

Statement of

The Honorable Chuck Grassley

United States Senator
Iowa
March 17, 2010

Statement of Senator Grassley for Judiciary Subcommittee Hearing

"Could Bankruptcy Reform Help Preserve Small Business Jobs?"

Mr. Chairman, thank you for holding this hearing today. It is important that the Judiciary Committee study whether small businesses are experiencing problems with reorganization in bankruptcy, and whether changes to the Bankruptcy Code are necessary. Small businesses are a primary driver of our economy, so we want to ensure that viable small businesses have every opportunity to reorganize and succeed. In fact, the Bankruptcy Reform Act of 2005 included several provisions with respect to small businesses that were derived from recommendations of the National Bankruptcy Review Commission and intended to improve the bankruptcy process for small business owners. We should determine whether those provisions are working, and assess whether further improvements - such as reducing administrative costs and streamlining procedures - can be made to the process to address the special problems presented by small business bankruptcies.

At the same time we need to take care that we not exacerbate an already tight credit environment for small businesses or frustrate their ability to work with other businesses. Small businesses depend on lenders and other businesses, including other small businesses, to get started and to operate successfully. We should ensure that any changes we make to the bankruptcy rules do not disrupt business dealings, increase borrowing costs for small businesses, or decrease the availability of small business credit. We should also ensure that any changes we make do not encourage gaming of the bankruptcy rules or incentivize fraud and abuse in bankruptcy filings. So I am open to making changes to improve the bankruptcy rules for small businesses. However, the National Bankruptcy Conference has proposed amending Chapter 12 to apply to small businesses to address their concerns. I am opposed to such an expansion of Chapter 12. I drafted Chapter 12 to respond to the specific problem of small farming operations being unable to reorganize in bankruptcy. Chapter 12 was carefully crafted and narrowly targeted to small family farmers and family fishermen. I'm extremely concerned that if Chapter 12 were opened to non-farm business filings, Chapter 12 filings would expand dramatically and potentially create large adverse economic effects that could result in a backlash of opposition against Chapter 12. In fact, the National Bankruptcy Conference Report itself states that their proposal would substantially increase Chapter 12 trustee workload. During calendar year 2008, there were only 345 Chapter 12 filings but nearly 10,000 Chapter 11 cases - with the bulk of Chapter 11 cases filed by small businesses.

Again, I want to make clear that my opposition to expanding Chapter 12 to small businesses does not mean that I am not open to looking at changes to the Bankruptcy Code to facilitate reorganization for small businesses. In my opinion, after we determine what best should be done

to improve the bankruptcy process for small businesses, it would make more sense to either amend Chapter 11 or create a separate Chapter in the Bankruptcy Code for small business reorganizations.

I look forward to hearing the witness testimony and working with the members of the Judiciary Committee on finding the right approach to this issue.