

Email to Senate Staff Regarding Technical Corrections to BAPCPA:

On September 29, 2010, the House passed H.R. 6198, the Bankruptcy Technical Corrections Act of 2010, which has been received in the Senate and referred to the Committee on the Judiciary, which may be working on its own technical corrections bill. A copy of H.R. 6198 is attached.

The Drafting Committee of the National Bankruptcy Conference (NBC) has reviewed H.R. 6198 and believes that all of the proposed amendments (with one exception described below) are, in fact, technical corrections of errors in Pub L. No. 109-8, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA").

We do have two concerns about H.R. 6198, however, that the members of the Committee on the Judiciary or the Subcommittee on Administrative Oversight and the Courts may wish to address.

First, there appears to be a mistake in section 2(a)(30)(B) of H.R. 6198. That section would amend section 1104(b)(2)(B)(ii) by changing "the service of any trustee appointed under subsection (d) shall terminate" to "the service of any trustee appointed under subsection (a) shall terminate." However, chapter 11 trustees are not appointed under section 1104(a), which provides that the court may order such appointment. Rather, trustees are appointed under section 1104(d). Therefore, no amendment is required and section 2(a)(30)(B) should be deleted.

Second, the NBC believes that there are additional purely technical amendments to BAPCPA that should be made. The list of those amendments is attached.

As you know, the NBC is a voluntary, non-profit, non-partisan, self-supporting organization of approximately 60 lawyers, law professors and judges who are leading scholars and practitioners in the field of bankruptcy law. For approximately 70 years, the NBC's primary purpose has been and remains to advise Congress on the operation of bankruptcy and related laws and any proposed changes to those laws. A fact sheet describing the Conference and a list of its current members is also attached.

We would be pleased to address any questions you have about technical amendments to the 2005 Act. Just contact me by telephone or email.

-- Sally

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