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Bankruptcy law rebuilt

Tougher rules on way: Bush says he'll sign measure lenders sought

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Washington -- Congress approved legislation Thursday that proponents said would prevent wayward spenders from using bankruptcy laws as if they were merely a planning tool to skirt financial obligations.

But opponents were just as quick to label the changes a draconian measure that will squeeze citizens who already have taken an economic battering from layoffs or medical problems.

President Bush expressed support and said he planned to sign the legislation, the most sweeping change to U.S. bankruptcy laws in a quarter-century.

The American Bankruptcy Institute estimates the act will change the rules radically for between 30,000 and 210,000 Americans.

No longer will they be able to petition a bankruptcy judge to merely wipe the slate clean. Instead, people with incomes above a state's median income and who could pay at least \$6,000 over five years -- \$100 a month -- would be expected to make payments on credit cards and medical bills.

The legislation also keeps judges from erasing certain kinds of debts, such as student loans and child support. It also restricts the ability of debtors in some states, including Florida and Texas, to protect their assets by buying a home.

The legislation's first effect could be a rush to file immediately to avoid the restrictions in the new law. Bankruptcy lawyers predict that many people teetering on the edge will flood the courts with their petitions before the law can be signed and put into effect, perhaps as early as this fall.

"Any lawyer that represents consumer debtors is expecting an increase in business over the next few months because of the law," said Howard **Rothbloom**, a bankruptcy attorney in Marietta, Ga.

Activity has already picked up in recent weeks at the federal bankruptcy court in Atlanta, **Rothbloom** said, so much so that trustees have added extra hearings to handle the caseload.

In works a long time

The financial services industry had sought the bankruptcy overhaul for nearly a decade, and Bush this year made it part of his legislative agenda.

"These common-sense reforms will make the system stronger and better so that more Americans -- especially lower-income Americans -- have greater access to credit," Bush said in a statement issued by the White House.

The bill was sent to the president by a 302-126 vote of the House on Thursday. It passed the Senate last month, 74-25. The law goes into effect six months after the president signs it.

"It's not a reform bill, it's a special interest special," said Travis Plunkett, legislative director for the Consumer Federation of America, a nonprofit research and advocacy group. "It's a triumph of big banks and other lenders over the public interest. It's going to make it more difficult for families who have suffered genuine financial misfortune to get a fresh start in bankruptcy, and it rewards reckless and sometimes abusive practices by the credit card companies."

But American Bankers Association Executive Vice President Edward Yingling said the final measure was "a carefully crafted compromise" that will "ensure that bankruptcy protection is fully available for the neediest Americans, while reining in some filers who wrongly use the system as a financial planning tool."

Georgia filers active

Last year, 1.6 million Americans filed for bankruptcy, a slight decline after several years of steady increases.

Under the new law, those who can pay at least \$6,000 over five years would have to seek protection under what is known as Chapter 13. Currently, the vast majority of people who file for bankruptcy opt for Chapter 7, under which most debts are wiped out.

Georgia is one of the most active states for consumer bankruptcies, although filings dipped last year to 77,300 from about 80,790 in 2003, according to bankruptcy court records. More than 19,000 people in Georgia filed through March of this year.

But Georgians also are more likely than those in other states to file for Chapter 13. Fewer than half of the Georgians who file for bankruptcy file a Chapter 7 plan.

Still, Georgia attorneys say they expect a surge of clients before the new law takes effect. Some high-volume firms posted notices about the proposed law on their Web sites.

Although the new bill got significant bipartisan support in both houses, most opposition came from Democrats. They staged delaying tactics Thursday after the Republican leadership of the House prohibited amendments.

"Once again, the majority has squelched debate for no good reason," said Rep. Alcee Hastings (D-Fla.).

Supporters of the bill, led by Rep. Phil Gingrey (R-Ga.), said members have had ample opportunities to amend the measure during the eight years it has been under consideration in Congress.

Expressing the common sentiment of the bill's supporters, Gingrey said, "Bankruptcy reform is about financial accountability. . . . It should be available for legitimate emergencies only."

Savings cited

Banks and credit card companies have long argued that they can be victimized by people who deliberately run up debts – or buy mansions in states with liberal homestead exemptions – with the intention of using bankruptcy laws to protect the assets.

"This bill will help stop fraudulent, abusive and opportunistic bankruptcy claims by closing various loopholes and incentives that have produced steadily cascading bankruptcy claims," said Rep. James Sensenbrenner (R-Wis.).

Rep. David Dreier (R-Calif.) said the legislation would save families an average \$400 a year in higher interest rates because companies would no longer be recouping losses from people who abuse bankruptcy proceedings.

Opponents contend the measure is too harsh on Americans who go into debt because they lost their job or have a family health crisis.

"This is the most special interest-invested bill that I have ever dealt with in my career in Congress," said Rep. John Conyers (D-Mich.), a 41-year House veteran. "It massively tilts the playing field in favor of banks and credit card companies and against working people and their families."

The bankruptcy overhaul marks the second major pro-business legislative victory in the early months of Bush's second term. Earlier, Congress adopted legislation to give federal courts jurisdiction in some class-action lawsuits.

And Congress is nearing a vote on another major Republican objective: permanent repeal of the tax on million-dollar estates, prompting the liberal group MoveOn to target supporters of the bankruptcy measure with critical radio ads.

"With solid control of both houses of Congress and the White House, the Republican leadership thinks they're free to show their true colors – taking from the middle class and giving to the wealthy and corporations," said Tom Matzzie, the director of MoveOn's political action committee.

"But we're going to call the Republican agenda what it truly is: a war on the middle class."

– Staff writer Patti Bond, The Associated Press and McClatchy News Service contributed to this article.
Graphic

TOUGHER LINE ON BANKRUPTCY

The legislation that now goes to President Bush for signing comes with a new "means test" to determine if filers qualify for Chapter 7 or Chapter 13 of the federal bankruptcy law:

- The ability of all filers to repay debts will be assessed. Those that can repay will be ordered into Chapter 13.

- People with low incomes and few assets would continue to file under Chapter 7, which allows a judge to wipe out debts after some assets are forfeited.
 - People who have an above-median income (in their state) and can repay at least \$100 a month for five years can be ordered into Chapter 13 bankruptcy.
- Sources: Congressional Quarterly, Associated Press

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