

## The New Bankruptcy Laws Not Much Change from a Bankruptcy Lawyer Perspective

When President Bush and the Republican Congress changed the U.S. Bankruptcy Laws in October of 2005, there was much confusion in the legal community on how the new laws would change the existing bankruptcy laws as we knew them at that time. Now that we have had over two years to develop and see firsthand the impact that the new law has had, there are a few notable changes and observations that I would like to share with you as a practicing bankruptcy attorney in the State of Colorado.

The lead up to the new bankruptcy law was the major misconception held in our society that everyone who was filing for bankruptcy was purposely charging up their credit cards and were habitually filing for bankruptcy relief every few years. This impression was promulgated by the credit industry which lobbied members of Congress to pass the new law. This was a few years before the recent credit crunch and mortgage crisis that we are now in. Thus with the Republican majority in both houses of Congress and with President Bush, the law easily passed due to the perfect trifecta that was in place during the Fall of 2005 in Washington.

The purpose of the new law was to limit the amount of repeat filers and push many people into Chapter 13 bankruptcies. A chapter 13 bankruptcy is where people pay back what they can afford to pay back using a complex set of formulas established by the IRS and the United States Trustee's Office, a Branch of the Federal Justice Department. Thus, the goal was to limit the number of Chapter 7 bankruptcy filings where people do not pay anything back and are debt free within a few months of filing.

As a practicing Colorado Bankruptcy Attorney that worked under the old bankruptcy law and the new bankruptcy law, I have noticed many interesting observations that may be of interest to the reader. First, the misconception that most individuals that file for bankruptcy protection have self-inflicted credit problems and the false stereotype that most of this relates their compulsive credit card activity is incorrect. We do see about 10% of our clients that may fall into this category. However, a majority of our clients are in our offices due to unforeseen medical problems that led to large medical bills. Moreover, they may have accumulated debt from loss of employment, recent divorce, or foreclosure. Therefore, since this misconception is truly a misconception the new bankruptcy law would not change our observations under the new law.

Second, under the new bankruptcy law, more than 90% of individuals still qualify for Chapter 7 bankruptcy relief. Thus, the goal of the new law has not really changed the statistics but from my experience, the public has the impression that it has. Constantly debt consolidation commercials on television and on the radio advertise that individuals cannot file under the new bankruptcy law which is entirely incorrect for the reasons stated above.

As you can see, from the view point of a practicing attorney that has witnessed the impact of the new bankruptcy law first hand, not much has changed in the past two years except confusion with the American society about individual rights under the United States Bankruptcy Code.

### About the Author

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