

LATEST BANKRUPTCY BILL HAS SHOT AT PASSAGE

By: Jeff Bellant

Automotive lenders would be a major beneficiary of a bill to reform bankruptcy passed by the U.S. Senate, according to an expert on the subject.

On March 8, the U.S. Senate voted 75 - 24 in favor of the Bankruptcy Abuse Prevention & Consumer Protection Act of 2005.

The Senate vote means bankruptcy reform, which has been debated for the better part of a decade, will finally become law.

Since previous bankruptcy bills were passed by the U.S. House – and later stymied in the Senate – the House is expected to approve the new legislation in April.

President George W. Bush has said he would sign the legislation.

The bill's sponsor, Sen. Chuck Grassley (R-Iowa), promises his bill will cut down on abusive and frivolous bankruptcy filings that hurt the country's economy.

“(Bankruptcy) was not intended to be a convenient financial planning tool where deadbeats can get out of paying their debt scot-free while honest Americans who play by the rules have to foot the bill,” he said. Bankruptcy expert William Mapother, founder of Creditor's Law Center in Louisville, KY., said he expects the House to pass the bill (S.256) and the President to sign it in April.

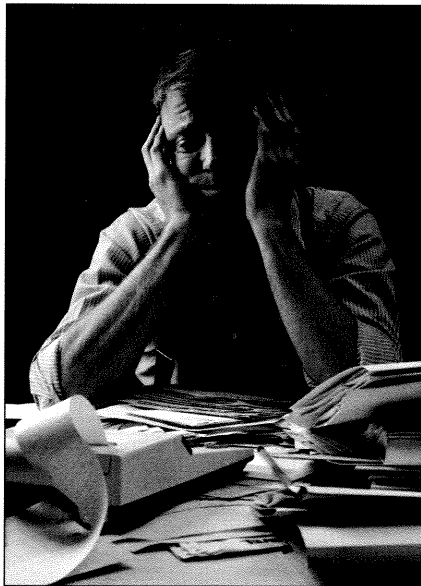
At press time, the bill was in the House.

Mapother said car lenders should be relieved that Bush won the 2004 election, since Sen. John

Kerry (D-Massachusetts), who voted against the bill, would likely not have signed the legislation into law as President.

The new law won't go into effect until six months after it is signed by Bush.

Among the benefits to car lenders, including buy-here, pay-here dealers, is one provision of the bill which would force debtors to use the retail value of their vehicles



when filing Chapter 13.

In the past, there has been confusion about whether those debts should be based on retail or wholesale value, or an average of the two, Mapother said.

Mapother said since about 300,000 people with car loans file Chapter 13 each year, the change from wholesale to retail would make a huge difference in the money collected by car lenders.

Under the current law, anyone can get full debt cancellation in Chapter 7, with no questions asked,

even if they have the means to pay off their debts, according to Grassley. The new bill would require that if repayment is possible for an individual, then that person would be put into a repayment plan under chapter 13 of the bankruptcy code.

Mapother said while the benefits of the new law will be good for dealers, he warned dealers not to overlook what will happen in the next six months.

He said bankruptcy lawyers will advertise heavily during that period, warning consumers that if they are having problems, they should file before the new law goes into effect. “There will be a barrage of bankruptcy filings like they've never seen before,” Mapother said.

Mapother said buy-here, pay-here dealers have to be shrewd during the next six months, making sure they don't push their customers into bankruptcy.

“When do consumers file bankruptcy?” he said. “When they feel they're being squeezed.”

Mapother recommends these dealers should suspend their normal collections and repossession policies.

“I'm not saying don't try to collect and don't repossess,” he said. But Mapother is recommending that dealers give their customers a little more leeway than normal, so that they don't run to bankruptcy court. He said dealers should talk to their collections departments so they understand the goal is not to chase customers into bankruptcy.