

Title:

Are New Bankruptcy Laws Going To Help You?

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714

Summary:

There are 2 sides to the changes in bankruptcy rules. It will be a lot harder to file bankruptcy under chapter 7 and get a totally clean slate.

For businesses, relying on issuing credit, the new personal bankruptcy law is doing great, reducing personal bankruptcy claims from the thousands to double digits.(In the short run).

However, lawyers working with the actual people filing for bankruptcy say that the new law is seriously flawed because it puts more financial burd...

Keywords:

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Article Body:

There are 2 sides to the changes in bankruptcy rules. It will be a lot harder to file bankruptcy under chapter 7 and get a totally clean slate.

For businesses, relying on issuing credit, the new personal bankruptcy law is doing great, reducing personal bankruptcy claims from the thousands to double digits.(In the short run).

However, lawyers working with the actual people filing for bankruptcy say that the new law is seriously flawed because it puts more financial burdens on already broke clients and reduces potential debt repayment to small businesses.

And then of course you have the credit card companies charging high interest rates which in quite a few cases caused the bankruptcy in the first place. According to some financial specialists, much of the debt people accumulate is a result of keeping up with the Joneses and not thinking ahead.

For 80% of clients counseled each month, the debt is credit card related and averages \$32,000 - a result of six to eight cards. Consumer credit organizations say the new law provides debt-reducing strategies for those considering filing bankruptcy and curbs abuse.

Under the new law it has become a requirement that the person filing bankruptcy obtains credit counseling both before and after filing for which that person will be charged..

So now the consumer would then know the advantages and disadvantages of declaring bankruptcy. Yet it seems merely another expense for an already financially stressed individual.

People filing bankruptcy in general are not overspenders, but merely faced with temporary financial disasters such as medical costs, layoffs, a divorce, gambling debts or other crises. Before you can file bankruptcy, you are now required to complete credit counseling with an agency approved by the U.S. Trustees office.

This credit counseling is designed to help you determine whether or not bankruptcy is appropriate.

Once you complete your bankruptcy, the law requires you to attend another credit counseling session.

These are new requirements, before this law was passed the law did not require a person to go through counseling either before or after the filing of bankruptcy.

Second, under the old law, a person could decide to file under Chapter 7 or Chapter 13. Under the new law, the court will look at your monthly income and apply a means test relating to the state in which you live. If your income is less than or equal to the medium income then you will be allowed to file Chapter 7 which in effect will give you a clean slate.

This medium income can vary from \$28,000 in Missouri to \$56,000 in Alaska. If your income is greater, you may be forced to file Chapter 13 unless you can demonstrate you do not have enough disposable income.

Under Chapter 13 you will not get a clean slate but will have to make payments on your debts.

Also, your attorney now has to personally certify that your bankruptcy filing is accurate. This means more work for the attorney, with higher legal fees.

Advantages of declaring Bankruptcy:

Legal protection from creditors

Takes care of all or most debt
In some cases, can keep home and car
May stop complete financial ruin
Provides a fresh start

Disadvantages of declaring Bankruptcy:

Bad credit
May have to repay partial debt load and return collateral to creditors
May lose assets, including house and car (If the house is worth more than a certain amount).
Bankruptcy becomes public record, and
Remains on credit record for seven to 10 years

"In the past, a bankruptcy offered a fresh start for the filer," said Columbia attorney Gwen Froeschner Hart. "The new federal legislation offers language directed at helping creditors."

If you analyze credit card expenses for most people you'll see that they often include medical bills and day-to-day expenses for the elderly or those earning low or fixed incomes. Records show that 50% of credit card holders do not pay their full credit card bills every month.

33% of the population can't afford medical insurance so have to charge their prescription drugs.
With the recent Medicaid cuts and rigid bankruptcy legislation who knows what is going to happen to these people.

There are some who say consumers are abusing creditors. The irony is that credit card companies are begging for customers and offering large amounts of unsecured credit, yet at the same time, lobbying for stricter debt controls.