

IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Clerk's Office]

| Task | Bill/Code | Impact Description | Category Type |
|-------------|--|--|----------------------|
| C1 | 102 11 USC § 707 | Clerk's New Means -Test Form - Requires a new Official Bankruptcy Form for Debtor's Statement of Monthly Income and calculations to determine whether a presumption of abuse arises under § 707(b). | 2 |
| C2 | 102 | New Dictionary Event for Means -Test Form - Requires a new dictionary event for new statement to be filed by individual Chapter 7 debtors. Clerk's Office required to docket and scan the new statement if filed manually at the Intake counter. | 2 |
| C3 | 102 11 USC § 342(d) 11 USC § 707(b) | Clerk's Presumption of Abuse Notice - Requires new BNC notice that will be sent to all creditors within 10 days of the filing of the petition if the debtor is an individual and the presumption of abuse arises under § 707(b). | 2 |
| C4 | 102 11 USC § 342(d) 11 USC § 704(b)(1) | U.S. Trustee Statement of Presumed Abuse - Requires new BNC notice that will be sent to all creditors within 5 days of receiving statement from U.S. Trustee as to whether a Chapter 7 case should be presumed to be an abuse under § 707(b). | 2 |
| C5 | 102 11 USC § 704(b) | U.S. Trustee Motion to Dismiss or Convert Chapter 7 Case for Abuse - Clerk's Office required to establish a procedure for tracking and monitoring requirement that U.S. Trustee file a motion to dismiss or convert Chapter 7 case (with debtor's consent) or a statement why no motion is being filed within 30 days after the date of filing a statement of whether debtor's case should be presumed to be an abuse under § 707(b). | 1 |
| C6 | 102 11 USC § 707 | Debtor's Schedules of Expenses - Requires amendments to Schedules I & J to capture Family Violence Protection, elderly care, and/or home energy expenses. Clerk's Office required to maintain debtor's schedules of expenses in a nonpublic file if it includes those reasonably necessary to maintain safety from family violence. | 2 |
| C7 | 104 11 USC § 342(b) | Notice of Alternatives - Requires amendments to the notice currently provided to debtors prior to commencement of a case to include: (1) the types of services available from credit counseling agencies; (2) the criminal penalties for fraudulent concealment of assets; and (3) a statement that all creditor-supplied information is subject to examination by the Attorney General. | 2 |

Category Type: 1. Action to be initiated without further A.O. guidance
 2. Requires national direction
 3. Defer or Unknown

IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Clerk's Office]

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| C8 | 106 11 USC § 109 | Mandatory Debtor Education and Credit Counseling - Clerk's Office required to monitor Chapter 7 and 13 filings to determine whether individual debtors have completed their mandatory credit counseling (§ 109 eligibility requirement) and personal financial management course (condition for discharge). There are exceptions where there is an emergency and the person could not receive counseling within five days, or where the U.S. Trustee has determined that the approved agencies are not adequate to provide the required counseling). [D3, J3, T3] | 1 |
| C9 | 106 11 USC § 109 | Debtor's Certificate of Credit Counseling/Debt Repayment Plan - Require new dictionary events for two new documents to be filed by individual Chapter 7 debtors with their petition. | 2 |
| C10 | 106 | Approved Credit Counseling Agencies and Financial Management Courses - Clerk required to maintain a publicly available list of approved financial management training and credit counseling agencies (i.e., posted to the court's website) and update the information as directed by the U.S. Trustee. [T4] | 1 |
| C11 | 203 11 USC § 524 | Standardized Reaffirmation Agreements - Requires new or amended reaffirmation forms to include mandated disclosures and explanations to the debtor for dischargeable debt agreements. Revisions also required to local forms and notices. Credit Union creditors are exempted from such detailed disclosures and explanations. [D5, J5] | 2 |
| C12 | 203 11 USC § 524 | Discouraging Abuse of Reaffirmation Practices - Court required to establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to U.S. Attorney and FBI agents. [J6] | 1 |
| C13 | 213 11 USC §§ 1129(a); 1208(c), 1222(a) & (b), 1225(a), 1228(a), 1307(c), 1322(a) & (b), 1325(a) and 1328(a) | Debtor Certification of Payment of Domestic Support Obligations - Requires a new dictionary event for certification to be filed by debtor prior to court confirmation of debt repayment plan under Chapter 11, 12 and 13. | 2 |
| C14 | 221 11 USC § 110 | Disclosures by Petition Preparers - Requires a new Official Bankruptcy Form to include mandated disclosures to debtors prior to any collection of fees for services. | 2 |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Clerk's Office]

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| C15 | 233 11 USC § 112 | Prohibition on Disclosure of Name of Minor Children - Requires a new local rule requiring that documents filed with the court restrict disclosure of names of minor children. | 2 |
| C16 | 302 11 USC § 362(c) | Automatic Stay Exceptions - Clerk's Office required to monitor repeat filings and if within one year of Chapter 7 dismissal, stay will terminate 30 days after filing. Requires modifications to 109(g) database. [J7] | 1 |
| C17 | 311 11 USC § 362(b) | Automatic Stay Exceptions for Residential Leases - Clerk must provide immediate service of any court order upholding a lessor's objection to a debtor's certification that has cured a monetary default under a lease. Clerk also must provide certified copy of docket to lessor and debtor when no certification has been filed by the debtor concerning cure of a lease. | 1 |
| C18 | 311 | Automatic Stay Exceptions for Eviction Judgment - Clerk's Office required to collect and disperse rental funds to lessors. [J10] | 1 |
| C19 | 312 11 USC §§ 727(a)(8) & 1328 | Extended Period Between Bankruptcy Discharges - Clerk's Office required to track duplicate filers and perform SSN review in all cases prior to entry of discharge. Requires modifications to automated discharge program and 109 dismissal database. | 2 |
| C20 | 315 11 USC § 342 | Giving Creditors Fair Notice in Chapter 7 and 13 Cases - Clerk has 5 days to update a creditor address for service. | 1 |
| C21 | 315 | Clerk's New Form for Creditors to Register a Preferred Address - Requires a new Official Bankruptcy Form to be used by entities to register a preferred address, or addresses, with the Bankruptcy Noticing Center. | 2 |
| C22 | 315 11 USC § 521 | Debtor's Duty to File Schedules and Other Mandatory Information - Clerk's Office required to monitor debtor's compliance with new filing requirements. Revisions required to case commencement notices and procedures to include new 45-day compliance period. [D7] | 1 |
| C23 | 315 | Requests for Copy of Petition and Schedules - Clerk's Office required to provide copies of petitions and schedules to creditor upon request. Need to clarify whether or not the court is required to collect a fee. | 1 |
| C24 | 315 | Requests for Copy of Chapter 13 Plan - Clerk's Office required to provide copies of plan to creditor upon request within 5 days (at reasonable cost). | 1 |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Clerk's Office]

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| C25 | 315 | Filing of Tax Returns & and Annual Budgets - Requires new dictionary event for tax returns to be filed by Chapter 7, 11 or 13 debtors during the pendency of their cases, if requested by the judge or any party in interest. Also requires a new dictionary event for annual budget required to be filed by Chapter 13 debtors. Clerk's Office will be required to implement procedures promulgated by A.O. to ensure the privacy and confidentiality of personal identifiers contained in tax returns. [D6, J11] | 2 |
| C26 | 315 | Inspection of Debtor's Tax Returns and Other Documents - Clerk's Office required to make tax returns, amendments and statement of income and expenses available for inspection and copying to U.S. Trustee and any party in interest. Clerk's Office must establish a procedure to verify identification of the party making the request. | 2 |
| C27 | 316 11 USC § 521 | Dismissal For Failure to File Schedules or Other Mandatory Information - Court must automatically dismiss cases on 46 th day if all required information in Chapter 7 and 13 cases is not filed within 45 days of filing. Requires modifications to automated dismissal program. [D7] | 1 |
| C28 | 317 11 USC § 1324 | Chapter 13 Confirmation Hearing - Clerk's Office required to schedule Chapter 13 confirmation hearings between 20 to 45 days after the 341 meeting. | 1 |
| C29 | 325 28 USC § 1930(a) | Bankruptcy Fees - Clerk's Office required to notify the public about changes to the filing fees that take effect on October 17, 2005. Clerk's Office will have to modify accounting procedures for new fund amounts to be deposited in the U.S. Trustee System Fund and the special Treasury fund for operation and maintenance of courts. | 2 |
| C30 | 330 11 USC §§ 727(a); 1141(d), 1228 & 1328 | Delay of Chapter 12 and 13 Discharge During Pendency of Certain Proceedings - Court required to withhold discharge upon its reasonable belief that a proceeding is pending in which debtor may be found guilty of a felony, or become liable for specified debts. A hearing will be required in all Chapter 12 and 13 cases no more than 10 days before the date of entry of the order granting the discharge, for the court to determine that there is no reasonable cause to believe there is any proceeding pending in which the debtor may be found guilty of a particular type of felony or liable for a particular type of debt. This provision goes into effect on date of enactment. [J15] | 1 |
| C31 | 418 28 USC § 1930 | Clerk's New Fee Waiver Application - Requires a new Official Bankruptcy Form for processing fee waiver applications by Chapter 7 debtors. Where the applications are denied, additional Clerk's Office time and effort will be required to track and collect outstanding fees, or issue an order to show cause to dismiss case. [J17] | 2 |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Clerk's Office]

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| C32 | 419 Rule 9009 | New Filing Requirements for Chapter 11 Debtors - Requires new dictionary events and Official Bankruptcy Forms for Chapter 11 debtors to disclose information on value, operations and profitability of closely held corporation, partnership or other entity where debtor holds a controlling interest. Judicial Conference and Executive Office for U.S. Trustees to propose amended Federal Rules of Bankruptcy Procedure and new Official Bankruptcy Forms. [D11] | 2 |
| C33 | 436 11 USC § 1116 | New Filing Requirements for Small Business Chapter 11 Cases - Require new dictionary events for additional documents to be filed by small business debtors. These documents include balance sheet, statement of operations, cash flow statement & Federal Income tax return or statement that none of the above has been prepared. [D13] | 2 |
| C34 | 442 11 USC §§ 1104, 1112 | Expanded Grounds for Dismissal or Conversion to Chapter 7 - Clerk's Office required to notice, schedule and calendar hearings on all motions to dismiss or convert in Chapter 11 pursuant to section 1112 to be held within 30 days of the filing of the motion . [J19] | 1 |
| C35 | 601 28 USC § Chapter 6 § 159 | Reporting & Statistics - Clerk required to collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11 and 13 in a standardized format prescribed by the Director. (Sec. 601). The Director shall submit a report to Congress, not later than July 1, 2008, concerning the information collected and an analysis of it. Detailed statistics regarding monthly income, average income, average expenses, amount of debt discharged, reaffirmation agreements, final orders determining value of property securing a claim in Chapter 13 cases, number of cases dismissed in Chapter 13 for failure to make payments under the plan, number refiled after dismissal, number of cases with completed plans and number of modifications to the plan, number of repeat filers within 6 year period, number of cases creditors fined for misconduct, amount of punitive damages awarded, and number of cases where sanction under rule 9011 was imposed against debtor's attorney or damages awarded. These amendments become effective 18 months after the date of enactment of the Act. Deputy clerks will require substantive training in order to accurately identify and categorize particular case events. | 3 |
| C36 | 603 11 USC § 727 | New Audit Requirements - Clerk's Office required to assist as necessary, the U.S. Trustee or Bankruptcy Administrators with audit requirements of bankruptcy cases (not less than 1 out of every 250 cases shall be audited). Clerk required to give notice to creditors in any case where a material misstatement of income or expenses is reported. These amendments become effective 18 months after the date of enactment of the Act. [T6] | 3 |

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| C37 | 604 11 USC § 107 | Sense of Congress that all data held by bankruptcy clerks in electronic form should be released in usable electronic form in bulk to the public and that a bankruptcy data system should be established where a single set of data definitions and forms are used to collect data nationwide and data for any bankruptcy case is aggregated in the same electronic record. | 3 |
| C38 | 703 11 USC § 505(b) | Bankruptcy Tax Provisions - Clerk required to maintain a publicly available list under which a Federal, State or local governmental unit responsible for the collection of taxes within the district may designate an address for service of requests and describe where further information concerning additional requirements for filing such requests may be found. | 1 |
| C39 | 801 11 USC § Chapter 15 (new) | Ancillary and Other Cross Border Insolvencies - Requires a new dictionary event for new type of bankruptcy case initiated by the filing by a foreign representative of a petition for recognition of a foreign proceeding under section 1515. Debtor required to file a certified copy of an order granting recognition of a foreign proceeding prior to commencement of case. [J22] | 2 |
| C40 | 1514 | Notice of Commencement of Ancillary Case - Requires a new BNC notice and dictionary event for giving notification of commencement of case to foreign debtors. | 2 |
| C41 | 1001 11 USC § Chapter 12 | Permanent Reinstatement of Chapter 12 - Requires amendment to Official Bankruptcy Petition to add new debtor type of "family fisherman". | 2 |
| C42 | 1104 11 USC § 333 | Health Care Business Cases - Requires modifications to Official Bankruptcy Form to add a new debtor type of "Health Care Business" and a new role type 'ombudsman'. Clerk's Office required to track the compensation/expenses for this ombudsman as professional fees. | 2 |
| C43 | 1104 11 USC § 333 | Appointment of an Ombudsman - Clerk's office required to monitor requirement that the court order the appointment of an ombudsman to monitor the quality of patient care in "Health Care Business" cases within 30 days of the filing of a Chapter 7, 9 or 11 case. [J23] | 1 |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Clerk's Office]

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| C44 | 1104 | New Clerk's Notice to State Long Term Care Ombudsman - Requires a new BNC notice. If the U.S. Trustee does not appoint a State Long Term Ombudsman, the court must notify the State Long Term Care Ombudsman for the State in which the case is pending of the name and address of the person who is appointed. | 2 |
| C45 | 1228 | Discharge Conditioned upon Filing of Tax Returns - The court is prohibited from granting a discharge in a Chapter 7 case, or from confirming a reorganization plan in a Chapter 11 or 13 case, unless requested tax documents have been provided to the court. [J26] | 1 |
| C46 | 1228 | Destruction of Tax Documents - The court required to destroy documents submitted in support of a bankruptcy claim no sooner than 3 years after the date of the conclusion of the case by an individual debtor under Chapter 7, 11 or 13. In the event of a pending audit, the court may extend the time for destruction of such requested tax documents. | 1 |
| C47 | 1233 28 USC § 158 | Direct Appeals - Clerk's Office required to coordinate with court of appeals for handling of direct appeals from bankruptcy court, if certified and accepted. A petition requesting permission to appeal shall be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court. [J27] | 1 |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Debtor]

| Task | Bill/Code | Impact Description | Actio |
|-------------|---------------------------------------|--|--------------|
| D1 | 102 11 USC § 707 | Attorney Sanctions - Debtor's attorney will be subject to an order requiring reimbursement of trustee's reasonable costs, including attorney fees, in successfully bringing a motion under § 707(b). The court may also assess a civil penalty payable to the U.S. Trustee if court determine that the attorney violated Rule 9011. | |
| D2 | 102 11 USC § 707 | Attorney Certifications - Attorney's signature on petition, pleading or written motion is a certification that attorney has performed a reasonable investigation into the circumstances giving rise to the petition, pleading or motion. | |
| D3 | 106 11 USC §§ 109, 521 | Mandatory Debtor Education and Credit Counseling - Individual debtors ineligible for relief unless they file proof of having received credit counseling within 180 days of filing -- through an approved nonprofit budget and credit counseling agency. Completion of course on personal financial management a condition for discharge in Chapter 13; failure to complete grounds for denying discharge in Chapter 7 case. [C8,T3] | |
| D4 | 227-229 11 USC §§ 526, 527, 528 | Debt Relief Agency - Attorneys will be considered a debt relief agency and there are substantial new provisions, disclosure requirements and potential liabilities for such debt relief agencies. The district court will have concurrent jurisdiction of any action under section 526 (debt relief agencies) and can impose a civil penalty on attorneys. | |
| D5 | 203 11 USC § 524 | Reaffirmation Agreements - Debtor's attorney required to certify that debtor can make the payments where income exceeds expenses. [C11] | |
| D6 | 315 11 USC § 521 | Filing of Tax Returns & Annual Budgets - In all cases, (1) debtor required to provide a copy of tax return or transcript for prior tax year to trustee and any requesting creditor within 7 days of 341 meeting, subject to showing circumstances beyond debtor's control; dismissal of case otherwise; and (2) on request o any party in interest or judge, debtor must file current federal tax returns or transcripts while case is pending, and (in Chapter 13 only) annual budget. [C25, J11] | |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Debtor]

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| D7 | 315 11 USC § 521 | Debtor's Duty to File Schedules and Other Mandatory Information - Debtors required to file additional documents with petition or within 45 days of the filing, including: (1) certificate that attorney gave debtor notice required by sec. 342(b); (2) copies of pay stubs or other evidence of payment received from any employer within 60 days before the date of the filing of the petition; (3) statement of the amount of monthly net income, itemized to show how the amount is calculated, and (4) statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition. Debtor's failure to timely file mandatory documents will result in automatic dismissal of case on 46 th day. [C22] |
| D8 | 318 11 USC § 1322(d) | Disposable Income/Plan Length - Debtors whose incomes are greater than the highest median family income for that size family, will be required to complete a 5 year Chapter 13 plan, unless the plan provides for a 100% payment of unsecured creditors in a shorter period of time. [J13] |
| D9 | 321 11 USC §§ 1115, 1117, 1129, & 1141 | New Guidelines Governing a Chapter 11 Business Reorganization - There are new guidelines governing Chapter 11 business reorganization cases filed by and individual to: (1) identify the property of the estate in bankruptcy; and (2) revise the contents, confirmation, and modification of a reorganization plan. |
| D10 | 411 11 USC §§ 1121, 1129 | Reduced Period to File Chapter 11 Plan - New 120-day exclusive period for filing a plan, which may not be extended beyond 18 months; limited ability of the court to extend the time. |
| D11 | 419 Rule 9009 | New Reporting Requirements in Chapter 11 Cases - Chapter 11 debtors required to file periodic financial and other reports providing information on value, operations and profitability of closely held corporation, partnership or other entity where debtor holds a controlling interest. Judicial Conference and Executive Office for U.S. Trustees shall propose new Federal Rules of Bankruptcy Procedures and Official Bankruptcy Forms to carry out this purpose. [C32] |
| D12 | 434-435 11 USC § 1121(d) | New Filing Requirements for Small Business Debtors - Debtors required to comply with new uniform national reporting requirements for small business debtors. Judicial Conference to propose amended FRBP and Official Bankruptcy Forms to carry out these filing requirements. (Sec. 434, 435) |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Debtor]

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| D13 | 436 11 USC § 1116 | New Duties of Small Business Debtors - Debtor required to append to the petition or furnish within 7 days a copy of most recent balance sheet, statement of operations, cash-flow statement, and tax return. |
| D14 | 716 11 USC §§ 502, 1308 & 1325 | Filing of Tax Returns - Chapter 13 debtor required to file all pre-petition tax returns with appropriate taxing authorities in order to obtain plan confirmation. Failure to file may result in the dismissal or conversion of the Chapter 13 case. |
| D15 | 1233 28 USC § 158 | Direct Appeal - A party may make a direct appeal of bankruptcy decisions to court of appeals if no controlling decision from a court of appeals or Supreme Court, or if conflicting authorities, and if court of appeal authorizes the direct appeal. Any request by a party for certification must be filed not later than 60 days after entry of the judgment. [C47, J27] |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Judge]

| Task | Bill/Code | Impact Description | Actio |
|-------------|-------------------------------|---|--------------|
| J1 | 102 11 USC § 707(b) | Means - Testing in Chapter 7 Cases - New requirement to determine when the average monthly income is in effect for means testing calculations. | |
| J2 | 102 11 USC § 707(b) | Dismissal or conversion of Chapter 7 Cases for Abuse under § 707(b) - Extensive new litigation over debtor's disposable income and good faith. Possible increase in orders and judgments awarding legal fees. [C5] | |
| J3 | 106 11USC § 109 | Mandatory Debtor Education and Credit Counseling - Extensive new litigation over whether debtor has satisfied the mandatory credit counseling and debtor education requirements. [C8, D3] | |
| J4 | 201 11 USC §§ 502(b) & 547 | Reduction of Unsecured Claim - Debtor can file a motion to have an unsecured claim reduced by up to 20 percent if creditor unreasonably refused to negotiate a repayment schedule proposed in credit counseling at least 60 days before filing. Requires new orders reducing amount of claim. | |
| J5 | 203 11 USC § 524 | Reaffirmation Agreements - The Court will be required to hold a hearing for all unrepresented debtors and must find the agreements are in the debtor's best interest to approve them. Section (m)(1) provides that no agreement shall be disapproved without notice and hearing and must be concluded prior to the entry of discharge. Requires revisions to reaffirmation forms and procedures. [C11, D5] | |
| J6 | 203 11 USC § 524 | Material Misrepresentations in Reaffirmation Agreements - Bankruptcy courts required to establish procedures for referring cases with material false statements in schedules to the U.S. Attorney. [C12] | |
| J7 | 302 11 USC § 362(c) | Automatic Stay Exceptions - Extensive new litigation will arise based on new bad faith filing presumptions, which require the court to monitor all repeat filers and if within one year of a prior Chapter 7 dismissal, will cause the automatic stay to terminate 30 days after the new filing and provide grounds for further litigation over bad faith filing presumption. [C16] | |
| J8 | 303 11 USC § 362(d) | Authorization of In - Rem Relief - Directs the court to grant two-year relief from the automatic stay upon request of a party in interest in connection to real property actions if court finds the filing of petition was scheme to delay, hinder, or defraud creditor. Possible increase in orders extending period of relief from stay. | |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Judge]

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| J9 | 310 11 USC § 523 | <p>Revised Nondischargeability Guidelines - Possible increase in dischargeability litigation as a result of revised nondischargeability guidelines:</p> <ul style="list-style-type: none"> • luxury goods look back extended from 60 to 90 days and amount reduced from \$1225 to \$500. • Cash advances reduced from \$1225 to \$750 in 70 days (prior 60 days). • Chapter 13 cases no longer receive super discharge, which will result in more dischargeability litigation |
| J10 | 311 11 USC § 362(b) | <p>Automatic Stay for Eviction Judgment - Denies an automatic stay of specified residential real property eviction proceedings by a lessor against a debtor, which will result in additional proceedings and shortened time periods for conducting hearings. Require amendments to Relief From Stay forms, local rules and procedures. [C18]</p> |
| J11 | 315 11 USC § 521 | <p>Debtor's Failure to Provide Required Tax Returns - Possible increase in motions filed by trustees to dismiss cases; more orders processing and/or orders continuing 341 meeting. [C25, D6]</p> |
| J12 | 316 11 USC § 521 | <p>Debtor's Failure to Provide Schedules and Other Mandatory Information - Requires the court to enter an order dismissing case within 5 days of a request by a party in interest if debtor fails to timely file the requisite schedules and other mandatory information within 45 days of filing a petition. [C22, D7]</p> |
| J13 | 318 11 USC § 1322(d) | <p>Chapter 13 Debt Readjustment Payment Plan - New statutory formula to determine whether a Chapter 13 debt readjustment payment plan shall be of either three-year or five-year duration. [D8]</p> |
| J14 | 320 11 USC § 362(e) | <p>Revised Automatic Stay Guidelines - The Court must render a final decision on relief from stay motions within 60 days of their filing or the stay shall terminate, unless the parties agree to extend the deadline or the court for good cause extends based on findings made.</p> |
| J15 | 330 11 USC §§ 727(a), 1141(d), 1228 & 1328 | <p>Chapter 12 and 13 Discharges - The court may not grant a discharge in Chapter 12 and 13 cases unless it conducts a hearing not more than 10 days before the date of the order granting the discharge and find not no reasonable cause to believe there is any proceeding pending in which the debtor may be found guilty of a particular type of felony or liable for a particular type of debt. This provision is effective on date of enactment. [C30]</p> |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Judge]

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| J16 | 405 11 USC § 1102(a) | Membership of Committee of Creditors - Authorizes Chapter 11 trustee to increase the membership of a committee to creditors and equity security holders. Possible new hearings over trustee's motion re: Membership of Creditor Committee. |
| J17 | 418 28 USC § 1930 | Fee Waiver Requests - New hearings over applications to waive fees for Chapter 7 debtors. [C31] |
| J18 | 438 11 USC § 1129 | Confirmation of Chapter 11 Plan - Reduced time to confirm small business Chapter 11 cases – <i>not later than 45 days after the plan is filed, unless time is extended pursuant to sec. 1121(e)(3).</i> |
| J19 | 442 11 USC §§ 1104 & 1112 | Expanded Grounds for Dismissal or Conversion to Chapter 7 - The Court must commence a hearing within 30 days of the filing of a motion to dismiss or convert under section 1112 and must decide the motion not later than 15 days after the commencement of the hearing, unless movant consents to continuance or compelling circumstances prevent meeting the time limits. [C34] |
| J20 | 603 11 USC § 727 | Audit Findings - Increased litigation over revocation of discharges for individuals under chapters 7, 13 or 11, resulting from audit reports indicating material misstatements of income or expenses. [T8] |
| J21 | 716 11 USC §§ 502(b)(9), 1308, & 1325(a) | Debtor's Failure to File Required Tax Returns - Increased litigation over whether debtors have filed all the required tax returns with the appropriate taxing authorities or the time period that such returns must be filed. |
| J22 | 801 11 USC §15 (new) | Ancillary and Other Cross-Border Cases - New judicial responsibilities to determine whether to recognize the foreign proceeding. New hearings over motion for recognition (foreign proceeding) and more orders processing. [C39] |
| J23 | 1104 11 USC § 333 | Appointment of an Ombudsman - Requires the court to appoint an ombudsman to represent the interest of patients of a health care business within 30 days after commencement of a case under Chapter 7 (Liquidation), 9 (Adjustment of Debts of a Municipality), or 11 (Reorganization), unless court finds such appointment is not necessary to protect patients. [C43, T11] |
| J24 | 1104 11 USC § 333 | Notice to State Long Term Care Ombudsman - If the U.S. Trustee does not appoint a State Long Term Care Ombudsman, the court is required to notify the State Long Term Care Ombudsman for the State in which the case is pending of the name and address of the person who is appointed. [C44] |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Judge]

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| J25 | 1223 | Authorized 28 new Bankruptcy Judgeships. |
| J26 | 1228 | Delay in Confirmation of Chapter 11 and 13 Plan - The court shall not confirm a plan of reorganization of an individual debtor under Chapter 11 or 13 unless requested tax documents have been provided to the court. [C45] |
| J27 | 1233 11USC § 158 | Direct Appeal - If conditions exist as provided in statute (no controlling decision of court of appeals or Supreme Court or conflicting authorities), court may make certification that appeal be directed to court of appeals. [C47, D15] |

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IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Trustee]

| Task | Bill/Code | Impact Description | Act |
|-------------|---------------------------|--|------------|
| T1 | 102 11 USC § 704(b)(1) | U.S. Trustee Review of Chapter 7 Filings - U.S. Trustee required to review all materials filed by the debtor, and not later than 10 days after the first meeting of creditors, file with the court a statement as to whether the case would be presumed an abuse under § 707(b). | |
| T2 | 102 11 USC § 704(b)(1) | U.S. Trustee Statement Motion to Dismiss or Convert Chapter 7 Case for Abuse - Within 30 days of the filing of the Statement of whether presumed abuse exists, the U.S. Trustee to file a motion to dismiss or convert or a Statement why no motion is being filed in every Chapter 7 case. [C5, J2] | |
| T3 | 105 | Debtor Education on Personal Financial Management - Executive Offices for U.S. Trustees to develop financial management training curriculum and materials for debtors, which will be tested in 6 districts over an 18-month period. | |
| T4 | 106 | Approval of Credit Counseling Agencies and Financial Management Course - U.S. Trustee to evaluate and approve both nonprofit budget and credit counseling agencies and the personal financial management courses. [C10] | |
| T5 | 447 11 USC § 1114(d) | Appointment of Committee of Retired Employees - If ordered by the court, the U.S. Trustee shall appoint a committee of retired employees. | |
| T6 | 603 11 USC § 727 | New Audit Requirements - Attorney General is given a "reasonable time after the effective date" to issue rules requiring uniform forms for final reports by trustees in cases under Chapter 7, 12, 13 and periodic reports under Chapter 11. There is also a list of specific types of information that must be included in the final reports, which must be available to the public both by physical inspection and electronic access. [C36] | |
| T7 | 603 11 USC § 727 | Audit Procedures - Attorney General and Judicial Conference in districts served by the Bankruptcy Administrators, must establish audit procedures for the accuracy, veracity and completeness of petitions, schedules and other information required to be filed by the debtor. Not less than 1 out of every 250 cases in each district shall be selected for audit. These amendments become effective 18 months after the date of enactment of the Act. | |

Category Type: 1. Action to be initiated without further A.O. guidance
 2. Requires national direction
 3. Defer or Unknown

IMPACT STATEMENT OF BANKRUPTCY REFORM ACT OF 2005 [Trustee]

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| T8 | 603 11 USC § 727 | Audit Findings - If a material misstatement of income or expenses is reported, the U.S. Trustee shall report the misstatement to the U.S. Attorney and if advisable, commence an AP to revoke the debtor's discharge. These amendments become effective 18 months after the date of enactment of the Act. [J20] |
| T9 | 801 11 USC § Ch. 15 (new) | Ancillary and Other Cross Border Cases - The foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee provided by sections 363 and 552. [C39, J22] |
| T10 | 1102 11 USC § 351 | Health Care Business Cases - New noticing requirements of a trustee if administering a health care business and does not have sufficient funds to pay storage of patient records |
| T11 | 1104 11 USC § 333 | Appointment of Ombudsman - If the court appoints an ombudsman to monitor quality of patient care for a health care business, the U.S. Trustee shall appoint one disinterested person to serve as such ombudsman. (Sec. 1104) If the health care business provides long term care, the U.S. Trustee may appoint the State Long Term Care Ombudsman for the State in which the case is pending. [C43, J23] |
| T12 | 1231 28 USC § 568(d)&(e) | Suspension and Termination of Panel Trustees - Trustees may obtain judicial review of the final agency decision to terminate them or cease assigning cases in the district court for the district for which the panel of trustees resides, after first exhausting all administrative remedies. |

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