Consumer Interest Enhancements in Conference Report

Topic	Current Law	Conference Report Compromises
New Protections to Help Debtors and Families		
Exemption for Retirement Savings	**A patchwork of state and federal law provides only partial exemption of retirement savings.** In the 37 states in which state exemptions control in bankruptcy, state exemptions laws which vary widely do not exempt certain retirement pensions and savings plans. In the other states, a federal exemption under § 522(d)(10) covers some pensions and savings plans exempt from taxation, but not others.	**Yes** Sweeping protection for virtually any retirement savings plan that is exempt from taxation, including state pension funds and rollover funds that are not well protected today.
Postsecondary Education Accounts for Children	**No provision**	**Yes** Postsecondary education accounts are protected from creditor claims to the extent they do not exceed $50,000 per child or in the aggregate $100,000.

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New Consumer Protections		
Debtor's Bill of Rights	**No provision** Bankruptcy petition preparers are subject to regulation against negligence and fraud under § 110.	**Yes** *For the first time* requires that consumers be informed about what to expect in bankruptcy and protected from the unscrupulous practices of those who "low ball" the price for a bankruptcy and then extract high fees after the case is filed to defend bankruptcy litigation. The provisions are modeled on existing regulation of credit repair organizations enacted by Congress in 1997.

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Reaffirmations	**Present Law Regulates** Debtors obtain disclosures. Have 60 days to rescind a reaffirmation agreement. Debtors represented by counsel must get their attorney to certify the reaffirmation is in their best interest, or get court approval. Pro se debtors must get court approval. Failure to follow the required procedures for obtaining approval for a reaffirmation will result in a violation of the post-discharge injunction, subjecting the creditor who collects from debtors to heavy penalties as fashioned by the court.	**Yes** Even if a debtor is represented by an attorney, reaffirmations of "wholly unsecured" debt will not be legal unless the creditor gives *new disclosures* when the debtor signs, and the *reaffirmation is reviewed by a bankruptcy judge*. The debtor can waive the hearing if the debtor chooses to do so. Creditor failure to follow the procedures for a reaffirmation agreement if that failure injures the debtor results in a new private cause for a penalty of $1,000, collectible only in individual actions, plus actual damages and attorneys fees.

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Pressuring Debtors After Discharge	**Present Law Regulates** Section 5 of the Federal Trade Commission Act and State deceptive practices laws regulate post-discharge collection according to several recent FTC consent decrees.	**Yes** Violations of the post discharge injunction result in a penalty of *$1,000*, collectible only in individual actions, plus actual damages and attorneys fees.
Abusive Reaffirmation Practices	**Present Law Regulates** Section 5 of the Federal Trade Commission Act and State deceptive practices laws regulate abusive reaffirmation practices according to several recent FTC consent decrees.	**Yes** Creditor failure to follow the procedures for a reaffirmation agreement if that failure injures the debtor results in a penalty of $1,000, collectible only in individual actions, plus actual damages and attorneys fees.

Topic	H.R. 3150	Conference Report Compromises
Refusal to Credit Plan Payments Properly	**Present Law Regulates** If the failure to credit plan payments properly results in a post-discharge attempt to collect discharged debt, there is a violation of the post-discharge injunction. See above.	**Yes** Willful creditor failure to credit payments received under a plan in chapter 11, 12 or 13 "in the manner required by the plan" results in a penalty of $1,000, collectible only in individual actions, plus actual damages and attorneys fees.
Unjustified Dismissal Motions under 707(b)	**Present Law Regulates** Rule 9011 permits a court to sanction a creditor who brings dismissal motions that are not substantially justified.	**Yes** If creditors bring unjustified actions against debtors claiming their chapter 7 cases should be dismissed, **or do so to coerce a debtor into a reaffirmation**, they will be liable for the debtor's attorney fees and costs.
Excessive Claims	**No provision**	**Yes** A court may decrease a creditor's claim by *up to 20%* if a credit counseling agency has made a good faith offer to the creditor within 60 days of the petition for 60% of what was owed and the creditor refused it unreasonably.

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New Regulation of Bank and other Creditor Practices		
Cutting Off Credit	**No provision**	**Yes** The Truth in Lending Act is amended to provide that a credit card company, or any other open end creditor, cannot terminate a customer's account solely because the debtor has not incurred finance charges on the account.
Credit Card Minimum Payment Practices	**No Provision**	**Yes** New Truth in Lending disclosures are required for open end credit. These new disclosures affect the initial and periodic statement disclosures, and require a new annual disclosure. The Board is to provide model disclosures. The Board is also to study whether consumers have enough information about borrowing and financial difficulties, and the Board can issue new regulations
1. Initial Disclosures	**No provision**	**Yes** A statement warning that the minimum statement may increase the finance charges paid or the length of time it takes to repay the loan. An example which shows how long it will take a $500 balance to be paid off under the plan at the minimum payment, and the amount of the minimum payment.

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2. Periodic Statement Disclosures	**No provision**	**Yes** A statement *warning* that the minimum payment will increase the amount of interest and length of time to pay off the obligation must be made on each statement.
3. Annual Disclosures	**No provision**	**Yes** The same disclosure will be provided existing customers once a year, together with a worksheet to determine the consumer's household income and debt obligations.
Overextension to College Students	**No provision**	**Yes** The Comptroller General of the United States is to conduct a study whether the extension of credit to college students is excessive. The report must be provided within one year.
Debit Cards	**Present law regulates** The Federal Reserve Board already has jurisdiction to regulate debit card practices. It has promulgated extensive regulations of debit cards.	**Yes** The Federal Reserve Board will study whether the existing procedures for limiting consumer liability with debit cards are sufficient. The Board is authorized to issue regulations.