In the waning hours of the 103d Congress, lawmakers addressed bankruptcy once more, passing the Bankruptcy Reform Act of 1994.\(^{13}\) That Act, the culmination of four years of legislative efforts, made changes to numerous parts of the Bankruptcy Code, more changes than any legislation since the original enactment of the Bankruptcy Reform Act of 1978. In addition, after substantially amending the Code, Congress created a National Bankruptcy Review Commission to study whether further changes should be made.\(^{14}\) The Commission issued its report on October 20, 1997.\(^{15}\) The report recommended a variety of controversial changes to the provisions of the Code governing consumer bankruptcy cases, but these recommendations were almost totally ignored by Congress.\(^{16}\)

Among the many changes made by the 1994 Act in the area of consumer bankruptcy were some which benefited consumers and some which were detrimental to them. On the positive side, the amounts of the federal exemptions under Code section 522(d), as well as most other dollar amounts in the Code, were doubled, and a mechanism was built into the Code for automatic cost-of-living adjustments in the future.\(^{17}\) The dollar limits for chapter 13 eligibility were also substantially increased, with similar adjustments to be made in the future.\(^{18}\) The eighth of these adjustments is effective as of April 1, 2019, and the adjusted numbers are used throughout this treatise.

In addition, the 1994 amendments overruled (but only for future mortgages) the Supreme Court’s misguided decision in *Rake v. Wade*,\(^{19}\) which had required debtors curing mortgage arrears to pay thousands of dollars of additional interest, and reinstated the law most circuits had followed before that decision.\(^{20}\) Congress also partially overruled the Court’s decision in *Nobelman v. American Savings Bank*,\(^{21}\) which had prohibited the stripping down of many mortgage liens in chapter 13, by creating additional categories of mortgages which could be modified.\(^{22}\)

The 1994 amendments also clarified the law in areas in which there had been conflicting court decisions, such as those concerning when a debtor loses the right to cure a default on a mortgage,\(^{23}\) how to determine whether a lien impairs an exemption,\(^{24}\) how to determine property of the estate when a case is converted from chapter 13 to chapter 7,\(^{25}\) whether a late-filed claim should be allowed,\(^{26}\) whether a student loan grantor can discriminate against a debtor based on a bankruptcy filing or a discharged debt,\(^{27}\) and whether condominium and cooperative fees are dischargeable.\(^{28}\)

Unfortunately, the amendments contained a number of provisions detrimental to consumers as well, including a weakening of the protections with respect to reaffirmation,\(^{29}\) several new exceptions to discharge, including an additional exception to the chapter 13 discharge,\(^{30}\) and procedural changes that have increased the time and costs necessary to process consumer bankruptcy cases.\(^{31}\)

Finally, the many other changes made by the amendments included a broad abrogation of sovereign immunity, intended to reverse the result in two harmful Supreme Court cases which had limited the Code’s original waiver of sovereign immunity,\(^{32}\) a package of amendments intended to strengthen the rights of a debtor’s dependent spouse, former spouse, or children to receive alimony, maintenance, support and, in some cases, property settlements,\(^{33}\) tough new provisions to regulate non-attorney bankruptcy petition preparers,\(^{34}\) and procedural provisions concerning jury trials\(^{35}\) and appeals.\(^{36}\)

**Footnotes**

13 [13] Pub. L. No. 103-394, 108 Stat. 4106 (generally effective with respect to cases filed on or after October 22, 1994). The bill’s provisions dealing with the effective date of the amendments are reprinted in Appendix A.4.6 [1], infra. The amendments themselves have been integrated into the revised Bankruptcy Code reproduced in Appendix A.1 [2], infra.


16 [16] For a discussion of the Review Commission’s recommendations, see Gary Klein, *Consumer Bankruptcy in the*


29 [29] 11 U.S.C. § 524(c), (d) (as amended by the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106) (the reaffirmation provisions were further revised by the 2005 amendments). See § 15.5.2 [15], infra.


31 [31] 11 U.S.C. §§ 341(d), 342(c) (as enacted or amended by the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394,
1.1.2.4 The Bankruptcy Reform Act of 1994

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108 Stat. 4106); Fed. R. Bankr. P. 7004. See §§ 1.4.2 [18], 8.4.3 [19], infra.


33 {33} 11 U.S.C. §§ 362(b)(2), 507(a)(7), 522(f)(1), 523(a)(15), and 547(c)(7) (as amended or enacted by the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106) (these sections were further amended by the 2005 amendments). See §§ 3.5 [21], 9.4.6.3 [22], 10.4.2.3 [10], 10.4.2.6.4 [23], 15.4.3.13 [24], infra.


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