

# THE "NEW" BANKRUPTCY LAW

## SUMMARY OF KEY ISSUES FOR INDIVIDUAL DEBTORS

A new bankruptcy law will take effect on **October 17, 2005**. The new law will exclude certain individuals from filing under Chapter 7 altogether, and will make it more difficult for others to qualify under Chapter 13. Furthermore, for those who still qualify to pursue bankruptcy protection, the new law will make the entire process more expensive and time-consuming for the typical individual.

### Changes in Chapter 7

Under the new law, Chapter 7 will NOT be an option for you if (1) your monthly income is higher than the median income in your particular state, and (2) you are able to pay at least \$100 per month to your creditors after deducting your monthly living expenses (based upon IRS' determination of what are "reasonable" living expenses for that particular state). This new provision, then, will force many individuals who could have previously filed under Chapter 7 to pursue the more arduous and costly route of a Chapter 13 bankruptcy.

### Changes in Chapter 13

Chapter 13 will become more difficult for debtors under the new law. The debtor's monthly payment will increase in many cases because of changes in the formula used to determine which living expenses may be deducted from the debtor's income. The debtor's monthly deductible expenses will be based upon ALLOWED expenses (as determined by the IRS to be "reasonable" for the particular state) rather than the ACTUAL expenses of the debtor, which was the standard under the old law. The "Automatic Stay" that protects a debtor from creditors while the bankruptcy proceeding is pending will no longer postpone evictions and various other legal proceedings. Additionally, the list of non-dischargeable debts will be expanded. Certain breaks for debtors who own vehicles (previously known as "cram downs") will no longer be available under Chapter 13.

### Other key considerations

Greater expense for attorney's fees is likely to result because the new law makes your attorney liable if certain information contained in the bankruptcy petition turns out to be incorrect. Consequently, many attorneys will choose to avoid bankruptcy practice altogether and many others will take bankruptcy cases only in return for much higher fees than in the past.

Finally, the new law's overall process will undoubtedly become more demanding to the typical individual debtor. The debtor will now be required to complete a credit counseling session with a non-profit agency BEFORE filing for bankruptcy, as well as a course on personal financial management before completing any Chapter 13 proceeding.

