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Lawyers wary of bankruptcy rules

Experts say new law will make it more difficult for debtors to obtain counsel.

PATTI BOND

Under new bankruptcy rules signed into law by President Bush on Wednesday, it will be tougher and costlier for consumers to wipe out their debts in court.

They may have a harder time finding a lawyer, too.

The more stringent filing standards, which take effect this fall, are expected to shake up the well-greased bankruptcy process from start to finish.

Legal experts say some attorneys may stop representing debtors, rather than deal with the hassle and potential liability of complying with changes in the bankruptcy code.

The biggest alterations affect people filing for Chapter 7 bankruptcy protection, which under the new law is only available to debtors whose household income is below the state median -- \$42,742 in Georgia. Chapter 7 allows people to wipe out their debt if they liquidate most of their assets.

Debtors' attorneys will have to vouch for the accuracy of a bankruptcy petition and submit a laundry list of backup documentation, including pay stubs, tax returns, receipts and the like.

Attorneys, who face fines and other penalties if their clients' records are wrong, are a bit jittery.

"The intent from Congress is to make attorneys more careful, but nobody in their right mind can certify that what their client is telling them is true and accurate," said Shayna Steinfeld, a bankruptcy attorney in Buckhead.

People under financial duress usually aren't the best record-keepers in the world, attorneys say.

"It's very common for clients to pull out a grocery bag of bills and invoices with coffee stains and you name it," said Richard Thompson, a partner at law firm Clark & Washington in Atlanta.

Attorneys wonder how they're supposed to do a thorough check of a client's records, short of hiring private investigators or accountants.

"I've heard a lot of lawyers say they're not going to do Chapter 7s anymore because it's just not worth it," said Howard **Rothbloom**, a bankruptcy attorney in Marietta.

The law brings a big switch in the routine for a Chapter 7 filing, generally one of the quickest, cheapest and most common ways to seek personal bankruptcy protection.

A bankruptcy trustee who detects an inaccuracy in a filing could dismiss a Chapter 7 case or convert it to a Chapter 13 repayment petition. Chapter 13 is an option for debtors who can afford a repayment plan of at least \$100 a month for five years.

Debtors, already in a cash crunch, will end up paying for the extra hassle, experts say. The new law is expected to run up the average lawyer's bill as much as \$500.

In Georgia, lawyers currently charge an average of about \$1,000 for a Chapter 7 filing and \$2,500 for a Chapter 13.

The new requirements, and associated liability, could have a negative impact on pro bono work -- done for free for indigent clients -- because fewer lawyers will be willing to take on the extra burden and expense, attorneys say.

Marjorie Girth, a Georgia State University law professor who submitted congressional testimony against the law, said

people may try to represent themselves.

"If attorneys decide to bail out, you'll see a big spike in pro se filings," Girth said.

That could be a courtroom nightmare, legal experts say, considering that even seasoned lawyers are grappling with the fine print in the new law.

Whatever happens, lawyers are bracing for a boom and bust. Many predict a surge during the next six months as debtors try to file before the new law takes effect. Then, there probably will be a lull once the law is in place.

"Anytime there's a large change in the law, a lot of fringe attorneys fall off because it's not worth their while," said Thompson of Clark & Washington, which claims to be Georgia's most active bankruptcy firm with 5,000 filings a year.

"For a firm like ours, it's going to change what we do, but I don't think it will affect the volume," Thompson said. "People will still need to file for bankruptcy. The law won't change that."

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