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(Original Signature of Member)

118TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend title 11, United States Code, to make the filing of a petition for relief under chapter 11 that is objectively futile or in subjective bad faith a cause for dismissal of the case, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. SYKES introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title 11, United States Code, to make the filing of a petition for relief under chapter 11 that is objectively futile or in subjective bad faith a cause for dismissal of the case, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Corporate  
5 Bankruptcy Abuse Act of 2024”.

1 **SEC. 2. CONVERSION OR DISMISSAL UNDER CHAPTER 11.**

2 Section 1112(b) of title 11, United States Code, is  
3 amended—

4 (1) in paragraph (2)(A), by striking “within a  
5 reasonable period of time” and inserting “not later  
6 than 24 months after the date of the filing of the  
7 petition”;

8 (2) in paragraph (4)—

9 (A) subparagraph (O), by striking “and”  
10 at the end;

11 (B) in subparagraph (P), by striking the  
12 period at the end and inserting “; and”; and

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

14 “(Q) with respect to the dismissal of a case  
15 under this chapter, the filing of a petition for relief  
16 or the continuation of a case under this title that  
17 is—

18 “(i) objectively futile; or

19 “(ii) in subjective bad faith.”; and

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

21 “(g)(1) For the purpose of subsection (b)(4)(Q), the  
22 court shall presume that a petition has been filed or that  
23 a case is continuing under this title in subjective bad faith  
24 if the court determines that the debtor manufactured the  
25 venue for the case.

1           “(2) The presumption under paragraph (1) may be  
2 rebutted only based on clear and convincing evidence.

3           “(h)(1) For the purpose of subsection (b)(4)(Q), the  
4 court shall conclusively presume that a petition has been  
5 filed or that a case under this title that is continuing in  
6 subjective bad faith if the court determines that—

7                   “(A) a purpose or effect of the filing or con-  
8 tinuation is to—

9                           “(i) gain a tactical litigation advantage;

10                           “(ii) impose undue delay upon creditors; or

11                           “(iii) cap the total amount of the liability  
12 of the debtor to 2 or more creditors holding  
13 protected claims (as defined in section  
14 362(p)(1)) that the debtor or any affiliate has  
15 property of value sufficient to pay in full as  
16 those claims would come due;

17                   “(B) during the 4-year period preceding the  
18 date of the filing of the petition, the debtor was the  
19 subject of, or was formed or organized in connection  
20 with, a divisional merger or similar transaction  
21 changing the corporate structure of and affecting  
22 the financial condition of the debtor or an affiliate;

23                   “(C) during the 4-year period preceding the  
24 date of the filing of the petition, the debtor engaged  
25 in a transfer of substantial assets to or for benefit

1 of or incurred substantial obligations from or for the  
2 benefit of any insider or affiliate that, notwith-  
3 standing subsections (e) through (g) and (j) of sec-  
4 tion 546, is avoidable under section 544(b) or sub-  
5 section (a)(1) or (e) of section 548; or

6 “(D) the debtor does not have a valid re-  
7 organizational purpose.

8 “(2) In making a determination under paragraph  
9 (1)(D), the court shall consider and give weight to whether  
10 any appointed creditors’ committee supports the dismissal  
11 of the case.

12 “(i) In a determination under subsection (g) or (h),  
13 the debtor shall have the burden of proof.”

14 **SEC. 3. LIMITATIONS ON CERTAIN STAYS AND INJUNC-**  
15 **TIONS.**

16 Section 105 of title 11, United States Code, is  
17 amended by adding at the end the following:

18 “(e) Notwithstanding subsection (a) of this section,  
19 any provision of title 28, the Federal Rules of Bankruptcy  
20 Procedure, or any applicable nonbankruptcy law, the court  
21 may not issue any order, process, or judgment that has  
22 the purpose or effect of overriding or nullifying section  
23 362(b)(27) of this title.”

1 **SEC. 4. AUTOMATIC STAY.**

2 Section 362 of title 11, United States Code, is  
3 amended—

4 (1) in subsection (b)—

5 (A) by redesignating paragraphs (27),  
6 (28), and (29) as paragraphs (28), (29), and  
7 (30), respectively; and

8 (B) by inserting after paragraph (26) the  
9 following:

10 “(27) under subsection (a) of this section, of  
11 the commencement or continuation, including the  
12 issuance or employment of process, of a judicial, ad-  
13 ministrative, or other action or proceeding against  
14 an entity that is not a debtor in a case under this  
15 title, or any act to obtain or recover property of such  
16 entity, on account of or with respect to a protected  
17 claim against such entity, the debtor, or the estate  
18 (including a protected claim that is property of the  
19 debtor or the estate against such entity), if, during  
20 the 4-year period preceding the date of the filing of  
21 the petition, the debtor was the subject of, or was  
22 formed or organized in connection with, a divisional  
23 merger, spinoff, corporate restructuring, or other  
24 transaction changing the corporate structure of, and  
25 affecting the financial condition of, the debtor or an  
26 affiliate;” and

1 (2) by adding at the end the following:

2 “(p) For the purposes of paragraph (27):

3 “(1) The term ‘protected claim’ means—

4 “(A) a claim that—

5 “(i) is against a nondebtor entity or  
6 against property of a nondebtor entity that  
7 is alleged to be directly or indirectly liable  
8 for a claim described in subparagraph (B)  
9 against the debtor; and

10 “(ii) arises by reason of—

11 “(I) the nondebtor entity’s own-  
12 ership of a financial interest in the  
13 debtor, a past or present affiliate of  
14 the debtor, or a predecessor in inter-  
15 est of the debtor;

16 “(II) the nondebtor entity’s in-  
17 volvement in the management of the  
18 debtor or a predecessor in interest of  
19 the debtor or the nondebtor entity’s  
20 service as an officer, director, or em-  
21 ployee of the debtor or a related  
22 party;

23 “(III) the nondebtor entity’s pro-  
24 vision of insurance to the debtor or a  
25 related party; or

1                   “(IV) the nondebtor entity’s in-  
2                   volvement in a transaction changing  
3                   the corporate structure, or in a loan  
4                   or other financial transaction affect-  
5                   ing the financial condition, of the  
6                   debtor or a related party, including—

7                               “(aa) involvement in pro-  
8                               viding financing (debt or equity)  
9                               or advice to an entity involved in  
10                              such a transaction; or

11                             “(bb) acquiring or selling a  
12                             financial interest in an entity as  
13                             part of such a transaction; or

14                   “(B) a claim—

15                               “(i) against the debtor or a nondebtor  
16                               entity or property of the debtor or a non-  
17                               debtor entity;

18                               “(ii) relating to injury, contamination,  
19                               damage, or loss, including any claim for  
20                               reimbursement, indemnity, contribution, or  
21                               subrogation;

22                               “(iii) affecting, directly or indirectly,  
23                               not less than 100 individuals on or after  
24                               the date of the filing of the petition;

1           “(iv) allegedly caused, directly or indi-  
2           rectly, by the presence of, or exposure to,  
3           a product, material, or substance designed,  
4           marketed, manufactured, sold, modified,  
5           extracted, serviced, or in any way used by  
6           the debtor or the nondebtor entity; and

7           “(v) arising, directly or indirectly,  
8           from acts or omissions, of the debtor, a  
9           predecessor in interest of the debtor, or a  
10          past or present affiliate of the debtor.

11          “(2) The term ‘related party’ has the meaning  
12          given the term in section 524(g)(4)(A)(iii).”.

13 **SEC. 5. TECHNICAL AMENDMENTS.**

14          (a) SETOFF.—Section 553 of title 11, United States  
15          Code, is amended—

16                 (1) in subsection (a)—

17                         (A) in paragraph (2)(B)(ii), by striking  
18                         “362(b)(27)” and inserting “362(b)(28)”; and

19                         (B) in paragraph (3)(C), “362(b)(27)”  
20                         and inserting “362(b)(28)”; and

21                 (2) in subsection (b)(1), “362(b)(27)” and in-  
22                 serting “362(b)(28)”.

23          (b) RELIEF THAT MAY BE GRANTED UPON FILING  
24          PETITION FOR RECOGNITION.—Section 1519(f) of title



1 11, United States Code, is amended by striking “(27)”  
2 and inserting “(28)”.

3 (c) RELIEF THAT MAY BE GRANTED UPON REC-  
4 COGNITION.—Section 1521(f) of title 11, United States  
5 Code, is amended by striking “(27)” and inserting “(28)”.

6 **SEC. 6. APPLICATION AND RULE OF CONSTRUCTION.**

7 This Act and the amendments made by this Act  
8 shall—

9 (1) apply with respect to any case under title  
10 11, United States Code, filed or pending on or after  
11 the date of enactment of this Act; and

12 (2) not be construed to affect the validity of  
13 any final judgment or order confirming a plan under  
14 chapter 11 of title 11, United States Code, that was  
15 entered before the date of enactment of this Act.