

116TH CONGRESS
2D SESSION

H. R. 8895

To ensure funding of the United States trustees, extend temporary bankruptcy judgeships, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2020

Mr. CICILLINE (for himself, Mr. SENSENBRENNER, and Mr. PERLMUTTER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To ensure funding of the United States trustees, extend temporary bankruptcy judgeships, 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 “Bankruptcy Adminis-
5 tration Improvement Act of 2020”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Because of the importance of the goal that
9 the bankruptcy system is self-funded, at no cost to
10 the taxpayer, Congress has closely monitored the

1 funding needs of the bankruptcy system, including
2 by requiring periodic reporting by the Attorney Gen-
3 eral regarding the United States Trustee System
4 Fund.

5 (2) Congress has amended the various bank-
6 ruptcy fees as necessary to ensure that the bank-
7 ruptcy system remains self-supporting, while also
8 fairly allocating the costs of the system among those
9 who use the system.

10 (3) Because the bankruptcy system is inter-
11 connected, the result has been a system of fees, in-
12 cluding filing fees, quarterly fees in chapter 11
13 cases, and other fees, that together fund the courts,
14 judges, United States trustees, and chapter 7 case
15 trustees necessary for the bankruptcy system to
16 function.

17 (4) This Act and the amendments made by this
18 Act—

19 (A) ensure adequate funding of the United
20 States trustees, supports the preservation of ex-
21 isting bankruptcy judgeships that are urgently
22 needed to handle existing and anticipated in-
23 creases in business and consumer caseloads,
24 and provides long-overdue additional compensa-
25 tion for chapter 7 case trustees whose caseloads

1 include chapter 11 reorganization cases that
2 were converted to chapter 7 liquidation cases;
3 and

4 (B) confirm the longstanding intention of
5 Congress that quarterly fee requirements re-
6 main consistent across all Federal judicial dis-
7 tricts.

8 (b) PURPOSE.—The purpose of this Act and the
9 amendments made by this Act is to further the long-stand-
10 ing goal of Congress of ensuring that the bankruptcy sys-
11 tem is self-funded, at no cost to the taxpayer.

12 **SEC. 3. UNITED STATES TRUSTEE SYSTEM FUND; BANK-**
13 **RUPTCY FEES.**

14 (a) DEPOSITS OF CERTAIN FEES FOR FISCAL YEARS
15 2021 THROUGH 2026.—Notwithstanding section 589a(b)
16 of title 28, United States Code, for each of fiscal years
17 2021 through 2026—

18 (1) the fees collected under section 1930(a)(6)
19 of such title, less the amount specified in subpara-
20 graph (2), shall be deposited as specified in sub-
21 section (b); and

22 (2) \$5,400,000 of the fees collected under sec-
23 tion 1930(a)(6) of such title shall be deposited in
24 the general fund of the Treasury.

1 (b) UNITED STATES TRUSTEE SYSTEM FUND.—Sec-
2 tion 589a of title 28, United States Code, is amended by
3 adding at the end the following:

4 “(f)(1) During each of fiscal years 2021 through
5 2026 and notwithstanding subsections (b) and (c), the fees
6 collected under section 1930(a)(6), less the amount speci-
7 fied in paragraph (2), shall be deposited as follows, in the
8 following order:

9 “(A) First, the amounts specified in the De-
10 partment of Justice appropriations for that fiscal
11 year, shall be deposited as discretionary offsetting
12 collections to the “United States Trustee System
13 Fund”, pursuant to subsection (a), to remain avail-
14 able until expended.

15 “(B) Second, the amounts determined annually
16 by the Director of the Administrative Office of the
17 United States Courts that are necessary to reim-
18 burse the judiciary for the costs of administering
19 payments under section 330(e) of title 11, shall be
20 deposited as mandatory offsetting collections to the
21 ‘United States Trustee System Fund’, and trans-
22 ferred and deposited into the special fund estab-
23 lished under section 1931(a), and notwithstanding
24 subsection (a), shall be available for expenditure
25 without further appropriation.

1 “(C) Third, the amounts determined annually
2 by the Director of the Administrative Office of the
3 United States Courts that are necessary to pay
4 trustee compensation authorized by section
5 330(e)(2) of title 11, shall be deposited as manda-
6 tory offsetting collections to the ‘United States
7 Trustee System Fund’, and transferred and depos-
8 ited into the Chapter 7 Trustee Fund established
9 under section 330(e) of title 11 for payment to
10 trustees serving in cases under chapter 7 of title 11
11 (in addition to the amounts paid under section
12 330(b) of title 11), in accordance with that section,
13 and notwithstanding subsection (a), shall be avail-
14 able for expenditure without further appropriation.

15 “(D) Fourth, any remaining amounts shall be
16 deposited as discretionary offsetting collections to
17 the ‘United States Trustee System Fund’, to remain
18 available until expended.

19 “(2) Notwithstanding subsection (b), for each of fis-
20 cal years 2021 through 2026, \$5,400,000 of the fees col-
21 lected under section 1930(a)(6) shall be deposited in the
22 general fund of the Treasury.”.

23 (c) COMPENSATION OF OFFICERS.—Section 330 of
24 title 11, United States Code, is amended by adding at the
25 end the following:

1 “(e)(1) There is established a fund in the Treasury
2 of the United States, to be known as the ‘Chapter 7 Trust-
3 ee Fund’, which shall be administered by the Director of
4 the Administrative Office of the United States Courts.

5 “(2) Deposits into the Chapter 7 Trustee Fund under
6 section 589a(f)(1)(C) of title 28 shall be available until
7 expended for the purposes described in paragraph (3).

8 “(3) For fiscal years 2021 through 2026, the Chapter
9 7 Trustee Fund shall be available to pay the trustee serv-
10 ing in a case that is filed under chapter 7 or a case that
11 is converted to a chapter 7 case in the most recent fiscal
12 year (referred to in this subsection as a ‘chapter 7 case’)
13 the amount described in paragraph (4) for the chapter 7
14 case in which the trustee has rendered services in that fis-
15 cal year.

16 “(4) The amount described in this paragraph shall
17 be the lesser of—

18 “(A) \$60; or

19 “(B) a pro rata share, for each chapter 7 case,
20 of the fees collected under section 1930(a)(6) of title
21 28 and deposited to the United States Trustee Sys-
22 tem Fund under section 589a(f)(1) of title 28, less
23 the amounts specified in section 589a(f)(1)(A) and
24 (B) of title 28.

1 “(5) The payment received by a trustee under para-
2 graph (3) shall be paid in addition to the amount paid
3 under subsection (b).

4 “(6) Not later than September 30, 2021, the Director
5 of the Administrative Office of the United States Courts
6 shall promulgate regulations for the administration of this
7 subsection.”.

8 (d) BANKRUPTCY FEES.—Section 1930(a) of title 28,
9 United States Code, is amended—

10 (1) by striking paragraph (6)(B) and inserting
11 the following:

12 “(B)(i) During the 5-year period beginning
13 on January 1, 2021, in addition to the filing fee
14 paid to the clerk, a quarterly fee shall be paid
15 to the United States trustee, for deposit in the
16 Treasury, in each open and reopened case
17 under chapter 11 of title 11, other than under
18 subchapter V, for each quarter (including any
19 fraction thereof) until the case is closed, con-
20 verted, or dismissed, whichever occurs first.

21 “(ii) The fee shall be the greater of—

22 “(I) 0.4 percent of disbursements or
23 \$250 for each quarter in which disburse-
24 ments total less than \$1,000,000; and

1 “(II) 0.8 percent of disbursements but
2 not more than \$250,000 for each quarter
3 in which disbursements total at least
4 \$1,000,000.

5 “(iii) The fee shall be payable on the last
6 day of the calendar month following the cal-
7 endar quarter for which the fee is owed.”; and
8 (2) in paragraph (7), in the first sentence, by
9 striking “may” and inserting “shall”.

10 (e) APPLICABILITY.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 shall take effect on the date of enactment of this
14 Act.

15 (2) EXCEPTIONS.—

16 (A) COMPENSATION OF OFFICERS.—The
17 amendments made by subsection (c) shall apply
18 to any case filed on or after the date of enact-
19 ment of this Act—

20 (i) under chapter 7 of title 11, United
21 States Code; or

22 (ii)(I) under chapter 11, 12, or 13 of
23 that title; and

24 (II) converted to a chapter 7 case
25 under that title.

1 (B) BANKRUPTCY FEES.—The amend-
2 ments made by subsection (d) shall apply to—

3 (i) any case pending under chapter 11
4 of title 11, United States Code, on or after
5 the date of enactment of this Act; and

6 (ii) quarterly fees payable under sec-
7 tion 1930(a)(6) of title 28, United States
8 Code, as amended by subsection (d), for
9 disbursements made in any calendar quar-
10 ter that begins on or after the date of en-
11 actment of this Act.

12 **SEC. 4. EXTENSION OF TEMPORARY OFFICE OF BANK-**
13 **RUPTCY JUDGES IN CERTAIN JUDICIAL DIS-**
14 **TRICTS.**

15 (a) TEMPORARY OFFICE OF BANKRUPTCY JUDGES
16 AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
17 2017.—

18 (1) EXTENSIONS.—The temporary office of
19 bankruptcy judges authorized by section 1003(a) of
20 the Bankruptcy Judgeship Act of 2017 (28 U.S.C.
21 152 note) for the district of Delaware and the east-
22 ern district of Michigan are extended until the appli-
23 cable vacancy specified in paragraph (2) in the office
24 of a bankruptcy judge for the respective district oc-
25 curs.

1 (2) VACANCIES.—

2 (A) DISTRICT OF DELAWARE.—The 1st
3 and 2d vacancies in the office of a bankruptcy
4 judge for the district of Delaware—

5 (i) occurring 5 years or more after the
6 date established by section 1003(b)(1) of
7 the Bankruptcy Judgeship Act of 2017 (28
8 U.S.C. 152 note), and

9 (ii) resulting from the death, retire-
10 ment, resignation, or removal of a bank-
11 ruptcy judge,
12 shall not be filled.

13 (B) EASTERN DISTRICT OF MICHIGAN.—
14 The 1st vacancy in the office of a bankruptcy
15 judge for the eastern district of Michigan—

16 (i) occurring 5 years or more after the
17 date established by section 1003(b)(3) of
18 the Bankruptcy Judgeship Act of 2017 (28
19 U.S.C. 152 note), and

20 (ii) resulting from the death, retire-
21 ment, resignation, or removal of a bank-
22 ruptcy judge,
23 shall not be filled.

24 (3) APPLICABILITY OF OTHER PROVISIONS.—

25 Except as provided in paragraphs (1) and (2), all

1 other provisions of section 1003 of the Bankruptcy
2 Judgeship Act of 2017 (28 U.S.C. 152 note) remain
3 applicable to the temporary office of bankruptcy
4 judges referred to in paragraph (1).

5 (b) TEMPORARY OFFICE OF BANKRUPTCY JUDGES
6 AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
7 2005 AND EXTENDED BY THE TEMPORARY BANKRUPTCY
8 JUDGESHIPS EXTENSION ACT OF 2012 AND THE BANK-
9 RUPTCY JUDGESHIP ACT OF 2017.—

10 (1) EXTENSIONS.—The temporary office of
11 bankruptcy judges authorized for the following dis-
12 tricts by section 1223(b) of the Bankruptcy Judge-
13 ship Act of 2005 (28 U.S.C. 152 note), extended by
14 section 2(a) of the Temporary Bankruptcy Judge-
15 ships Extension Act of 2012 (28 U.S.C. 152 note),
16 and further extended by section 1002(a) of the
17 Bankruptcy Judgeship Act of 2017 (28 U.S.C. 152
18 note) are extended until the applicable vacancy spec-
19 ified in paragraph (2) in the office of a bankruptcy
20 judge for the respective district occurs:

21 (A) The district of Delaware.

22 (B) The southern district of Florida.

23 (C) The district of Maryland.

24 (D) The eastern district of Michigan.

25 (E) The district of Nevada.

1 (F) The eastern district of North Carolina.

2 (G) The district of Puerto Rico.

3 (H) The eastern district of Virginia.

4 (2) VACANCIES.—

5 (A) SINGLE VACANCIES.—Except as pro-
6 vided in subparagraphs (B), (C), (D), (E), and
7 (F), the 1st vacancy in the office of a bank-
8 ruptcy judge for each district specified in para-
9 graph (1)—

10 (i) occurring 5 years or more after the
11 date established by section 1002(a)(2) of
12 the Bankruptcy Judgeship Act of 2017 (28
13 U.S.C. 152 note), and

14 (ii) resulting from the death, retire-
15 ment, resignation, or removal of a bank-
16 ruptcy judge,
17 shall not be filled.

18 (B) DISTRICT OF DELAWARE.—The 3d,
19 4th, 5th, and 6th vacancies in the office of a
20 bankruptcy judge for the district of Delaware—

21 (i) occurring 5 years or more after the
22 date established by section 1002(a)(2) of
23 Bankruptcy Judgeship Act of 2017 (28
24 U.S.C. 152 note), and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(C) SOUTHERN DISTRICT OF FLORIDA.—

The 1st and 2d vacancies in the office of a bankruptcy judge for the southern district of Florida—

(i) occurring 5 years or more after the date established by section 1002(a)(2) of the Bankruptcy Judgeship Act of 2017 (28 U.S.C. 152 note), and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(D) DISTRICT OF MARYLAND.—The 1st vacancy in the office of a bankruptcy judge for the district of Maryland—

(i) occurring 5 years or more after the date established by section 1002(a)(2) of the Bankruptcy Judgeship Act of 2017 (28 U.S.C. 152 note), and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(E) EASTERN DISTRICT OF MICHIGAN.—

The 2d vacancy in the office of a bankruptcy judge for the eastern district of Michigan—

(i) occurring 5 years or more after the date established by section 1002(a)(2) of the Bankruptcy Judgeship Act of 2017 (28 U.S.C. 152 note), and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(F) DISTRICT OF PUERTO RICO.—The 1st vacancy in the office of a bankruptcy judge for the district of Puerto Rico—

(i) occurring 5 years or more after the date established by section 1002(a)(2) of the Bankruptcy Judgeship Act of 2017 (28 U.S.C. 152 note), and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

1 shall not be filled.

2 (3) APPLICABILITY OF OTHER PROVISIONS.—

3 Except as provided in paragraphs (1) and (2), all
4 other provisions of section 1223 of the Bankruptcy
5 Judgeship Act of 2005 (28 U.S.C. 152 note), section
6 2 of the Temporary Bankruptcy Judgeships Extension
7 Act of 2012 (28 U.S.C. 152 note), and section
8 1002 of the Bankruptcy Judgeship Act of 2017 (28
9 U.S.C. 152 note) remain applicable to the temporary
10 office of bankruptcy judges referred to in paragraph
11 (1).

12 (c) TEMPORARY OFFICE OF BANKRUPTCY JUDGES
13 AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
14 2005 AND EXTENDED BY THE TEMPORARY BANKRUPTCY
15 JUDGESHIPS EXTENSION ACT OF 2012.—

16 (1) EXTENSIONS.—The temporary office of
17 bankruptcy judges authorized for the following dis-
18 tricts by section 1223(b) of the Bankruptcy Judge-
19 ship Act of 2005 (28 U.S.C. 152 note) and extended
20 by section 2(a) of the Temporary Bankruptcy
21 Judgeships Extension Act of 2012 (28 U.S.C. 152
22 note) are extended until the applicable vacancy spec-
23 ified in paragraph (2) in the office of a bankruptcy
24 judge for the respective district occurs:

25 (A) The southern district of Georgia.

1 (B) The district of Maryland.

2 (C) The district of New Jersey.

3 (D) The northern district of New York.

4 (E) The district of South Carolina.

5 (2) VACANCIES.—

6 (A) SINGLE VACANCIES.—Except as pro-
7 vided in subparagraph (B), the 1st vacancy in
8 the office of a bankruptcy judge for each dis-
9 trict specified in paragraph (1)—

10 (i) occurring 5 years or more after the
11 date of the enactment of this Act, and

12 (ii) resulting from the death, retire-
13 ment, resignation, or removal of a bank-
14 ruptcy judge,

15 shall not be filled.

16 (B) DISTRICT OF MARYLAND.—The 2d
17 and 3d vacancies in the office of a bankruptcy
18 judge for the district of Maryland—

19 (i) occurring 5 years or more after the
20 date of the enactment of this Act, and

21 (ii) resulting from the death, retire-
22 ment, resignation, or removal of a bank-
23 ruptcy judge,

24 shall not be filled.

1 (3) APPLICABILITY OF OTHER PROVISIONS.—

2 Except as provided in paragraphs (1) and (2), all
3 other provisions of section 1223 of the Bankruptcy
4 Judgeship Act of 2005 (28 U.S.C. 152 note) and
5 section 2 of the Temporary Bankruptcy Judgeships
6 Extension Act of 2012 (28 U.S.C. 152 note) remain
7 applicable to the temporary office of bankruptcy
8 judges referred to in paragraph (1).

9 (d) TEMPORARY OFFICE OF BANKRUPTCY JUDGES
10 AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
11 1992 AND EXTENDED BY THE BANKRUPTCY JUDGESHIP
12 ACT OF 2005, THE TEMPORARY BANKRUPTCY JUDGE-
13 SHIPS EXTENSION ACT OF 2012, AND THE BANKRUPTCY
14 JUDGESHIP ACT OF 2017.—

15 (1) EXTENSIONS.—The temporary office of
16 bankruptcy judges authorized by section 3(a) of the
17 Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152
18 note), extended by section 1223(c) of Bankruptcy
19 Judgeship Act of 2005 (28 U.S.C. 152 note), ex-
20 tended by section 2(b) of the Temporary Bankruptcy
21 Judgeships Extension Act of 2012 (28 U.S.C. 152
22 note), and further extended by section 1002(b) of
23 the Bankruptcy Judgeship Act of 2017 (28 U.S.C.
24 152 note) for the district of Delaware and the dis-
25 trict of Puerto Rico are extended until the applicable

1 vacancy specified in paragraph (2) in the office of a
2 bankruptcy judge for the respective district occurs.

3 (2) VACANCIES.—

4 (A) DISTRICT OF DELAWARE.—The 7th
5 vacancy in the office of a bankruptcy judge for
6 the district of Delaware—

7 (i) occurring 5 years or more after the
8 date established by section 1002(b)(2) of
9 the Bankruptcy Judgeship Act of 2017 (28
10 U.S.C. 152 note), and

11 (ii) resulting from the death, retire-
12 ment, resignation, or removal of a bank-
13 ruptcy judge,

14 shall not be filled.

15 (B) DISTRICT OF PUERTO RICO.—The 2d
16 vacancy in the office of a bankruptcy judge for
17 the district of Puerto Rico—

18 (i) occurring 5 years or more after the
19 date established by section 1002(b)(2) of
20 the Bankruptcy Judgeship Act of 2017 (28
21 U.S.C. 152 note), and

22 (ii) resulting from the death, retire-
23 ment, resignation, or removal of a bank-
24 ruptcy judge,

25 shall not be filled.

1 (3) APPLICABILITY OF OTHER PROVISIONS.—

2 Except as provided in paragraphs (1) and (2), all
3 other provisions of section 3 of the Bankruptcy
4 Judgeship Act of 1992 (28 U.S.C. 152 note), section
5 1223 of Bankruptcy Judgeship Act of 2005 (28
6 U.S.C. 152 note), section 2 of the Temporary Bank-
7 ruptcy Judgeships Extension Act of 2012 (28
8 U.S.C. 152 note), and section 1002 of the Bank-
9 ruptcy Judgeship Act of 2017 (28 U.S.C. 152 note)
10 remain applicable to the temporary office of bank-
11 ruptcy judges referred to in paragraph (1).

12 (e) TEMPORARY OFFICE OF BANKRUPTCY JUDGE
13 AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
14 1992 AND EXTENDED BY THE BANKRUPTCY JUDGESHIP
15 ACT OF 2005 AND THE TEMPORARY BANKRUPTCY
16 JUDGESHIPS EXTENSION ACT OF 2012.—

17 (1) EXTENSIONS.—The temporary office of
18 bankruptcy judge authorized by section 3(a) of the
19 Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152
20 note), extended by section 1223(c) of the Bank-
21 ruptcy Judgeship Act of 2005 (28 U.S.C. 152 note),
22 and further extended by section 2(b) of the Tem-
23 porary Bankruptcy Judgeships Extension Act of
24 2012 (28 U.S.C. 152 note) for the eastern district
25 of Tennessee is extended until the applicable vacancy

1 specified in paragraph (2) in the office of a bank-
2 ruptcy judge for the district occurs.

3 (2) VACANCY.—The 1st vacancy in the office of
4 a bankruptcy judge for the eastern district of Ten-
5 nessee—

6 (A) occurring 5 years or more after the
7 date of the enactment of this Act, and

8 (B) resulting from the death, retirement,
9 resignation, or removal of a bankruptcy judge,
10 shall not be filled.

11 (3) APPLICABILITY OF OTHER PROVISIONS.—
12 Except as provided in paragraphs (1) and (2), all
13 other provisions of section 3 of the Bankruptcy
14 Judgeship Act of 1992 (28 U.S.C. 152 note), section
15 1223 of the Bankruptcy Judgeship Act of 2005 (28
16 U.S.C. 152 note), and section 2 of the Temporary
17 Bankruptcy Judgeships Extension Act of 2012 (28
18 U.S.C. 152 note) remain applicable to the temporary
19 office of bankruptcy judge referred to in paragraph
20 (1).

21 (f) TEMPORARY OFFICE OF BANKRUPTCY JUDGE
22 AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
23 1992 AND EXTENDED BY THE TEMPORARY BANKRUPTCY
24 JUDGESHIPS EXTENSION ACT OF 2012.—

1 (1) EXTENSIONS.—The temporary office of
2 bankruptcy judge authorized by section 3(a) of the
3 Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152
4 note) and extended by section 2(c) of the Temporary
5 Bankruptcy Judgeships Extension Act of 2012 (28
6 U.S.C. 152 note) for the middle district of North
7 Carolina is extended until the applicable vacancy
8 specified in paragraph (2) in the office of a bank-
9 ruptcy judge for the district occurs.

10 (2) VACANCY.—The 1st vacancy in the office of
11 a bankruptcy judge for the middle district of North
12 Carolina—

13 (A) occurring 5 years or more after the
14 date of the enactment of this Act, and

15 (B) resulting from the death, retirement,
16 resignation, or removal of a bankruptcy judge,
17 shall not be filled.

18 (3) APPLICABILITY OF OTHER PROVISIONS.—
19 Except as provided in paragraphs (1) and (2), all
20 other provisions of section 3 of the Bankruptcy
21 Judgeship Act of 1992 (28 U.S.C. 152 note) and
22 section 2 of the Temporary Bankruptcy Judgeships
23 Extension Act of 2012 (28 U.S.C. 152 note) remain
24 applicable to the temporary office of bankruptcy
25 judge referred to in paragraph (1).

1 **SEC. 5. REGULATIONS.**

2 Section 375(h) of title 28, United States Code, is
3 amended by striking “may” and inserting “shall”.

○