

A loss control advisory from the ABA-sponsored insurance program underwritten by Progressive

## Privacy Protection in Bankruptcy and Other Court Filings

When a borrower files for bankruptcy protection, a lender will typically file a proof of claim with the bankruptcy court to protect its interests. Lenders should be aware, however, that **bankruptcy courts now impose limits on certain information that can be disclosed in a filing, including a proof of claim.**

Proofs of claim and other bankruptcy filings are accessible to the public. In fact, most such documents can now be viewed on the Internet as well as at the courthouse. **To guard against disclosure of information that can facilitate identity theft, Bankruptcy Rule 9037 prohibits the disclosure of an individual's full Social Security number, taxpayer identification number, birth date, financial account number or, if the individual is a minor other than a debtor, name.**

To comply with the rule:

- › Use only the last four digits of a Social Security, taxpayer identification or account number.
- › Use only the year of birth, rather than the full date.
- › Identify non-debtor minors by initials only.

These rules would also apply to any documents which may be filed with a proof of claim, such as account statements or promissory notes. Thus, it is necessary to review a document carefully to redact fully any prohibited information.

Federal district courts have similar rules. Many other courts have similar or additional rules. To ensure compliance with all privacy protection requirements in a specific court, it is advisable to consult with an attorney experienced in that jurisdiction.

Failure to comply with a court's privacy protection rules can result in sanctions from the court. It can also lead to claims against the bank for invasion of privacy, emotional distress or other torts by the individual whose personal information was revealed.

For more information, contact Judith Yokaitis-Skutnik, Assistant Claims Manager, at 800-274-5222.