

117TH CONGRESS  
2D SESSION

# S. 3823

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## AN ACT

To amend title 11, United States Code, to modify the eligibility requirements for a debtor under chapter 13, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bankruptcy Threshold  
3 Adjustment and Technical Corrections Act”.

4 **SEC. 2. BANKRUPTCY AMENDMENTS.**

5 (a) **DEFINITION OF SMALL BUSINESS DEBTOR.**—  
6 Section 101(51D)(B) of title 11, United States Code, is  
7 amended—

8 (1) in clause (i), by inserting “under this title”  
9 after “affiliated debtors”; and

10 (2) in clause (iii), by striking “an issuer” and  
11 all that follows and inserting “a corporation de-  
12 scribed in clause (ii).”.

13 (b) **ADJUSTMENTS FOR INFLATION.**—Section 104 of  
14 title 11, United States Code, is amended—

15 (1) in subsection (a), by inserting “1182(1),”  
16 after “707(b),”; and

17 (2) in subsection (b), by inserting “1182(1),”  
18 after “707(b),”.

19 (c) **WHO MAY BE A DEBTOR UNDER CHAPTER 13.**—  
20 Section 109 of title 11, United States Code is amended  
21 by striking subsection (e) and inserting the following:

22 “(e) Only an individual with regular income that  
23 owes, on the date of the filing of the petition, noncontin-  
24 gent, liquidated debts of less than \$2,750,000 or an indi-  
25 vidual with regular income and such individual’s spouse,  
26 except a stockbroker or a commodity broker, that owe, on

1 the date of the filing of the petition, noncontingent, liq-  
2 uidated debts that aggregate less than \$2,750,000 may  
3 be a debtor under chapter 13 of this title.”.

4 (d) DEFINITION OF DEBTOR.—Section 1182(1) of  
5 title 11, United States Code, is amended to read as fol-  
6 lows:

7 “(1) DEBTOR.—The term ‘debtor’—

8 “(A) subject to subparagraph (B), means a  
9 person engaged in commercial or business ac-  
10 tivities (including any affiliate of such person  
11 that is also a debtor under this title and exclud-  
12 ing a person whose primary activity is the busi-  
13 ness of owning single asset real estate) that has  
14 aggregate noncontingent liquidated secured and  
15 unsecured debts as of the date of the filing of  
16 the petition or the date of the order for relief  
17 in an amount not more than \$7,500,000 (ex-  
18 cluding debts owed to 1 or more affiliates or in-  
19 siders) not less than 50 percent of which arose  
20 from the commercial or business activities of  
21 the debtor; and

22 “(B) does not include—

23 “(i) any member of a group of affili-  
24 ated debtors under this title that has ag-  
25 gregate noncontingent liquidated secured

1 and unsecured debts in an amount greater  
2 than \$7,500,000 (excluding debt owed to 1  
3 or more affiliates or insiders);

4 “(ii) any debtor that is a corporation  
5 subject to the reporting requirements  
6 under section 13 or 15(d) of the Securities  
7 Exchange Act of 1934 (15 U.S.C. 78m,  
8 78o(d)); or

9 “(iii) any debtor that is an affiliate of  
10 a corporation described in clause (ii).”.

11 (e) TRUSTEE.—Section 1183(b)(5) of title 11, United  
12 States Code, is amended—

13 (1) by striking “possession, perform” and in-  
14 serting “possession—

15 “(A) perform”;

16 (2) in subparagraph (A), as so designated—

17 (A) by striking “, including operating the  
18 business of the debtor”; and

19 (B) by adding “and” at the end; and

20 (3) by adding at the end the following:

21 “(B) be authorized to operate the business  
22 of the debtor;”.

23 (f) CONFIRMATION OF PLAN.—Section 1191(c) of  
24 title 11, United States Code, is amended by striking para-  
25 graph (3) and inserting the following:

1           “(3)(A) The debtor will be able to make all pay-  
2           ments under the plan; or

3           “(B)(i) there is a reasonable likelihood that the  
4           debtor will be able to make all payments under the  
5           plan; and

6           “(ii) the plan provides appropriate remedies,  
7           which may include the liquidation of nonexempt as-  
8           sets, to protect the holders of claims or interests in  
9           the event that the payments are not made.”.

10          (g) TECHNICAL CORRECTIONS TO THE BANKRUPTCY  
11          ADMINISTRATION IMPROVEMENT ACT.—Section 589a of  
12          title 28, United States Code is amended—

13                 (1) in subsection (c) by striking “subsection  
14                 (a)” and inserting “subsections (a) and (f)”; and

15                 (2) in subsection (f)(1)—

16                         (A) in the matter preceding subparagraph  
17                         (A), by striking “subsections (b) and (c)” and  
18                         inserting “subsection (b)(5)”; and

19                         (B) in subparagraph (A), by inserting  
20                         “needed to offset the amount” after  
21                         “amounts”.

22          (h) EFFECTIVE DATE; APPLICABILITY.—

23                 (1) IN GENERAL.—Subsections (b) and (c) and  
24                 the amendments made by subsections (b) and (c)

1 shall take effect on the date of enactment of this  
2 Act.

3 (2) RETROACTIVE APPLICATION OF CERTAIN  
4 AMENDMENTS.—The amendments made by sub-  
5 sections (a), (d), (e), and (f) shall apply with respect  
6 to any case that—

7 (A) is commenced under title 11, United  
8 States Code, on or after March 27, 2020; and

9 (B) with respect to a case that was com-  
10 menced on or after March 27, 2020 and before  
11 the date of enactment of this Act, is pending on  
12 the date of enactment of this Act.

13 (3) EFFECTIVE DATE OF TECHNICAL CORREC-  
14 TIONS TO BAlA.—The amendments made by sub-  
15 section (g) shall take effect as if enacted on October  
16 1, 2021.

17 (i) SUNSETS.—

18 (1) IN GENERAL.—Effective on the date that is  
19 2 years after the date of enactment of this Act—

20 (A) subsection (e) of section 109 of title  
21 11, United States Code is amended to read as  
22 such subsection read on the day before the date  
23 of enactment of this Act; and

24 (B) section 1182(1) of title 11, United  
25 States Code, is amended to read as follows:

1           “(1) DEBTOR.—The term ‘debtor’ means a  
2           small business debtor.”.

3           (2) AMOUNTS.—For purposes of applying sub-  
4           section (e) of section 109 of title 11, United States  
5           Code, as amended by paragraph (1)(A), the amounts  
6           specified in such subsection shall be the amounts  
7           that were in effect on the day before the date of en-  
8           actment of this Act.

Passed the Senate April 7, 2022.

Attest:

*Secretary.*

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