

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. CON. RES. 488

Directing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 2215.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2002

Mr. HOLDEN (for himself and Mr. PHELPS) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## CONCURRENT RESOLUTION

Directing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 2215.

1       *Resolved by the House of Representatives (the Senate*  
2 *concurring)*, That in the enrollment of the bill (H.R.  
3 2215), An Act to authorize appropriations for the Depart-  
4 ment of Justice for fiscal year 2002, and for other pur-  
5 poses, the Clerk of the House of Representatives shall cor-  
6 rect the bill by adding at the end the following (and con-  
7 forming the table of contents of the bill accordingly):

1 **TITLE V—FAMILY FARMERS AND**  
2 **FAMILY FISHERMEN PROTEC-**  
3 **TION ACT OF 2002**

4 **SEC. 14201. FAMILY FARMERS AND FAMILY FISHERMEN**  
5 **PROTECTION.**

6 (a) **SHORT TITLE.**—This section may be cited as the  
7 “Family Farmers and Family Fishermen Protection Act  
8 of 2002”.

9 (b) **PERMANENT REENACTMENT OF CHAPTER 12.**—

10 (1) **REENACTMENT.**—

11 (A) **IN GENERAL.**—Chapter 12 of title 11,  
12 United States Code, as reenacted by section  
13 149 of division C of the Omnibus Consolidated  
14 and Emergency Supplemental Appropriations  
15 Act, 1999 (Public Law 105–277), is hereby re-  
16 enacted, and as here reenacted is amended by  
17 this section.

18 (B) **EFFECTIVE DATE.**—Subsection (a)  
19 shall take effect on the date of the enactment  
20 of this Act.

21 (2) **CONFORMING AMENDMENT.**—Section 302  
22 of the Bankruptcy Judges, United States Trustees,  
23 and Family Farmer Bankruptcy Act of 1986 (28  
24 U.S.C. 581 note) is amended by striking subsection  
25 (f).

1 (c) DEBT LIMIT INCREASE.—Section 104(b) of title  
2 11, United States Code, is amended by inserting  
3 “101(18),” after “sections” each place it appears.

4 (d) CERTAIN CLAIMS OWED TO GOVERNMENTAL  
5 UNITS.—

6 (1) CONTENTS OF PLAN.—Section 1222(a)(2)  
7 of title 11, United States Code, is amended to read  
8 as follows:

9 “(2) provide for the full payment, in deferred  
10 cash payments, of all claims entitled to priority  
11 under section 507, unless—

12 “(A) the claim is a claim owed to a govern-  
13 mental unit that arises as a result of the sale,  
14 transfer, exchange, or other disposition of any  
15 farm asset used in the debtor’s farming oper-  
16 ation, in which case the claim shall be treated  
17 as an unsecured claim that is not entitled to  
18 priority under section 507, but the debt shall be  
19 treated in such manner only if the debtor re-  
20 ceives a discharge; or

21 “(B) the holder of a particular claim  
22 agrees to a different treatment of that claim;”.

23 (2) SPECIAL NOTICE PROVISIONS.—Section  
24 1231(b) of title 11, United States Code, as so des-  
25 igned by this section is amended by striking “a

1 State or local governmental unit” and inserting “any  
2 governmental unit”.

3 (e) DEFINITION OF FAMILY FARMER.—Section  
4 101(18) of title 11, United States Code, is  
5 amended—

6 (1) in subparagraph (A)—

7 (A) by striking “\$1,500,000” and inserting  
8 “\$3,237,000”; and

9 (B) by striking “80” and inserting “50”;  
10 and

11 (2) in subparagraph (B)(ii)—

12 (A) by striking “\$1,500,000” and inserting  
13 “\$3,237,000”; and

14 (B) by striking “80” and inserting “50”.

15 (f) ELIMINATION OF REQUIREMENT THAT FAMILY  
16 FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF  
17 INCOME FROM FARMING OPERATION IN YEAR PRIOR TO  
18 BANKRUPTCY.—Section 101(18)(A) of title 11, United  
19 States Code, is amended by striking “for the taxable year  
20 preceding the taxable year” and inserting the following:

21 “for—

22 “(i) the taxable year preceding; or

23 “(ii) each of the 2d and 3d taxable years  
24 preceding;

25 the taxable year”.

1 (g) PROHIBITION OF RETROACTIVE ASSESSMENT OF  
2 DISPOSABLE INCOME.—

3 (1) CONFIRMATION OF PLAN.—Section  
4 1225(b)(1) of title 11, United States Code, is  
5 amended—

6 (A) in subparagraph (A) by striking “or”  
7 at the end;

8 (B) in subparagraph (B) by striking the  
9 period at the end and inserting “; or”; and

10 (C) by adding at the end the following:

11 “(C) the value of the property to be distributed  
12 under the plan in the 3-year period, or such longer  
13 period as the court may approve under section  
14 1222(e), beginning on the date that the first dis-  
15 tribution is due under the plan is not less than the  
16 debtor’s projected disposable income for such pe-  
17 riod.”.

18 (2) MODIFICATION OF PLAN.—Section 1229 of  
19 title 11, United States Code, is amended by adding  
20 at the end the following:

21 “(d) A plan may not be modified under this section—

22 “(1) to increase the amount of any payment  
23 due before the plan as modified becomes the plan;

24 “(2) by anyone except the debtor, based on an  
25 increase in the debtor’s disposable income, to in-

1       crease the amount of payments to unsecured credi-  
 2       tors required for a particular month so that the ag-  
 3       gregate of such payments exceeds the debtor’s dis-  
 4       posable income for such month; or

5               “(3) in the last year of the plan by anyone ex-  
 6       cept the debtor, to require payments that would  
 7       leave the debtor with insufficient funds to carry on  
 8       the farming operation after the plan is completed.”.

9       (h) FAMILY FISHERMEN.—

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

12               (A) by inserting after paragraph (7) the  
 13       following:

14               “(7A) ‘commercial fishing operation’ means—

15               “(A) the catching or harvesting of fish,  
 16       shrimp, lobsters, urchins, seaweed, shellfish, or  
 17       other aquatic species or products of such spe-  
 18       cies; or

19               “(B) for purposes of section 109 and chap-  
 20       ter 12, aquaculture activities consisting of rais-  
 21       ing for market any species or product described  
 22       in subparagraph (A);

23               “(7B) ‘commercial fishing vessel’ means a ves-  
 24       sel used by a family fisherman to carry out a com-  
 25       mercial fishing operation;”; and

1 (B) by inserting after paragraph (19) the  
2 following:

3 “(19A) ‘family fisherman’ means—

4 “(A) an individual or individual and spouse  
5 engaged in a commercial fishing operation—

6 “(i) whose aggregate debts do not ex-  
7 ceed \$1,500,000 and not less than 80 per-  
8 cent of whose aggregate noncontingent, liq-  
9 uidated debts (excluding a debt for the  
10 principal residence of such individual or  
11 such individual and spouse, unless such  
12 debt arises out of a commercial fishing op-  
13 eration), on the date the case is filed, arise  
14 out of a commercial fishing operation  
15 owned or operated by such individual or  
16 such individual and spouse; and

17 “(ii) who receive from such commer-  
18 cial fishing operation more than 50 percent  
19 of such individual’s or such individual’s  
20 and spouse’s gross income for the taxable  
21 year preceding the taxable year in which  
22 the case concerning such individual or such  
23 individual and spouse was filed; or

24 “(B) a corporation or partnership—

1           “(i) in which more than 50 percent of  
2           the outstanding stock or equity is held  
3           by—

4                   “(I) 1 family that conducts the  
5                   commercial fishing operation; or

6                   “(II) 1 family and the relatives  
7                   of the members of such family, and  
8                   such family or such relatives conduct  
9                   the commercial fishing operation; and

10                   “(ii)(I) more than 80 percent of the  
11                   value of its assets consists of assets related  
12                   to the commercial fishing operation;

13                   “(II) its aggregate debts do not ex-  
14                   ceed \$1,500,000 and not less than 80 per-  
15                   cent of its aggregate noncontingent, liq-  
16                   uidated debts (excluding a debt for 1  
17                   dwelling which is owned by such corpora-  
18                   tion or partnership and which a share-  
19                   holder or partner maintains as a principal  
20                   residence, unless such debt arises out of a  
21                   commercial fishing operation), on the date  
22                   the case is filed, arise out of a commercial  
23                   fishing operation owned or operated by  
24                   such corporation or such partnership; and

1                   “(III) if such corporation issues stock,  
2                   such stock is not publicly traded;

3                   “(19B) ‘family fisherman with regular annual  
4                   income’ means a family fisherman whose annual in-  
5                   come is sufficiently stable and regular to enable such  
6                   family fisherman to make payments under a plan  
7                   under chapter 12 of this title;”.

8                   (2) WHO MAY BE A DEBTOR.—Section 109(f) of  
9                   title 11, United States Code, is amended by insert-  
10                  ing “or family fisherman” after “family farmer”.

11                  (3) CHAPTER 12.—Chapter 12 of title 11,  
12                  United States Code, is amended—

13                   (A) in the chapter heading, by inserting  
14                   “**OR FISHERMAN**” after “**FAMILY**  
15                   **FARMER**”;

16                   (B) in section 1203, by inserting “or com-  
17                   mercial fishing operation” after “farm”; and

18                   (C) in section 1206, by striking “if the  
19                   property is farmland or farm equipment” and  
20                   inserting “if the property is farmland, farm  
21                   equipment, or property used to carry out a  
22                   commercial fishing operation (including a com-  
23                   mercial fishing vessel)”.

24                  (4) CLERICAL AMENDMENT.—In the table of  
25                  chapters for title 11, United States Code, the item

1 relating to chapter 12, is amended to read as fol-  
2 lows:

**“12. Adjustments of Debts of a Family Farmer or Family  
Fisherman with Regular Annual Income ..... 1201”.**

3 (i) APPLICABILITY.—Nothing in this subsection shall  
4 change, affect, or amend the Fishery Conservation and  
5 Management Act of 1976 (16 U.S.C. 1801 et seq.).

6 (j) EFFECTIVE DATE; APPLICATION OF AMEND-  
7 MENTS.—This section and the amendments made by this  
8 section shall take effect on the date of the enactment of  
9 this Act and shall not apply with respect to cases com-  
10 menced under title 11 of the United States Code before  
11 such date.

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