

New Bankruptcy Laws Have Low Effect

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June 13, 2008 -- In October 2005, Congress pushed through new bankruptcy law in an attempt to weed out people who abused bankruptcy laws by running up massive credit card debt with no intention of paying it off.

But it seems only a small percentage of those who file for bankruptcy protection are attempting to abuse the system.

Martin Sheehan, a bankruptcy lawyer in Wheeling, admits that some do have serious problems with credit.

"Some people get addicted to credit and go crazy," he said. "They use it to finance a lifestyle their income can't support."

That is not the case for the majority of his clients, though. Sheehan said many of his clients are living off of a secured income, such as Social Security, when something happens to jeopardize that income or change their living situation. For instance, a spouse will die and the remaining widow cannot make ends meet without both Social Security incomes.

He added that the current state of the economy does not help matters. The people he sees filing for Chapter 7 bankruptcy now are "the poorest people he's known. ... They almost never have any assets."

Tom McIntire, another Wheeling attorney, cites the same reasons for clients claiming bankruptcy, but he noted he also has seen a rise in bankruptcies due to gambling addiction.

"It is not the majority of my clients," he said, "but it is enough that I took notice."

McIntire has been practicing law since 1986 and said he never saw a great deal of people truly abusing credit such as "the picture was painted" in the bankruptcy reform plans. Instead, most people try to make ends meet but are just a paycheck or two away from financial distress. Bills for utilities and gasoline costs do not stop coming just because someone loses their job.

When filing for bankruptcy, assets and income must be tallied to determine where a person files within a given state's mean income. Because of the means test, bankruptcy cases have become much more time consuming with much more paperwork to be filed. Simple solutions that worked in the past are no longer possible. Sheehan said lawyer fees for bankruptcy have increased about 50 percent since the new law took effect. His prices alone jumped from \$600-\$700 to \$1,200-\$1,500 due to the extra work required.

Despite added work and increased lawyer fees, the number of people filing bankruptcy continues to grow. In 2006, 1,296 people filed for bankruptcy with the U.S. District Court's Bankruptcy Division in Wheeling. That number grew to 1,730 in 2007, despite credit counseling required before applying for bankruptcy in an attempt to help those in debt. As of May 31, 884 people had filed in Wheeling this year — a number on track to beat last year's numbers.