a debt.

"(5) 'Disposable earnings' means that part of earnings remaining after all deductions required by law have been withheld.

"(6) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(7) 'Garnishee' means a person (other than the debtor) who has, or is reasonably thought to have, possession, custody, or control of any property in which the debtor has a substantial nonexempt interest, including any obligation due the debtor or to become due the debtor, and against whom a garnishment under section 3104 or 3205 is issued by a court.

"(8) 'Judgment' means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

"(9) 'Nonexempt disposable earnings' means 25 percent of disposable earnings, subject to section 303 of the Consumer Credit Protection Act.

"(10) 'Person' includes a natural person (including an individual Indian), a corporation, a partnership, an unincorporated association, a trust, or an estate, or any other public or private entity, including a State or local government or an Indian tribe.

"(11) 'Prejudgment remedy' means the remedy of attachment, receivership, garnishment, or sequestration authorized by this chapter to be granted before judgment on the merits of a claim for a debt.

"(12) 'Property' includes any present or future interest, whether legal or equitable, in real, personal (including choses in

action), or mixed property, tangible or intangible, vested or contingent, wherever located and however held (including community property and property held in trust (including spendthrift and pension trusts)), but excludes—

“(A) property held in trust by the United States for the benefit of an Indian tribe or individual Indian; and

“(B) Indian lands subject to restrictions against alienation imposed by the United States.

“(13) ‘Security agreement’ means an agreement that creates or provides for a lien.

“(14) ‘State’ means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, or any territory or possession of the United States.

“(15) ‘United States’ means—

“(A) a Federal corporation;

“(B) an agency, department, commission, board, or other entity of the United States; or

“(C) an instrumentality of the United States.

“(16) ‘United States marshal’ means a United States marshal, a deputy marshal, or an official of the United States Marshals Service designated under section 564.

“§ 3003. Rules of construction

“(a) TERMS.—For purposes of this chapter—

“(1) the terms ‘includes’ and ‘including’ are not limiting;

“(2) the term ‘or’ is not exclusive; and

“(3) the singular includes the plural.

“(b) EFFECT ON RIGHTS OF THE UNITED STATES.—This chapter shall not be construed to curtail or limit the right of the United States under any other Federal law or any State law—

“(1) to collect taxes or to collect any other amount collectible in the same manner as a tax;

“(2) to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case;

“(3) to appoint or seek the appointment of a receiver; or

“(4) to enforce a security agreement.

“(c) EFFECT ON OTHER LAWS.—This chapter shall not be construed to supersede or modify the operation of—

“(1) title 11;

“(2) admiralty law;

“(3) section 3713 of title 31;

“(4) section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673);

“(5) a statute of limitation applicable to a criminal proceeding;

“(6) the common law or statutory rights to set-off or recoupment;

“(7) any Federal law authorizing, or any inherent authority of a court to provide, injunctive relief;

“(8) the authority of a court—

“(A) to impose a sanction under the Federal Rules of Civil Procedure;

“(B) to appoint a receiver to effectuate its order; or

“(C) to exercise the power of contempt under any Federal law;

"(9) any law authorizing the United States to obtain partition, or to recover possession, of property in which the United States holds title; or

"(10) any provision of any other chapter of this title, except to the extent such provision is inconsistent with this chapter.

"(d) PREEMPTION.—This chapter shall preempt State law to the extent such law is inconsistent with a provision of this chapter.

"(e) EFFECT ON RIGHTS OF THE UNITED STATES UNDER FOREIGN AND INTERNATIONAL LAW.—This chapter shall not be construed to curtail or limit the rights of the United States under foreign law, under a treaty or an international agreement, or otherwise under international law.

"(f) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—Except as provided otherwise in this chapter, the Federal Rules of Civil Procedure shall apply with respect to actions and proceedings under this chapter.

"§ 3004. Service of process; enforcement; notice

"(a) MANNER OF SERVICE.—A complaint, notice, writ, or other process required to be served in an action or proceeding under this chapter shall be served in accordance with the Federal Rules of Civil Procedure unless otherwise provided in this chapter.

"(b) NATIONWIDE ENFORCEMENT.—(1) Except as provided in paragraph (2)—

"(A) any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State; and

"(B) such writ, order, or judgment may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"(2) If the debtor so requests, within 20 days after receiving the notice described in section 3101(d) or 3202(b), the action or proceeding in which the writ, order, or judgment was issued shall be transferred to the district court for the district in which the debtor resides.

"(c) NOTICE AND OTHER PROCESS.—At such time as counsel for the United States considers appropriate, but not later than the time a prejudgment or postjudgment remedy is put into effect under this chapter, counsel for the United States shall exercise reasonable diligence to serve on the debtor and any person who the United States believes, after exercising due diligence, has possession, custody, or control of the property, a copy of the application for such remedy, the order granting such remedy, and the notice required by section 3101(d) or 3202(b).

"§ 3005. Application of chapter to judgments

"This chapter shall not apply with respect to a judgment on a debt if such judgment is entered more than 10 years before the effective date of this chapter.

"§ 3006. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made on information and belief, if reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

“§ 3007. Perishable personal property

“(a) **AUTHORITY TO SELL.**—If at any time during any action or proceeding under this chapter the court determines on its own initiative or upon motion of any party, that any seized or detained personal property is likely to perish, waste, or be destroyed, or otherwise substantially depreciate in value during the pendency of the proceeding, the court shall order a commercially reasonable sale of such property.

“(b) **DEPOSIT OF SALE PROCEEDS.**—Within 5 days after such sale, the proceeds shall be deposited with the clerk of the court, accompanied by a statement in writing and signed by the United States marshal, to be filed in the action or proceeding, stating the time and place of sale, the name of the purchaser, the amount received, and an itemized account of expenses.

“(c) **PRESUMPTION.**—For purposes of liability on the part of the United States, there shall be a presumption that the price paid at a sale under subsection (a) is the fair market value of the property or portion.

“§ 3008. Proceedings before United States magistrates

“A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States.

“§ 3009. United States marshals’ authority to designate keeper

“Whenever a United States marshal is authorized to seize property pursuant to this chapter, the United States marshal may designate another person or Federal agency to hold for safekeeping such property seized.

“§ 3010. Co-owned property

“(a) **LIMITATION.**—The remedies available to the United States under this chapter may be enforced against property which is co-owned by a debtor and any other person only to the extent allowed by the law of the State where the property is located. This section shall not be construed to limit any right or interest of a debtor or co-owner in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof or in a qualified retirement arrangement.

“(b) **DEFINITIONS.**—For purposes of subsection (a)—

“(1) the term ‘retirement system for Federal military or civilian personnel’ means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or by regulation pursuant to statutory authority; and

“(2) the term ‘qualified retirement arrangement’ means a plan qualified under section 401(a), 403(a), or 409 of the Internal Revenue Code of 1986 or a plan that is subject to the requirements of section 205 of the Employee Retirement Income Security Act of 1974.

“§ 3011. Assessment of surcharge on a debt

“(a) **SURCHARGE AUTHORIZED.**—In an action or proceeding under subchapter B or C, and subject to subsection (b), the United States is

entitled to recover a surcharge of 10 percent of the amount of the debt in connection with the recovery of the debt, to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

"(b) LIMITATION.—Subsection (a) shall not apply if—

"(1) the United States receives an attorney's fee in connection with the enforcement of the claim; or

"(2) the law pursuant to which the action on the claim is based provides any other amount to cover such costs.

"§ 3012. Joinder of additional defendant

"The United States or the debtor may join as an additional defendant in an action or proceeding under this chapter any person reasonably believed to owe money (including money owed on account of a requirement to provide goods or services pursuant to a loan or loan guarantee extended under Federal law) to the debtor arising out of the transaction or occurrence giving rise to a debt.

"§ 3013. Modification or protective order; supervision of enforcement

"The court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an order denying, limiting, conditioning, regulating, extending, or modifying the use of any enforcement procedure under this chapter.

"§ 3014. Exempt property

"(a) ELECTION TO EXEMPT PROPERTY.—An individual debtor may, in an action or proceeding under this chapter, elect to exempt property listed in either paragraph (1) or, in the alternative, paragraph (2). If such action or proceeding is against debtors who are husband and wife, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2). If the debtors cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (1). Such property is either—

"(1) property that is specified in section 522(d) of title 11, as amended from time to time; or

"(2)(A) any property that is exempt under Federal law, other than paragraph (1), or State or local law that is applicable on the date of the filing of the application for a remedy under this chapter at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of such application, or for a longer portion of such 180-day period than in any other place; and

"(B) any interest in property in which the debtor had, immediately before the filing of such application, an interest as tenant by the entirety or joint tenant, or an interest in community estate, to the extent that such interest is exempt from process under applicable nonbankruptcy law.

"(b) EFFECT ON ASSERTION AND MANNER OF DETERMINATION.—

"(1) STATEMENT.—A court may order the debtor to file a statement with regard to any claimed exemption. A copy of such statement shall be served on counsel for the United States. Such statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the debtor's ownership interest.

"(2) **HEARING.**—The United States or the debtor, by application to the court in which an action or proceeding under this chapter is pending, may request a hearing on the applicability of any exemption claimed by the debtor. The court shall determine the extent (if any) to which the exemption applies. Unless it is reasonably evident that the exemption applies, the debtor shall bear the burden of persuasion.

"(3) **STAY OF DISPOSITION.**—Assertion of an exemption shall prevent the United States from selling or otherwise disposing of the property for which such exemption is claimed until the court determines whether the debtor has a substantial nonexempt interest in such property. The United States may not take possession of, dispose of, sell, or otherwise interfere with the debtor's normal use and enjoyment of an interest in property the United States knows or has reason to know is exempt.

"(c) **DEBTORS IN JOINT CASES.**—Subject to the limitation in subsection (a), this section shall apply separately with respect to each debtor in a joint case.

"§ 3015. Discovery as to debtor's financial condition

"(a) **IN GENERAL.**—Except as provided in subsection (b), in an action or proceeding under subchapter B or C, the United States may have discovery regarding the financial condition of the debtor in the manner in which discovery is authorized by the Federal Rules of Civil Procedure in an action on a claim for a debt.

"(b) **LIMITATION.**—Subsection (a) shall not apply with respect to an action or proceeding under subchapter B unless there is a reasonable likelihood that the debt involved exceeds \$50,000.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

- "Sec.
- "3101. Prejudgment remedies.
- "3102. Attachment.
- "3103. Receivership.
- "3104. Garnishment.
- "3105. Sequestration.

"§ 3101. Prejudgment remedies

"(a) **APPLICATION.**—(1) The United States may, in a proceeding in conjunction with the complaint or at any time after the filing of a civil action on a claim for a debt, make application under oath to a court to issue any prejudgment remedy.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall—

"(A) state that the debtor against whom the prejudgment remedy is sought shall be afforded an opportunity for a hearing; and

"(B) set forth with particularity that all statutory requirements under this chapter for the issuance of the prejudgment remedy sought have been satisfied.

"(b) **GROUND.**—Subject to section 3102, 3103, 3104, or 3105, a prejudgment remedy may be granted by any court if the United States shows reasonable cause to believe that—

"(1) the debtor—

“(A) is about to leave the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States in its effort to recover a debt;

“(B) has or is about to assign, dispose, remove, conceal, ill treat, waste, or destroy property with the effect of hindering, delaying, or defrauding the United States;

“(C) has or is about to convert the debtor's property into money, securities, or evidence of debt in a manner prejudicial to the United States with the effect of hindering, delaying, or defrauding the United States; or

“(D) has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States; or

“(2) a prejudgment remedy is required to obtain jurisdiction within the United States and the prejudgment remedy sought will result in obtaining such jurisdiction.

“(c) AFFIDAVIT.—(1) The application under subsection (a) shall include an affidavit establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim for a debt and the right of the United States to recover what is demanded in the application.

“(2) The affidavit shall state—

“(A) specifically the amount of the debt claimed by the United States and any interest or costs attributable to such debt;

“(B) one or more of the grounds specified in subsection (b); and

“(C) the requirements of section 3102(b), 3103(a), 3104(a), or 3105(b), as the case may be.

“(3) No bond is required of the United States.

“(d) NOTICE AND HEARING.—(1) On filing an application by the United States as provided in this section, the counsel for the United States shall prepare, and the clerk shall issue, a notice for service on the debtor against whom the prejudgment remedy is sought and on any other person whom the United States reasonably believes, after exercising due diligence, has possession, custody, or control of property affected by such remedy. Three copies of the notice shall be served on each such person. The form and content of such notice shall be approved jointly by a majority of the chief judges of the Federal districts in the State in which the court is located and shall be in substantially the following form:

“ ‘NOTICE

“ ‘You are hereby notified that this [property] is being taken by the United States Government (“the Government”), which says that [name of debtor] owes it a debt of \$ [amount] for [reason for debt] and has filed a lawsuit to collect this debt. The Government says it must take this property at this time because [recite the pertinent ground or grounds from section 3101(b)]. The Government wants to make sure [name of debtor] will pay if the court determines that this money is owed.

“ ‘In addition, you are hereby notified that there are exemption under the law which may protect some of this property from being taken by the Government if [name of debtor] can show that the exemptions apply. Below is a summary of the major exemption which apply in most situations in the State of [State where property is located]:

“ [A statement summarizing in plain and understandable English the election available with respect to such State under section 3014 and the types of property that may be exempted under each of the alternatives specified in paragraphs (1) and (2) of section 3014(a), and a statement that different property may be so exempted with respect to the State in which the debtor resides.]

“ If you are [name of debtor] and you disagree with the reason the Government gives for taking your property now, or if you think you do not owe the money to the Government that it says you do, or if you think the property the Government is taking qualifies under one of the above exemptions, you have a right to ask the court to return your property to you.

“ If you want a hearing, you must promptly notify the court. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

“ At the hearing you may explain to the judge why you think you do not owe the money to the Government, why you disagree with the reason the Government says it must take your property at this time, or why you believe the property the Government has taken is exempt or belongs to someone else. You may make any or all of these explanations as you see fit.

“ If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

“ Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.

“(2) By requesting, at any time before judgment on the claim for a debt, the court to hold a hearing, the debtor may move to quash the order granting such remedy. The court shall hold a hearing on such motion as soon as practicable, or, if requested by the debtor, within 5 days after receiving the request for a hearing or as soon thereafter as possible. The issues at such hearing shall be limited to—

“(A) the probable validity of the claim for the debt for which such remedy was granted and of any defense or claim of exemption asserted by such person;

“(B) compliance with any statutory requirement for the issuance of the prejudgment remedy granted;

“(C) the existence of any ground set forth in subsection (b); and

“(D) the inadequacy of alternative remedies (if any) to protect the interests of the United States.

"(e) **ISSUANCE OF WRIT.**—On the court's determination that the requirements of subsections (a), (b), and (c) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Attachment

"(a) **PROPERTY SUBJECT TO ATTACHMENT.**—(1) Any property in the possession, custody, or control of the debtor and in which the debtor has a substantial nonexempt interest, except earnings, may be attached pursuant to a writ of attachment in an action or proceeding against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

"(2) The value of property attached shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(A) property securing the debt; and

"(B) property garnished or in receivership, or income sequestered, under this subchapter.

"(b) **AVAILABILITY OF ATTACHMENT.**—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to attach property in which the debtor has a substantial nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

"(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

"(A) the contract is not fully secured by real or personal property; or

"(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

"(2) in an action against the debtor for damages in tort;

"(3) if the debtor resides outside the jurisdiction of the United States; or

"(4) in an action to recover a fine, penalty, or tax.

"(c) **ISSUANCE OF WRIT; CONTENTS.**—(1) Subject to subsections (a) and (b), a writ of attachment shall be issued by the court directing the United States marshal of the district where property described in subsection (a) is located to attach the property.

"(2) Several writs of attachment may be issued at the same time, or in succession, and sent to different judicial districts until sufficient property is attached.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

"(C) the name and last known address of the debtor;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to be attached.

"(d) **LEVY OF ATTACHMENT.**—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property specified for attachment if found within the district. The marshal may not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter any property owned, occupied, or controlled by the debtor, except that the marshal may not enter a residence or other building unless the writ expressly authorizes the marshal to do so or upon specific order of the court.

"(3) Levy on real property is made by entering the property and posting the writ and notice of levy in a conspicuous place upon the property.

"(4) Levy on personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied on.

"(5) The United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of levy on—

"(A) the debtor against whom the writ is issued; and

"(B) the person who has possession of the property subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it and shall state the location where it was attached, the date and time it was attached, and the disposition made of the property. If no property was attached, the return shall so state.

"(3) If the property levied on is claimed, replevied under subsection (j)(2), or sold under section 3007 after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(4) If personal property is replevied, the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment under this section creates a lien in favor of the United States on the property or, in the case of perishable property sold under section 3007, on the proceeds of the sale.

"(2) Such lien shall be ranked ahead of any other security interests perfected after the later of the time of levy and the time a copy of the notice of levy is filed under subsection (d)(5).

"(3) Such lien shall arise from the time of levy and shall continue until a judgment in the action is obtained or denied, or the action is otherwise dismissed. The death of the debtor whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(g) REDUCTION OR DISSOLUTION OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the debtor may submit a

motion to the court for a reduction of the amount of the attachment or its dissolution. Notice of such motion shall be served on the United States.

"(2) The court shall order a part of the property to be released, if after a hearing the court finds that the amount of the attachment is excessive or unreasonable or if the attachment is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"(4) If any property claimed to be exempt is levied on, the debtor may, at any time after such levy, request that the court vacate such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to the debtor.

"(h) REPLEVIN OF ATTACHED PROPERTY BY DEBTOR; BOND.—If attached property is not sold before judgment, the debtor may replevy such property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the reasonable value of the property to be replevied or double the value of the claim, whichever is less.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed, or sold, the court may make such order for its preservation or use as appears to be in the interest of the parties.

"(j) JUDGMENT AND DISPOSITION OF ATTACHED PROPERTY.—

"(1) JUDGMENT FOR THE UNITED STATES.—On entry of judgment for the United States, the court shall order the proceeds of personal property sold pursuant to section 3007 to be applied to the satisfaction of the judgment, and shall order the sale of any remaining personal property and any real property levied on to the extent necessary to satisfy the judgment.

"(2) JUDGMENT FOR THE UNITED STATES WHEN PERSONAL PROPERTY REPLEVIED.—With respect to personal property under attachment that is replevied, the judgment which may be entered shall be against the debtor against whom the writ of attachment is issued and also against the sureties on the debtor's replevin bond for the value of the property.

"(3) RESTORATION OF PROPERTY AND EXONERATION OF REPLEVIN BOND.—If the attachment is vacated or if the judgment on the claim for the debt is for the person against whom the writ of attachment is issued, the court shall order the property, or proceeds of perishable property sold under section 3007, restored to the debtor and shall exonerate any replevin bond.

"§ 3103. Receivership

"(a) APPOINTMENT OF A RECEIVER.—If the requirements of section 3101 are satisfied, a court may appoint a receiver for property in which the debtor has a substantial nonexempt interest if the United States shows reasonable cause to believe that there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, concealed, materially injured or damaged, or mismanaged.

"(b) POWERS OF RECEIVER.—(1) The appointing court may authorize a receiver—

“(A) to take possession of real and personal property and sue for, collect, and sell obligations upon such conditions and for such purposes as the court shall direct; and

“(B) to administer, collect, improve, lease, repair or sell pursuant to section 3007 such real and personal property as the court shall direct.

A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property.

“(2) Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers, or other professional persons.

“(c) DURATION OF RECEIVERSHIP.—A receivership shall not continue past the entry of judgment, or the conclusion of an appeal of such judgment, unless the court orders it continued under section 3203(e) or unless the court otherwise directs its continuation.

“(d) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds. The receiver's accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the debtor and the United States with a copy thereof.

Records.

“(e) MODIFICATION OF POWERS; REMOVAL.—On motion of the receiver or on its own initiative, the court which appointed the receiver may remove the receiver or modify the receiver's powers at any time.

“(f) PRIORITY.—If more than one court appoints a receiver for particular property, the receiver first qualifying under law shall be entitled to take possession, control, or custody of the property.

“(g) COMPENSATION OF RECEIVERS.—(1) A receiver is entitled to such commissions, not exceeding 5 percent of the sums received and disbursed by him, as the court allows unless the court otherwise directs.

“(2) If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remain unpaid.

“(3) At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by the receiver.

“§ 3104. Garnishment

“(a) IN GENERAL.—If the requirements of section 3101 are satisfied, a court may issue a writ of garnishment against property (excluding earnings) in which the debtor has a substantial nonexempt interest and which is in the possession, custody, or control of a person other than the debtor in order to satisfy a claim for a debt. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall

be continuing and shall terminate only as provided in section 3205(c)(10).

"(b) WRIT.—(1) Subsections (b)(2) and (c) of section 3205 shall apply with respect to garnishment under this section, except that for purposes of this section—

"(A) earnings of the debtor shall not be subject to garnishment; and

"(B) a reference in such subsections to a judgment debtor shall be deemed to be a reference to a debtor.

"(2) The United States shall include in its application for a writ of garnishment—

"(A) the amount of the claim asserted by the United States for a debt; and

"(B) the date the writ is issued.

"(c) LIMITATION.—The value of property garnished shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(1) property securing the debt; and

"(2) property attached or in receivership, or income sequestered, under this subchapter.

"§ 3105. Sequestration

"(a) PROPERTY SUBJECT TO SEQUESTRATION.—(1) Any income from property in which the debtor has a substantial nonexempt interest may be sequestered pursuant to a writ of sequestration in an action or proceeding against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

"(2) The amount of income sequestered shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(A) property securing the debt; and

"(B) property attached, garnished, or in receivership under this subchapter.

"(b) AVAILABILITY OF SEQUESTRATION.—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to sequester income from property in which the debtor has a substantial nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

"(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

"(A) the contract is not fully secured by real or personal property; or

"(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

"(2) in an action against the debtor for damages in tort;

"(3) if the debtor resides outside the jurisdiction of the United States; or

"(4) in an action to recover a fine, penalty, or tax.

"(c) **ISSUANCE OF WRIT; CONTENTS.**—(1) Subject to subsections (a) and (b), a writ of sequestration shall be issued by the court directing the United States marshal of the district where income described in subsection (a) is located to sequester the income.

"(2) Several writs of sequestration may be issued at the same time, or in succession, and sent to different judicial districts until sufficient income is sequestered.

"(3) The writ of sequestration shall contain—

"(A) the date of the issuance of the writ;

"(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

"(C) the name and last known address of the debtor;

"(D) the amount to be secured by the sequestration; and

"(E) a reasonable description of the income to be sequestered.

"(d) **EXECUTION OF WRIT.**—(1) The United States marshal receiving the writ shall proceed without delay to execute the writ.

"(2) The United States marshal shall file a copy of the notice of sequestration in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of sequestration on—

"(A) the debtor against whom the writ is issued; and

"(B) the person who has possession of the income subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

"(e) **DEPOSIT OF SEQUESTERED INCOME.**—A person who has possession of the income subject to a writ of sequestration shall deposit such income with the clerk of the court, accompanied by a statement in writing stating the person's name, the name of the debtor, the amount of such income, the property from which such income is produced, and the period during which such income is produced.

"(f) **RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.**—(1) A United States marshal executing a writ of sequestration shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the execution.

"(2) The return shall describe the income sequestered with sufficient certainty to identify it and shall state the location where it was sequestered, and the date and time it was sequestered. If no income was sequestered, the return shall so state.

"(3) If sequestered income is claimed after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the income.

"(g) **REDUCTION OR DISSOLUTION OF SEQUESTRATION.**—(1) If an excessive or unreasonable sequestration is made, the debtor may submit a motion to the court for a reduction of the amount of the sequestration or its dissolution. Notice of such motion shall be served on the United States.

"(2) The court shall order a part of the income to be released, if after a hearing the court finds that the amount of the sequestration is excessive or unreasonable or if the sequestration is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

"(3) The court shall dissolve the sequestration if the amount of the debt is unliquidated and unascertainable by calculation.

"(h) **PRESERVATION OF INCOME UNDER SEQUESTER.**—If personal property in custody of the United States marshal under a writ of sequestration is not claimed, the court may make such order for its preservation or use as appears to be in the interest of the parties.

"(i) **JUDGMENT AND DISPOSITION OF SEQUESTERED INCOME.**—

"(1) **JUDGMENT FOR THE UNITED STATES.**—On entry of judgment for the United States, the court shall order the sequestered income to be applied to the satisfaction of the judgment.

"(2) **RESTORATION OF INCOME.**—If the sequestration is vacated or if the judgment on the claim for the debt is for the person against whom the writ of sequestration is issued, the court shall order the income restored to the debtor.

"SUBCHAPTER C—POSTJUDGMENT REMEDIES

"Sec.

"3201. Judgment liens.

"3202. Enforcement of judgments.

"3203. Execution.

"3204. Installment payment order.

"3205. Garnishment.

"3206. Discharge.

"§ 3201. Judgment liens

"(a) **CREATION.**—A judgment in a civil action shall create a lien on all real property of a judgment debtor on filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of section 6323(f) of the Internal Revenue Code of 1986. A lien created under this paragraph is for the amount necessary to satisfy the judgment, including costs and interest.

"(b) **PRIORITY OF LIEN.**—A lien created under subsection (a) shall have priority over any other lien or encumbrance which is perfected later in time.

"(c) **DURATION OF LIEN; RENEWAL.**—(1) Except as provided in paragraph (2), a lien created under subsection (a) is effective, unless satisfied, for a period of 20 years.

"(2) Such lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment is filed and shall relate back to the date the judgment is filed if—

"(A) the notice of renewal is filed before the expiration of the 20-year period to prevent the expiration of the lien; and

"(B) the court approves the renewal of such lien under this paragraph.

"(d) **RELEASE OF JUDGMENT LIEN.**—A judgment lien shall be released on the filing of a satisfaction of judgment or release of lien in the same manner as the judgment is filed to obtain the lien.

"(e) **EFFECT OF LIEN ON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.**—A debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency of the United States that is responsible for such grants and loans may

promulgate regulations to allow for waiver of this restriction on eligibility for such grants, loans, and funds.

"(f) **SALE OF PROPERTY SUBJECT TO JUDGMENT LIEN.**—(1) On proper application to a court, the court may order the United States to sell, in accordance with sections 2001 and 2002, any real property subject to a judgment lien in effect under this section.

"(2) This subsection shall not preclude the United States from using an execution sale pursuant to section 3203(g) to sell real property subject to a judgment lien.

"§ 3202. Enforcement of judgments

"(a) **ENFORCEMENT REMEDIES.**—A judgment may be enforced by any of the remedies set forth in this subchapter. A court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to support such remedies, subject to rule 81(b) of the Federal Rules of Civil Procedure.

"(b) **NOTICE.**—On the commencement by the United States of an action or proceeding under this subchapter to obtain a remedy, the counsel for the United States shall prepare, and clerk of the court shall issue, a notice in substantially the following form:

" 'NOTICE

" 'You are hereby notified that this [property] is being taken by the United States Government, which has a court judgment in [case docket number and jurisdiction of court] of \$[amount] for [reason of debt].

" 'In addition, you are hereby notified that there are exemptions under the law which may protect some of this property from being taken by the United States Government if [name of judgment debtor] can show that the exemptions apply. Below is a summary of the major exemptions which apply in most situations in the State of [State where property is located]:

" '[A statement summarizing in plain and understandable English the election available with respect to such State under section 3014 and the types of property that may be exempted under each of the alternatives specified in paragraphs (1) and (2) of section 3014(a) and a statement that different property may be so exempted with respect to the State in which the debtor resides.]

" 'If you are [name of judgment debtor], you have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the above exemptions [For a default judgment:] or if you think you do not owe the money to the United States Government that it says you do.

" 'If you want a hearing, you must notify the court within 20 days after you receive this notice. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

" 'At the hearing you may explain to the judge why you believe the property the Government has taken is exempt [For a default

judgment:] or why you think you do not owe the money to the Government. [For a writ of execution:] If you do not request a hearing within 20 days of receiving this notice, your [property] may be sold at public auction and the payment used toward the money you owe the Government.

"If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

"Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other sources of information."

"(c) SERVICE.—A copy of the notice and a copy of the application for granting a remedy under this subchapter shall be served by counsel for the United States on the judgment debtor against whom such remedy is sought and on each person whom the United States, after diligent inquiry, has reasonable cause to believe has an interest in property to which the remedy is directed.

"(d) HEARING.—By requesting, within 20 days after receiving the notice described in section 3202(b), the court to hold a hearing, the judgment debtor may move to quash the order granting such remedy. The court that issued such order shall hold a hearing on such motion as soon as practicable, or, if so requested by the judgment debtor, within 5 days after receiving the request or as soon thereafter as possible. The issues at such hearing shall be limited—

"(1) to the probable validity of any claim of exemption by the judgment debtor;

"(2) to compliance with any statutory requirement for the issuance of the postjudgment remedy granted; and

"(3) if the judgment is by default and only to the extent that the Constitution or another law of the United States provides a right to a hearing on the issue, to—

"(A) the probable validity of the claim for the debt which is merged in the judgment; and

"(B) the existence of good cause for setting aside such judgment.

This subparagraph shall not be construed to afford the judgment debtor the right to more than one such hearing except to the extent that the Constitution or another law of the United States provides a right to more than one such hearing.

"(e) SALE OF PROPERTY.—The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 or by execution sale pursuant to section 3203(g). If a hearing is requested pursuant to subsection (d), property with respect to which the request relates shall not be sold before such hearing.

"§ 3203. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property in which the judgment debtor has a substantial nonexempt interest shall be

subject to levy pursuant to a writ of execution. The debtor's earnings shall not be subject to execution while in the possession, custody, or control of the debtor's employer. Co-owned property shall be subject to execution to the extent such property is subject to execution under the law of the State in which it is located.

"(b) CREATION OF EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied on under a writ of execution and shall date from the time of the levy. Such lien shall have priority over all subsequent liens and shall be for the aggregate amount of the judgment, costs, and interest. The execution lien on any real property as to which the United States has a judgment lien shall relate back to the judgment lien date.

"(c) WRIT OF EXECUTION.—

"(1) ISSUANCE.—On written application of counsel for the United States, the court may issue a writ of execution. Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(2) FORM OF WRIT.—

"(A) GENERAL CONTENTS.—A writ of execution shall specify the date that the judgment is entered, the court in which it is entered, the amount of the judgment if for money, the amount of the costs, the amount of interest due, the sum due as of the date the writ is issued, the rate of postjudgment interest, the name of the judgment debtor, and the judgment debtor's last known address.

"(B) ADDITIONAL CONTENTS.—(i) Except as provided in clauses (ii) and (iii), the writ shall direct the United States marshal to satisfy the judgment by levying on and selling property in which the judgment debtor has a substantial nonexempt interest, but not to exceed property reasonably equivalent in value to the aggregate amount of the judgment, costs, and interest.

"(ii) A writ of execution issued on a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(iii) A writ of execution on a judgment for the recovery of personal property or its value shall direct the marshal, in case a delivery of the specific property cannot be had, to levy and collect such value out of any property in which the judgment debtor has a substantial nonexempt interest.

"(d) LEVY OF EXECUTION.—

"(1) IN GENERAL.—Levy on property pursuant to a writ of execution issued under this section shall be made in the same manner as levy on property is made pursuant to a writ of attachment issued under section 3102(d).

"(2) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ shall be recognized and enforced by the court for the district in which the estate of the deceased is located. The execution lien may be enforced—

"(A) against the executor, administrator, or personal representative of the estate of the deceased; or

“(B) if there be none, against the deceased’s property coming to the heirs or devisees or at their option against cash in their possession, but only to the extent of the value of the property coming to them.

“(3) RECORDS OF UNITED STATES MARSHAL.—(A) A United States marshal receiving a writ of execution shall endorse thereon the exact hour and date of receipt.

“(B) The United States marshal shall make a written record of every levy, specify the property on which levy is made, the date on which levy is made, and the marshal’s costs, expenses, and fees.

“(C) The United States marshal shall make a written return to the court on each writ of execution stating concisely what is done pursuant to the writ and shall deliver a copy to counsel for the United States who requests the writ. The writ shall be returned not more than—

“(i) 90 days after the date of issuance if levy is not made;

or

“(ii) 10 days after the date of sale of property on which levy is made.

“(e) APPOINTMENT OF RECEIVER.—Pending the levy of execution, the court may appoint a receiver to manage property described in such writ if there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, or mismanaged.

“(f) REPLEVY; REDEMPTION.—

“(1) BEFORE EXECUTION SALE.—(A) Before execution sale, the United States marshal may return property to the judgment debtor any personal property taken in execution, on—

“(i) satisfaction of the judgment, interest, and costs, and any costs incurred in connection with scheduling the sale;

or

“(ii) receipt from the judgment debtor of a bond—

“(I) payable to the United States, with 2 or more good and sufficient sureties to be approved by the marshal, conditioned on the delivery of the property to the marshal at the time and place named in the bond to be sold under subsection (g); or

“(II) for the payment to the marshal of a fair value thereof which shall be stated in the bond.

“(B) A judgment debtor who sells or disposes of property replevied under subparagraph (A) shall pay the United States marshal the stipulated value of such property.

“(C) If the judgment debtor fails to deliver such property to the United States marshal pursuant to the terms of the delivery described in subparagraph (A)(ii)(I) and fails to pay the United States marshal the stipulated value of such property, the United States marshal shall endorse the bond ‘forfeited’ and return it to the court from which the writ of execution issued. If the judgment is not fully satisfied, the court shall issue a writ of execution against the judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, on which execution no delivery bond shall be taken, which instruction shall be endorsed on the writ.

“(2) AFTER EXECUTION SALE.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

“(g) EXECUTION SALE.—

"(1) GENERAL PROCEDURES.—An execution sale under this section shall be conducted in a commercially reasonable manner—

"(A) SALE OF REAL PROPERTY.—

"(i) IN GENERAL.—(I) Except as provided in clause (ii), real property, or any interest therein, shall be sold, after the expiration of the 90-day period beginning on the date of levy under subsection (d), for cash at public auction at the courthouse of the county, parish, or city in which the greater part of the property is located or on the premises or some parcel thereof.

"(II) The court may order the sale of any real property after the expiration of the 30-day period beginning on the date of levy under subsection (d) if the court determines that such property is likely to perish, waste, be destroyed, or otherwise substantially depreciate in value during the 90-day period beginning on the date of levy.

"(III) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first publication shall appear not less than 25 days preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, the time and place of sale, and a brief description of the property to be sold, sufficient to identify the property (such as a street address for urban property and the survey identification and location for rural property), but it shall not be necessary for the notice to contain field notes. Such property shall be open for inspection and appraisal, subject to the judgment debtor's reasonable objections, for a reasonable period before the day of sale.

"(IV) The United States marshal shall serve written notice of public sale by personal delivery, or certified or registered mail, to each person whom the marshal has reasonable cause to believe, after a title search is conducted by the United States, has an interest in property under execution, including lienholders, co-owners, and tenants, at least 25 days before the day of sale, to the last known address of each such person.

"(ii) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel shall be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(iii) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the judgment debtor may—

"(I) divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court;

"(II) furnish a survey of such prepared by a registered surveyor; and

"(III) designate the order in which those lots shall be sold.

When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(B) SALE OF PERSONAL PROPERTY.—(i) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, at the courthouse of the county, parish or city wherein it is located, or at another location if ordered by the court. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale unless—

"(I) the property consists of shares of stock in corporations;

"(II) by reason of the nature of the property, it is impractical to exhibit it; or

"(III) the debtor's interest in the property does not include the right to the exclusive possession.

"(ii)(I) Except as provided in subclause (II), personal property, or any interest therein, shall be sold after the expiration of the 30-day period beginning on the date of levy under subsection (d).

"(II) The court may order the sale of any personal property before the expiration of such 30-day period if the court determines that such property is likely to perish, waste, be destroyed, or otherwise substantially depreciate in value during such 30-day period.

"(iii) Notice of the time and place of the sale of personal property shall be given by the United States marshal by posting notice thereof for not less than 10 days successively immediately before the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made.

"(iv) The United States marshal shall serve written notice of public sale by personal delivery, or registered or certified mail at their last known addresses, on the judgment debtor and other persons who the marshal has reasonable cause to believe, after diligent inquiry, have a substantial interest in the property.

"(2) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time by continuing the required posting or publication of notice until the date to which the sale is postponed, and appending, at the foot of each such notice of a current copy of the following:

"The above sale is postponed until the _____ day of _____, 19 _____, at _____ o'clock _____ M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(3) SALE PROCEDURES.—

"(A) BIDDING REQUIREMENTS.—A bidder at an execution sale of property, may be required by the United States marshal to make a cash deposit of as much as 20 percent of the sale price proposed before the bid is accepted.

"(B) RESALE OF PROPERTY.—If the terms of the sale are not complied with by the successful bidder, the United States marshal shall proceed to sell the property again on the same day if there is sufficient time. If there is insufficient

time, the marshal shall schedule and notice a subsequent sale of the property as provided in paragraphs (1) and (2).

(4) RIGHTS AND LIABILITIES OF PURCHASERS.—

“(A) TRANSFER OF TITLE AFTER SALE.—

“(i) If property is sold under this subsection and the successful bidder complies with the terms of the sale, the United States marshal shall execute and deliver all documents necessary to transfer to the successful bidder, without warranty, all the rights, titles, interests, and claims of the judgment debtor in the property.

“(ii) If the successful bidder dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the successful bidder's estate. Such delivery to the estate shall have the same effect as if accomplished during the lifetime of the purchaser.

“(B) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution shall be deemed to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the judgment debtor.

“(C) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—A successful bidder at an execution sale who fails to comply with the terms of the sale shall forfeit to the United States the cash deposit or, at the election of the United States, shall be liable to the United States, on a subsequent sale of the property, for all net losses incurred by the United States as a result of such failure.

“(h) DISPOSITION OF PROCEEDS; FURTHER LEVY.—

“(1) DISTRIBUTION OF SALE PROCEEDS.—(A) The United States marshal shall first deliver to the judgment debtor such amounts to which the judgment debtor is entitled from the sale of partially exempt property.

“(B) The United States marshal shall next deduct from the proceeds of an execution sale of property an amount equal to the reasonable expenses incurred in making the levy of execution and in keeping and maintaining the property.

“(C) Except as provided in subparagraph (D), the United States marshal shall deliver the balance of the proceeds to the counsel for the United States as soon as practicable.

“(D) If more proceeds are received from the execution sale than is necessary to satisfy the executions held by the United States marshal, the marshal shall pay the surplus to the judgment debtor.

“(2) FURTHER LEVY IF EXECUTION NOT SATISFIED.—If the proceeds of the execution sale of the property levied on are insufficient to satisfy the execution, the United States marshal shall proceed on the same writ of execution to levy other property of the judgment debtor.

“§ 3204. Installment payment order

“(a) AUTHORITY TO ISSUE ORDER.—Subject to subsection (c), if it is shown that the judgment debtor—

"(1) is receiving or will receive substantial nonexempt disposable earnings from self employment that are not subject to garnishment; or

"(2) is diverting or concealing substantial earnings from any source, or property received in lieu of earnings; then upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration after a hearing, the income, resources, and reasonable requirements of the judgment debtor and the judgment debtor's dependents, any other payments to be made in satisfaction of judgments against the judgment debtor, and the amount due on the judgment in favor of the United States.

"(b) MODIFICATION OF ORDER.—On motion of the United States or the judgment debtor, and upon a showing that the judgment debtor's financial circumstances have changed or that assets not previously disclosed by the judgment debtor have been discovered, the court may modify the amount of payments, alter their frequency, or require full payment.

"(c) LIMITATION.—(1) An order may not be issued under subsection (a), and if so issued shall have no force or effect, against a judgment debtor with respect to whom there is in effect a writ of garnishment of earnings issued under this chapter and based on the same debt.

"(2) An order may not be issued under subsection (a) with respect to any earnings of the debtor except nonexempt disposable earnings.

"§ 3205. Garnishment

"(a) IN GENERAL.—A court may issue a writ of garnishment against property (including nonexempt disposable earnings) in which the debtor has a substantial nonexempt interest and which is in the possession, custody, or control of a person other than the debtor, in order to satisfy the judgment against the debtor. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall be continuing and shall terminate only as provided in subsection (c)(10).

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment—

"(A) the judgment debtor's name, social security number (if known), and last known address;

"(B) the nature and amount of the debt owed and the facts that not less than 30 days has elapsed since demand on the debtor for payment of the debt was made and the judgment debtor has not paid the amount due; and

"(C) that the garnishee is believed to have possession of property (including nonexempt disposable earnings) in which the debtor has a substantial nonexempt interest.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) If the property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable

instrument is not outstanding, the corporation, or the president or treasurer of the association shall be the garnishee.

"(B) If the property consists of an interest in a partnership interest, any partner other than the debtor shall be the garnishee on behalf of the partnership.

"(C) If the property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document, or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee, except that—

"(i) subject to clause (ii), in the case of a security which is transferable in the manner set forth in State law, the entity that carries on its books an account in the name of the debtor in which is reflected such security shall be the garnishee; and

"(ii) notwithstanding clause (i), the pledgee shall be the garnishee if such security is pledged.

"(c) PROCEDURES APPLICABLE TO WRIT.—

"(1) COURT DETERMINATION.—If the court determines that the requirements of this section are satisfied, the court shall issue an appropriate writ of garnishment.

"(2) FORM OF WRIT.—The writ shall state—

"(A) The nature and amount of the debt, and any cost and interest owed with respect to the debt.

"(B) The name and address of the garnishee.

"(C) The name and address of counsel for the United States.

"(D) The last known address of the judgment debtor.

"(E) That the garnishee shall answer the writ within 10 days of service of the writ.

"(F) That the garnishee shall withhold and retain any property in which the debtor has a substantial nonexempt interest and for which the garnishee is or may become indebted to the judgment debtor pending further order of the court.

"(3) SERVICE OF WRIT.—The United States shall serve the garnishee and the judgment debtor with a copy of the writ of garnishment and shall certify to the court that this service was made. The writ shall be accompanied by—

"(A) an instruction explaining the requirement that the garnishee submit a written answer to the writ; and

"(B) instructions to the judgment debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(4) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath—

"(A) whether the garnishee has custody, control or possession of such property;

"(B) a description of such property and the value of such interest;

"(C) a description of any previous garnishments to which such property is subject and the extent to which any remaining property is not exempt; and

"(D) the amount of the debt the garnishee anticipates owing to the judgment debtor in the future and whether the

period for payment will be weekly or another specified period.

The garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States.

"(5) **OBJECTIONS TO ANSWER.**—Within 20 days after receipt of the answer, the judgment debtor or the United States may file a written objection to the answer and request a hearing. The party objecting shall state the grounds for the objection and bear the burden of proving such grounds. A copy of the objection and request for a hearing shall be served on the garnishee and all other parties. The court shall hold a hearing within 10 days after the date the request is received by the court, or as soon thereafter as is practicable, and give notice of the hearing date to all the parties.

"(6) **GARNISHEE'S FAILURE TO ANSWER OR PAY.**—If a garnishee fails to answer the writ of garnishment or to withhold property in accordance with the writ, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ and to so withhold property before the appearance date. If the garnishee fails to appear, or appears and fails to show good cause why the garnishee failed to comply with the writ, the court shall enter judgment against the garnishee for the value of the judgment debtor's nonexempt interest in such property (including nonexempt disposable earnings). The court may award a reasonable attorney's fee to the United States and against the garnishee if the writ is not answered within the time specified therein and a petition requiring the garnishee to appear is filed as provided in this section.

"(7) **DISPOSITION ORDER.**—After the garnishee files an answer and if no hearing is requested within the required time period, the court shall promptly enter an order directing the garnishee as to the disposition of the judgment debtor's nonexempt interest in such property. If a hearing is timely requested, the order shall be entered within 5 days after the hearing, or as soon thereafter as is practicable.

"(8) **PRIORITIES.**—Judicial orders and garnishments for the support of a person shall have priority over a writ of garnishment issued under this section. As to any other writ of garnishment or levy, a garnishment issued under this section shall have priority over writs which are issued later in time.

"(9) **ACCOUNTING.**—(A) While a writ of garnishment is in effect under this section, the United States shall give an annual accounting on the garnishment to the judgment debtor and the garnishee.

"(B) Within 10 days after the garnishment terminates, the United States shall give a cumulative written accounting to the judgment debtor and garnishee of all property it receives under a writ of garnishment. Within 10 days after such accounting is received, the judgment debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting shall state grounds for the objection. The court shall hold a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(10) **TERMINATION OF GARNISHMENT.**—A garnishment under this chapter is terminated only by—

"(A) a court order quashing the writ of garnishment;
"(B) exhaustion of property in the possession, custody, or control of the garnishee in which the debtor has a substantial nonexempt interest (including nonexempt disposable earnings), unless the garnishee reinstates or reemploys the judgment debtor within 90 days after the judgment debtor's dismissal or resignation; or

"(C) satisfaction of the debt with respect to which the writ is issued.

"§ 3206. Discharge

"A person who pursuant to an execution or order issued under this chapter by a court pays or delivers to the United States, a United States marshal, or a receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt such person owes the judgment debtor, is discharged from such debt to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER D—FRAUDULENT TRANSFERS INVOLVING DEBTS

"Sec.

"3301. Definitions.

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"§ 3301. Definitions

"As used in this subchapter:

"(1) 'Affiliate' means—

"(A) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities—

"(i) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(ii) solely to secure a debt, if the person has not exercised the power to vote;

"(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds securities—

"(i) as a fiduciary or agent without sole power to vote the securities; or

"(ii) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(2) 'Asset' means property of a debtor, but does not include—

"(A) property to the extent it is encumbered by a valid lien;

"(B) property to the extent it is generally exempt under nonbankruptcy law; or

"(C) an interest in real property held in tenancy by the entirety, or as part of a community estate, to extent such interest is not subject to process by the United States holding a claim against only one tenant or co-owner.

"(3) 'Claim' means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

"(4) 'Creditor' means a person who has a claim.

"(5) 'Insider' includes—

"(A) if the debtor is an individual—

"(i) a relative of the debtor or of a general partner of the debtor;

"(ii) a partnership in which the debtor is a general partner;

"(iii) a general partner in a partnership described in clause (ii); or

"(iv) a corporation of which the debtor is a director, officer, or person in control;

"(B) if the debtor is a corporation—

"(i) a director of the debtor;

"(ii) an officer of the debtor;

"(iii) a person in control of the debtor;

"(iv) a partnership in which the debtor is a general partner;

"(v) a general partner in a partnership described in clause (iv); or

"(vi) a relative of a general partner, director, officer, or person in control of the debtor;

"(C) if the debtor is a partnership—

"(i) a general partner in the debtor;

"(ii) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(iii) another partnership in which the debtor is a general partner;

"(iv) a general partner in a partnership described in clause (iii); or

"(v) a person in control of the debtor.

"(D) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(E) a managing agent of the debtor.

"(4) 'Lien' means a charge against or an interest in property to secure payment of a debt and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common law lien, or a statutory lien.

"(5) 'Relative' means an individual related, by consanguinity or adoption, within the third degree as determined by the

common law, a spouse, or an individual so related to a spouse within the third degree as so determined.

"(6) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(7) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained in legal or equitable proceeding.

"§ 3302. Insolvency

"(a) IN GENERAL.—Except as provided in subsection (c), a debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) PRESUMPTION.—A debtor who is generally not paying debts as they become due is presumed to be insolvent.

"(c) CALCULATION.—A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of—

"(1) all of the partnership's assets; and

"(2) the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) ASSETS.—For purposes of this section, assets do not include property that is transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) DEBTS.—For purposes of this section, debts do not include an obligation to the extent such obligation is secured by a valid lien on property of the debtor not included as an asset.

"§ 3303. Value for transfer or obligation

"(a) TRANSACTION.—Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) REASONABLY EQUIVALENT VALUE.—For the purposes of sections 3304 and 3307, a person gives a reasonably equivalent value if he person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of power of sale for the acquisition or disposition of such interest upon default under a mortgage, deed of trust, or security agreement.

"(c) PRESENT VALUE.—A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3304. Transfer fraudulent as to a debt to the United States

"(a) DEBT ARISING BEFORE TRANSFER.—Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a debt to the United States which arises before the transfer is made or the obligation is incurred if—

"(1)(A) the debtor makes the transfer or incurs the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation; and

"(B) the debtor is insolvent at that time or the debtor becomes insolvent as a result of the transfer or obligation; or

"(2)(A) the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time; and

"(B) the insider had reasonable cause to believe that the debtor was insolvent.

"(b) TRANSFERS WITHOUT REGARD TO DATE OF JUDGMENT.—(1) Except as provided in section 3807, a transfer made or obligation incurred by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made or the obligation is incurred, if the debtor makes the transfer or incurs the obligation—

"(A) with actual intent to hinder, delay, or defraud a creditor; or

"(B) without receiving a reasonably equivalent value in exchange for the transfer or obligation if the debtor—

"(i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(ii) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(2) In determining actual intent under paragraph (1), consideration may be given, among other factors, to whether—

"(A) the transfer or obligation was to an insider;

"(B) the debtor retained possession or control of the property transferred after the transfer;

"(C) the transfer or obligation was disclosed or concealed;

"(D) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(E) the transfer was of substantially all the debtor's assets;

"(F) the debtor absconded;

"(G) the debtor removed or concealed assets;

"(H) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(I) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(J) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(K) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3305. When transfer is made or obligation is incurred

"For the purposes of this subchapter:

"(1) A transfer is made—

"(A) with respect to an asset that is real property (other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset), when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an

interest in the asset that is superior to the interest of the transferee; and

“(B) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire, otherwise than under this subchapter, a judicial lien that is superior to the interest of the transferee.

“(2) If applicable law permits the transfer to be perfected as approved in paragraph (1) and the transfer is not so perfected before the commencement of an action or proceeding for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action or proceeding.

“(3) If applicable law does not permit the transfer to be perfected as provided in paragraph (1), the transfer is made when it becomes effective between the debtor and the transferee.

“(4) A transfer is not made until the debtor has acquired rights in the asset transferred.

“(5) An obligation is incurred—

“(A) if oral, when it becomes effective between the parties; or

“(B) if evidenced by a writing executed by the obligor, when such writing is delivered to or for the benefit of the obligee.

“§ 3306. Remedies of the United States

“(a) IN GENERAL.—In an action or proceeding under this subchapter for relief against a transfer or obligation, the United States, subject to section 3307 and to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure, may obtain—

“(1) avoidance of the transfer or obligation to the extent necessary to satisfy the debt to the United States;

“(2) a remedy under this chapter against the asset transferred or other property of the transferee; or

“(3) any other relief the circumstances may require.

“(b) LIMITATION.—A claim for relief with respect to a fraudulent transfer or obligation under this subchapter is extinguished unless action is brought—

“(1) under section 3304(b)(1)(A) within 6 years after the transfer was made or the obligation was incurred or, if later, within 2 years after the transfer or obligation was or could reasonably have been discovered by the claimant;

“(2) under subsection (a)(1) or (b)(1)(B) of section 3304 within 6 years after the transfer was made or the obligation was incurred; or

“(3) under section 3304(a)(2) within 2 years after the transfer was made or the obligation was incurred.

“§ 3307. Defenses, liability, and protection of transferee

“(a) GOOD FAITH TRANSFER.—A transfer or obligation is not voidable under section 3304(b) with respect to a person who took in good faith and for a reasonably equivalent value or against any transferee or obligee subsequent to such person.

“(b) LIMITATION.—Except as provided in subsection (d), to the extent a transfer is voidable in an action or proceeding by the United States under section 3306(a)(1), the United States may recover judgment for the value of the asset transferred, but not to

exceed the judgment on a debt. The judgment may be entered against—

“(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

“(2) any subsequent transferee, other than a good faith transferee who took for value or any subsequent transferee of such good-faith transferee.

“(c) **VALUE OF ASSET.**—For purposes of subsection (b), the value of the asset is the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

“(d) **RIGHTS OF GOOD FAITH TRANSFEREES AND OBLIGEEES.**—Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

“(1) a lien on or a right to retain any interest in the asset transferred;

“(2) enforcement of any obligation incurred; or

“(3) a reduction in the amount of the liability on the judgment.

“(e) **EXCEPTIONS.**—A transfer is not voidable under section 3304(a) or section 3304(b)(2) if the transfer results from—

“(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

“(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the State where the property is located.

“(f) **LIMITATION OF VOIDABILITY.**—A transfer is not voidable under section 3304(a)(2)—

“(1) to the extent the insider gives new value to or for the benefit of the debtor after the transfer is made unless the new value is secured by a valid lien;

“(2) if made in the ordinary course of business or financial affairs of the debtor and the insider; or

“(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured both present value given for that purpose and an antecedent debt of the debtor.

“§ 3308. Supplementary provision

“Except as provided in this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause shall apply to actions and proceedings under this subchapter.”.

Sec. 3302. The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

“176. Federal Debt Collection Procedures”.

Subtitle B—Amendments to Other Provisions of Law

SEC. 3621. Section 523(a)(8) of title 11, United States Code, is amended—

(1) by striking “for an educational” and all that follow through “unless”, and inserting the following: “for an educational benefit overpayment or loan made, insured or guaran-

teed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless"; and

(2) by amending subparagraph (A) to read as follows:

"(A) such loan, benefit, scholarship, or stipend overpayment first became due more than 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 3622. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require;"

SEC. 3623. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond;"

SEC. 3624. Section 3142(g)(4) of title 18, United States Code, is amended by—

(1) striking out "(c)(2)(K)" and inserting in lieu thereof "(c)(1)(B)(xi)"; and

(2) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 3625. Section 3552(d) of title 18, United States Code, is amended by adding at the end the following: "The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed."

Reports.

SEC. 3626. (a) Section 550 of title 28, United States Code, is amended—

(1) in the heading by striking "and messengers" and inserting "messengers, and private process servers"; and

(2) by striking "and messengers on" and inserting "messengers, and private process servers on".

(b) The table of sections of chapter 35 of title 28, United States Code, is amended by striking the item relating to section 550 and inserting the following:

"550. Clerical assistants, messengers, and private process servers."

SEC. 3627. Section 1962 of title 28, United States Code, is amended by inserting after the first sentence the following: "This section does not apply to judgments entered in favor of the United States."

SEC. 3628. Section 1963 of title 28, United States Code, is amended by inserting after the first sentence the following: "Such a judgment

entered in favor of the United States may be so registered any time after judgment is entered.”.

SEC. 3629. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following:

“§ 2044. Payment of fine with bond money

Courts.

“On motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This section shall not apply to any third party surety.”.

(b) The table of sections for chapter 29 of title 28, United States Code, is amended by adding at the end thereof the following:

“2044. Payment of fine with bond money.”.

SEC. 3630. Section 2410(c) of title 28, United States Code, is amended by adding at the end the following: “In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.”.

Subtitle C—Miscellaneous

Effective dates.
28 USC 3001
note.

SEC. 3631. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b)(1) The amendments made by title I of this Act shall apply with respect to actions pending on the effective date of this Act in any court on—

- (A) a claim for a debt; or
- (B) a judgment for a debt.

(2) All notices, writs, orders, and judgments in effect in such actions shall continue in effect until superseded or modified in an action under chapter 176 of title 28 of the United States Code, as added by title I of this Act.

(3) For purposes of this subsection—

- (A) the term “court” means a Federal, State, or local court, and
- (B) the term “debt” has the meaning given such term in section and 3002(3) of such chapter.

TITLE XXXVII—NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

42 USC 5779. SEC. 3701. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 18

reported to such agency to the National Crime Information Center of the Department of Justice.

(b) **GUIDELINES.**—The Attorney General may establish guidelines for the collection of such reports including procedures for carrying out the purposes of this Act.

(c) **ANNUAL SUMMARY.**—The Attorney General shall publish an annual statistical summary of the reports received under this title.

SEC. 3702. STATE REQUIREMENTS.

42 USC 5780.

Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;

(2) provide that each such report and all necessary and available information, which, with respect to each missing child report, shall include—

(A) the name, date of birth, sex, race, height, weight, and eye and hair color of the child;

(B) the date and location of the last known contact with the child; and

(C) the category under which the child is reported missing;

is entered immediately into the State law enforcement system and the National Crime Information Center computer networks and made available to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports; and

(3) provide that after receiving reports as provided in paragraph (2), the law enforcement agency that entered the report into the National Crime Information Center shall—

(A) no later than 60 days after the original entry of the record into the State law enforcement system and National Crime Information Center computer networks, verify and update such record with any additional information, including, where available, medical and dental records;

(B) institute or assist with appropriate search and investigative procedures; and

(C) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of

Records.

information and technical assistance in the missing children cases.

Approved November 29, 1990.

LEGISLATIVE HISTORY—S. 3266:

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 27, considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 29, Presidential statement.

