

CREDIT

ACTIVITY 10



Bankruptcy

RECOMMENDED TIME

Allow 50-60 minutes. Required time may vary depending on the audience.

OBJECTIVES

Participants will:

- Define Chapter 7, 11, and 13.
- Understand the major provisions of the new bankruptcy legislation.
- Understand the credit counseling component of the new law.
- Recognize strategies to avoid bankruptcy.

MATERIALS NEEDED

- Computer with LCD screen or overhead projector*
- Flipchart paper, white board or transparency
- Copies of handouts

ADVANCE PREPARATION NOTES

Review the activity plan. Think about the audience, and decide whether to present the total activity or to use parts of this activity in combination with other activities.

For clarity, use print instead of script when writing on a flipchart, white board, or transparency.

The suggested dialogue in the delivery notes does not always mirror the wording on a transparency. Try to vary the dialogue, rather than reading transparencies verbatim.

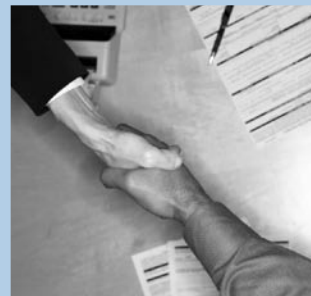
This activity uses handouts. Have sufficient copies for all participants; a few extras provide good insurance.

Facilitators cannot be expected to know everything about bankruptcy. Be honest with all questions. If you do not know the answer to a question, be honest and explain, *"I do not know the answer to your question. However, I will find the answer and get back to you."* Be sure to write down the question and follow through when you commit to finding an answer.

* If an overhead projector isn't available, consider making photocopies of the overhead transparencies for handouts instead.

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ACTIVITY 10 - DELIVERY NOTES



Bankruptcy

Presentation Opening

- Welcome the participants.
- Introduce yourself briefly.
- If this is the first meeting with the class or group, do a brief round of introductions by everyone.
- When introducing yourself, print your name where participants can see and refer to it during the session. Some people may be a little nervous and may not remember your name. Just as you want to use their names, encourage them to call you by your name.

Activity Overview

- Explain the new bankruptcy legislation.
- Define the most common types of personal bankruptcy.
- Understand the major provisions of the new legislation.
- Identify strategies to avoid bankruptcy.

Write the term “bankruptcy” on the board, flipchart, or blank transparency.

- Ask participants to define the term.
- Write down the responses on flipchart paper.

Debrief participants by showing “**Overhead 1: Bankruptcy**”

Define the different types of bankruptcy and explain that this activity focuses on personal bankruptcies (Chapter 7 and 13).

Pass out “**Handout 1: New Provisions of the Bankruptcy Law**” and discuss the following points:

- In April 2005, President Bush signed into law the Bankruptcy Abuse Prevention and Consumer Protection Act, which took effect in October 2005. This is the most significant change in U.S. bankruptcy laws since the late 1970s.
- In general, the new law makes it harder to file for Chapter 7 bankruptcy and steers more people toward repaying a portion of their debts through Chapter 13.
- Instead of wiping out debts under Chapter 7, many debtors will have to establish up to five-year repayment plans under Chapter 13.

Stimulate group discussion by asking the following questions:

- Why would someone declare bankruptcy?
- Are there legitimate reasons to declare bankruptcy?

Visual Aids

Overhead 1
Bankruptcy

Handout 1
New Provisions of the
Bankruptcy Law

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ACTIVITY 10 - DELIVERY NOTES



Listen to the responses. Do not pass judgment on responses. This exercise is simply to get participants thinking about situations in which an individual might declare bankruptcy.

Stress that while there are legitimate reasons to declare bankruptcy, it should always be a last resort.

Debrief participants by showing **“Overhead 2: Things to Consider before Filing for Bankruptcy”** and reviewing each point on the overhead.

Distribute **“Handout 2: Avoiding Bankruptcy.”**

Explain that declaring bankruptcy will have long-term effects and stress that declaring bankruptcy should always be the consumer’s last alternative.

Closing

In closing, thank everyone for their participation, and encourage them to return for additional sessions. If such sessions are planned, you might provide a “sneak preview” of any activity to come.

Visual Aids

Overhead 2

Things to Consider
before Filing for
Bankruptcy

Handout 2

Avoiding Bankruptcy



BANKRUPTCY*

- **Chapter 7** wipes out all allowable debts and allows certain personal property exemptions. The debtor gives up all property unless the state deems it necessary to support the debtor and his or her dependents. Eligibility is determined by a means test that measures income against expenses.
- **Chapter 13** is a court-approved repayment plan. The debtor keeps all of his or her property and makes regular payments on the debts after filing for bankruptcy.
- **Chapter 11** is typically used for business bankruptcies. It is not commonly used by individual consumers.

**as of October 2005*

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ACTIVITY 10 - HANDOUT 1



NEW PROVISIONS OF THE BANKRUPTCY LAW

A test to determine eligibility to file bankruptcy

Under the new law, your income will be subject to a two-part means test. You won't be allowed to file for Chapter 7 if your income is above your state's median income, and you can afford to pay 25 percent of your unsecured debt.

Determining what you can afford to pay

Under the new law, the court will apply living standards set by the IRS to determine what is reasonable to pay for rent, food, and other expenses. These standards help the consumer figure out how much he or she has available to pay debts.

Tougher homestead exemptions

Currently, if you declare bankruptcy, the state where you file may allow you to protect some or all of your home equity from creditors. In Florida, for instance, your home may be entirely exempt, even if you bought it shortly before filing. In Nevada, you may be exempt up to \$200,000.

The new law, however, places more stringent restrictions on the homestead exemption. Filers may only be exempt up to \$125,000, regardless of a state's exemption allowance, if their home was acquired less than 40 months before filing or if the filer has violated securities laws or been found guilty of certain criminal conduct.

Lawyer liability

Under the new law, the bankruptcy attorney may be subject to various fees and fines if information about a client's case is found to be inaccurate. Consumers considering bankruptcy therefore may find it more challenging to find an attorney who is willing to file and take on that risk. Nevertheless, it is crucial for anyone considering bankruptcy to consult with an attorney before making that decision.

Credit counseling and money management

Under provisions of the new law, you must meet with a credit counselor in the six months prior to applying for bankruptcy. Before debts are discharged, you must attend money management classes at your own expense.

New debt may not be discharged.

Credit card debt, cash advances, and other forms of consumer debt borrowed within 70 days of a bankruptcy filing may not be discharged under the new law.

Quicker collections process

The automatic stay – which buys debtors time from the collections process – is less generous. The stay will terminate 60 days after the request is filed, or 30 days if the debtor filed another case in the past year.



THINGS TO CONSIDER BEFORE FILING FOR BANKRUPTCY

Bankruptcy impacts far more than consumer credit:

- Businesses increasingly use credit reports when making employment decisions. A bankruptcy filing could determine whether or not you get the job you want.
- Insurance rates tend to rise for those who have declared bankruptcy.
- If you decide to move in the next seven to ten years, you may find it difficult to rent an apartment or qualify for a home loan.
- Bankruptcies stay on your credit report for 10 years. Remember that phone companies and other utilities and service providers may look at your credit history before deciding to grant you their service.
- Similarly, bankruptcy can lower your credit score.

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ACTIVITY 10 - HANDOUT 2



AVOIDING BANKRUPTCY

Things to Do Before Deciding to File Bankruptcy:

- Reduce your spending. Consider a smaller home or vehicle. Slash your spending, and you may be surprised to find enough money left over to repay the debt you've accumulated.
- Talk with your creditors. Despite what you may have heard, your creditors are often willing to work out a payment plan to help you pay off what you owe.
- Talk with a nonprofit counseling agency. These agencies can help you create a plan that will handle all of your debts.
- Talk with an attorney and understand the consequences of declaring bankruptcy.
- Consider consolidation carefully. You may be able to borrow against a workplace retirement plan, stocks, or other securities you own, or the cash-value of a life insurance policy in order to pay off your debt. However, all of those options have serious implications. Make sure you analyze the potential risks and consequences thoroughly.

Tips to Remember:

- Keep track of your daily expenses. Even the little expenses, such as a cup of coffee, can add up. Once you know exactly where the money is going, you can figure out where to cut back.
- No matter how well you are doing financially, don't forget to save money on a regular basis.
- If you see yourself starting to get into financial trouble, make changes right away. Debt can get out of control quickly.
- Pay attention to your household finances, especially if you are married. Many people get into trouble after a divorce or death of a partner when they have no idea where their money is and are inexperienced with keeping financial records.