


| | | | |
|---|---|---------------------|---|
| All Things Digital. Tech and Media News | | more stories |  |
| Walter S. Mossberg | Google's Nexus One Is Bold New Face in Super-Smartphones | 01.05 - 11:02 am PT | |
| Peter Kafka | Short, Shorter, Shortest! | 01.05 - 2:13 pm PT | |
| Kara Swisher | As BoomTown Said: Quattro Confirms Acquisition by Apple ... | 01.05 - 12:34 pm PT | |

Dow Jones Reprints: This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers, use the Order Reprints tool at the bottom of any article or visit www.djreprints.com

See a sample reprint in PDF format. [Order a reprint of this article now](#)

THE WALL STREET JOURNAL.
WSJ.com

JANUARY 5, 2010

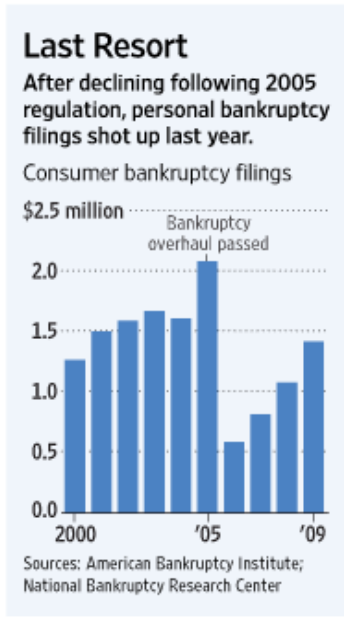
Personal Bankruptcy Filings Rising Fast

By SARA MURRAY and CONOR DOUGHERTY

The number of Americans filing for personal bankruptcy rose by nearly a third in 2009, a surge largely driven by foreclosures and job losses.

And more people are filing for Chapter 7 bankruptcy, which liquidates assets to pay off some debts and absolves the filers of others. That is significant because a 2005 overhaul of federal bankruptcy laws aimed to encourage Chapter 13 filings, which force consumers to sign onto debt-repayment plans in exchange for keeping certain assets.

The changes were designed to make it more difficult for people to shed their debt, particularly in a Chapter 7 filing. A "means" test, for example, was introduced to separate those who could afford to repay their debt from those who couldn't. A Chapter 7 filing is off the table if the means test determines a person is able to pay back at least a portion of the debt after it is restructured.



The worst U.S. recession in a generation is testing the effectiveness of these laws. The economic downturn also has prompted more middle-class Americans to file for bankruptcy protection.

Overall, personal bankruptcy filings hit 1.41 million last year, up 32% from 2008, according to the National Bankruptcy Research Center, which compiles and analyzes bankruptcy data. It is the highest level of consumer-bankruptcy filings since 2005. Consumers rushed to file in 2005 before the new bankruptcy laws took effect in October of that year.

Chapter 7 filings were up more than 42% as of November 2009, compared with the same period a year earlier, according to the research center. November is the most recent month with analyzed data available. Chapter 13 filings rose by 12% and made up less than a third of 2009 filings as of November.

"That suggests it was largely ineffective," Ronald Mann, a law professor at Columbia University, said of the 2005 overhaul. "I don't think anybody who's knowledgeable about the bankruptcy system thought the statute was well crafted."

During this recession, the housing crisis and high unemployment rate have prompted more people to file for bankruptcy who may never have considered the option before, experts said. Filings

from 2008 showed more people with high income and high education levels resorting to bankruptcy petitions, according to an annual survey of consumer-bankruptcy filers' demographics by the Institute for Financial Literacy, a nonprofit that provides bankruptcy-related counseling and education services. Those demographic trends appeared to continue last year.

Mr. Mann said he believes bankruptcies reached their peak sometime last year, but bankruptcy attorneys from across the country said there was no sign that business was slowing. The 113,274 filings in December alone were a third higher than the same month a year earlier.

"I can't see over the top of the files on my desk," said Cathleen Moran, a bankruptcy attorney at Moran Law Group in Mountain View, Calif., likening it to the rush of clients before the revised law went into effect. In a three-month period before those rules changed in 2005, her firm filed five times as many cases as usual.

Ms. Moran's clients in 2008 typically were people who earned between \$40,000 and \$80,000. That changed last year when a rash of people who earned \$100,000 to \$300,000 began filing as well, she said.

"Expenditures that were rational when these people were working at the peak of their salary just are no longer sustainable when they lose jobs or take jobs at a third or a half of what they were making before," Ms. Moran said.

Craig W. Andresen, a Bloomington, Minn., bankruptcy attorney, handles between 20 and 30 cases a month, but said that in most years that slows to between five and 10 in December, as people use the holidays to divert themselves from their financial problems. This year he had a full load of cases through year's end.

"Everyone has said, 'Wow, I stayed busy all month.' I've never heard [bankruptcy lawyers] in December say that they're busy and don't want to take time away from their office," he said. "People are committed to filing because they don't think their finances are going to turn around."

The glut of homes and falling real-estate prices ultimately sent Kendy and Joyce Parker over the edge and to Mr. Andresen on the last day of 2009. They expect to file for bankruptcy early this year. "One way or the other we're going to have to," Mr. Parker said.

Three years ago the Parkers, who live in Minneapolis and have been married for 29 years, were living well off of Mr. Parker's contracting business. They moved into a new home in 2004 and two years later, when Mr. Parker made roughly \$50,000 at his contracting company, they bought an investment property in hopes of renting it out. As the housing economy cratered, Mr. Parker saw his remodeling business shrivel.

He kept the business afloat with a \$70,000 line of credit and an additional \$70,000 in credit cards. Two years ago, he walked away from the business for a truck-driving job. Despite the steady income from Mr. Parker's job, bankruptcy is the only way to get out of debt. They are debating whether to file a Chapter 7 or 13 petition.

"It's not like I want to rip anybody off. We've made mistakes that didn't work and we're starting over," Mr. Parker said. "You can blame the government or you can blame banks, but...humans take risks and they make mistakes."

Write to Sara Murray at sara.murray@wsj.com and Conor Dougherty at conor.dougherty@wsj.com

Printed in The Wall Street Journal, page A3

Copyright 2009 Dow Jones & Company, Inc. All Rights Reserved
This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our [Subscriber Agreement](#) and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com