



**CONGRESSIONAL BUDGET OFFICE
PRIVATE-SECTOR MANDATES STATEMENT**

June 10, 1998

**H.R. 3150
Bankruptcy Reform Act of 1998**

*As Reported by the House Committee on the Judiciary
on May 18, 1998*

SUMMARY

H.R. 3150 would make many changes and additions to the federal bankruptcy laws. By amending the bankruptcy code, the bill would affect consumer debtors, business debtors, secured and unsecured creditors, bankruptcy trustees, attorneys, debt relief counselors, and other entities in the private sector. Certain provisions in H.R. 3150 that incorporate means-testing in the bankruptcy system would impose new private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA) with costs that exceed the statutory threshold (\$100 million in 1996, adjusted annually for inflation). Specifically, new enforceable duties would be imposed on private trustees who administer bankruptcy cases, attorneys, debt relief counselors, and utilities, as defined in the bill. H.R. 3150 would also impose additional duties on parties who file for relief under the bankruptcy system, although new requirements for bankruptcy filers would not be considered new mandates for purposes of UMRA. Furthermore, H.R. 3150 contains provisions that could impose costs on certain categories of creditors who receive distributions from bankruptcy estates by delaying payments to creditors and by raising administrative costs. Increased administrative costs would reduce the pool of funds available for creditors.

PRIVATE-SECTOR MANDATES AND EFFECTS

H.R. 3150 would establish a system of means-testing provisions for determining the eligibility of consumers for relief under the bankruptcy system. Participants in consumer bankruptcy proceedings would be most affected by the bill. Under current law, most individual debtors who seek bankruptcy relief have two options: liquidation (Chapter 7) or reorganization (Chapter 13). H.R. 3150 would institute a "needs-based system" for relief

under Chapter 7 by requiring individuals (and households) who file for bankruptcy to seek debt relief under Chapter 13 if they earn a regular income equal to or greater than the national median income (adjusted for household size) and could pay at least 20 percent of their unsecured debts and \$50 per month. In addition, H.R. 3150 would amend other provisions in federal bankruptcy law, including those covering family farmers and municipalities, collection of bankruptcy data, single-asset real estate debtors, the treatment of certain taxes, and cross-border bankruptcy cases.

CBO estimates that the direct costs to the private sector of complying with mandates in H.R. 3150 would exceed the statutory threshold in UMRA in each of the first five years that new mandates were effective. The lion's share of costs would be imposed on private trustees who administer bankruptcy estates, providers of debt relief counseling services, and attorneys. Most mandate costs would stem from new requirements to investigate and verify financial information provided by bankruptcy filers. Costs would be imposed on debt relief counselors by enacting new consumer protection regulations. Some estimates of increased costs for attorneys and private trustees in Chapter 7 filings have been several hundred dollars per case, and estimates for Chapter 13 filings have ranged from several hundred dollars to over \$1,000 per case per year. More than 1.3 million bankruptcy filings occurred in 1997. Because reliable national data on the costs of the bankruptcy system are lacking, CBO does not have sufficient information to place a reasonable upper bound on its estimate.

CBO's estimate excludes: financial transfers between debtors and creditors that would result from enacting H.R. 3150; costs that could result from delaying distributions from bankruptcy estates to certain creditors; and potential reductions in debtor repayments if the costs of administration for the bankruptcy system rise by more than payments by debtors.

Attorneys and trustees in Chapter 13 cases would be able to recoup most mandate costs. Administrative costs in Chapter 13 cases, which include attorneys' and trustees' costs, receive priority treatment in Chapter 13 cases and, therefore, those costs would likely be offset by increased payments from bankruptcy estates. Mandate costs for Chapter 7 trustees, however, would reduce trustee income because provisions are lacking for reimbursement for increased trustee costs from Chapter 7 debtor estates.

To the extent that the bill would delay payments from liquidated or reorganized bankruptcy estates, the bill could impose costs on certain creditors. However, by increasing the number of debtors who are required to file under Chapter 13, the bill would likely increase the pool of funds available to creditors, which would benefit creditors. Again, offsetting a portion of the benefits to creditors would be the higher costs of administering a bankruptcy system that uses means-testing. As a result, some creditors could ultimately receive smaller distributions.

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