

Bankruptcy filings soar

Law changes Monday; many misinformed

FRANK BILOVSKY
STAFF WRITER

Perinton lawyer William J. Neild earlier this week stopped taking on potential clients who wanted to file bankruptcy petitions before Monday, when the law changes.

"I knew it was coming, so I kept ahead of the curve as much as I possibly could," he said. "But eventually I just basically had to close everybody off."

Jeffrey Freedman, another lawyer who specializes in bankruptcies at 15 offices across upstate New York, said he stopped accepting new bankruptcy filers three weeks ago.

Yet there are still some options for people who want to beat the Sunday midnight deadline to file under the old bankruptcy law. Under the new federal law, some filers will find it more difficult to petition



John Ninio
Judge calls the deluge of bankruptcy filings "ridiculous."

under Chapter 7, which allows liquidation of debts. Instead, they will have to file under Chapter 13, which will require partial repayment to their credi-

tors.

The Bankruptcy Court's Western New York District will be accepting electronic bankruptcy filings throughout the weekend (the clerk's office will close as usual at 4:30 this afternoon). But finding an attorney to do the paperwork may be next to impossible.

Besides that, the vast majority of filers in the Rochester area are likely to find little difference be-

tween the old and new laws, attorneys say. That's because U.S. Bankruptcy Judge John C. Ninio II has been cracking down for years on what he calls "serial filers," as well as people who ran up their debt by abusing credit cards.

The main differences: Anyone filing under the new law will be required to take a credit counseling

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To file now

Although he's not encouraging anyone to do it, U.S. Bankruptcy Judge John Ninio said people do not have to file a long bankruptcy form if they are trying to beat Sunday's midnight deadline before the new law goes into effect.

"There is a two-page, bare-bones petition that you can file now and clean up later," Ninio said. "Within 15 days, you can then put together all the stuff that you need to."

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course, the lawyer fees will be higher because of the added paperwork, and a "means test" — based on the state's median income — will force some into Chapter 13 filings.

"For 90 percent of the people, it's not going to matter if they file under the current law or under this new law," Freedman said. "The means test is one issue. People who are over the median income, after you take all the deductions that they are allowed, most of those people are going to be able to pass the means test. Those folks that don't, Judge Ninio would have required them to be in Chapter 13 anyway. Rochester is a very strict court."

Ninio long has been alarmed by the increase in bankruptcy filings over the last two decades.

"In 1985, we did 1,400 cases in Rochester," he said. "If our current rate of filing for this year were to continue until Dec. 31, we would have over 7,100 cases filed. That's over a 400 percent increase. Our filings last year, which was the third straight record year, were 5,562 cases. Through (Wednesday) we've had 6,438 cases filed. That's how ridiculous it is."

Similar to courts nationwide, filings here were up nearly 33 percent in the last three months compared with the same period a year ago.

But some other upstate counties have even higher increases,

according to figures provided by Freedman. Erie County was up nearly 35 percent, Orleans ahead by more than 40 percent, Niagara by more than 53 percent and Allegany by a whopping 128 percent.

And the pace here has become even more frenetic since October began. On Wednesday alone, 246 petitions were filed here.

"The ridiculous thing in Rochester is, as far as serial filers, abusive filers and people with an ability to pay, nothing is going to change," Ninio said. "The best comment related to me so far is, 'It's nice to see the Congress caught up with Rochester.'"

Freedman, who operates three offices in Monroe County, said that the frenzy to file before the new law goes into effect is a case of people being misinformed.

Some are under the impression that they won't be able to file after the weekend, he said. Others do not realize that the vast majority of filers will fall below the means test threshold and still will be eligible to file for Chapter 7 liquidation.

So why the rush to file?

"I think it's urban legend," Ninio said. "People are thinking if they don't file before Monday, they won't be able to get rid of their credit card debt. Nobody's really telling them the true facts."

"I think it's people coming out of denial and semi-denial. They read all this publicity, add up their 25 credit card bills, see they are hopelessly in debt and don't know what it all means, but they better call a lawyer. And so they are filing." □

FBILOV@DemocratandChronicle.com