

MONEY MATTERS

Going bankrupt a harsh reality

The headlines last week blared that bankruptcy is going to become far more unpleasant.

As if it was a walk in the park before Congress passed a new law last Thursday.

Personal bankruptcy is a sad, tough situation, most often brought on by illness, job loss or divorce, the statistics show.



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"Bankruptcy is not about Enron and WorldCom. It's about the moms and pops, the

young couple that gets into financial difficulty, lost a job or had a medical emergency. It's not about glamour," Ken Welt, U.S. Bankruptcy trustee in Fort Lauderdale told me.

It's also mostly not about big money.

Patrick Cordero, a Miami lawyer with one of the largest personal bankruptcy practices around, says this isn't San Francisco or New York. "Miami people are not at a high income level," he said.

When Cordero looks at the

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'BANKRUPTCY, FROM ME

80 to 120 cases he files a week, just a few, maybe two or three, would involve a family income greater than \$35,000.

Bankruptcy is not about easy in, easy out. U.S. Bankruptcy Judge A. Jay Cristol in Miami told me that even though you hear about the big-name cases like Bowie Kuhn or Marvin Warner and protecting mega-mansions, "I can't find 20 cases like that. There are few abusers. And we catch a number of them."

Yet, Congress saw a need to tighten the process. Any benefit in this new law to consumers? "No," said Patricia Redmond, a bankruptcy expert and shareholder at Stearns Weaver Miller, a South Florida firm.

MEDICAL PROBLEMS

The American Bankers Association spokesperson, Charlotte Birch, stressed that the new law protects people who are suffering medical and financial catastrophes, as well as those with low incomes. At the same time, "for those people who can afford it and it is appropriate to do so, they pay back some of their debt, she said.

The issue that concerns me the most is the new requirement that debtors go through credit counseling within 180 days of filing for federal bankruptcy protection. By some interpretations of the law, that means they can't file until they've finished the program.

But the credit counseling industry has too many bad players and too few stan-

THE NEW BANKRUPTCY LAW ...

- Requires debtors who make more than their state's median income to go into Chapter 13 reorganization, which forces them into a repayment plan that can last up to five years. People who make less than the median can still enter Chapter 7, which erases the debts after certain assets are forfeited. Florida's median income is \$38,972.
- Requires debtors to have credit counseling within 180 days of filing.
- Makes it tougher to wipe out student loan debt.
- For Floridians, restricts the exemption for a homestead to \$125,000 if that home was bought within 40 months of filing for bankruptcy.

Most provisions will take effect 180 days after the president signs the bill. The homestead provision, however, will take effect upon his signature.

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The bad ones leave their customers in worse shape than ever. Credit repair services often destroy what they say they'll fix.

Just last week, the Senate Permanent Subcommittee on Investigations called for a top-to-bottom overhaul based on abusive practices in the credit counseling industry.

The Federal Trade Commission April 4 announced settlements with three big credit counseling companies that are now out of business — including Tampa's Debt Management Foundation Services.

Last Friday, the FTC asked a federal judge to freeze the assets of the founder of the one of the largest such companies, AmeriDebt, which the FTC says bilked customers out of \$172 million in fees.

Yet this is the industry to which we're sending people, just when a family is about to

collapse?

Credit counseling for people ready for bankruptcy "is like trying to teach gun safety to somebody who has already shot themselves," said Ed Mierzwinski, consumer program director for U.S. Public Interest Research Group. "It's too late. And worse, they might get shot again because there are so many scams masquerading as credit counselors out there today."

There are good players, certainly. But even among them, tactics can be tough and fees high.

HIGH FEES

One company now advertising in the South Florida market, Debt Relief of America, pushes its clients in weekly calls to save money — they pay a fee for this — then pushes creditors to accept 25 to 40 cents of every dollar owed. If Debt Relief strikes a deal, its customers pay

another fee.

For example, if Debt Relief negotiates a \$5,000 debt down to \$1,000, the customer could pay \$1,300 in fees. That's assuming the customer is in Debt Relief's program for three years — the typical length of its contracts — and pays the lowest monthly fee, \$19.95, plus 15 percent of any debt savings.

EXPENSIVE HELP

Why would someone choose to do this rather than try to work themselves out of debt on their own?

"If they could do it on their own, they wouldn't be \$50,000 in credit card debt," Vice President Tim Klund said.

Sadly, I think he's right. People who build up too much debt have already proven what they can't do.

These may be great days ahead for the credit counseling industry. Debt Relief of America hopes to get into pre-bankruptcy counseling, Klund said.

But the timing for consumers couldn't be worse. Interest rates charged on their cards are going up and consumer debt stands at an all-time high of \$2.12 trillion.

It's a precarious situation. Not for credit card companies, which saw their bad-debt charge-off rates decline last year, but for consumers.

If they stumble into bankruptcy today, they will have a harder experience than before.

If Congress wanted to help creditors, it would require schools to teach about debt.