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### Going for broke won't be so easy Debtors rush to bankruptcy

*PATTI BOND*

Filing for bankruptcy, which has long given financially troubled consumers a fresh start, might not feel so refreshing after major changes that swept through Congress last week.

Debtors will have to meet a litany of requirements and financial tests before they're granted protection from creditors. Consumers will have to seek credit counseling, at their expense, before they file for bankruptcy. They'll have to complete a personal finance course before the court finalizes the case.

And for the first time, debtors will have to prove their income to judges with pay stubs and tax returns.

"There's going to be a lot more scrutiny of a person's income and expenses," said Howard **Rothbloom**, a bankruptcy attorney in Marietta. "This isn't a matter of just tweaking the code; it's a matter of throwing out the code and getting a whole new one."

The new law, which awaits President Bush's signature and is expected to take effect in six months, is likely to hit home in Georgia, which ranks among the top states in the number of personal bankruptcy filings.

Debtors worried about their evaporating options under bankruptcy are sprinting to the courthouse. The bankruptcy court in downtown Atlanta has added extra hearings to handle a mushrooming caseload.

It was bustling last week as consumers and their attorneys faced off with creditors. Bankruptcy trustees kept most hearings to 15 minutes or less. Some flipped through petitions with one hand and punched a calculator with the other.

A young woman in office attire was trying to hold on to her house and her car.

"Were you behind on your property taxes when you purchased the vehicle?" asked the trustee.

"Yes," she answered meekly.

Minutes later, a casually dressed, middle-aged couple took her spot at the hearing table.

They didn't say what had gotten them into trouble, but despite \$60,000 in annual income and an additional \$6,000 or so in estate money, they had fallen far behind on house payments and other debts. It was their second time in bankruptcy.

A trustee asked an elderly man, in his third trip through bankruptcy court, why he had racked up \$18,000 in income tax debts over a period of several years.

"I forgot to pay," he shrugged.

**Rothbloom**, in court for hearings, said he was worried that the changes would hurt the people bankruptcy laws were designed to protect.

"The new law is going to work just fine for people who have their acts together," he said.

"Unfortunately, a lot of people who file for bankruptcy don't have their acts together because they've experienced some sort of crisis, whether it's health problems, a divorce, or they've lost their job. It's not just a matter of they bought a big-screen TV when they should have bought a little-screen TV."

More than 1.6 million Americans sought protection from creditors in federal bankruptcy court last year, double the amount of a decade ago.

Georgia has been a hotbed of consumer bankruptcies in recent years. Nearly 77,300 people filed for bankruptcy here last

year, down slightly from the previous year but up considerably from 10 years ago.

Attorneys are expecting a big spike in filings in coming months as people try to squeeze in under the wire of the old bankruptcy system.

#### Options tightened

For years, consumers have had two options for bankruptcy. Total liquidation, known as Chapter 7, erases credit card and many other types of debt if the filer forfeits some assets.

Or a debtor can agree to a court-ordered repayment plan under Chapter 13, which tends to attract people who are trying to keep their home or other assets.

The new law is expected to drive more people toward the latter option.

Consumers with household income above their state's median would have to file for Chapter 13. In Georgia, that means those with household income above \$42,742 who also could pay at least \$6,000 over a period of five years -- or \$100 a month -- would be required to make payments on credit cards and medical bills.

Nationally, more than 70 percent of people who file for bankruptcy opt for the so-called fresh start afforded under Chapter 7.

Up to 20 percent of those people would be disqualified under the new law, according to the American Bankruptcy Institute.

Georgians, however, are already more likely to agree to repayment plans. Less than half the state's bankruptcy filers opt for Chapter 7.

The idea behind the reform, proponents say, is to get more people to repay their debts.

Bankruptcy is a "moral as well as an economic decision," said Todd J. Zywicki, a law professor at Georgetown University who testified in support of the changes before Congress in February.

"Regrettably, the personal shame and social stigma that once restrained opportunistic bankruptcy filings has declined substantially in recent years."

Zywicki and other proponents of the changes say some people use bankruptcy as a financial planning strategy rather than a last-ditch effort.

#### Slacker society?

The new law also aims to weed out fraud and abuse.

About 10 percent of people who file for bankruptcy lie about their financial status or conceal assets and income, according to statistics provided by the FBI.

The new law requires that debtors file income tax returns and include them with bankruptcy petitions, which will now be randomly audited.

Lawmakers also are aiming at so-called bankruptcy mills, where attorneys herd consumers through the legal process like cattle, with no regard, some say, to alternatives outside bankruptcy court.

Yet critics of the new law say Congress went overboard with their visions of a slacker society. Although they agree that some consumers rack up debt with no regard for the consequences, attorneys and consumer groups contend that the majority of people who file for bankruptcy are down on their luck and out of options.

"Up until 2001, our clients were mostly people who had gotten divorced. After Sept. 11, it switched to people who had gotten laid off from white-collar jobs," said Rod Martin, a bankruptcy attorney in Marietta.

Before Sept. 11, 2001, Martin said, he handled 10 to 15 filings a month; that jumped to about 50 a month after the economy took a turn.

Graphic

#### A TOUGHER LINE ON BANKRUPTCY

Highlights of the new bankruptcy code:

- Judges will use a standardized means test to assess the ability of filers to repay debts. Health care costs and military

status will be weighed.

- People with low income would continue to file under Chapter 7, which allows a judge to erase debts after some assets are forfeited.
- Some debts, including student loans, child support, alimony and some luxury purchases, can't be wiped out.
- People who make more than their state's median income level and who can afford at least \$100 a month for five years must repay debts under a Chapter 13 plan.
- Homestead exemption would be restricted to \$125,000 for residences held less than three years and four months. Florida, Texas, Iowa, Kansas and South Dakota currently allow unlimited exemptions.

-- Sources: Congressional; Quarterly, Associated Press

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