

NATIONAL BANKRUPTCY CONFERENCE

(a voluntary organization composed of persons interested in the improvement of the Bankruptcy Code and its administration)

November 5, 2001

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Hon. James Sensenbrenner
Chairman
House Judiciary Committee
2332 Rayburn House Office Building
Washington, D.C. 20515

Hon. Patrick Leahy
Chairman
Senate Judiciary Committee
433 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy and Chairman Sensenbrenner:

On behalf of the National Bankruptcy Conference, we write to recommend that, with limited exceptions, Congress defer further consideration of the pending bankruptcy legislation (H.R. 333 and its Senate counterpart).

Rather than make dramatic changes in our current bankruptcy law, we believe the prudent course is to leave the provisions of current law in place. A new bankruptcy statute, one that runs hundreds of pages and puts new and untested procedures and rules in place for both consumers and business, should not be adopted in this time of economic uncertainty. More than 1 million people have been laid off this year, and the terrorist acts of September 11 will force more families and businesses to the bankruptcy system for relief. Before Congress overhauls the system, it should carefully gauge the effects of the September 11 attacks and the effects they will have on businesses – large and small – and those who work for them.

Consistent with our view that major changes in the bankruptcy system should be avoided at this time, there are certain actions Congress could take now. First, it would be appropriate to enact legislation that gives permanency to chapter 12 (family farmer reorganizations) and increases the number of bankruptcy judges. Second, the Administration and the Federal Reserve have expressed support for specific provisions to clarify the effect of bankruptcy on financial market contracts, including netting. The NBC does not oppose those limited changes, provided they do *not* extend to the separate subject of asset securitization, which does not impact the market for treasury securities or financial contracts. Finally, Congress might adopt Chapter 15, the transnational provisions of the proposed legislation. Its provisions are both uncontroversial and consistent with current United States law.

Hon. James Sensenbrenner
Hon. Patrick Leahy
December 10, 2001
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The National Bankruptcy Conference is a voluntary, non-profit, self-supporting, non-partisan group of about sixty law professors, judges and practicing lawyers that has been working with Congress on bankruptcy legislation since the Great Depression. As always, we remain available to you and your staff to help in bankruptcy reform.

J. Ronald Trost, Chair
National Bankruptcy Conference

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cc: National Bankruptcy Conference