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Bankruptcy

File
Bankruptcy

September 22, 2000

The Honorable Trent Lott
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Majority Leader:

I write in response to your request for the President's views on how we might proceed to complete bankruptcy reform legislation this year. The President believes that the public interest would be well served by balanced bankruptcy reform that encourages responsibility of, and reduces abuses by, debtors and creditors alike. We would like to reach agreement on legislation that meets that test.

The President appreciates your significant movement on the homestead issue. We realize that the offer goes against strongly held views of some members of your caucus, and we are grateful for the effort. While we had proposed placing a cap of $250,000 on the size of state homestead exemptions, we could accept a homestead cap of $500,000, were we to reach agreement on other issues.

The President also appreciates the constructive step you took by adding a means-test safe harbor for below-median income debtors. As you know, we strongly support inclusion of this provision in the bill to reduce unnecessary reviews of bankruptcy filings by debtors who have little if any capacity to repay their debts. There is a technical problem with the safe harbor language that you forwarded, which we assume was unintentional and should be fixed.

The President is deeply troubled that your offer fails to address the problem of abusive bankruptcy filings by those who seek to avoid the legal consequences of violence, vandalism, and harassment used to deny access to legal health services. Our society should not tolerate those who develop a strategy to first threaten and intimidate doctors, health care professionals, or their patients and then turn to the bankruptcy courts to avoid legal liability for their actions. I reiterate that the President will not sign any legislation that does not contain an effective means to ensure accountability and responsibility of perpetrators of clinic violence.

The Administration also cannot accept the inclusion of two provisions that work to the detriment of consumers and were not in either the House or Senate bills. The President has previously stated his concerns about the amendment eliminating existing protections under the Fair Debt Collection Practices Act against inappropriate check collection practices. We are also troubled by the addition of a new proposal on the treatment of rent-to-own agreements in bankruptcy. This proposal was rejected during the bipartisan negotiations of the informal conferees and there is too much concern about its possible implications on debtors and other creditors to be to be considered without significant public scrutiny and analysis. The President will not accept bankruptcy legislation that includes either of these provisions this year.

These serious issues are coupled with the President's continued concern with the imbalance in the underlying bill between the interests of creditors and debtors. The addition of the means test safe harbor is a constructive step; however, we fear that too many of the bill's provisions, while aimed at bankruptcy abuses, will place unnecessary barriers before those who genuinely need bankruptcy protection when faced with the most difficult situations life has to offer – unemployment, uninsured medical expenses, and divorce. For example, we believe that, if we can allow courts to make exceptions to the homestead cap in the "interests of justice" for debtors with up to a half-million in equity in their homes, we should be able to provide judges with comparable unfettered discretion to vary from a rigid application of the means test to moderate-income debtors.

While the President appreciates your good faith effort to work together, in light of the concerns mentioned above, the President would veto the bill described in your offer. The Administration urges Congress to send the President a balanced bankruptcy reform measure that addresses the concerns raised above. We appreciate your consideration of these views.

Sincerely,

Gene Sperling
National Economic Advisor

Cc: The Honorable Thomas Daschle
The Honorable De