



NEW JERSEY STATE BAR ASSOCIATION

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Re: H.R. 975

Dear Representative Saxton:

On behalf of the New Jersey State Bar Association, we respectfully request that you vote "NO" on H.R. 975 entitled the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003 when the aforementioned Legislation comes before the House for a vote.

The NJSBA Board of Trustees and Bankruptcy Law Section believe that this Legislation, which proposes massive changes to the bankruptcy laws, will result in adverse consequences to the residents of the State of New Jersey.

Major Bankruptcy Reform was first introduced in Congress four years ago, at a time of economic prosperity and relative world peace. The proponents of the Legislation argued that the continuing rise of personal bankruptcy filings during an era of economic prosperity demonstrated that the current bankruptcy system was flawed and fostered abuse. The credit card industry lobbied heavily in favor of this Legislation, which Professor Elizabeth Warren of Harvard Law School, a renowned bankruptcy scholar, coined "the credit card industry's wish list".

Over the last several years, the recession, ongoing corporate scandals and the impact of world turmoil, has driven many individuals to seek protection under the Bankruptcy Laws. This country has always been known as a nation of second chances, where deserving citizens are provided a "fresh start". Relief from debt has been part of the fabric of our civilization since the twentieth century B.C.E., when debt relief was provided under the Code of Hammu-Rabi.

We do not believe that the current system permits substantial abusive bankruptcy filings. A study performed by the American Bankruptcy Institute, an independent organization of Bankruptcy professionals, found that only 3 percent of Chapter 7 Debtors could afford to repay even 20 percent of their debts. The proposed Legislation would have a particularly harsh effect on Americans who most need the bankruptcy safety net when misfortune strikes. Women represent the single largest group of bankruptcy filers. Older Americans are the single fastest growing age group in bankruptcy. This Legislation would have especially harsh effect on minority

homeowners, who are five hundred percent more likely than white homeowners to find themselves in bankruptcy and laid off workers, whose ranks are rapidly expanding.

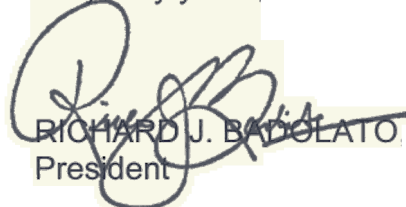
The Legislation seeks to impose an extremely rigid "means test", which would determine whether a Debtor may seek to discharge its debts under Chapter 7. The Legislation imposes a very low level above which the Debtor will be forced to repay a portion of their debts. Debtors will not be in a financial position to pay an attorney to contest these issues. The Bankruptcy Judge, who would be in the best position to determine whether a Debtor should be required to pay back a portion of his or her debts will not be permitted to take into account unexpected circumstances, such as medical emergency, but will be bound to apply the mechanical "means test".

The Legislation will also open the door for abusive creditor motion practice during bankruptcy cases, which will make it likely that many debtors will not be able to defend themselves in Court and will be coerced into surrendering their legal rights. The current bankruptcy system is designed to promote the payment of child support and alimony by debtors. By requiring debtors to repay credit card debt and auto loans, the bill will necessarily divert funds which would have been used for the payment of matrimonial obligations.

The proposed Legislation does nothing to cap homestead exemptions available to the residents of a number of States, (including Florida and Texas) which allow residents to discharge their debts, yet retain multi-million dollar unencumbered mansions. Many of these debtors have fled States such as New Jersey to venues with unlimited homestead exemptions, to shield their ill gotten gains from creditors.

We do not discount the fact that the bankruptcy laws can be improved. We are sure that there are modifications to the existing bankruptcy laws which might effectively limit abuse. Unfortunately, we believe that H.R. 975 is not that Legislation. The Bill is completely inequitable, mechanically flawed, and will severely injure the residents of the State of New Jersey. We urge you to vote against this Legislation.

Very truly yours,



RICHARD J. BADOLATO
President

c: Hon. James. E. McGreevey
Daniel M. Stolz, Bankruptcy Law Section
Allen A. Etish, Trustee
Karol Corbin Walker, President-elect
Harold L. Rubenstein, Executive Director
Valerie L. Brown, Legislative Counsel
D. Todd Sidor, Director of Judicial Administration