



Money talks. Listen up.

BY DORIANNE PERRUCCI

## Starting over

A new law makes it harder to file for bankruptcy.

After 34 years of handling bankruptcies, U.S. Rotarian Charles Center has decided not to take any more bankruptcy cases. At 62, he's close to retirement, but that's not what pushed him toward his decision.

Center is angry about the U.S. Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, which took effect on 17 October. This new law makes it harder for businesses and individuals to declare bankruptcy by making them jump through more hoops. It's also expected to make more individuals repay their debts instead of having them erased.

The change that Center, a member of the Rotary Club of Madison, Wis., USA, doesn't like is how the new law can punish attorneys. Bankruptcy attorneys can now be fined and lose their licenses if they fail to verify the extensive documentation clients must now file or if they break one of the new regulations governing anyone who provides bankruptcy services (which now includes debtors' attorneys). Center expects bankruptcy attorneys' costs to at least double because of the extra work involved in the verification process.

These are just some of the provisions in the new law, which Center says aims "to punish debtors and make it more difficult for people who are already impoverished." But Samuel Gerdano, president of the American Bankruptcy Institute (ABI), which has many creditors in its membership, sees the law as

says total bankruptcies for individuals and businesses doubled from 800,000 to 1.6 million between 1994 and 2004.

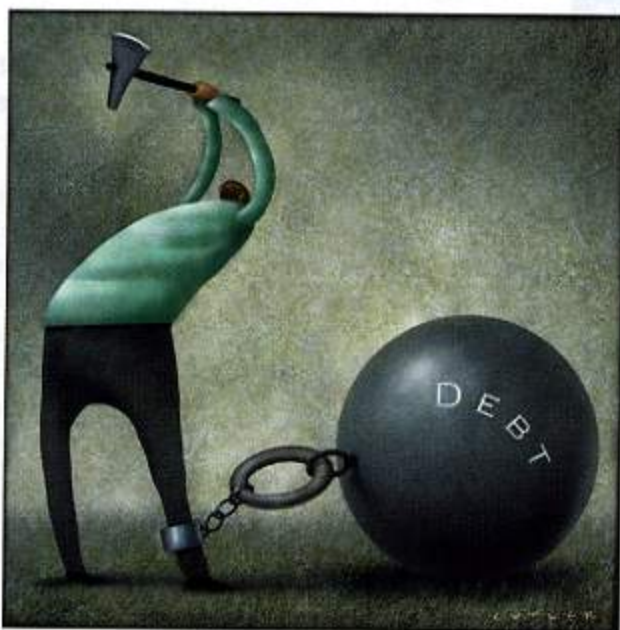
Regardless of how the law is perceived, everyone agrees that it brings significant changes. Here are some other provisions:

» Six months before filing, most individuals must attend credit counseling at an agency approved by the U.S. Trustee Program. They must complete a debtor education course before debts are discharged.

» The new law makes it harder for people to file for Chapter 7, which in most cases forgives them of their debts and allows them to start over with a clean slate. Now, to file for Chapter 7, individuals with mainly consumer debt must prove that their incomes are less than or equal to their state's median income for households of the same size. With some exceptions, if their incomes are greater than the median, they would have to file for

Chapter 13, which means they'd have to repay creditors through future earnings.

» Personal possessions such as furniture, clothes, and electronics are now valued at their replacement cost, not their lower, original value. This means the creditors that financed



a way to keep some debtors from abusing the system." The law's been radically changed to capture a handful of fraudulent Chapter 7 filers," he says. "Congress came to believe that many consumers were using bankruptcy to wipe out unsecured debt." The ABI

## Copenhagen-Malmö

### Rotary International Convention 2006

#### Tours for Rotarians

#### Roundtrip Airfare

From JFK,  
plus taxes...only **\$639**

#### Pre & Post-Convention

tours include roundtrip airfare from  
the East Coast, as low as...

Stockholm . . . . .	\$2,149
Reykjavik . . . . .	\$1,979
Norway Fjords Cruise .	\$3,549
Scandinavia Grand . . .	\$4,299
Baltic Sea Cruise . . . .	\$1,849
E. Europe Empires. . . .	\$3,899

Contact:

#### HOWARD TOURS

516 Grand Ave.; Oakland, CA 94610  
(800) 475-2260 Fax (510) 834-1019  
E-Mail: Rotary@HowardTours.net  
http://www.HowardTours.net  
CA Seller of Travel: 101526-10

Celebrating 58 Years of Excellence

## Copenhagen '06

*Pier 'n Port Travel's 16th*  
Rotary International Convention  
Pre & Post Convention Tours



#### Post Baltic Cruise

Stockholm, Helsinki, St. Petersburg,  
Tallinn, Berlin, Copenhagen

## GLOBUS

Opening the door to the world.

#### Pre Scandinavia Tour

Copenhagen, Aarhus, Stockholm,  
Lillehammer, Bergen Oslo

#### Post Danube River Cruise/Tour

Prague, Nuremberg, Danube River Cruise,  
Vienna, Budapest

#### Post Capitals Highlight Tour

Copenhagen, Oslo, Stockholm,  
St. Petersburg, Helsinki

"Pat Cronenberg" Founder  
800-989-8900 / 513-841-9900  
Email: info@piernport.com  
Brochure: www.piernport.com

## F I N A N C E



**On the Web** Learn more from the American Bankruptcy Institute ([www.abiworld.org](http://www.abiworld.org)), the U.S. Trustee Program ([www.usdoj.gov/ust](http://www.usdoj.gov/ust)), and the National Foundation for Credit Counseling ([www.nfcc.org](http://www.nfcc.org)). Read the bill (S. 256) at [thomas.loc.gov](http://thomas.loc.gov).

these purchases will get more money if the items are sold to pay off debt.

» One in every 250

filings is now tagged for an audit in each federal judicial district. Before, there were no audits.

» Previous Chapter 7 filers must now wait eight years instead of six before filing again.

The new law also makes it tough on businesses, "to the point where it's much more difficult to make a business decision," says Holmes Harden, a bankruptcy attorney and a member of the Rotary Club of Raleigh, N.C., USA. Harden, who has specialized in business filings since the bankruptcy code was first enacted in 1978, points out that businesses now have 18 months to reorganize and

the system as a financial planning tool," says Edward Yingling, president and CEO at the American Bankers Association.

» Courts can reach back 10 years before a bankruptcy filing and tap any funds that were transferred into an asset-protection trust with the intent of shielding assets fraudulently.

The law does have a few bright spots for debtors and their families:

» Unpaid child support and alimony receive priority in the hierarchy of payment.

» If an unsecured creditor won't negotiate a reasonable repayment plan with a credit counseling agency, the court can reduce

## "The law's been radically changed to capture a handful of fraudulent Chapter 7 filers."

— SAMUEL GERDANO

no more than six months to decide whether to continue or cancel their commercial leases, with one 90-day extension allowed on the decision about the leases. Before, judges typically granted lengthy extensions that allowed businesses more time to decide about leases and complete reorganizations.

The new law also eliminates some of the loopholes favored by upper-income filers:

» Rules on homestead exemptions, which keep creditors from confiscating some or even all of a debtor's primary residence, have gotten tougher. Individual filers who have lived in their current state for less than two years now have to use the homestead exemption of their prior state of residence. And if their current state has a more generous homestead exemption than their prior state, they can't exempt more than US\$125,000 of their primary residence until they have lived in their current state for 40 months. "Wealthy filers will no longer be able to use

debts up to 20 percent. (This applies only to individuals' debts.)

» The new law protects more retirement money – up to \$1 million in an IRA – and broadens protection for education savings to include education IRAs, tuition program credits, and contributions to qualified state tuition plans.

The changes are a lot to analyze, but perhaps Suzanne Boas, a member of the Rotary Club of Atlanta and president of the nonprofit Consumer Credit Counseling Service (CCCS) of Greater Atlanta Inc., sums it all up best. "The process is not as simple as it was in the past," she says. ■

**DORIANNE PERRUCCI**, a freelance journalist in New Jersey, has written about personal finance for the New York Times and Newsweek. For three years, she reported for Jane Bryant Quinn's nationally syndicated Washington Post column on personal finance.