

April 15, 2005 (Updated April 21, 2005)

Federal Update 2005-11

TO: NCTR Members

FROM: Cindie Moore, Washington Counsel

RE: Bankruptcy Bill, Signed into Law, Has Expanded Protections for Pensions

Hi everyone. As you no doubt heard, the House passed bankruptcy reform legislation (S. 256) on April 14. Section 224 of the bill amends the Bankruptcy Code so as to provide a broad additional exemption allowing individuals in bankruptcy to exempt from creditors' claims interests in tax-favored retirement plans and arrangements established under sections 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code.

The House legislative history accompanying S. 256 states that the "intent of section 224 is to expand the protection for tax-favored retirement plans or arrangements that may not be already protected under Bankruptcy Code section 541(c)(2) pursuant to *Patterson v. Shumate*, 504 U.S. 753 (1992)." House Report 109-31. Senator Orrin Hatch (R-UT) provided similar explanatory language when the Senate passed the bill on March 10. The House and Senate-passed bills are identical so no conference committee is necessary. The President signed the bill into law on April 20.

I will have an analysis of the pension portions of the bill posted in the federal developments section of www.nctr.org shortly.