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Chapter 7 Filings Sharply Decline

By Bruce Edwards

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The number of bankruptcies in Vermont has plummeted this year the direct result of a new federal bankruptcy law that was enacted to make it more difficult for individuals to wipe out their debts. But lawyers said that while the law puts up more hurdles, bankruptcy remains available for most Vermonters.

Through last Tuesday, 303 bankruptcies were filed in Vermont compared with 1,009 bankruptcies for the same period last year, according to the U.S. Bankruptcy Court in Rutland.

The new bankruptcy law that took effect on October 17, 2005 requires that consumers go through credit counseling before being eligible for bankruptcy. The Bankruptcy Abuse Prevention and Consumer Protection Act also reduced the scope of bankruptcy relief for debtors.

A breakdown of the 303 cases filed so far this year shows: 222 Chapter 7 filings compared to 876 cases for the same period last year; one Chapter 11 case, the same number as a year ago; two Chapter 12 (family farm bankruptcies) compared to none a year earlier; and 78 Chapter 13 filings compared to 132 for the same period last year.

Chapter 13 requires repayment of a portion of debt over several years.

The drop in cases comes as no surprise to bankruptcy lawyers around the state, including James Palmisano of Montpelier.

"I think it was expected," Palmisano said. "There was a slew of cases filed at the end before the new law took effect and that alone was going to result in a decrease."

Last year, set a record for bankruptcies in the state with 2,614 filings, a jump of 55 percent from the previous year.

Many of those cases were filed in the weeks

before the new law took effect.

But Palmisano and others cited another reason for this year's dramatic decline in bankruptcies: the public perception that it's extremely difficult or impossible to file Chapter 7 to liquidate debts.

"It's a function of people believing that bankruptcy isn't available any more," said Montpelier lawyer Richard Scholes.

But Scholes said that "the vast majority of Vermonters get the same relief as before."

He said that's because most Vermonters contemplating bankruptcy meet the new law's means test. "The majority of Vermont filers have incomes below the median," he said, adding that the new law presents more of an inconvenience than a roadblock to filing Chapter 7.

Palmisano said the income limits for filing Chapter 7 are: \$38,562 for an individual; \$51,181 for a couple; \$61,268 for a family of three; and \$68,065 for a family of four.

"So far I've only had a couple of people who failed to meet the income requirements for filing Chapter 7," he said.

He added that if the income exceeds those limits, the law dictates filing Chapter 13, which requires a repayment plan over three to five years.

But Palmisano added that even when someone exceeds the income limits, Chapter 7 may still be an option if they can prove hardship to the court.

So far the intent of the new law has had the desired effect of curtailing filings, lawyers said that it's too soon to say what the long term impact will be.

Rutland lawyer Jess Schwidde said he's already seeing signs that bankruptcies are on the rise, though not at the pace of last year.

"I expect by the third quarter that bankruptcy filings will be up again, especially because the individuals who have tapped into their home equities have used that to pay off their unsecured debt," Schwidde said. "We're starting to see those people getting back into credit card debt."

Lawyers interviewed said consumers are

still strapped with credit card debt with divorce and medical bills a major cause of bankruptcy.

Another consequence of the new law is that ironically it costs more to file for bankruptcy. Bankruptcy filing fees have increased and consumers filing bankruptcy must first pay for credit counseling. On top of that, lawyers have upped their fees to cover the additional time and paperwork to verify someone's assets and to do a credit check.

For example, Palmisano said he now charges \$1,000 to handle a Chapter 7 case, \$200 more than before the new law took effect in October.

According to the nonprofit American Bankruptcy Institute, the number of bankruptcies filed during the first three months of 2006 were the lowest on record in more than 20 years as filings fell to 116,771.

"Congress hoped the new law would reduce the number of new consumer bankruptcies and the latest figures reflect that intention, though there are still many families under financial stress," Samuel Gerdano, ABI executive director, said in a press release. "We haven't seen numbers this low since the mid-1980's, when a gallon of gasoline was \$1.20."

The total filings for the 12-month period ending March 31, 2006 jumped as debtors filed for bankruptcy before the new law took effect last October. Total filings rose 12.81 percent to 1,794,795 compared to 1,590,975 bankruptcy cases filed in the 12-month period ending March 2005.

Districts with the highest percentage increase in filings for the 12-month period ending March 31, 2006 compared to the same period in 2005:

Vermont, 39.76 percent

Northern District of Indiana, 35.86 percent

Alaska, 35.10 percent

Northern District of Ohio, 33.76 percent

Western District of Oklahoma, 33.37 percent

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