

LAW

Shifts in bankruptcy filing may be better for business

Bankruptcy filings hit their peak just before Oct. 17, the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

This should be good news for local businesses, as it means, at least for now, that credit losses from bankruptcy filings should decrease along with the decrease in new bankruptcy cases.

Early indications are that Chapter 13 case filings are exceeding Chapter 7 filings, so when a business is faced with a bankruptcy, the percentages are now in favor of the business in that at least some part of the debt will be repaid, instead of the whole debt being extinguished.

Chapter 7 bankruptcy cases allow a consumer to wipe out most of his or her debt in exchange for surrendering their nonexempt property (property beyond the reach of creditors).

In contrast, Chapter 13 is structured so that the consumer repays all or a portion of the debt over a period of time not to exceed five years, and it allows the consumer to retain most property.

The numbers tell the tale.

From Aug 1 to Oct. 16, 2005, a total of 5,325 bankruptcy cases were filed in Knoxville and Greeneville — 4,430 Chapter 7 cases, 810 Chapter 13 cases and 12 Chapter 11 (business reorganization) cases.

From Oct. 17, 2005, through Jan. 19, 2006, only 345 cases were filed in Knoxville and Greeneville, consisting of 113 Chapter 7 cases, 232 Chapter 13 cases and no Chapter 11 cases.

That's a 93.5 percent drop in filings.

It also shows the shift in emphasis from Chapter 7 to Chapter 13.

In the period before the reform law

took effect, Chapter 7 cases outpaced Chapter 13 cases more than five to one. Since Oct. 17, the opposite has occurred, with two Chapter 13 cases being filed for every Chapter 7 case.

No one knows for sure if the new law has caused the huge drop in filings.

Part of the decline can certainly be attributed to the fact that those who were on the bubble about a bankruptcy filing were probably pushed over the edge with all of the publicity surrounding the effective date of the new legislation.

There would therefore naturally be a "recovery" period for the debt problem cases to get back in the pipeline.

Some of the decline could be attributed to misinformation. One well-known financial guru with a national television audience indicated the other night that the new law prohibits consumers from filing a Chapter 7 case if they have yearly income above a state's median income, and that statement is not true.

Only time will tell the precise reason for the decline and whether the decrease in filings and the shift of emphasis to Chapter 13 is permanent or temporary.

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