



**Statement of the Honorable Linda Sánchez,
Chairwoman, Subcommittee on Commercial and Administrative Law,
for the Oversight Hearing on the Second Anniversary of the Enactment of the Bankruptcy Abuse
Prevention and Consumer Protection Act of 2005: Are Consumers Really Being Protected Under
the Act?
May 1, 2007**

Two years ago last month, President Bush signed into law the Bankruptcy Abuse Prevention and Consumer Protection Act, pushing through the complex and dramatic changes of our Nation's bankruptcy law in more than 25 years.

Today's hearing – which focuses on consumer bankruptcy – is one in a series that our Subcommittee will conduct on the impact of the 2005 Amendments on the bankruptcy system.

We have heard extensively from the consumer community that many of the consumer bankruptcy reforms were problematic. In particular, the Act's means testing requirement to determine a debtor's ability to repay debts and mandate that consumer debtors receive credit counseling prior to filing for bankruptcy relief were two provisions that have proved to be problematic.

Recent developments in the subprime mortgage industry have brought to light additional problems with the Act. After being lured into easy mortgage refinancing arrangements with teaser interest rates, more and more American homeowners find they are unable to make their monthly mortgage payments. As a result, many attempt to enter into bankruptcy to minimize the risk of losing their homes through foreclosure.

However, bankruptcy, which once served as a safety net for the honest, but unfortunate debtor, has now become a minefield of "gotchas." According to a recent survey of bankruptcy attorneys by the National Association of Consumer Bankruptcy Attorneys, 81 percent agreed that it is more difficult for people facing foreclosure to obtain bankruptcy relief since the 2005 Act became law.

Let me give just one example. To satisfy the means test, a Chapter 7 debtor must now complete Official Form 22, consisting of 57 sections. This complex form requires the debtor to supply extensive financial information and supporting documentation. We are putting people through a bureaucratic maze while they are trying desperately to regain their financial footing. I challenge my colleagues – as homework this evening – to see how long it takes you to complete this form.

So, it is against this backdrop and with the benefit of two years having passed since the enactment of the 2005 Act that we look forward to hearing from today's witnesses.