



NATIONAL ASSOCIATION OF REALTORS®

*The Voice For Real Estate®*

500 New Jersey Avenue, N.W.  
Washington, DC 20001-2020  
202.383.1194 Fax 202.383.7580  
[www.realtors.org/governmentaffairs](http://www.realtors.org/governmentaffairs)

Al Mansell, CRB  
President

Terrence M. McDermott  
EVP/CEO

GOVERNMENT AFFAIRS  
Jerry Giovaniello, Senior Vice President  
Walter J. Witek, Jr., Vice President

February 14, 2005

The Honorable Arlen Specter  
711 Hart Senate Office Building  
Washington DC 20510

Dear Mr. Chairman:

On behalf of the over one million members of the NATIONAL ASSOCIATION OF REALTORS® and its affiliate, the Institute of Real Estate Management®, we urge your support of S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." The NATIONAL ASSOCIATION OF REALTORS® is comprised of real estate professionals involved in all aspects of the real estate industry, including the owners and managers of multifamily rental and commercial property. The Institute of Real Estate Management® is comprised of property management professionals who manage over 24% of the nation's privately owned residential apartment properties, 44% of the nation's office buildings, and 10% of the nation's retail space.

S. 256 contains four provisions that are specifically of interest to our members. The first of these is a provision impacting single asset real estate bankruptcy. This provision of the Code subjects properties with a value of less than \$4 million to an automatic stay from creditors for 90 days. However, the stay for properties of over \$4 million can last for 6 months to well over a year. S. 256 would eliminate the cap. A second issue deals with automatic stay provisions in rental housing. Current law contains a loophole, which allows a tenant to delay eviction by declaring bankruptcy. S. 256 includes a bipartisan compromise that will reform the automatic stay provision to protect responsible renter families' against abusive behavior, and enhance the viability of rental housing communities and private property rights. The provision will not change any of the protections currently enjoyed by tenants under state landlord-tenant law.

The third issue deals with shopping center bankruptcy. Current law allows tenants who declare bankruptcy 60 days to make the decision to assume or reject leases, however courts routinely extend this time for many months -- even years. Due to the delicacies of the landlord/tenant relationship in shopping centers, the impact of this delay can be severe. S. 256 would double the initial time for a tenant to make this decision to 120 days, and allow an additional extension of 90 days if requested by the trustee. This would give retail tenants a total of 210 days to decide to assume or reject a lease, while providing for a specific end date to this period of uncertainty for co-tenants and owners. The final issue deals with homeowners and community associations. This provision of S. 256 provides that fees or assessments that accrue while the debtor has an ownership interest in a homeowners or condominium association are non-dischargeable.

The NATIONAL ASSOCIATION OF REALTORS® and the Institute of Real Estate Management® support responsible bankruptcy reform. We believe these common sense provisions will curb abusive use of the Bankruptcy Code. We urge your support of S. 256, and respectfully request rejection of amendments that would weaken the above provisions.

Sincerely,

Al Mansell  
President