

Asked & Answered

The Senate recently made moves toward approving pro-business legislation that would make it harder for individuals to file for bankruptcy. What do you think?

Lawrence J. Bohana, Barry Bartholomew & Associates, Santa Monica, Calif.

I'm against it. It's a ploy by credit card companies, banks and financial institutions to impede a person's ability to get a fresh start. They give people all this credit for no reason, especially young kids. Then, when young people misuse this credit, they want to put a ring around their necks and ruin their credit for the rest of their lives.

Craig Rubinstein, Katzman, Wasserman & Bennardini, Boca Raton, Fla.

"Pro-business" is a misnomer for this type of legislation. If anything, it is "pro-consumer." When individuals are permitted to incur debt with impunity and then merely declare bankruptcy, responsible consumers are forced to bear the burden through higher retail prices and finance charges. Curtailing this easy out would protect responsible consumers, and those who are the genesis of this problem would be effectively protected from themselves.

Arturo J. Gonzalez, Morrison & Foerster, San Francisco

I don't practice bankruptcy law, but I have heard that there is a provision requiring lawyers to "certify" the accuracy of the client's stated assets. If that is true, people might have trouble finding a lawyer, since the increased risk may not be worth the meager amount that many of these clients can afford to pay.

James D. Green, Tummelson, Bryan & Knox, Urbana, Ill.

My concern is that this legislation will cause a bottleneck in small claims court. If you can't discharge your debt in bankruptcy court, you're going to be pursued

there. I've been in small claims court, and it's already overcrowded. You can't squeeze blood out of a turnip, and some people just can't pay. I can see why some people want reform but this legislation is just going to clog the system.

Kevin Berry, Cozen O'Connor, Philadelphia

It's going to accomplish part of what it's after. There are a fair number of abusive bankruptcies based on an individual running up credit card debt. However, there are also some circumstances where a business gets in financial trouble and they attempt to use credit cards but ultimately fails. I gather most people would think that a business using credit to stay afloat is more laudable than an individual making a bunch of purchases on credit and then declaring bankruptcy, and I'm not sure if the new law makes the distinction.

Darrell W. Cook, Law Offices of Darrell W. Cook, Dallas

As a collection attorney in Dallas I have observed debtors obtain credit and then file for bankruptcy within six months. Many of these people did not lose their jobs, get a divorce or have some other major trauma in their life. They simply made a bad decision. I doubt this new legislation will do much to deter the run-of-the-mill "deadbeat," but the feature that allows conversion from a Chapter 7 to a Chapter 13 is certainly welcome.

Hutton W. Sentell, Law Offices of Joseph E. Ashmore, Jr., Dallas

I don't think it's a good idea. It will have a negative impact on a group of people who are already in a tough situation. I represent injured persons, and I've already had at least one prior client call me wanting to file bankruptcy before the change takes effect.

Greg Myers, Myers & Mayfield, Fresno, Calif.

Consumers are in debt like never before. Yet last week, I received offers to increase my limit, lengthen the time to pay off my debt and get a new card. Why do credit card companies continue this practice if it puts the average consumer into a position where they must consider a drastic step like bankruptcy?

Not that consumers are without fault. They spend what they don't have either because they do not have the self discipline of our forefathers or because they have bankruptcy to fall back on.

The issue cannot be remedied by legislation, but by a basic change in business practices and consumer responsibility.

Dick Davis, Howard, Davis & Bunt, Tyler, Texas

If we are going to make it harder for consumers to file bankruptcy, we should also do something about credit card companies that inundate people with offers for preapproved credit cards in spite of their inability to pay.

Michael Gonzalez, Houston

It is an unfortunate sign of the times, and perhaps an indication that we are going away from one of the things that made America great—the chance to start over.

Michael Van der Voort, Starkey, Smith & Harty, Houston

A better way to deal with the negative effects of consumer debt would be to curb the excessive interest rates charged by credit card companies. There used to be usury laws for that sort of thing.

Hubert L. Gill, Austin, Texas

This is just another example of how this administration and Congress pander to the corporate lobby to the detriment of the common citizen.

David Semelsberger, Endeman, Lincoln, Turek & Heater, San Diego, Calif.

The bankruptcy laws were designed for a true fresh start. The new law is not going to allow people to get one. They're still going to be saddled with debt. It's going to hurt a lot of people.

Andrew Coffman, Parks, Chessman and Walber, Atlanta

I don't agree with it, particularly with respect to the credit card companies. They extend credit to people they know are not creditworthy, and then expect those same people—the people who can least bear the burden—to bear the burden when they become overextended.