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Checklist of Key Changes

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, a major reform of the bankruptcy system, was passed by Congress and signed into law by President Bush in April 2005. Changes instituted by this new law took effect on October 17, 2005. Below are some of the key changes that came about as a result of this new bankruptcy law.

- **Mandatory Credit Counseling**

As of October 17, 2005, before filing for bankruptcy most applicants must now undergo credit counseling in a government-approved program. You can get more information on the procedure for pre-filing credit counseling (and a list of approved credit counseling agencies) from the [U.S. Trustee Program](#) (a component of the Department of Justice responsible for overseeing the administration of bankruptcy cases).

- **Stricter Eligibility for Chapter 7 Filing**

Under the new law, bankruptcy applicants who wish to file under Chapter 7 must meet certain eligibility requirements under a "means test."

Under the "means test," if your current monthly income is less than the median income in your state, you can file for bankruptcy under Chapter 7. But if your current monthly income is above the [median income in your state](#), and you can afford to pay \$100 per month toward paying off your debt, you cannot file under Chapter 7 and must proceed under Chapter 13 (more on Chapter 13 below). Whether you can afford to pay \$100 per month (or \$6,000 over a five-year period) is based on a formula that includes your monthly income, your expenses, and the total amount of your debt. Get more information on means testing from the [U.S. Trustee Program](#) (a component of the Department of Justice responsible for overseeing the administration of bankruptcy cases).

- **Tax Returns and Proof of Income Required**

Under the new bankruptcy law, people wishing to file bankruptcy under Chapter 7 or Chapter 13 must show proof of their income by providing federal tax returns from the last tax year. If a bankruptcy filer has not paid taxes for the previous tax year, he or she must do so before the bankruptcy can proceed.

- **More Filings Under Chapter 13**

As discussed above, if a bankruptcy applicant is ineligible for filing under Chapter 7 based on the "means test," he or she must file under Chapter 13 instead. There are a number of major differences between Chapter 7 and Chapter 13 bankruptcy, but the main distinction is that under Chapter 13, the debtor enters into a five-year repayment plan in which he or she must pay a certain amount of money to creditors, based on a strict expenses-to-income formula. For a detailed look, see [Chart: Comparing Chapter 7 and Chapter 13](#).

- **Fewer "Automatic Stay" Protections for Filers**

People who file for bankruptcy have traditionally been entitled to certain immediate protections from creditors and others -- including most debt collection and lawsuit actions. These protections are part of what is called the "automatic stay" effect of a bankruptcy filing, because many potential legal actions against the filer are stopped (known as "stayed" in legal terms). But, under the new bankruptcy law which took effect in October 2005, some of these protections have been eliminated. For example, filing for bankruptcy no longer delays or stops eviction actions, driver's license suspensions, legal actions for child support, or divorce proceedings.

- **New Priority for Unpaid Child Support and Alimony**

Bankruptcy laws provide a system of re-payment priority for people and companies that are owed money (called "creditors"). Under the new bankruptcy law, among the changes in creditor priority is that people who are owed unpaid child support and alimony (i.e. the bankruptcy filer's family members) take priority over any other creditor.

- **Mandatory Financial Management Education**

After the conclusion of bankruptcy proceedings, but before any debt can be discharged, bankruptcy debtors must participate in a government-approved financial management education program. You can get more information on the procedure for financial management education (and a list of approved debtor education providers) from the [U.S. Trustee Program](#) (a component of the Department of Justice responsible for overseeing the administration of bankruptcy cases).

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