



Proposal for Bankruptcy Law Reform

Protecting Retiree Benefits in Bankruptcy

Talking Points:

Current bankruptcy laws do not offer fair and equal treatment for retirees facing loss of their pension and health care benefits comparable to those afforded to secured creditors.

Bankruptcy Courts have also prevented retirees from seeking protection under Section 1114, when companies can establish the existence of a Reservation of Rights (ROR) clause, or access to the Section 1113 process when unions refuse to represent their retired members, even when the pensions and other benefits of the retirees are included in the union's contract with the bankrupt employer.

NRLN Proposed Changes to the Status of Retirees in Bankruptcy Law:

- Congress should disallow company Reservation of Rights (ROR) clauses as grounds for denying retirees the right to the establishment of a Section 1114 Committee.
- Congress should require companies to provide retirees with an updated list of all retirees and such lists must be updated in a timely fashion throughout bankruptcy proceedings.
- Congress should mandate that Bankruptcy Courts establish a Section 1114 Committee within 60 days of a Chapter 11 filing date.
- Retirees should be included in the 1113 process if their union refuses to represent them and their contractual retirement benefits are subject to change during the bankruptcy proceedings.
- Congress should permanently increase the Health Coverage Tax Credit (HCTC) for retirees receiving Pension Benefit Guaranty Corporation benefits from 72.5% to 80% and eliminate the HCTC's current drop dead date.
- Congress should raise retiree claims in bankruptcy filings to "Administrative Status."
- The NRLN supports legislation that would prohibit unions from approving the reduction, or termination, of collectively-bargained benefits of retirees, including the plans that govern those benefits, during bankruptcy proceedings.
- Congress should require pension plan sponsors to resume funding underfunded plans no later than after the passage of 386 days from date of filing for bankruptcy.
- The NRLN supports legislation that would designate as non-taxable income, any bankruptcy claims or settlements for reduced, or eliminated, retiree health care or pension benefits.
- Retirees should be afforded representation on the Creditors Committee during a corporate bankruptcy if their pension, and/or welfare benefits, are subject to reductions during the bankruptcy proceedings.

For a copy of an NRLN whitepaper on this subject, contact Marta Bascom at 703-863-9611 or marta.bascom@linkspace.net