

Legislative Highlights

Obama on Bankruptcy

Presidential candidate Barack Obama has highlighted bankruptcy reform as part of his broader economic agenda. Speaking at a rally in suburban Atlanta on July 8, Obama spoke out against predatory lending, promised a larger homestead exemption for the elderly to save homes in bankruptcy and urged a faster track through the bankruptcy process for consumers. He supports allowing judges the discretion to modify home mortgages in chapter 13, as well as a “credit card bill of rights” to protect borrowers from an assortment of sharp lender practices. Obama voted against BAPCPA, while John McCain voted in favor. Obama also favors a cap on interest rates for payday loans at 36 percent (though he voted against an amendment to BAPCPA that would have capped interest rates at 30 percent). In business cases, he said he would “ban executive bonuses for bankrupt companies.”

Fed Announces Final Rule on Predatory Home Lending

The Federal Reserve approved a final rule on July 14 to better protect consumers from predatory home mortgage lending in the subprime market. The rule adds four key protections for a newly defined category of “higher-priced mortgage loans” secured by a consumer’s principal dwelling. These protections would (a) prohibit a lender from making a loan without regard to a borrower’s ability to repay the loan from income and assets other than the home’s value, (b) require creditors to verify the income and assets they rely on to determine repayment ability, (c) ban any prepayment penalty if the payment can change in the initial four years and (d) require creditors to establish escrow accounts for property taxes and homeowner’s insurance for all first-lien mortgage liens. In addition, there are a number of protections that apply to all loans, regardless of

whether the loan is higher priced, such as (a) prohibiting appraisers to misstate a home’s value and (b) requiring the crediting of loan payments as of the date of receipt, among other provisions. The new rules also ban seven deceptive or misleading advertising practices, including representing that a rate is “fixed” when it can change. The rules take effect on Oct. 1, 2009.

Duberstein Courthouse Bill Signed into Law

The legislation to name the U.S. Bankruptcy Court in Brooklyn after the late Judge Conrad B. Duberstein (H.R. 430) was signed by President Bush in July (Pub. Law 110-262). The report to accompany the bill notes Judge Duberstein’s long and distinguished career, including the annual moot court competition in his name, cosponsored by ABI and the St. John’s University School of Law. ■

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