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Bankruptcies Trending Down in West Virginia, but for How Long?

"Then from June 2020 to June 2021, in the heart of the pandemic, those numbers dropped even more."

Why this is important: From 2016 to 2019, there was an average of 783,000 bankruptcy filings throughout the United States. In 2020, that number decreased to 544,463. In 2021, there have been approximately 300,000 cases filed through the end of August. The precipitous drop in cases across the country also is occurring in West Virginia. Indeed, according to bankruptcy attorneys, "West Virginia's bankruptcy filings were trending down anyways," and there were 776 filings in the Northern District for the 12 month-period that ended in June 2021 (down from 1,322 in 2016). Likewise, the Southern District saw a drop from 1,942 cases in 2016 to 1,100 in June 2021. Lawyers attribute the drop to a combination of the declining population, the additional funds paid to individuals on unemployment, the moratorium on various payments, and the decrease in layoffs. **While it is anticipated that filings will "level off soon and start trending upward," until then, the decrease in filings has a far-reaching impact as decreased filings means decreased creditors' rights work and fewer workouts, continued uncertainty for individuals who are delinquent when the moratoriums end, and how the continued issues ultimately will impact businesses and commercial real estate. ---**

[Angela L. Beblo](#)

Jumbo Home-Loan Originations Near Pre-2008 Crisis Levels

"Originations of large 'jumbo' U.S. residential mortgage loans that exceed 'conforming limits' set for housing giants Freddie Mac and Fannie Mae could hit \$550 billion this year, a level not seen since the run-up to the 2008 financial crisis."

Why this is important: As someone who litigated cases resulting from the 2008 mortgage meltdown, my ears perk up whenever a report says some metric is reaching or exceeding a level not seen since pre-2008 levels. A recent report revealed that jumbo home loans are reaching those levels. Jumbo home loans are loans that exceed what are called "conforming limits," a dollar figure ascribed to loans based on the locale of the home on which the loan is made. According to the report, about \$238 billion in jumbo home loans were made in the first half of 2021. While many of those were being held in bank portfolios, an "increasing slice" has been securitized and sold to investors, one of the facets of home loan

origination that contributed to the 2008 crisis. Some of the jumbo lending this time around is being fueled by a boom in housing prices and purchases. **New regulations and requirements were put in place as a result of the 2008 crisis, and while we can't say more jumbo loan origination is a harbinger, it is a metric to watch as we predict where the home mortgage loan market is and is likely to go.** --- [Nicholas P. Mooney II](#)

'Want to Sell Your House?' Complaints Increase About Unsolicited Real Estate Texts

"Consumers who don't want to be contacted by real estate companies have little recourse beyond responding with the word 'Stop' and hoping the sender complies."

Why this is important: State and federal consumer protection laws are aimed primarily at regulating unsolicited communications seeking to sell products to the consumer, rather than communications that solicit consumers to sell a product of their own. Consequently, there does not appear to be much authorities can do to curb unsolicited communications from so-called real estate companies that ask home owners if they want to sell their properties, even if the company receives a benefit from the future sale. **Although it may be safe for such companies to send these communications under existing laws, the limits lawmakers impose on companies seeking to initiate business deals via text — even if the end goal is not the purchase of a product or service by the consumer — is an area to watch.** --- [Tai Shadrack Kluemper](#)

Federal Student Aid's Cordray Details Increased Oversight Over Student Loans

"The Department of Education's office of Federal Student Aid, which oversees the government's massive student loan portfolio, launched a new Office of Enforcement to overhaul oversight of postsecondary schools that participate in federal student loan programs."

Why this is important: Following the actions the Biden administration has taken to protect students and taxpayers from poorly performing institutions that participate in the federal grant and work-study programs, the U.S. Department of Education ("ED") recently announced the establishment of an Office of Enforcement within the Federal Student Aid ("FSA") to achieve the same. The FSA wants to send a clear message: it is serious in its efforts to proactively identify and address major problems across postsecondary institutions that pose widespread risks to students and taxpayers. The Enforcement Office will be led by Kristen Donoghue, as the Chief Enforcement Officer, who will report directly to FSA Chief Operating Officer Richard Cordray, and will consist of four divisions: Administrative Actions and Appeals Services Group, Borrower Defense Group, Investigations Group, and Resolution and Referral Management Group. **Given the priority the Biden administration has placed on cracking down on poorly performing programs, it will be interesting to see how the FSA will assist in holding institutions accountable as the ED's final extension of the student loan payment pause is set to expire on January 31, 2022.** --- [Victoria L. Creta](#)

Three Key Trends Will Dominate the Auto Lending Landscape in 2022

"To remain competitive, banks and credit unions must stay ahead of trends including digital buying and 'green loan' programs."

Why this is important: This article confirms that key trends for auto lending in the future will include some of the same opportunities for banks and lenders in general. I recently wrote an [article](#) for the West Virginia Banker magazine discussing three of the issues and opportunities facing banks in the upcoming years. Two of those coincide with the trends forecast in this article. First, auto lending will see a switch to digital purchasing. This switch already was underway before the pandemic as a younger generation helped change the typical way of kicking the tires to purchase a car. The pandemic increased customers' preference for finding a way to go about their lives -- whether it be buying cars or banking -- while limiting contact with others. The article reports that credit unions and banks are wise to cultivate relationships with online car sellers just as they previously partnered with the F&I person at the local car lot. Second, auto lending will see an increased interest in green, or alternative fuel, vehicles. The same issue is rising in banking (the so-called "banking with a purpose" or ESG banking that is seeing, among

other things, fully digital banks that incentivize shopping at sustainable merchants). In the auto lending world, banks and credit unions are being advised to offer "green auto loans" and loans to fund consumers' installation of home electric charging stations. **At bottom, the overlap in the above areas of opportunities shows that those areas will be an important part of not only auto lending, but banking and possibly commerce in general, in the near future.** --- [Nicholas P. Mooney II](#)

Featured Spilman Attorney Profile



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Sally Edison is a Member in our Pittsburgh office, and her primary area of practice is commercial bankruptcy, insolvency, and creditors' rights. Sally's experience includes serving as national bankruptcy counsel to a multinational group of manufacturing and service companies; representing clients including trade creditors, secured creditors, debtors, small businesses, major corporations, and court-appointed committees in bankruptcy cases nationally; and representing former officers and directors in bankruptcy proceedings in insurance coverage and indemnification matters.

She is a Guest Lecturer for the University of Pittsburgh's School of Law and Katz Graduate School of Business. Sally was nominated by her peers for inclusion in The Best Lawyers in America for Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law. She was named to the Pennsylvania Super Lawyers® list and Pennsylvania Super Lawyers® Rising Stars list. She was named among the "40 under 40" by Pittsburgh Magazine. Sally was selected by the National Diversity Council as one of the "2012 Most Powerful and Influential Women in Pennsylvania." She was presented the Faculty Award for Excellence in Legal Scholarship and the Community Service Award for the University of Pittsburgh School of Law. And, she is Distinguished™ Peer-Review rated by Martindale-Hubbell.

She is a member of the American Bankruptcy Institute. She is the immediate Past Chair of the Western Pennsylvania Network of the International Women's Insolvency & Restructuring Confederation. And, she is a member of the Allegheny County Bar Association.

Sally received her B.A. from Indiana University and her J.D. from the University of Pittsburgh School of Law. She is admitted to the Pennsylvania State Bar, the United States District Court for the Western District of Pennsylvania, and the United States Court of Appeals for the Third Circuit.

Thank you for reading this issue of *All Consuming!* We hope you found the information timely and useful. If you have topics you would like us to cover or would like to add someone to our distribution list, please [email us](#).

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