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FOR MORE INFORMATION:
Travis Plunkett 202-387-6121
John Rao, 617-542-8010
Ed Mierzwinski, 202-546-9707

BANKRUPTCY BILL ON HOUSE FLOOR WILL ERECT HARSH NEW BARRIERS AND REWARD ABUSIVE LENDERS

Washington, D.C. — As the U.S. House votes on bankruptcy legislation today, national consumer organizations called on Representatives to reject the bill because it would favor creditors at the expense of Americans who have suffered genuine financial misfortune. The measure passed the Senate last month and is likely to be signed into law by the President if it clears the House.

The bankruptcy bill (S. 256) would place numerous additional restrictions on Americans who attempt to declare either chapter 7 or chapter 13 bankruptcy (see attached for more information.) Last month, the Senate rejected several amendments to the bill that would have curbed a number of lending abuses and assisted active duty military personnel and veterans in bankruptcy, as well as those who are forced into bankruptcy because of high medical bills. The bill does not contain a single restriction on reckless or predatory lending by creditors.

"This bill simply doesn't balance responsibility between families in debt trouble and the creditors whose practices have contributed to the rise in bankruptcies," said Travis Plunkett, Legislative Director of the Consumer Federation of America. "While credit card companies urge Congress to erect new bankruptcy barriers for many families, their profits are soaring," he said.

A large body of evidence links the rise in consumer bankruptcies in the last twenty years directly to an increase in consumer debt. Revolving debt, most of which is credit card debt, increased nearly fifteen-fold from January 1980 through 2004, from $54 billion to $791 billion. The higher the level of consumer debt, the more likely a family is to declare bankruptcy when misfortune strikes.

Much of this lending boom was fueled by the extension of credit to vulnerable consumers, including young people, lower income Americans and minorities, and the elderly. Some lenders, such as those offering “predatory” mortgage loans, targeted these borrowers with often deceptive offers that had abusive terms.

“By making it harder for consumers to wipe away abusive loans in bankruptcy, this bill rewards the bottom feeders in the lending industry,” said Ed Mierzwinski, Consumer Programs Director of the U.S. Public Interest Research Group. “These are the firms bombarding college students with high interest credit card offers, or peddling predatory mortgage loans to older Americans, or marketing payday loans at triple digit interest rates to cash strapped members of the military.”

Credit card companies have reaped substantial profits by targeting riskier borrowers, and are typically the most profitable part of any bank’s operations. According to the investment banking firm R.K. Hammer and Associates, credit card issuers posted the highest profits in 2004 since 1988.

“Creditor practices are literally driving consumers into default,” said John Rao, staff attorney of the National Consumer Law Center. “I’ve seen case after case of credit card companies loading consumers up with additional charges beyond what was originally owed,” he said. “By the time these people land in bankruptcy, they owe more in interest and fees than they do on the original loan.”

“I urge the House to reject this bankruptcy legislation because it punishes homeowners and actually helps irresponsible creditors collect more of the loans they made to people obviously unable to pay them back,” said Martin Eakes, CEO of the Center for Responsible Lending. “It also is likely to push more homeowners into the arms of predatory lenders,” he said. “Reckless credit card lenders already cover their losses to bankruptcy by charging extremely high rates.”

“It is particularly ironic that Congress would offer a gift to the credit card industry at a time when it is under fire for punitive business practices, like doubling your interest rate if you are a day late on a payment,” said Linda Sherry of Consumer Action.

“There is nothing ‘balanced’ about this bill,” said Chanelle Hardy of Consumer Union. “It is unfortunate that creditors have used their political might to push through legislation that will limit access to a fresh start in bankruptcy for many who lose a job, get hit with a major illness or suffer other serious financial misfortunes.”

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MAJOR FLAWS IN BANKRUPCY LEGISLATION (S. 256)

- **The timing of the bill couldn't be worse. Rising bankruptcies are driven by economic difficulties**. The recession, the terrorist attacks and corporate scandals of the last few years have led to high long-term unemployment and an increase in the number of Americans without health insurance. This is a very bad time to place severe new restrictions on personal bankruptcy.
- **Reckless and predatory lending would go unchecked and could increase**. The bill does nothing to curb abusive lending by creditors, whose practices often contribute to bankruptcy. Moreover, by making it harder for debt-choked consumers to wipe away some debts when calamity hits, the bill would encourage lenders to lower their credit standards even more.
- **Modest income debtors face harsh new barriers.** The bankruptcy bill is riddled with severe restrictions that would prevent those with legitimate financial difficulties from getting a fresh financial start in bankruptcy. For example, the bill presumes that a struggling family that spends more than $42 a week on credit card purchases before declaring bankruptcy is guilty of fraud. The "means test" in the bill—which would determine who is eligible for chapter 7 bankruptcy--would label a family's spending on mass transit to be excessive if they also own a car. (What if one parent commutes by train and the other by car?) Bankruptcy judges would not be permitted to waive the means test's rigid requirements and allow a debtor to declare bankruptcy even if the person is blameless for his or her financial problems, for instance, because of a medical emergency.
- **Corporate executives and affluent debtors would receive favored treatment in bankruptcy**. The bill would still allow many affluent debtors to declare bankruptcy and keep multi-million dollar homes. Executives facing bankruptcy as a result of business debt would not be subject to the harsh means test that would make it harder for employees with primarily consumer debts to declare bankruptcy.
- **The payment of child support and alimony would be endangered**. Today, child support is among the few obligations that cannot be wiped away in bankruptcy. By allowing more credit card and other debts to also survive the bankruptcy process, the bill puts banks in competition with parents trying to collect child support from former spouses who have declared bankruptcy. The bill's provision that would require child support to be paid first when distributing the assets of chapter 7 debtors is virtually meaningless. About 95 percent of chapter 7 debtors have no assets to distribute in the bankruptcy proceeding.
- **Makes chapter 13 plans to save homes and cars far more difficult.** Contrary to the supposed aim of encouraging more chapter 13 payment plans, numerous provisions in the bill will make chapter 13 much harder and less attractive. For many debtors, the bill will require five year plans (up from three years), assuring that the failure rate will be even higher than the current two-thirds who can't complete plans because of unexpected income or job loss.
- **Provides misleading information to debtors in the name of "credit disclosure."** Instead of providing a borrower with the information he or she needs to borrow responsibly and avoid getting into financial difficulty, this bill allows creditors to provide misleading information that may give a borrower a false sense of financial security.
- **Makes debtors more vulnerable to eviction.** The bill makes it easier for residential landlords to evict a tenant who is in bankruptcy.