

***Marginal Successes, Revised Expectations, Broken Promises  
– A Presidency in Review –***

**Part 4:  
No Increased Claim Limits on Unpaid Wages &  
Benefits in Business Bankruptcy**

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As we discussed in Part 3, there were two essential ingredients to candidate Obama’s promise for pro-worker bankruptcy reform. The second prong of Obama’s promised bankruptcy reform would allow employee-creditors to petition the bankruptcy court to recover larger portions of their unpaid wages and benefits from a bankrupt employer. This would result in giving employee-creditors greater priority as against other creditors.

**Obama Promised Reform: Protecting Employees and Retirees as Creditors of Bankrupt Employers By Increasing Allowable Claims on Unpaid Wages and Benefits**

As a presidential hopeful, Obama promised bankruptcy reform that would “[i]ncrease the amount of unpaid wages and benefits workers can claim in bankruptcy court against their employer.”

A worthwhile and popular cause during the campaign, President-Elect Obama re-affirmed his pledge of bankruptcy reform as an essential component of the Obama-Biden Plan:

*“Reform Corporate Bankruptcy Laws to Protect Workers and Retirees... [by] increasing the amount of unpaid wages and benefits workers can claim in court; and limiting the circumstances under which retiree benefits can be reduced.”*

## Where Is Congress on Reforming the U.S. Bankruptcy Code to Raise Limits on Employee and Retiree Claims to Unpaid Wages and Benefits?

Prior to the last presidential election, on September 25, 2007, Rep. John Conyers, Jr., (D-MI) introduced the *Protecting Employees and Retirees in Business Bankruptcy Act of 2007* bill with 74 co-sponsors. On October 12, 2007, H.R. 3652 was referred to House subcommittee.

When Conyers introduced H.R. 3652 to the 110<sup>th</sup> Congress, he summarized the need for this bill:

*“[T]he Protecting Employees and Retirees in Business Bankruptcies Act of 2007, addresses the vast inequities in current bankruptcy law with respect to how American workers and retirees are treated, an area long-neglected by Congress.*

...

*“We need to restore the level playing field that the drafters of Chapter 11 originally envisioned and to ensure that workers and retirees receive fair treatment when their company is in bankruptcy. It is time that we include the interests of working families in the bankruptcy law and consider how we can add a measure of fairness to a playing field that is overwhelmingly tilted against workers.*

*My bill addresses these problems by –*

*[1] Increasing the amount by which unpaid wage and employee benefit claims would be entitled to payment priority;*

*[2] Creating a more level playing field for employees in Chapter 11 cases where employers want to terminate jobs, reduce wages, reject collective bargaining agreements, and terminate medical benefits for retirees;*

*[3] Prohibiting companies in bankruptcy from paying lavish performance bonuses and incentive compensation to key management; and*

*[4] Ensuring that the bankruptcy judges have clear statutory guidance that the purpose of Chapter 11 is – to the greatest extent possible – maximize assets so as to preserve jobs...”*

An identical bill was introduced in the U.S. Senate the same day by Senator Richard Durbin (D-IL) – S. 2092. Although there were 11 co-sponsors, S. 2092 died in committee as well.

Both of these efforts at reform never became law and, of course, occurred prior to President Obama’s administration. A new bill, H.R. 4677 (*Protecting Employees and Retirees in Business Bankruptcy Act of 2010*) was introduced to the 111<sup>th</sup> Congress by Rep. Conyers on February 24, 2010, with 58 co-sponsors who were all House Democrats. Again, Senator Durbin introduced the Senate version (S. 3033), co-sponsored by five other Senate Democrats. These bills did not become law.

## **Broken Promise: No Movement Toward the Promised Reform Is a Promise Broken**

The Obama administration has not offered any indicia that the President's promised reform for employee-creditors has significantly advanced, if any progress has been made at all since he came to office. If bills similar to the 2007 and 2010 attempts at business bankruptcy reform are introduced in the current 112<sup>th</sup> Congress (in session until January 3, 2013), will President Obama strongly advocate for passage or not?

### **Sources:**

Obama '08: [Barack Obama's Plan to Reclaim the American Dream](#)

Change.gov: [The Obama-Biden Plan](#)

PolitiFact.com: [Allow Workers to Claim More in Unpaid Wages and Benefits in Bankruptcy Court](#)

LOC: [Summary of H.R. 3652](#)

GovTrack.us: [H.R. 4677](#) and [S. 3033](#)