

## MONEY MATTERS

# Bankruptcy Proceedings Facing a New Chapter

If long-stalled bill finally becomes law, it will be harder to file

By Tami Luhby  
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Paul didn't want to file for bankruptcy in June. But a combination of prolonged unemployment and an addiction to day trading landed the Plainview accountant in a \$100,000 credit-card hole from which he could not get out.

Aware that Congress is considering a bill that would make it harder to file for Chapter 7 bankruptcy, which wipes out most debts, Paul made sure his application was in before any laws changed.

"I didn't want someone telling me I could no longer have what other people had when I wasn't cheating the system, but just fell into a rut," said Paul, now a night auditor for a motel, who did not want his full name printed to shield his identity. "This was a relieve under the law and I felt entitled."

The long-stalled bill, which would require many who file for bankruptcy to pay back at least part of their debts under Chapter 13, could be passed as soon as next month, experts say. But this doesn't mean you should rush to file, they said.

"You shouldn't file just because the bankruptcy law might be changed," said J. Stanley Shaw, founder of Shaw, Licitra, Bohner, Esernio, Schwartz &

Pfluger, a law firm in Garden City. "You should not file unless you have no other choice."

Many people descended on bankruptcy lawyers in April 2001 when it looked like the bill might pass. This flood helped contribute to a record 1.45 million people filing for bankruptcy last year. Bankruptcies are already up this year, as the weak economy and rising unemployment leave more people with financial troubles.

To prepare for any potential changes in the law, said G. Ray Warner, scholar in residence at the American Bankruptcy Institute, you should consult with an attorney to see what your options are, since you have many more now than if the bill is passed. But remember, even if it does pass, many of its provisions wouldn't take effect for 180 days, giving you additional time to file under the current rules.

National surveys by the credit card and banking industries — which are pushing hard for the mea-

sure — estimate only 6 to 10 percent of Chapter 7 filers would be affected by the bill. Bankruptcy lawyers, however, put the figure much higher.

Westbury bankruptcy lawyer Craig Robins, for instance, said it could affect 20 to 40 percent of his clients.

Here's what would happen: Currently, those who file for Chapter 7 bankruptcy protection can discharge most of their debts (although not student loans, taxes, alimony and child support) if they show they do not have income left after meeting basic expenses, said Robins. Court-appointed trustees review the cases to make sure the debtors are accurately listing their assets, debts, income and expenses. Between 70 and 80 percent of nonbusiness bankruptcies are filed under Chapter 7.

The bill, however, would make it harder to file for Chapter 7. It would force into Chapter 13 those whose family incomes (for their family size) are above the state median and who have dispos-

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Newsday Photo / Karen Wiles Stabile

Westbury bankruptcy lawyer Craig Robins says the bill, if passed by Congress, would make it harder to file for Chapter 7 bankruptcy and could affect 20 to 40 percent of his clients.

data from the 2000 Census will be released soon.

Those who file for Chapter 13 — which requires that you pay back some or all of your debts within five years — could also see some changes. The bill would replace the court's determination of reasonable living expenses with IRS standards, which would also be used in Chapter 7 cases.

For instance, a family of four living in Queens would be allowed \$1,492 for rent and utilities. In Nassau, the figure is \$2,029 and in Suffolk, \$1,820. (Homeowners aren't subject to these limitations.) The family would also have to keep its monthly expenses for food and clothing and other items to between \$726 and \$1,473 depending on its income.

"People in Chapter 13 will be living in a very reduced lifestyle rather than a modest lifestyle," Warner said.

Those filing under either chapter would also face a lot more paperwork and expense since they could have to file tax returns, pay stubs and other documents.

"Even if you are eligible for filing Chapter 7," Robins said, "the new laws will be much more burdensome."

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able income — money left after expenses are paid — of \$10,000 or more over five years. In addition, if they have disposable income of more than \$6,000, or \$100 a month, and can pay 25 percent of their debts over five

years, they will also have to file under Chapter 13.

In New York, the median income for all families is \$51,691, according to the U.S. Census Bureau. For a family of four, it's \$63,520. More detailed