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A PROFILE OF CONSUMER BANKRUPTCY PETITIONERS[1]

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Abstract

Utah ranks first in the nation in the number of consumer bankruptcies per household. This study describes 2,567 Chapter 7 and Chapter 13 cases filed in the U.S. Bankruptcy Court for Utah in 1997. Median debt level was $31,981 for Chapter 7 and $41,626 for Chapter 13 cases. While Utah boasts a high proportion of Chapter 13 repayment plans, only 10.8% of these cases were successfully completed. Debtors tended to be young, single earners, with short job tenure. Evidence also pointed to Utah's low per capita income and large families as other contributors to bankruptcy.

Introduction

Despite Congressional rhetoric assailing irresponsible debtors and the millions of dollars spent lobbying for reform of the bankruptcy laws, little is known about who files for bankruptcy and why. The dearth of research on this important issue means that public policy is being made with inadequate information and, to a certain extent, based on personal prejudices and misconceptions.

The one factor virtually all bankruptcies share is overwhelming debt in relation to income. As credit has become more readily available to consumers of all financial backgrounds, Americans have taken on higher levels of debt with apparently insufficient consideration on the part of either lenders or borrowers of ability to repay. The exuberant 90s, with endless optimism fueled by the stock market and record high levels of employment, encouraged consumer borrowing. A slowing economy since 1999 has made it difficult to repay the debt assumed during the previous decade while fostering dependence on credit to survive unemployment.

Bankruptcy Basics

Bankruptcy law and regulations are governed by the federal Bankruptcy Code. The U.S. Administrative Office of the Courts compiles statistics on the number of filings; these data are limited to debt and meager demographic information.

Chapter 13 debtors promise to repay a portion of their unsecured debts over a 3-5 year period by making monthly payments to a bankruptcy trustee who distributes the funds to unsecured creditors. Chapter 7 debtors file a liquidation plan to discharge their unsecured debts.

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Unsuccessful Chapter 13 debtors may convert to a Chapter 7 liquidation, after paying additional filing and attorney fees, or have their case dismissed for failure to make the monthly trustee payment. Dismissed cases are then subject to creditor collection efforts.

Only unsecured debts can be discharged in bankruptcy; secured debts, such as mortgages and car loans, must either be repaid or the lender can repossess the collateral. Unsecured debts typically include credit cards, medical, dental, and legal bills. Some specific categories of debts such as alimony, child support, student loans, and back income taxes cannot be discharged. In a Chapter 7 liquidation, the debtor's non-exempt assets can be sold and the proceeds distributed among the creditors. However, in most Chapter 7 cases, no assets are available for debt repayment.

Bankruptcy in Utah

While more populous states have multiple bankruptcy court districts, the entire state of Utah comprises one district. Utah ranks first in the nation in bankruptcy filings per household with a total of 19,342 cases in 2001 (Mims, 2002). In addition, Utah ranks high in the proportion of consumer debtors who file for Chapter 13 repayment plans (about 40%) compared to about one-third of consumer bankruptcies nationally (Oberbeck, 2001). In Utah, bankruptcy judges expect Chapter 13 plans to propose repayment of a minimum of 30% of unsecured debt (R.D. Atwood, personal communication, June 7, 1999). While the high rate of Chapter 13 filings makes it appear that Utahns are more responsible than other Americans in repaying their obligations, the few studies on the success rate of Chapter 13 plans in other districts suggest that only about 30% succeed and receive a court discharge (Sullivan, Warren, & Westbrook, 2000). Braucher (2001) reports 1994 Chapter 13 completion rates in five bankruptcy districts ranged from 18.3% to 54.9%.

Utah Family Economics and Demographics

Why do Uthans file for bankruptcy at a higher rate than residents of all other states? What can we learn about consumer bankruptcy from studying debtors in the state with the highest rate?

The Church of Jesus Christ of Latter-Day Saints (LDS) is the predominant religion in the state, claiming membership of about 70% of the population. The LDS church explicitly encourages prudent money management and debt avoidance ("Living within our means," 2001). The LDS church also strongly encourages tithing which adds another financial obligation for families on top of expenses such as sending children on two-year church missions.

The Utah economy in the 1990s was robust. The unemployment rate was consistently below the national average, in 1994, Utah was 49th in the nation with only 3.7% unemployment compared to 6.1% in the U.S. (Governor's Office of Planning and Budget, 1997).

Economists speculate that large family size and low per capita incomes contribute to Utah's high bankruptcy rate (Oberbeck, 2001). Utah households are the largest in the nation at 3.06 persons compared to 2.61 for the U.S. as a whole (Governor's Office of Planning and

Budget, 1997). The state has the youngest population (median age of 27.1); no other state has a median age below 30 (Baird, 2001). In 1995, per capita income in Utah was $18,054, 76.6% of the national average placing it 45th of the 50 states (Governor's Office of Planning and Budget, 2000). Utah ranks fourth-highest in teen labor force partcipation, fourth in percentage of men in part-time employment and third for part-time women workers, all of which contribute to low per capita incomes. When wages are adjusted for average hours worked, the average hourly wage rate in Utah is 88.2% of the national average (Knold, 2000). However, Utah ranks eighth in the nation in median household income due to having more earners per household; the three-year average for 1997-99 was $45,257 (Governor's Office of Planning and Budget, 2001). The cost of living in Utah fluctuates around 95% to 105% of the national average (Governor's Office of Planning and Budget, 2000).

Despite the perception that Utah women are less likely to be employed than their counterparts in the rest of the country, the female labor force participation rate (62%) is actually higher than the national average (59%) in part due to the young population. However, Utah women are more likely to be working part-time (36% in Utah versus 27% in the U.S.) and less likely to have a college degree (Cornwall, 1996). While women in the U.S. earn 75% of male wages, Utah women earn 62%, the largest gender gap in the nation (Utah Department of Employment Security, 2001). In 2000, the median income for Utah women was $14,140 compared to $28,168 for men (Loomis, 2001).

Whether one focuses on per capita or household income, the cost of raising children to age 18 continues to climb to almost a quarter of a million dollars (Lino, 2001). With an average of .5 more persons per household, the high cost of raising children is a significant financial factor for Utah families. Consistent with having the largest families in the nation, Utah leads the country in home size and the number of vehicles per household (Loomis, 2001). More than one-fourth (28.3%) of Utah homes contains eight or more rooms ("Utah leads nation," 2001).

Utah's unique family profile may be a contributing factor to the state's high bankruptcy rate. Utah families have low per capita incomes due to high fertility, low wages overall, and specifically, low wages paid the state's women. Another factor that plays a large part in family financial instability is divorce. The divorce rate for Utah (5.2) is higher than the national average (4.7) although the state has the lowest rate of single parent families due to a high remarriage rate (Buctah, 1998).

Previous Research

One of the underlying assumptions of federal bankruptcy laws is that the process should rehabilitate the filer. However, research suggests that the current system provides little in the way of rehabilitation (Hira, 1990; Hira, 1992). Many consumers lack information about bankruptcy prior to contacting an attorney, learned little about managing their finances during the process, and many regret having filed (Antel & Berry, 1992; Hira, 1990). A study in Manitoba and Iowa (Strand, Hira, & Carter, 1994) reports that 14% of debtors were repeat filers. In a multi-nation study, Hira (1990) concluded that few debtors had considered any alternatives to bankruptcy before filing. While credit counseling is an alternative to bankruptcy, a study by Consumers Union (2001) suggests there are substantial problems with this rapidly expanding

industry.

In the most comprehensive studies of consumer bankruptcy to date, Sullivan, Warren, and Westbrook (1989, 2000), concluded that the causes of bankruptcy are complex and related to (a) fundamental changes in the national economy that have contributed to increased income volatility and employment insecurity, (b) rising medical costs and the lack of health insurance, (c) divorce and the growing number of single parent families, (d) the determination to maintain homeownership in the face of insupportable debt, and (e) a dramatic increase in consumer debt at high interest rates.

The Sullivan, Warren and Westbrook studies, analyzed data from bankruptcies filed in 1981 and 1991 in five states: Illinois, Pennsylvania, Texas, California, and Tennessee. The 1991 study added a short survey for debtors at their mandatory court hearing to collect demographic data not available in the files and ask the debtor's reasons for their bankruptcy.

Sullivan, Warren and Westbrook (1989) concluded that the principal cause of bankruptcy was job loss exacerbated by burdensome consumer debt and meager savings. Many of these debtors had to wait until they could find a job and save up enough money to file for bankruptcy. These researchers also revealed that about one-fifth of consumer bankruptcies were really the result of a small business failure. Fewer than one-third of American families have an adequate emergency fund to tide them through even a short period of unemployment (Huston & Chang, 1997). While the lack of health insurance and rising medical costs are a burden to families, the main financial cosequence of accident or injury is loss of income (Sullivan, Warren, & Westbrook, 2000).

Another reason debtors file for bankruptcy protection is a marital dissolution. The U.S. leads the world in the incidence of both divorce and bankruptcy. The financial impact of divorce falls most heavily on women who are typically the custodial parent. If an ex-husband files for bankruptcy, lenders can attempt to collect unsecured marital debts from the former spouse, regardless of the allocation of debt in the divorce decree; thus the wife may follow an ex-husband from divorce court to bankruptcy court (Sullivan, Warren, & Westbrook, 2000).

While homeownership is considered a cornerstone of middle class stability, growing numbers of Americans are assuming unsustainable mortgage debts. Mortgage lending is much more flexible than in the past. "They buy more than they can truly afford and they have too little margin left when disaster strikes" (Sullivan, Warren, & Westbrook, 2000, p. 242). Further, home equity lending has increased dramatically in the past decade. Despite record-breaking homeownership rates and housing price escalation, total home equity has actually declinded due to aggressive marketing of home equity credit and the rising proportion of first time homebuyers (Consumer Federation of America, 2000).

The dramatic rise in consumer lending, especially credit card debt, and relaxation in lending standards for both consumer and mortgage loans contribute to escalating bankruptcy rates (Sullivan, Warren & Westbrook, 2000). While they reported similar debt-to-income ratios among debtors in 1981 and 1991, one notable finding was the increase in the number of Americans (those not filing for bankruptcy) who had dangerous debt-to-income ratios. This

increasing debt load is mostly due to credit cards, in 1981 the average family owed six weeks worth of income while in 1991 the debt load had increased to six months of income (Sullivan, Warren, & Westbrook, 2000).

Comparing the 1989 and 1995 Surveys of Consumer Finances, Black and Morgan (1999) reported that lenders are granting credit cards to riskier borrowers who have more liberal attitudes toward debt, carry higher debt burdens, and work in cyclical industries with low job security. Recent bankrupts are able to get credit, albeit at usurious rates, because they aren't burdened with as much debt as their neighbors and are limited to one Chapter 7 bankruptcy every six years.

In an analysis of the Panel Study of Income Dynamics from 1984 to 1995, Rhee (2001) concluded that, contrary to the assertions of lobbyists for the credit industry, the consumer bankruptcy system was not being abused. However, differing state exemption levels mean debtors are treated differently depending upon where they file. Rhee recommended that the credit industry reevaluate its risk assessment methods.

Purpose of the Study

The purpose of the present study was to describe the characteristics of consumers filing for Chapter 7 and Chapter 13 bankruptcy in the federal bankruptcy district of Utah. Information about debtor characteristics in the state with the highest bankruptcy rate should be valuable for financial educators and counselors as they develop programs and public service messages aimed at increasing savings and reducing debt, and policy makers designing policies to prevent bankruptcy.

Research Objectives

The specific objectives of this study were to (a) describe a financial and demographic profile of Utah Chapter 7 and Chapter 13 debtors; (b) to compare financial, employment, family and socio-demographic characteristics of Chapter 7 to Chapter 13 debtors; (c) compare successful and unsuccessful Chapter 13 debtors, and (d) determine the proportion of debtors who had previously filed for bankruptcy.

Methods

This study used public bankruptcy records, available on the Web-PACER Internet system, to describe consumer debtors who filed for Chapter 7 and 13 bankruptcy during 1997 in Utah. This five-year time span between filing and data collection allowed for following the three- to five-year outcomes of Chapter 13 repayment plans.

The variables of interest for both Chapter 7 and Chapter 13 cases included household size, marital status, job tenure, income, amount of debt, monthly housing costs, and total monthly expenses. Age, although not required information on the case files, was recorded when available. Only married couples may file a joint bankruptcy petition; thus all joint petitions

indicated married couples. Although gender is not indicated on the petition, for single filers, gender was assessed from the first name, occupation, and other clues.

Results

The sample included 2,567 randomly selected bankruptcy cases from 1997 consisting of 1,486 Chapter 7 cases (57.9%) and 1,081 Chapter 13 cases (42.1%). In 1997, 6,782 Chapter 7 cases and 5,273 Chapter 13 cases (43%) were filed in the Utah district (1% are Chapter 11 business and 12 farm bankruptcies), thus the sample for this study represents 21.3% of all consumer filings in 1997. Thirteen percent (140 cases) of Chapter 13 repayment plans converted to Chapter 7 liquidations sometime between filing and data retrieval. Missing data are due to incomplete documentation in the case files.

Demographic and Financial Profiles

Demographics and financial profiles for Chapter 7 and Chapter 13 debtors are illustrated in Tables 1 and 2. The ages of filers ranged from 19 years old to 77 with a median of 33.0 years. Household size ranged from 1 to 12 persons with a mean size of 2.79 (median = 2.0) for Chapter 7 filers and 3.26 (median = 3.0) for Chapter 13 filers. Single persons were over represented in bankruptcy court; 67.9% of Chapter 13 and 53.2% of Chapter 7 plans were filed by singles. Median job tenure was one year for Chapter 7 cases and 1.5 years for Chapter 13s. Median total debt was $31,981 for Chapter 7 cases and $41,626 for Chapter 13.

The total debt to income ratio for Chapter 7 was 194.3% or almost twice annual income at the time of filing. For Chapter 13 the ratio was 173.4%. Median monthly expenses for Chapter 7 exceeded median monthly income indicating no ability to repay. For Chapter 13 cases, there was $400 available for debt repayment at the median.

As illustrated in Table 3, of the 1,081 debtors who originally filed for Chapter 13 repayment plans, 140 (13.0%) converted to a Chapter 7 liquidation.

Six hundred ninety six of the remaining 941 Chapter 13 cases (74.0%) were dismissed without completing their repayment plan. One hundred two cases (10.8%) successfully completed their Chapter 13 plans and had their remaining unsecured debts discharged. Almost five years after their initial filing in 1997, 126 cases (13.4%) were still active. The outcome of seventeen cases (1.8%) was unknown due to missing data

Chapter 7 and 13 Debtors Compared

While similar in age and job tenure, Chapter 13 debtors reported slightly larger families and higher housing expenses than Chapter 7 debtors. Chapter 13 cases also had higher total debt than Chapter 7 cases. However, at the median, secured debts in Chapter 13 were more than twice as high as for Chapter 7 while Chapter 7 cases listed higher amounts of unsecured debt. Tax debts for the two types of debtors were similar.

Table 1

Demographics and Finances of Chapter 7 Debtors

	N	Min	Max	Mean	Median	Standard Deviation
Monthly income	1413	$ 46	$ 25,510	$ 1,572	$ 1,370	$ 1,161
Monthly expense	1451	$ 80	$ 11,503	$ 1,637	$ 1,440	$ 940
Monthly housing	1255	$ 29	$ 5,850	$ 543	$ 490	$ 380
Total debt	1460	$ 929	$ 4,910,415	$ 71,237	$ 31,981	$ 170,339
Job tenure (years)	1168	0	56	3.3	1.0	5.2
Household size	1458	1	11	2.8	2.0	1.7
Age	330	20	77	35.5	33.0	12.1

Table 2

Demographics and Finances of Chapter 13 Debtors

	N	Min	Max	Mean	Median	Standard Deviation
Monthly income	911	$ 372	$ 14,000	$ 2,169	$ 2,000	$ 1,156
Monthly expense	907	$ 41	$ 9,585	$ 1,749	$ 1,598	$ 950
Monthly housing	797	$ 10	$ 5,000	$ 666	$ 600	$ 441
Total debt	941	$ 1,895	$ 873,591	$ 74,342	$ 41,626	$ 80,886
Job tenure (years)	778	0	38	4.1	1.5	5.9
Household size	911	1	12	3.3	3.0	1.8
Age	304	19	76	35.7	34.0	11.6

Chapter 13 filers were much more likely than Chapter 7 filers to be homeowners, probably accounting for their higher housing expenses. However, they were far less likely to own a home than their fellow Utahns, of whom 67% are homeowners. This stands to reason because a Chapter 13 filing enables the debtor to bring their mortgage payments current and avoid foreclosure, so it is generally the chapter of choice for homeowners with equity. Almost 40% of Chapter 13 debtors reported a mortgage, with a median debt of $108,000, while only 20.1% of Chapter 7 cases (median amount of $98,000) had mortgages. Of those who converted from a 13 to a 7, 32.1% listed mortgage debt. Fully half of the Chapter 13 filers listed a second

mortgage while 6.1% owed a third mortgage. Similarly, 47.4% of Chapter 7 homeowners had a second mortgage, with 9.8% listing a third mortgage. Home equity loans and lines of credit are not listed separately in the files.

Table 3

Demographics and Finances of Debtors Who Converted from Chapter 13 to Chapter 7

	N	Min	Max	Mean	Median	Standard Deviation
Monthly income	139	$ 520	$ 6,620	$ 2,023	$ 1,823	$ 951
Trustee payment	139	$ 50	$ 5,474	$ 471	$ 295	$ 689
Monthly expense	139	$ 49	$ 4,330	$ 1,654	$ 1,504	$ 807
Monthly housing	125	$ 100	$ 2,410	$ 626	$ 546	$ 401
Total debt	140	$ 3,550	$ 994,790	$ 79,370	$ 37,375	$ 120,735
Job tenure (years)	123	0	25	3.5	2.0	4.5
Household size	139	1	9	3.3	3.0	1.8
Age	48	19	72	35.4	33.0	13.4

Previous Bankruptcies

Most debtors were filing for bankruptcy protection for the first time. Previous filings were noted for the prior 6 years only; no information was available regarding the Chapter of the previous filing. Among Chapter 7 filers, 113 (7.6%) reported a previous filing; seven (0.5%) reported two previous filings and two debtors indicated filing three times previously. One previous bankruptcy was reported by 201 (21.4%) of Chapter 13 cases; twelve (1.3%) reported two previous filings and two persons reported three prior filings. For Chapter 13 conversions to a Chapter 7, 34 (24.3%) reported one previous bankruptcy, two reported two prior filings and one person had filed three times. One in five Chapter 13 and Chapter 13 conversions to a 7 reported previous bankruptcies. Chapter 7 filers were much less likely to have filed previously. Under current federal law, a debtor must wait six years before filing a repeat Chapter 7 bankruptcy; there is no minimum time limit between Chapter 13 filings.

Discussion

Limitations of the Study

Data for analyses were limited to information available from the court records of a random sample of 2,567 cases in one federal bankruptcy district. Demographic information is

limited to the variables required by the U.S. Administrative Office of the Courts. The data contained in the files is descriptive in nature and collected at the point of filing so there is no employment, income or marital history.

Nowhere in the court records are debtors asked to specify the causes of their bankruptcy filings. While the triggering event may be obvious in the case of small business failure, for some debtors the causes may have been multiple, such as an accident that results in substantial injury and uninsured medical expenses on top of a liability judgement and loss of job. For others, a divorce and the added expenses of trying to support two households may be the triggering event. High levels of credit card debt may be due to a job loss rather than irresponsible spending. Many unmeasured variables such as attitude and psychological variables undoubtedly contribute to the acquisition of unmanageable debt as well as unforseen circumstances not recorded in the court records. Some of the blame for high bankruptcy rates must be attributed to lenders who approve loans on marginal credit histories or allow borrowers to exceed traditional debt ratios.

Economic Perspective

Sullivan, Warren and Westbrook (1989) discovered that there is often a lag between the onset of financial problems and the actual bankruptcy filing, especially when some of the debtors had to find new jobs and save up enough money to be able to afford the filing and attorney fees. The cases in this study were filed during 1997 and thus reflect problems generated in the mid-1990s. In general the decade of the 1990s was a prosperous one for most Americans and Utahns. However, despite the booming economy of the 1990s, many working poor live on the economic margin, earning minimum wages or just above and surviving from paycheck to paycheck (Boushey, Brocht, Gunderson, & Bernstein, 2001). Yet Sullivan, Warren and Westbrook (1989, 2000) clearly demonstrated that debtors are similar to the rest of the population in socio-demographic characteristics. What caused the dramatic and sustained increase in consumer bankruptcies during this decade?

Why Are Bankruptcy Rates So High in Utah?

Why do Utahns file for bankruptcy at a higher rate than their neighbors in other states? Only tentative conclusions can be drawn from the data. A clearer answer awaits a study that interviews debtors at their court appearance.

Utah Chapter 7 debtors filed for bankruptcy court protection with relatively low debts in comparison to debtors in the rest of the U.S. Median Chapter 7 debts were $31,981; the median debt level for a national sample of Chapter 7 cases filed in 1997 was $42,810 (Bermant & Flynn, 1999). Nonetheless, the debt represented 1.7 to 1.9 times income at the time of filing.

Debtors varied from the state demographic profile by being much more likely to be single. Only 30.4% of Chapter 7 debtors and 42.9% of Chapter 13 filers were married, far below the high marriage rate in Utah (63.2% of Utahns are married). Sullivan, Warren and Westbrook (2000) noted a substantial increase in the number of single women debtors over the ten-year span of their studies.

Median tenure at their current job averaged one year for Chapter 7 filers and 1.5 years for Chapter 13 filers. A notable proportion of the debtors listed the time on their current job in terms of days or weeks. Many debtors were coming off a spell of unemployment or job transition and had exhausted whatever reserve funds they may have had. Job interruption or short tenure as a cause of bankruptcy is consistent with the results reported by Sullivan, Warren and Westbrook (1989, 2000).

There is some speculation by financial experts that the high bankruptcy rate in Utah is due to large families and low per capita incomes (Rowley, 2002). Certainly larger families would have a higher rate of consumption, which would result in less money to save for emergencies such as job loss or catastrophic medical expenses. Family size for Chapter 7 debtors was smaller than the Utah mean, but higher than the U.S. mean while Chapter 13 debtors lived in larger households (3.33 versus 3.06 in 1997). That is about one half person larger than the average U.S. household size of 2.61. While an average of .5 additional people per household may not seem burdensome, the most recent report on the cost of raising children indicates that a typical married couple household with two children will spend $233,530, adjusted for inflation, to raise a child to age 18 (Lino, 2001). While families with more children spend less per child, the reality is that children are expensive to raise. Consistent with larger families, results of the Census Bureau's American Community Survey data reveal that Utahns live in the largest homes in the nation and own or lease more vehicles per household (Loomis, 2001). The combination of low wages, large families, large homes and numerous vehicles puts Utahns at greater risk for financial stress.

Implications of the Research

This research provides the only descriptive data on consumer bankruptcies in Utah and the only recent comprehensive demographic and financial profile of debtors. The study is timely since bankruptcy is a lagging economic indicator. With a slow economy accompanied by high unemployment and job instability, an increase in filings can be expected in the near future. While it may be too late to prevent these bankruptcies, financial professionals can use these data to educate the public about the potential financial risks of accepting the ever higher levels of credit aggressively marketed by the credit industry.

Recommendations for Financial Education

The results of this study highlight the importance of financial education programs. Credit education is particularly relevant for single-earner families. This study provides further support for classic personal finance recommendations such as the need for an adequate emergency fund and monitoring debt ratios.

However, no educational program can overcome the powerful marketing message of "you can have it all right now by simply signing on the dotted line." Consumers need to know the way the credit marketing system works. They, not the lenders, are responsible for setting their own debt limits. Consumers should not assume that because creditors will grant credit that they can afford to repay. Financial educators need to emphasize the basic principles and guidelines for both mortgage and consumer credit limits.

One factor that virtually all bankruptcies share is overwhelming debt in relation to income. As credit has become more readily available to consumers of all financial backgrounds, Americans have taken on higher levels of debt with apparently insufficient consideration on the part of either lenders or borrowers of ability to repay. The 1990s was a decade of optimism fueled by a rising stock market and record high levels of employment. Both encouraged consumer borrowing. When the nation's economy began slowing, it became difficult to repay the debt assumed during the previous decade.

It must be pointed out that many bankruptcies are caused by unanticipated circumstances beyond the control of the debtors (Sullivan, Warren, & Westbrook, 1989, 2000). Although financial educators underscore the importance of emergency savings, few families have sufficient reserves (Huston & Chang, 1997). Some researchers even argue against traditional emergency fund recommendations due to the low returns on savings (Hatcher, 2000). Americans must be listening–the savings rate was negative during much of 2000 (Kulish, 2000). Yet, increased economic and employment volatility suggest that emergency reserves and/or the ability to send an additional family member into the workforce may be critical to family financial survival.

Policy Recommendations

In response to millions of dollars worth of lobbying by the credit-granting industry, both the U.S. House and Senate have voted to make the bankruptcy laws more punitive and President Bush has promised to sign the bill (Hitt & Whelan, 2002). With regard to provisions in the proposed legislation making bankruptcy more difficult, Sullivan, Warren and Westhrook (2000, p. 252) write, "The problem with this approach is that it confuses the cure with the disease. The problem is overwhelming debt; bankruptcy is the remedy. If people are denied access to bankruptcy, the problem of deeply indebted families remains."

Although creditors may lobby for tougher bankruptcy laws, "the only available evidence suggests that they would collect very little more from hard-pressed consumers" (Sullivan, Warren, & Westbrook, 2000, p. 256). A study of 1,955 Chapter 7 bankruptcy filers' repayment ability by the Executive Office for U.S. Trustees concluded that "by the time they filed, they had little if any capacity to repay. In fact, most will have to increase income or reduce expenses to remain solvent after bankruptcy" (Barlett & Steele, 2000).

The federal bankruptcy code states that the bankruptcy process should provide rehabilitation. However, no rehabilitation takes place under either Chapter 7 liquidation or Chapter 13 repayment plans. Even after successful completion of a Chapter 7 or 13, many debtors are left with substantial secured debts and debts that cannot be dismissed in bankruptcy (e.g., alimony, child support, taxes, and student loans). "It offers them no stability in their jobs, no additional health coverage, and no improvement in their family circumstances. Bankruptcy is a thin–some would say hopelessly thin–safety net in an increasingly precarious world" (Sullivan, Warren, & Westbrook, 2000, p. 256). On average, the Chapter 7 debtors in this study reported monthly expenses exceeding monthly income; even after discharging their unsecured debts these debtors are in trouble. This situation clearly indicates a need for counseling, education and job training.

One of the most striking findings of this study was the very low (10.8%) success rate of Chapter 13 repayment plans, especially considering that the changes in the federal bankruptcy law would force more debtors to file under Chapter 13. These data emphasize skepticism about Chapter 13 filing numbers. While virtually all of the Chapter 7 liquidation plans were completed and the unsecured debts dismissed, almost 90% of Chapter 13 plans did not succeed. In reviewing the number of previous bankruptcy filings (only those within the previous six years were recorded), it may be that many of the "repeat" bankruptcies were really an attempt to discharge old debts from a prior failed Chapter 13 plan. Bankruptcy law specifies that Chapter 13 debtors should allocate all their disposable income to debt repayment, allowing no cushion for emergencies or even family birthdays and holidays. Expecting debtors to survive for five years with no emergencies or unanticipated expenses is unrealistic.

This study provides a strong message to the legal and judicial community in Utah. With only a 10.8% success rate for Chapter 13 debtors, judges, attorneys, and trustees should reexamine the local legal culture that encourages Chapter 13 repayment plans. These data will be used to show judges and trustees the importance of comprehensive debtor education beyond that which may be required by the new federal bankruptcy law. Although Braucher (2001) concluded that bankruptcy education does not affect Chapter 13 repayment success, the districts she studied provided only a single class. One class at the time of filing is not sufficient; this is a period of high stress and not a teachable moment. Education needs to take place over a period of time and must recognize that debtors end up in bankruptcy court for many different reasons. Due to the difficulties with mandating and monitoring class attendance, education should be made available using a variety of venues: the Internet, videos and newsletters. Creditors should help pay the costs. Because Chapter 13 repayment plans typically last for five years, an extended education plan is feasible. With Chapter 7 plans that require very little contact with the court, education could be mandated for the period, typically six months, between filing and discharge of debts.

Members of Congress need better data to formulate laws. State legislators could benefit from state-specific bankruptcy information to encourage mandatory personal finance education in public schools. Educators and financial counselors can benefit from this information in developing effective educational programs and targeting at-risk groups.

As the land grant university for the state of Utah, Utah State University's mission is to serve the citizens of this state. Bankruptcy statistics and feedback from Cooperative Extension focus groups show that Extension and community leaders recognize the problem of overindebtedness in their communities. This study profiling Utah debtors will assist Extension educators in designing programs to inform Utahns about the pathways leading to bankruptcy court and help for debtors facing bankruptcy.

Finally, a new wave of data needs to be collected and analyzed, consisting of short interviews with filers on the day of their mandatory court hearings. This method is the most practical way to acquire data not included in the court records plus an opportunity to get the debtor's perspective on the cause(s) of the bankruptcy. Researchers in other states are encouraged to replicate this study to generate comparable data from their states. Only when accurate information is available will good public policy result.

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