

ASSEMBLY RESOLUTION No. 108

STATE OF NEW JERSEY

INTRODUCED JUNE 17, 1996

By Assemblyman IMPREVEDUTO

1 AN ASSEMBLY RESOLUTION urging the Congress of the United States to  
2 amend the federal bankruptcy law to protect individual consumers in a  
3 manner separate from corporate creditors under certain circumstances.  
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5 WHEREAS, An uncertain economic climate has resulted in a large number of  
6 retail companies across the country and in New Jersey declaring  
7 bankruptcy; and

8 WHEREAS, Consumers who purchase gift certificates or merchandise may not  
9 be aware or have prior knowledge of a company's economic performance  
10 and possible pending declaration of bankruptcy, and do not know their  
11 rights relevant thereto; and

12 WHEREAS, Individual consumers are not in a position to adequately assess the  
13 financial stability of a store or its parent corporation; and

14 WHEREAS, Consumers who are holding gift certificates are unable to use them  
15 while the store is in bankruptcy proceedings, and similarly, persons wishing  
16 to return items are unable to obtain refunds for the merchandise; and

17 WHEREAS, These individual consumers are put in the same position as  
18 corporate creditors by having to file a form in bankruptcy court to be  
19 reimbursed; and

20 WHEREAS, It is inappropriate to treat individual consumers in the same manner  
21 as corporate creditors; and

22 WHEREAS, It is appropriate to urge Congress to amend the federal bankruptcy  
23 law to protect individual consumers in a manner separate from corporate  
24 creditors under certain circumstances; now, therefore,  
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26 **BE IT RESOLVED** by the General Assembly of the State of New Jersey:  
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28 1. This House urges the Congress of the United States to amend the  
29 federal bankruptcy law to protect individual consumers in a manner separate  
30 from corporate creditors as follows:

31 a. Individual consumers holding gift certificates or wishing to exchange or  
32 return merchandise to a store that is still in business should be allowed to  
33 receive a full refund without having to file a form in bankruptcy court.

34 b. Individual consumers holding gift certificates or wishing to exchange or  
35 return merchandise for a store that has gone out of business should receive a

1 higher level of priority on the list of creditors filing in bankruptcy court than  
2 corporate creditors.

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4 2. Duly authenticated copies of this resolution, signed by the Speaker of  
5 the General Assembly and attested by the Clerk of the General Assembly,  
6 shall be transmitted to the presiding officers of the United States Congress, the  
7 chairs of the appropriate standing committees of Congress, and each member  
8 of Congress elected thereto from New Jersey.

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#### STATEMENT

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13 This resolution urges the United States Congress to make changes in the  
14 federal bankruptcy law to protect individual consumers under certain  
15 circumstances. This resolution recognizes that a large number of companies  
16 are going out of business and declaring bankruptcy. Consumers do not have  
17 knowledge of the financial stability of companies. Consumers who hold gift  
18 certificates are unable to use them while bankruptcy proceedings go forward,  
19 and similarly, consumers wishing to return items are unable to receive refunds  
20 for the merchandise. Some businesses who file for Chapter 11 plan to emerge  
21 from bankruptcy protection. Others plan to liquidate and want to generate as  
22 much money as possible to repay creditors. This resolution urges Congress  
23 to amend the federal bankruptcy law to protect individual consumers in a  
24 manner separate from other creditors under the circumstances described. The  
25 resolution would urge Congress to amend the federal bankruptcy law to treat  
26 individual consumers differently in two ways. First, individual consumers  
27 holding gift certificates or wishing to exchange or return merchandise for a  
28 store that is still in business should be able to receive a full refund without  
29 having to file a form in bankruptcy court. Second, individual consumers  
30 holding gift certificates or wishing to exchange or return merchandise for a  
31 store that has gone out of business should be able to receive a higher level of  
32 priority on the list of creditors than corporate creditors.

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37 Urges Congress to amend federal bankruptcy law to protect individual  
38 consumers under certain circumstances.