

Fact Sheet on LB&FC Report on Representation of State Interests in Business and Consumer Bankruptcies

A total of 43,914 consumers and businesses filed for bankruptcy in Pennsylvania in 1999. When such filings occur, the interests of state government are often involved. Each bankruptcy typically involves at least one taxpayer, and business filings may often involve multiple issues of taxation, environmental claims, consumer protection violations, and other state regulatory and enforcement issues. The Legislative Budget and Finance Committee (LB&FC) undertook this study to assess the nature and extent of state government involvement in bankruptcy cases in Pennsylvania.

Summary of Study Findings: (See pages S-1 to S-11.)

1. *Bankruptcy Activity in Pennsylvania* - With 43,914 bankruptcies, Pennsylvania ranked 9th among all states in bankruptcy filings in 1999. This number represented an overall increase of 146 percent since 1990. Personal, or consumer bankruptcies, accounted for about 97 percent of the total.
2. *Extent of State Agency Involvement* - Statistics on bankruptcy case activity and outcomes are not consistently compiled at the agency level. LB&FC staff estimated, however, that Pennsylvania state agencies were involved in more than 5,600 bankruptcy cases during 1999. The agencies most active in bankruptcy court include the Office of Attorney General, Office of General Counsel, and the Departments of Revenue and Labor and Industry.
3. *Dollar Value of Open Cases* - Likewise, comprehensive records are not maintained on the dollar value of claims in all bankruptcy cases in which the Commonwealth is involved. LB&FC staff estimated, however, that the face claim value of all cases open at the time of the study was approximately \$176 million.
4. *Commonwealth Recoveries Through Bankruptcies* - The Commonwealth's accounting system does not specifically record and account for revenues the Commonwealth receives as a result of bankruptcy actions. However, through examination of bankruptcy records, LB&FC staff estimated that the state recovered at least \$5.8 million through bankruptcy proceedings in 1999. This figure does not include an estimate for agencies that report they do not have records on bankruptcy recoveries.
5. *Other Benefits of State Participation in Bankruptcy Cases* - While maximizing monetary recovery for the state is certainly a key objective, the amount collected in direct cash recoveries does not present a complete picture of the impact of state agency involvement in bankruptcy cases. Other, less tangible, objectives must also be considered such as the protection of Commonwealth interests and legal rights, regulatory and enforcement actions taken, and revenue losses avoided.
6. *Issues and Conditions Impacting Bankruptcy Collection Efforts* - While Commonwealth agencies have made notable improvements over the past ten years in their approach to representing the interests of the Commonwealth in bankruptcy court, several issues and conditions continue to hamper the state's bankruptcy collection efforts. For example, the Commonwealth lacks a centralized database for identifying bankruptcy cases in which Commonwealth interests need to be represented. Other issues relate to the need for changes in statute to improve the state's position in bankruptcy court, insufficient communication among state agencies on bankruptcy matters, the absence of systematic means to identify out-of-state cases, incomplete program management information, limited computer support, and the need for additional attorney and support staff.
7. *Developments at the Federal Level* - Proposed changes in the federal Bankruptcy Code currently under consideration before Congress could have a significant impact on state involvement in bankruptcy activities. If enacted, proposed changes would potentially increase the workload of Commonwealth attorneys.

Summary of Recommendations: (See pages S-12 to S-15.)

1. The Office of Attorney General and Office of General Counsel should consider jointly establishing a permanent "Inter-agency Bankruptcy Practice Coordinating and Resource Group" to manage, coordinate, and expand the Commonwealth's bankruptcy collection process.
2. The Coordinating and Resource Group proposed above should: (a) develop a comprehensive and coordinated "Commonwealth Bankruptcy Collection Initiative" (the report discusses basic components of such an initiative); (b) develop a plan to establish a computerized bankruptcy database accessible to all state agencies and a computerized central case management system to better manage the state's bankruptcy caseload; and (c) conduct a cost-benefit analysis of adding additional attorney and support staff.
3. The Office of Attorney General should consider establishing a designated Bankruptcy Unit and creating a position of Bankruptcy Coordinator.