

NATIONAL BANKRUPTCY CONFERENCE

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

November 21, 2003

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Dear Senator:

We understand that there may be an effort to attach bankruptcy legislation, in the form passed by the House (i.e., H.R. 975, without the Schumer amendment), to the pending omnibus appropriations bill.

The National Bankruptcy Conference¹ strongly opposes this effort.

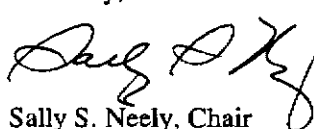
This bankruptcy bill requires additional consideration. The framework and substance of the proposal are now six years old. During that time – indeed, even since bankruptcy bills last passed both the House and Senate more than two years ago – dramatic changes have directly affected our nation's economy. Unemployment, the number one cause of personal bankruptcy filings, is significantly higher. Huge public companies have filed for bankruptcy in the last few years.

In addition to the issue of how these cases might have fared under the pending bill, these cases and others raise new and serious questions regarding such matters as the appropriate level of compensation for executives in reorganizing companies and fair treatment of employee and retiree wages and benefits, including 401(k) and other retirement accounts – issues that are not addressed in H.R. 975 or prior versions of the bill. Further, we think insufficient attention has been paid to the sections of the bill that create new and more complicated bankruptcy procedures for small businesses, a key component of the American economy.

Finally, the House bill does not contain the Schumer amendment or the compromise thereof to which House and Senate conferees agreed the last time omnibus bankruptcy legislation was presented for consideration. The Senate has consistently insisted on such a provision. Thus, attaching H.R. 975 to the omnibus appropriations bill is an effort to adopt the House position on this highly sensitive and controversial provision without discussion or debate or opportunity for the Senate to insist on the terms of the agreement its conferees previously reached.

We urge you to oppose attaching the text of the House-passed bankruptcy bill to the omnibus appropriations bill.

Sincerely,



Sally S. Neely, Chair
Committee on Legislation
National Bankruptcy Conference

¹ The National Bankruptcy Conference is a voluntary, non-profit, self-supporting, non-partisan group of sixty-one law professors, judges and practicing lawyers that has been working with Congress on bankruptcy legislation since the Great Depression. Our members are all recognized experts in bankruptcy law and procedure who are committed to the improvement and integrity of the bankruptcy system.