

# DCC DOLLARS & SENSE

Volume 11, Issue 1

September 1, 2005

## New Bankruptcy Law Takes Effect

### *Special points of interest:*

- Record Number of Consumer Bankruptcies being filed.
- What this could mean for an individual's future credit. Worthiness.
- The cost of credit following a Bankruptcy.

Searching for Bankruptcy online, or any keyword relating to it, will find the same thing: Article after article, from state after state on the record numbers of bankruptcy filings currently underway to "beat the deadline". October 17<sup>th</sup>,

2005 is when George Bush's Bankruptcy Abuse Prevention and Consumer Protection Act will take effect, changing the bankruptcy laws. As if the staggering numbers of 1.5 million bankruptcy filings for the last recorded year were not substantial enough, more and more consumers are being encouraged to file now.

The new legislation-, which banks invested nine years and over 60 billion dollars to pass- now, eliminates the choice by consumers on which Chapter of Bankruptcy they file. In previous years, consumers were able to choose between a Chapter 7, to liquidate assets in order to repay some debt

and discharge the rest, and Chapter 13, where they would retain all assets and "reorganize" their debt repayment, under new law, the courts will now decide.

A "Means Test" which will determine if the individual's income is greater than the median income for their state, as determined by the U.S. Census Bureau and whether they're able to repay at least \$6,000 over the next 5 years. If a consumer meets these guidelines, they will need to file Chapter 13 reorganization. How much of their debt will actually be repaid will vary as much as the individuals themselves.

The legislation is aimed at educating consumers to prevent future, unmanageable indebtedness.

For Bankruptcy attorneys the process will become substantially more difficult when submitting applications, with more "hoops" for them to go through, and substantially increase the work they need to do to resolve a bankruptcy case. For consumers, this could mean from 25-50% increase in the fees

## New Bankruptcy Cont.

charged by attorneys. Many consumers will be rushing to beat the deadline, simply to reduce their costs. Many attorneys will be rushing to beat the deadline, to minimize the amount of time they'll need to invest in filing.

With an already record breaking number of Bankruptcy filings, what does the current rush to file really mean? The new legislation is aimed at educating consumers, and prevent Bankruptcy abuse, the goal; to save Chapter 7 filings for consumers really in need.

New legislation has already been passed to spare Hurricane Katrina victims from some of the harshest aspects of this new law, which could indicate the law itself, may be too restrictive. The law is designed to prevent abuse by consumers able to repay their debt, and the substantial increase in filings to beat the deadline of when the law takes affect would have to at least mean; the law was necessary.

In one August article, an author states "The good news in all of this is that it's still August. Now is the time to figure out if you really need to file bankruptcy. And if you do, to hustle to an attorney's office well before the October deadline rolls around." This leaves the question of how much of the recent increase is from consumers trying to file as a necessary means, and how much of it is driven by attorneys and media?

With that in mind, how many con-

sumers really understand the ramifications of filing for Bankruptcy?

As soon as a Bankruptcy petition is filed with the courts on behalf of a consumer, approved or not, that consumer has filed Bankruptcy, and all that comes with it. The Bankruptcy narrative code will be marked on a consumer's credit report for 7-10 years. This in and of itself can all but guarantee that a consumer is going to pay a much higher interest on any credit they obtain. A few percentage points could mean thousands of dollars on a large purchase such as a car, and tens of thousands on major purchases like a home.

Consumers with a Bankruptcy narrative on their credit report, can certainly still obtain credit, in fact the offers for new cards will most likely begin right away with advertisements to rebuild credit with a particular card.

The credit will be available, however, the terms substantially less desirable. Reestablishing credit takes time, and in may cases money. Money that may be paid in advance in the form of a deposit for the card. Which then allows a consumer to borrow their own money to show that they're managing credit responsibly. It may also come in the form of annual fees, higher interest rates, larger penalty fees and monthly maintenance fees.