Credit Counseling Requirement Is Not Deterring Bankruptcy Filings

When Congress rewrote the bankruptcy laws last year to impose legal hurdles on those trying to wipe away their debts by filing bankruptcy, it probably did not envision what has happened since. A major component of the reform is a new credit counseling requirement that debtors must complete before filing for bankruptcy. It was one of the hurdles Congress hoped would push would-be filers away from bankruptcy. It has not turned out that way.

Only 3.3% of Debtors Qualify for Debt Management Plans

The National Association of Consumer Bankruptcy Attorneys (NACBA) released the key findings of its study on February 22, 2006, in which it surveyed six major credit counseling agencies that have dealt with a total of 61,335 consumers under the new federal bankruptcy law. The NACBA study reports that the credit counseling requirement is a waste of time and money and that abuse of the system is a rare exception.

The NACBA study concluded that almost none of those seeking bankruptcy are able to pay their debts. Just 3.3 percent of those who sought the required counseling were a potential candidate for paying the debt off in a debt management plan, and thereby forgoing bankruptcy. The remaining 96.7 percent still needed to file bankruptcy just like they would have before the law change took effect. Additionally, many of the 3.3 percent who may have been eligible for a debt management plan needed bankruptcy relief to prevent immediate harm such as foreclosure, garnishment, or repossession.

Credit Counselors Say Most Bankruptcies Are Caused By Uncontrollable Circumstances

The survey of credit counselors also concluded that the great majority of bankruptcy filers are victims of unfortunate circumstances beyond their control. Four out of five debtors who seek relief suffer from such circumstances that include loss of job, death, medical expenses, divorce and predatory lending. The study concludes, "...the masses of expected deadbeats who were supposed to be identified under the new law and forced into debt management have not materialized."

Most Cannot Qualify for Debt Management Plan

The conclusions made by NACBA are consistent with statements made by various representatives of the credit counseling agencies to the media in recent months. The general consensus is that most debtors are in such deep debt that they cannot qualify for a debt management plan. Ivan Hand Jr., the president and chief executive of Money Management International Inc. (MMI), the nation's largest credit counseling organization told the Washington Post, "Typically, consumers are too far gone by the time they get to us." The President of the Consumer Credit Counseling Service of Greater Atlanta reported also that virtually none of the 12,539 sessions it had conducted found debtors that qualified for anything other than bankruptcy.