

September 14, 2010

The Honorable Steve Cohen
Chairman, Commercial and Administrative
Law Subcommittee
House Committee on the Judiciary
H2-362 Ford House Office Building
Washington, D.C. 20515

The Honorable Trent Franks
Ranking Member, Commercial and
Administrative Law Subcommittee
House Committee on the Judiciary
B-351 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Cohen and Representative Franks:

We are writing on behalf of the undersigned organizations in strong opposition to H.R. 4677, the Protecting Employees and Retirees in Business Bankruptcies Act of 2010, which is scheduled to be marked up by the Commercial and Administrative Law Subcommittee on September 15, 2010.

H.R. 4677 would significantly increase the costs of Chapter 11 bankruptcies, substitute arbitrary statutory benchmarks for flexible judicial discretion, and make it even more difficult to retain key management personnel. In addition, the increased number and level of priority claims that would be created by the legislation would make it far more difficult to confirm a plan of reorganization – and if a plan is approved, the recovery of parties in interest other than non-management workers, including both secured and unsecured providers of essential credit, would be substantially reduced.

The combination of these effects would greatly increase the likelihood that a Chapter 11 filing would result in liquidation rather than reorganization, and this would mean less jobs and that is certainly not in the best interests of workers and retirees. It also would make business credit more difficult and expensive to obtain, further increasing the odds of a bankruptcy filing.

The careful balancing of interests reflected in Section 1113 of the Bankruptcy Code would be permanently altered by enactment of H.R. 4677. This would undermine efforts by Congress to help create new jobs and would not be in the best interests of troubled companies or their workers, management, lenders, and shareholders – or of the U.S. economy.

For the above reasons, we urge you to vote against H.R. 4677 when it is marked up by the Subcommittee.

Sincerely,

American Bankers Association
Commercial Finance Association
Consumer Bankers Association
The Financial Services Roundtable

Cc: Members of the Commercial and Administrative Law Subcommittee