

HOUSE BILL ANALYSIS

HJM 4026

Brief Description: Requesting United States Congress to enact needs-based consumer bankruptcy reform legislation.

Sponsors: Representatives Dunn, Pennington, Mielke and Boldt.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Meeting Date: January 19, 1997

Bill Analysis Prepared by: Jim Morishima (7191)

Background: Bankruptcies are governed under federal law. There are three main types of bankruptcies, two of which are pertinent to the memorial: Chapter 7 liquidations and Chapter 13 plans.

Chapter 7 liquidations are also known as straight bankruptcies.— In a straight bankruptcy, which can be voluntary or involuntary, a debtor states his liabilities and turns over his assets to a trustee. The trustee then distributes the assets to the debtor's creditors. Secured creditors will receive their security as payment. Bankruptcy law divides unsecured creditors by priority and pays them accordingly by class until the debtor's assets are exhausted. The rest of the debtor's obligation is then discharged.

Chapter 13 allows wage earners to pay off their debt in accord with a plan they file with the court. The court will approve the plan with respect to a secured creditor if the secured creditor has approved the plan, if the plan pays the creditor at least as much as the amount secured, or if the debtor gives up the secured property. With respect to unsecured creditors, the plan must be in good faith— and the creditor must receive at least as much as it would under a Chapter 7 liquidation.

Summary of Bill: The memorial makes several findings regarding bankruptcy. The number of consumer bankruptcy filings has increased dramatically over the last several years. Consumer bankruptcies adversely affect the country in many ways. First, businesses pass on the losses they incur due to consumer bankruptcies through higher prices. Second, credit grantors restrict the availability of credit to consumers at the margins. Third, the rate of bankruptcies is no longer correlative with the condition of the national economy. This is partially because bankruptcies are being filed by consumers as a form of financial planning, consumers who do not necessarily need a discharge of all debts. Finally, the methods creditors use to identify individuals who pay their obligations are inadequate to predict the increasing number of bankruptcies.

The memorial requests Congress to revise the bankruptcy code. The code should allow only people who truly are unable to pay to declare bankruptcy. Otherwise, the code should require and encourage consumers to pay their debts to the extent they are able to do so.

Fiscal Note: None requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.