



TAMPA BAY BANKRUPTCY CENTER, P.A.

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## **Many Delaying Bankruptcy**

In 2005, the number of bankruptcies reached a record high of about 2 million. This prompted the government to pass legislature to prevent the abuse of bankruptcy. The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) 2005 was to make it more restrictive and expensive to file for Chapter 7 bankruptcy which could cancel a majority of debts. But this legislation has brought about an unexpected result. Increasing numbers of debtors who ought to file for bankruptcy simply do not and are delaying bankruptcy.

Although the number of bankruptcies could come up to 1.7 million this year, many Americans facing huge financial problems are trying to avoid filing for bankruptcy. Instead of filing for bankruptcy, many of these have entered a 'shadow economy' or informal bankruptcy. Student loan defaults, foreclosure and bank card defaulters are increasing. In March and April the percentage of credit card defaulters rose from 7.7% to 9.1% while bankruptcy filings fell by 4%.

Those who took private student loans to fund their college studies have been hit particularly hard. Sallie Mae, the US' largest private student loan lender projected that some 40% of \$6 billion subprime private student loans will default. This works out to be 360,000 to 540,000 loan defaulters. To-date it has been very difficult for private student loan borrowers to file for bankruptcy. The law states that they have to show undue hardship. This involves a separate trial, extra costs, legal assistance and witnesses.

Before the 2005 laws were introduced, only government issued and guaranteed student loans could be discharged by bankruptcy. But in April both the Senate and the House of Representatives introduced legislature that allowed private student loans to also be eliminated through bankruptcy.

Aside from private student loan borrowers, why do people delay filing for bankruptcy even though they need to? One reason is the cost involved. Attorney fees and filing fees have both risen from \$712 to \$1,078 and from \$209 to \$299 respectively. Many delay until they receive their tax refunds before filing for bankruptcy. Others have drawn from their retirement funds to pay for bankruptcy related expenses.

Another reason people delay bankruptcy is to save their homes. Bankruptcy does not protect your primary residence if it is held as security for a debt, although it can protect your summer

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home and yacht. As a result, home foreclosures have outnumbered bankruptcy filings with no signs of diminishing. In the first quarter of this year, the number of foreclosures rose by 16% year on year.

More and more people are in need of bankruptcy. Is it time for a change in legislation? Many believe so.

You can take advantage of the law that provides bankruptcy protection from your creditors and allows you the opportunity to clear your debts. Call us at (813) 200 4133 for a free consultation or visit <http://tampabankruptcy.pro>.