

bankruptcy filings and 257 Chapter 11 bankruptcy filings. In Fort Worth, there were 3,161 Chapter 7 filings and 210 Chapter 11 filings.

Bankruptcy petitions are designed to satisfy creditors and also provide relief to the debtor. Our bankruptcy laws allow debtors to voluntarily file a petition for relief, and also allow creditors to file involuntary petitions against debtors. Despite the goal of satisfying both debtor and creditor, debtors who go through bankruptcy invariably leave the proceedings with a very poor credit history. This depleted credit can seriously affect the debtor's ability to buy a home or a car, get a loan, or make use of many services we often take for granted.

Unfortunately many have used the involuntary bankruptcy petition, and the negative credit impact that results, as a harassment tool. Many public officials have been the victims of involuntary bankruptcy petitions.

H.R. 1529 amends the Bankruptcy Code to the benefit of individuals who have been the victims of fraudulently filed bankruptcy petitions. Under H.R. 1529, a debtor may file a motion with the court to expunge from the court records the filing of the involuntary bankruptcy petition. The motion will be granted in those bankruptcies where three requirements are met: First, the petition is false or contains any materially false, fictitious, or fraudulent statements; second, if the debtor is an individual; and third, the court dismisses the petition.

Mr. Speaker, I support H.R. 1529 because it grants needed relief to the victims of fraudulently filed bankruptcy petitions. H.R. 1529 imposes modest requirements on the debtor and allows the debtor to easily correct their damaged credit history. I support H.R. 1529 and I urge my colleagues to do the same.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

□ 1245

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1529.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1086) to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Standards Development Organization Advancement Act of 2003".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103-42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A-119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A-119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 3. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

“(7) The term ‘standards development activity’ means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

“(8) The term ‘standards development organization’ means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A-119, as revised February 10, 1998.

“(9) The term ‘technical standard’ has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

“(10) The term ‘voluntary consensus standard’ has the meaning given such term in Office of Management and Budget Circular Number A-119, as revised February 10, 1998.”; and

(2) by adding at the end the following:

“(c) The term ‘standards development activity’ excludes the following activities:

“(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

“(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

“(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.”.

SEC. 4. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking “of any person

in making or performing a contract to carry out a joint venture shall" and inserting the following: "of—

"(1) any person in making or performing a contract to carry out a joint venture, or

"(2) a standards development organization while engaged in a standards development activity, shall".

SEC. 5. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting ", or for a standards development activity engaged in by a standards development organization against which such claim is made" after "joint venture", and

(2) in subsection (e)—

(A) by inserting ", or of a standards development activity engaged in by a standards development organization" before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

"(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

"(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 6. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting ", or of a standards development activity engaged in by a standards development organization" after "joint venture", and

(2) by adding at the end the following:

"(c) Subsections (a) and (b) shall not apply with respect to any person who—

"(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 7. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003,

whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

"(A) the name and principal place of business of the standards development organization, and

"(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing."

(2) in subsection (b)—

(A) in the 1st sentence by inserting ", or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms" before the period at the end, and

(B) in the last sentence by inserting "or available to such organization, as the case may be" before the period,

(3) in subsection (d)(2) by inserting ", or the standards development activity," after "venture",

(4) in subsection (e)—

(A) by striking "person who" and inserting "person or standards development organization that", and

(B) by inserting "or any standards development organization" after "person" the last place it appears, and

(5) in subsection (g)(1) by inserting "or standards development organization" after "person".

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this Act, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1086.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1086, the Standards Development Organization Advancement Act of 2003. Technical standards play a critical, but sometimes overlooked, role in fostering competition and promoting public health and safety. Without standards, there would be no compatibility among broad categories of alternative products and less confidence in a range of building, fire and safety codes that advance the public welfare.

Unlike most other countries, standards development is conducted by private, not-for-profit organizations in the United States. This approach reflects the fact that private organizations are better able to keep pace with the rapid pace of technological change. In 1996, Congress passed the National Technology Transfer and Advancement Act to encourage government agencies to assist in the development and adoption of private, voluntary standards wherever possible. While this legislation has encouraged government adoption of privately developed standards, it has also increased the vulnerability of standards-developing organizations to antitrust litigation. The frequency with which standards-developing organizations are named in lawsuits stifles their ability to obtain technical information, hampers their efficiency and effectiveness, and undermines the public benefits which they advance.

I introduced H.R. 1086 to address this problem. H.R. 1086 merely codifies the "rule of reason" for antitrust scrutiny of standards-development organizations, limits their civil antitrust liability to actual damages, and provides for the recovery of attorneys' fees to substantially prevailing parties in antitrust cases filed against these organizations.

However, H.R. 1086 does not automatically accord these protections to all standards-setting. These protections extend only to the standards-development organizations which disclose the nature and scope of their activities to the Department of Justice and to the Federal Trade Commission. In addition, this legislation applies to standards-developing organizations whose standards-setting process adheres to principles of openness, voluntariness, balance, cooperation, transparency, consensus, and due process. Finally, H.R. 1086 contains extensive notification requirements which ensure that all parties who may be affected by standard-developing activities are apprised of the scope and nature of these activities.

Mr. Speaker, while several people deserve credit for this legislation, I would like to personally recognize House Science Committee chief counsel Barry Beringer, whose hard work and dedication brought this legislation to the floor and bring credit to this House.

Mr. Speaker, I am also pleased that this legislation has attracted the co-sponsorship of Judiciary Committee Ranking Member CONYERS, as well as 12 of its members. In addition, H.R. 1086 continues the Judiciary Committee's bipartisan tradition of striking the proper balance between pro-competitive activity while ensuring the active role of Federal antitrust agencies in the promotion of competition in our market economy.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume. I wish to express my strong support for

this legislation and my appreciation to Chairman SENSENBRENNER and Ranking Member CONYERS for their bipartisan leadership in bringing it to the floor.

Nearly 20 years ago, Congress passed legislation known as the National Cooperative Research Act of 1984 which permitted certain cooperative ventures to reduce their exposure to treble damages currently provided for under antitrust laws by making advance disclosures of their activities. The bill before us would provide similar relief to nonprofit organizations that develop voluntary technical standards, known as standards-development organizations, or commonly referred to as SDOs. As the chairman indicated, these standards developed by these organizations play an essential role in enhancing public safety, facilitating market access, and promoting trade and innovation.

Yet despite these pro-competitive effects, these SDOs can find themselves named as defendants in suits between business competitors alleging violations of the antitrust laws. Once they are sued, these organizations are forced to expend considerable resources on protracted discovery proceedings before they are finally able to prevail on motions for summary judgment which occurs in 100 percent of the cases, from my information.

The bill, like the National Cooperative Research Act before it, takes a moderate approach to addressing this problem. It does not create, as the chairman indicated, a statutory exemption or confer immunity from the operation of the antitrust laws. Most significantly, it merely “de-trebles” antitrust damages in cases where accurate predisclosure of collaborative activities has been made to the Department of Justice and the FTC.

I think this is the right approach. Congress should allow the antitrust laws to operate as they were meant to, without creating special exemptions and carve-outs for particular industries. This bill does not create an exemption for SDOs. Instead, it grants them limited relief of the same type and in the same manner as the relief provided for by the National Cooperative Research Act to certain cooperative joint ventures. It is a moderate approach, and it has worked well.

Again, I want to thank the chairman and the ranking member of the Committee on the Judiciary for their cooperative joint venture in support of this bill. I would also like to acknowledge the efforts of my good friend, Jim Shannon, a former Member of this body and former Attorney General of the Commonwealth of Massachusetts. He currently serves as president and CEO of the National Fire Protection Association, an international organization that develops the fire safety codes and standards that protect all of us. The NFPA just happens to be based in my hometown of Quincy, Massachusetts; and Jim Shannon and this fine organi-

zation have worked very hard to advance this legislation. I want to acknowledge their efforts.

Mr. Speaker, I urge support for this bill.

Mr. CONYERS. Mr. Speaker, I am pleased to be a cosponsor of this legislation offered by Mr. SENSENBRENNER. We have worked hard, along with a number of standard development organizations, technology companies and other private interests to craft a bill that will provide some important protections to encourage nonprofit standard development organizations, or SDOs, to continue their critical work of collaborating to set pro-competitive standards in this industries. SDOs set thousands of standards that keep us safe and provide uniformity for everything from fire protections to computer systems to building construction, for example.

This bill provides a commonsense safe harbor for standard development organizations. Those that voluntarily disclose their activities to federal antitrust authorities will only be subject to single damages should a lawsuit later arise. Those who refuse to disclose their activities, or those who take actions beyond their disclosure, will still be subject to treble damages under the antitrust statutes. This bill does not exempt anyone from the antitrust laws, but it does apply the rule of reason to SDOs. Therefore the procompetitive market effects will be balanced against the anti-competitive market effects of an action before a violation of the antitrust laws is found. Organizations that commit per se violations—making agreements or standards about price, market share or territory division, for example—will still be fully liable for their actions.

The rationale for such favored treatment is the SDOs, as nonprofits that serve a cross-section of an industry, are unlikely themselves to engage in anticompetitive activities. However, if free from the threat of treble damages, they can increase efficiency and facilitate the gathering a wealth of technical expertise from a wide array of interests to enhance product quality and safety while reducing costs.

This is the third bipartisan bill in the last 20 years that has provided some limitation on damages for antitrust liability in order to encourage cooperative behaviors by entities seeking to engage in procompetitive activities. This policy has worked well for research and joint ventures under the National Cooperative Research and Production Act of 1993 and I trust it will improve the creative environment for standards setting organizations as well. An expansion of this policy to standard development organizations will allow them to improve their innovative efforts, involve a wider range of industries and technical entities, and improve product safety and development.

I'd like to thank the chairman for his cooperative efforts on this bill and I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as a cosponsor of this legislation, I support H.R. 1086, “The Standards Development Organization Advancement Act of 2003.”

This act amends the National Cooperative Standards Development Act to provide antitrust protections to specific activities of standard development organizations (SDOs) relating to the development of voluntary consensus standards. Among other provisions, H.R. 1086 amends the NCRA to limit the recovery of antitrust damages against SDOs if the organi-

zations predisclose the nature and scope of their standards development activity to the proper antitrust authorities. H.R. 1086 also amends the NCRA to include SDOs in the framework of NCRA that awards reasonable attorneys’ fees to the substantially prevailing party.

The provisions of H.R. 1086 protect SDOs, and in turn, SDOs help protect consumers and the public. SDOs are nonprofit organizations that establish voluntary industry standards. These standards ensure competition within various industries, promote manufacturing compatibility, and reduce the risk that consumers will be stranded with a product that is incompatible with products from other manufacturers.

The nature of the standards development process requires competing companies to bring their competitive ideas to the voluntary standards development process. When one of the companies believes its market position has been compromised by the standards development process that company will likely resort to litigation. It is not uncommon for the SDO to be named as a defendant. For nonprofit organizations like SDOs, litigation can be very costly and disruptive to their operations, and treble antitrust damages can be financially crippling.

Under H.R. 1086, the recovery of damages against SDOs is limited of the organizations prediscloses the nature and scope of their standards development activity to the proper antitrust authorities. Furthermore, SDOs are only liable for treble damages under antitrust laws if they fail to disclose the nature and scope of their voluntary standards setting activity.

H.R. 1086 strikes a good balance. It does not grant SDOs full antitrust immunity, but it provides SDOs’ with protection from treble damages when they provide proper disclosure.

H.R. 1086 also benefits the consumer. It enables the SDOs to develop industry standards that promote price competition, intensify corporate rivalry, and encourage the development of new products.

Mr. Speaker, I support H.R. 1086, and I urge my colleagues to do likewise.

Mr. DELAHUNT. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1086, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF THE HOUSE SUPPORTING UNITED STATES IN ITS EFFORTS IN WTO TO END EUROPEAN UNION’S TRADE PRACTICES REGARDING BIOTECHNOLOGY

Mr. CAMP. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 252) expressing the sense of the House of Representatives supporting the United States in its efforts