AMENDMENT NO. 4982

Purpose: To amend the provisions regarding the bankruptcy court.

IN THE SENATE OF THE UNITED STATES—97th Cong., 2d Sess.

H. R. 6872

To provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

December 13 (legislative day, November 30), 1982

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. HEFLIN

Viz: At the end of the bill add the following new title:

TITLE IV—BANKRUPTCY COURT

SEC. 401. (a) Section 405(a) of the Act of November 6, 1978 (Public Law 95–598; 92 Stat. 2668) is amended by adding at the end thereof the following:

"(3)(A) Notwithstanding paragraph (1) of this subsection, in civil proceedings that, in the absence of a petition in bankruptcy, could have been brought in a district court or a State court, the bankruptcy judge may not render a final judgment but shall submit findings, conclusions, and a pro-

posed judgment to the district court for the district in which the bankruptcy judge sits, unless the parties to the proceeding consent to the entry of judgment by the bankruptcy judge or the judgment is entered upon default, in accordance with rule 55 of the Federal Rules of Civil Procedure. The district court may hold a hearing, may receive such evidence as appropriate, and may accept, reject, or modify, in whole or in part, the findings, conclusions, or proposed judgment. At the conclusion of the review, the district court shall enter an appropriate judgment. A party shall be deemed to consent to entry of judgment by the bankruptcy judge unless he provides notice that a proposed rather than final judgment should be entered. Such notice shall be presented in the first pleading or motion made by the party in the proceeding. A party who has not so notified the bankruptcy judge may not later attack the judgment on the grounds that it should have been entered by a district judge.

"(B) Notwithstanding subparagraph (A), this paragraph shall not be construed as affecting any right to trial by jury in any case concerning the allowed amount of a claim if such right is otherwise provided by law, except that such trial shall be before a district court judge unless the parties to such action agree otherwise.

"(C) The judicial councils of the various Federal judicial circuits shall, in accordance with powers conferred under sec-

tion 332(d) of title 28 of the United States Code, under the supervision of the Judicial Conference of the United States, acting through the Director of the Administrative Office of the United States Courts, take necessary action to insure that appropriate rules for the implementation of this provision are adopted by the district and bankruptcy courts under their supervision.".

(b) This section and amendments made by this section shall become effective upon the date of enactment and remain in effect until April 1, 1984.

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