

*The Legislative History of the **Most Substantial** and
Controversial Reform to U.S. Bankruptcy Laws Since 1978—*

BANKRUPTCY REFORM: **The Legislative History of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005**

Edited by William H. Manz



Differing Views on this Contentious New Act ...

“(The Act will) help restore responsibility and integrity to the bankruptcy system by cracking down on fraudulent, abusive, and opportunistic bankruptcy claims.”

-Rep. James Sensenbrenner, Chairman of the House Judiciary Committee

“... a huge giveaway to special interests at the expense of middle- and lower-income families.”

-Stephen Labaton, The New York Times, citing the views of civil rights, labor, and consumer organizations (from the article, “House Passes Bankruptcy Bill; Overhaul Now Awaits President’s Signature,” 4/15/05)

The **Bankruptcy Abuse Prevention and Consumer Protection Act of 2005**, overwhelmingly approved by Congress and signed into law by President Bush in April 2005, is the first major revision of American bankruptcy laws since 1978, and only the third major overhaul since 1898.

Characterized by the President as providing “common sense” reforms, it was passed after years of intensive lobbying by retailers, the credit card industry, and auto finance companies. The law is meant to address what its backers regarded as widespread abuse of the nation’s bankruptcy system.

William S. Hein & Co., Inc. is offering the complete legislative history of this Act, which despite being adopted by a definitive 302-to-126 vote, has drawn harsh criticism from several outspoken groups. Among the most vocal critics have been bankruptcy professors and judges, who have characterized the Act as unnecessary while vilifying it for creating needless hardship. They maintain that the rise in bankruptcies was not a sign of abuse, but rather the result of job loss, severe illness, military duty, and the heavy promotion of easy credit by credit card companies.

More on this Legislative History 

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Significant Provisions of the Act Affecting Individuals ...

- * Imposes a “means” test - those earning over the median in their state are prevented from utilizing the “fresh start” provisions of Chapter 7, and instead are required to file under Chapter 13, which requires a repayment plan. (While the previous law provided bankruptcy judges with significant discretion on eligibility for Chapter 7, they now must use an income and expenses-based formula for such cases.)
- * Those compelled to file under Chapter 13 will be required to make repayments for five years, instead of three years (as required by the current law).
- * Re-filers must wait two to four years longer before filing again.

Significant Provisions of the Act Affecting Corporations ...

- * Gives bankruptcy courts more authority to limit the amount of money executives and other corporate insiders can take in bonuses and severance pay from companies filing for bankruptcy protection.
- * While there are provisions allowing the wealthy to shield assets with complex trusts, the ability to shelter assets by purchasing expensive homes in homestead exemption states has now been curtailed.
- * Requires companies, on request, to tell customers how long it will take to pay off a debt by paying only minimum amounts.

Other provisions of the new law cover such subjects as tax liens and cross-border insolvency, protections for family farmers and fishermen, and abusive creditor practices, while noticeably absent is a provision that would require credit card companies to inform consumers how much more interest they would be charged if they chose to pay only the required minimum each month.

A major beneficiary of the new law is expected to be automobile manufacturers, who will have precedence over most other creditors. Conversely, the Act deprives many debtors of protection from creditors—a criticism which prevented similar bills from being passed, including one version that was “pocket vetoed” by President Bill Clinton in December 2000 on the grounds that it was unfair to consumers.

Manz’s set—available in both hardcopy and DVD formats—includes the law in its final form, as well as a complete legislative chronology, bibliography, master table of documents, and report on the law, plus the Congressional Record, other bill versions, related hearings, and all other pertinent documents associated with this controversial new law. **ORDER YOUR SET TODAY!**

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