

Short Summary of the Protecting Employees and Retirees in Business Bankruptcies Act of 2012

The bill aims to (1) improve recoveries of earnings and benefits for employees and retirees when a business declares bankruptcy; (2) reduce employees' and retirees' losses by toughening the procedures through which collective bargaining agreements and retiree benefits can be discarded; (3) clarify that the principal purpose of Chapter 11 bankruptcy is the preservation of jobs to the maximum extent possible; and (4) restrict executive compensation programs for companies in bankruptcy.

Specifically, the bill would take steps including the following:

- Double the maximum value of worker wage claims entitled to priority payment to \$20,000 and allow a second claim of up to \$20,000 for contributions to employee benefit plans;
- Eliminate the restriction that wage and benefit claims must be earned within 180 days of the bankruptcy filing in order to be entitled to priority payment;
- Allow workers to assert claims for losses in certain defined contribution plans when such losses result from employer fraud or breach of fiduciary duty;
- Establish a new priority administrative expense for workers' severance pay;
- Restrict the situations in which collective bargaining agreements can be rejected;
- Toughen the procedures through which retiree benefits can be reduced or eliminated;
- Require the court to consider the impact that a bidder's offer to purchase a company's assets would have on maintaining existing jobs and preserving retiree pension and health benefits;
- Clarify that the principal purpose of Chapter 11 bankruptcy is the preservation of jobs to the maximum extent possible;
- Require disclosure and court approval of executive compensation during bankruptcy;
- Prohibit bonuses and other forms of incentive compensation to senior officers while a company is in bankruptcy; and
- Ensure that insiders cannot receive retiree benefits while the company is in bankruptcy if workers have lost their retirement or health benefits.