

CFA, ATTORNEYS: CONGRESS SHOULD GIVE KATRINA VICTIMS FINANCIAL RELIEF BY DELAYING SEVERE NEW BANKRUPTCY LAW

Burdensome Paperwork Rules, Other “Gotcha!” Requirements Not Practical for Wiped-Out Hurricane Victims; New Law Would Make Victims’ Already Bad Situations Even Worse.

WASHINGTON, D.C.//September 8, 2005///Harsh new provisions under federal bankruptcy law set to go into effect in mid-October should be delayed for at least one year for people whose lives, finances or business were directly impacted by Hurricane Katrina, according to the Consumer Federation of America (CFA) and the National Association of Consumer Bankruptcy Attorneys (NACBA).

CFA and NACBA warned that, in the absence of the enactment of such emergency relief by Congress, thousands of victims of Hurricane Katrina could face a cruel second blow when they try to take steps to put their lives and finances back together. The two groups urged that the delayed implementation cover those who already were in financial trouble and planned to file before the new law became effective on October 17, 2005, and those who have been driven into bankruptcy because of Katrina and need time to regroup and get their records together. These natural disaster victims already have been devastated and should be allowed to file under the more flexible current law, according to the two groups.

CFA Legislative Director Travis Plunkett said: **“Bankruptcy is an important safety net that families hit by unforeseen circumstances depend upon. The federal government should be bending over backwards to help Katrina’s victims get back on their feet, not throwing up new barriers to bankruptcy. The new law’s harshest provisions that impose the biggest hurdles to bankruptcy should be permanently waived for victims of Hurricane Katrina. ”**

Brad Botes is a member of the NACBA board of directors and a principal in Bond & Botes, a law firm with offices in Mississippi, Alabama, Florida and Tennessee, including one office blown away by Katrina. Botes said: **“What we really need to do here is avoid kicking hurricane victims when they already are down. Unfortunately, the new bankruptcy law deliberately removes the flexibility and ‘give’ in the old system that made it possible for attorneys and judges to work with people in disaster situations and find a way to meet their often quite dire needs. If Katrina victims are socked with the new bankruptcy law, they will find their already difficult circumstances made even worse by a rigid system that will force bankruptcy judges to, in effect, ignore the plight of thousands of individuals devastated by one of the worst disasters in U.S. history.”**

CFA and NACBA urged Congress to permanently waive the following provisions for Hurricane Katrina victims:

- The six month look-back period for income, the unrealistic expense guidelines and other provisions of the means test. Why should someone who has lost her job as a result of Katrina either have to wait six months to file for bankruptcy or go to court to prove the obvious ...that she lost her job and no longer has income? At the same time, the unrealistic IRS expense guidelines assume consumers pay roughly \$1.60 for a gallon of gas, don't take into account extended stays in hotels, and so on.
- Credit counseling. People driven into financial ruin by a natural disaster do not need counseling on how to use their credit more wisely; they need immediate relief from the bankruptcy system.
- Landlord lifting of the automatic stay. The new law will make it easier for landlords to remove the “automatic stay” on creditor actions that occurs when a person files for bankruptcy. This will make it significantly easier for landlords to evict tenants in bankruptcy and will prevent tenants from using the bankruptcy system to get current on their rent. Families forced to relocate because of the hurricane should not face the possibility of homelessness a second time.
- Paperwork requirements. The new law imposes extensive new requirements for the production of documentation, including tax returns, paycheck stubs, and other paperwork. These new requirements, coupled with strict deadlines for production upon the penalty of an automatic dismissal are difficult for the most organized person to meet, never mind someone who has had his or her home destroyed by Katrina.

Brad Botes added: “These proposed changes to the bankruptcy law are the minimum first step that Congress should take to help Katrina’s victims. We may very well ask for additional changes/delays as the full impact of Katrina is felt throughout the American economy. While the economic effects of Katrina in the immediate disaster area are obvious to all, the damage to our nation's economy is just beginning to be understood. As Katrina has illustrated in the most vivid manner, many American families face the very real prospect of being pushed over the financial edge by an unexpected event, such as a natural disaster, serious illness or a job layoff.”

ABOUT THE GROUPS

The Consumer Federation of America is a non-profit association of 300 organizations that, since 1968, has sought to advance the consumer interest through research, advocacy and education.

NACBA is the only national organization dedicated to serving the needs of consumer bankruptcy attorneys and protecting the rights of consumer debtors in bankruptcy. Formed in 1992, NACBA now has more than 3000 members located in all 50 states and Puerto Rico.

CONTACT: Patrick Mitchell, for NACBA, (703) 276-3266 and pmitchell@hastingsgroup.com or Travis Plunkett, for CFA, (202) 387-6121 and tplunkett@consumerfed.org.

EDITOR’S NOTE: A streaming audio replay of this news event will be available on the Web as of 4 p.m. ET on September 7, 2005 at <http://www.nacba.org/>.