

Starting Over: Financial Education for Bankruptcy Filers

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Bankruptcy is a federal court process designed to help debt-stressed consumers eliminate their debt or repay it under court protection (Bankruptcy Basics, 2005). This abstract begins with an overview of the primary features of recently enacted federal bankruptcy legislation and concludes with a discussion of how required financial education courses for bankruptcy filers are being developed and delivered by Cooperative Extension educators across the U.S. Everyone on the panel agreed that the process of developing and delivering these courses is like “building the bridge as we cross it.” There are no prior role models to follow for program marketing and delivery and preferences for learning methods by debtors are slowly becoming evident as more of them begin to take the required course.

Called “the most far-reaching revision of bankruptcy law since 1978” (Harl, Peiffer, & McEowen, 2005), the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (PL 109-8 or BAPCPA) was signed by President Bush on April 20, 2005. Among its numerous provisions is the requirement for debtors to complete an approved instructional course in personal financial management in order to obtain a discharge from a Chapter 7 or Chapter 13 bankruptcy. The law spells out minimum requirements for these instructional courses, including the qualifications of trainers, use of adequate and accessible facilities, adequate disclosure of registration fees, approved methods of instruction, proof of identification by debtor/students, and course length and content. The course must specifically cover basic financial topics including budget development, money management, the wise use of credit, risk management techniques, and consumer protection resources. Applications for approval as a provider of the personal financial management course are overseen by the Executive Office for United States Trustees (EOUST) within the U.S. Department of Justice.

The BAPCPA law made Chapter 12 bankruptcy permanently available to farmers, effective July 1, 2005, as opposed to its previous “on again-off again” status, with several gaps and re-authorizations since 1986. Chapter 12 is now a permanent part of the bankruptcy code and its provisions have been extended to “family fishermen” (i.e., family operated commercial fishing operations and aquaculture), (Harl, Peiffer, & McEowen, 2005).

In addition, the BAPCPA law substantially increased protection of retirement plan assets from the claims of creditors. This includes SEPs (Simplified Employee Pensions, used by small business owners) and IRAs (Individual Retirement Accounts, available to all workers with earned income). These assets now receive creditor protection in bankruptcy. SEP accounts receive unlimited creditor protection while traditional and Roth IRAs are subject to a \$1 million limit, excluding amounts attributable to rollovers from qualified retirement plans. Since IRA contribution rates have been low for decades, however, and few people have accumulated anything near \$1 million, the IRA cap is virtually a non-issue (Kitces, 2005).

The BAPCPA law also contains a provision requiring an individual to be current on post-petition domestic support obligations as a condition of plan confirmation (Harl, Peiffer, & McEowen, 2005). In addition, there is a means test to determine eligibility to file a Chapter 7 bankruptcy. The means test is based on a filer’s current monthly income, family size, and the median income for their state of residence. Under the means test, those who earn less than the median income for a family of their size in their state will still be able to file under Chapter 7. Those that earn more and can afford to pay back at least \$100 a month, after subtracting allowable expenses as determined by the IRS, will generally have to file under Chapter 13 and submit to a restrictive five-year repayment plan (Bankruptcy Basics, 2005; Martin & Paley, 2006). Every consumer bankruptcy case filed must first have a means test analysis performed, which is predicted to significantly increase attorney’s fees (Sahadi, 2005). Like the alternative minimum tax calculation on a tax return, the means test requires a lawyer to do the calculation step by step. The American Bankruptcy Institute expects attorney’s fees to possibly double because of additional workload (Jean, 2005). Despite the required paperwork, the means test will actually affect less than 15% of filers and perhaps only 1% to 2% by some estimates (Blackman, 2005).

As a condition to file either Chapter 7 or Chapter 13 bankruptcy, a debtor must have consumer credit counseling to explore alternative options, within 180 days prior to filing a petition. The counseling session must be with a qualified, non-profit agency approved by the U.S. Trustees office. A list of approved providers can be found at the office’s Web site: www.usdoj.gov/ust/bapcpa/ccde/index.htm. Additionally, after filing for bankruptcy, debtors must complete an approved two-hour personal financial management course in order to obtain a discharge from Chapter 7 or 13. Course providers are also listed on the above Web site. Both the credit counseling and financial education services require filers

to pay a fee set by the provider. However, the provider must offer the counseling and debtor education class for free to those who cannot pay. Providers also cannot hold up issuing a certificate of completion until someone pays. These new regulations, along with increased legal fees, create additional hurdles for debtors. Critics have charged that this is exactly what Congress and credit card lobbyists wanted: to increase the bureaucracy and cost associated with bankruptcy so that fewer people are inclined to file (New Bankruptcy Rules, 2005).

A National Overview: Jane Schuchardt

The goal of Cooperative Extension family economics programs is to improve the quality of life and financial security of Americans. The federal Extension partner, the Cooperative State Research, Education, and Extension Service (CSREES) of the U.S. Department of Agriculture (USDA), provides national leadership with respect to the visibility and accountability of programs and opportunities for collaborative partnerships. CSREES-USDA has encouraged system-wide participation in the development and implementation of financial education courses for debtors and has worked closely with the Executive Office of the U.S. Trustees (EOUST) to expedite the application process and involve Cooperative Extension in six national pilot sites. An internal Web site was also developed by CSREES-USDA for sharing EOUST-approved debtor education curricula developed by Extension faculty

The EOUST selected six judicial districts to pilot test its program, *Financial Education: Principles and Practices*: the Eastern and Western districts of Virginia, the Northern district of Illinois, the district of New Jersey, the Eastern district of Washington State, and the Northern district of Texas. As of March 10, 2006, 27 applications to become an approved provider of debtor financial education were submitted by land grant universities with 23 approved and 4 pending. The eXtension (pronounced ee-extension) *Financial Security for All* Community of Practice (CoP) is also developing an online course for debtors by adapting pieces of existing curricula. The expected completion date is the summer of 2006 and it is expected that fees generated will be used to support the CoP and state Extension systems. A Cooperative Extension pre-conference will be held in November 2006, prior to the Association For Financial Counseling and Planning Education (AFCPE) conference, to provide a status update and sharing of best practices.

The Rutgers University (New Jersey) Experience: Barbara O'Neill

Rutgers Cooperative Research and Extension (RCRE) is partnering with the Cook College Office of Continuing and Professional Education (OCPE) to deliver a financial education course for bankruptcy filers. The primary objective is revenue enhancement. A new curriculum, *Starting Over: Making the Most of Your Money*, was developed to provide the required course content. It was adapted from a previously developed program for Individual Development Account (IDA) participants and is designed to be delivered in a 2.5 hour face-to-face session. The *Starting Over: Making the Most of Your Money* curriculum consists of 40 annotated PowerPoint slides, three worksheets, and an interactive polarity activity. The U.S. Trustees approved the course in October 2004, within one month of its submission. The program includes all of the required topics indicated by the Office for U.S. Trustees in their request for applications, including financial needs versus wants, goal-setting, spending plans, record-keeping, insurance, credit reports, the wise use of credit, and danger signs of debt. The course was written with numerous questions to involve participants in a discussion of these financial topics and to encourage them to develop positive financial behaviors.

To date, there has not been sufficient student interest to profitably hold a class. RCRE had implemented several marketing methods, including meeting with the U.S. Trustee in Newark, NJ, sending an e-mail to the Chapter 13 trustee to forward to bankruptcy attorneys, and letters to other approved New Jersey providers and media. A marketing brochure template was also developed. Classes are open to the public at large and may be of interest to non-bankruptcy filers who need a financial education course for homebuyer or individual development account (IDA) programs. The class fee is \$60 per person or \$100 for a couple but will be waived for those currently receiving public benefits. Participants can pay by credit card, if desired. During the time that RCRE and OCPE are participating in the national pilot for the District of New Jersey (beginning April 2006), participants will take the course for free and the federal government will pay the registration fee on their behalf. No formal research, other than the required post-class evaluation, is planned.

The University of Missouri Experience: Rob Weagley

The University of Missouri-Columbia Extension service was approved in September of 2005 as a bankruptcy education provider and developed 51-slide annotated PowerPoint presentation, with a teacher's manual and student guide. Their initial interest in delivering education to debtors resulted from interest expressed by a member of their university Board of Curators who was concerned about Missouri's high rate of bankruptcy. All of the Missouri educational materials are available on the national Extension Website developed as a portal to share debtor education resources (contact Jane

Schuchardt at CSREES-USDA for details). Missouri requires 10 clients to hold a class and, thus far, there have been no programs being delivered. In addition, the educational materials have just recently been sent to specialists. Moreover, nationally, the number of filers is quite low, compared to prior years, until we work through the glut of filers that preceded the introduction of the BAPCPA in October 2005.

MU extension is cooperating with eXtension Community of Practice to develop a Web-based option, while the department is working on one as well. The Website may hold the greatest potential, as it is being used to market individual programs. Marketing of classes for bankruptcy filers is also occurring through links from missourifamilies.org and our Office for Financial Success (pfp.missouri.edu/financial/). Traditional marketing efforts have included a single marketing brochure for classes and encouraging local specialists to contact regional lawyers to market the classes. MU Extension requires clients to pay \$50 per bankrupt, or \$60 per couple, with a sliding scale based on School lunch program in Columbia, MO. When classes are held and fees collected, all fees will be sent to Columbia campus and then split 50%/50% with the regional specialist conducting the program.

The Virginia Tech Experience: Celia Hayhoe

Virginia Cooperative Extension (VCE) condensed parts of their financial volunteer training course to develop a 90-slide PowerPoint presentation, *Steps to Financial Success*, with handouts, for bankruptcy filer education. The class is designed to be taught in 2 hours and 30 minutes, with a five-minute break. The program does not allow for many class activities, but does include a key activity to help participants envision their financial future. It was felt that, if educators can get debtor/students to buy into that vision, the students may seek out additional educational opportunities. The handouts are activities to do at home and extension publications if learners want more information on the topics. The program was approved in November of 2005. To date, VCE has held 4 training sessions across the state for agents and volunteers offering the program.

VCE also opens their classes to the public. Several other programs have sent people to the classes (auto purchase programs and Department of Social Services). Non-filers receive a VCE certificate instead of an EOUST bankruptcy certificate. VCE did a mailing to 400 bankruptcy attorneys across the state to let them know about VCE and their classes in attempt to increase class sizes. As of mid March 2006, VCE has offered four classes using their curriculum, with 2 to 10 students per class. The areas where classes have been held have agents who made personal contacts with attorneys and advertised the classes on their local Web sites. So far, about half of the participants have paid for the class. VCE charges \$35 to cover the cost of record keeping and supplies. Currently all registrations and certificates are issued from the specialist's office so that records are retained in one place. As numbers improve we hope to be able to give some money to agents for refreshments, etc.

In January, 2006 the Arlington, VA site became a pilot site for the EOUST curriculum. VCE offered two classes to provide feedback to the EOUST before they finalized the national EOUST curriculum, *Financial Education: Principles and Practices*. As of March, the final curriculum is being piloted at two sites (Arlington and Manassas) and, in April, VCE will offer a third site in Christiansburg, with three more sites to be added in May. EOUST pays the fees for the debtors in the pilot programs as an enticement for them to participate. In exchange, debtors must agree to participate in an evaluation of the curriculum. *Financial Education: Principles and Practices* consists of three components: a video, student workbook, and facilitator's guide. During the time that pilot test programs are being offered, EOUST personnel distribute flyers at debtor/trustee 341 meetings to advertise the classes, which is a big advantage in recruiting participants.

Virginia Tech is collecting evaluation data on its own curriculum. In addition to the evaluation required by the EOUST, they are asking planned behavioral change questions. At the EOUST pilot sites, they administer the standard EOUST evaluation, a curriculum evaluation, and a more in depth evaluation developed by a firm hired by the EOUST.

Summary

Participating in the delivery of financial education classes for debtors provides an opportunity for Cooperative Extension to gain visibility for its financial education expertise, conduct evaluative research on the impact of financial education, and generate much-needed revenue in tight budget times. Panelists expressed concern that it has been difficult, thus far, to recruit sufficient participants to profitably operate face-to-face financial education classes. Filing numbers are down considerably from pre-BAPCPA levels, but are expected to ultimately rebound to a "new normal." It does appear, however, that debtor/students may be taking "the path of least resistance" by enrolling in inexpensive online courses to complete their education requirement. Several major providers, such as American Debtor Education and InCharge, are charging \$25 for an approved debtor education program that does not require debtor/students to leave home and face barriers such as transportation and childcare. The eXtension online debtor education course, currently under development, will enable the Cooperative Extension System to compete in this market and offer financial education

through learners' preferred modality. Face-to-face financial education classes for bankruptcy filers are appropriate for other mandatory or incentive-based programs, such as IDAs, and can be marketed accordingly to increase participation.

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