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Going **BANKRUPT** the much harder way!!!

Changes under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

A new law, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, was signed by President Bush on April 20 this year that revamps existing regulations governing bankruptcy filings. Under the new law, many Americans contemplating on declaring bankruptcy will no longer be able to easily resort to the “fresh-start” Chapter 7-style of bankruptcy filing (*see inset*) where relatively debts are easily discharged. A set of criteria has been established to determine those that truly deserve to avail of the Chapter 7 filing privileges. Those that do not qualify are forced to file under Chapter 13 (*see inset*) which requires the borrower to continue repaying the loan according to a 3-5 year repayment plan prescribed by a bankruptcy court.

The proponents of this new law cite the increasing number of bankruptcy cases, especially Chapter 7, filed during the past several years. According to them, the new law is designed to minimize abuses by irresponsible debtors of the “easy way out” Chapter 7 bankruptcy alternative.

Critics, however, argue that the law actually caters to the whims of affluent, influential lending institutions at the expense of an overwhelming majority of debtors forced into personal bankruptcy due to circumstances beyond their control. Illnesses, job loss, and divorce have been commonly cited as the primary causes of financial stress that leads to bankruptcy. Other critics are quick to add racial undertones in their arguments by pointing out that moderate- and low-income families affected by the new bankruptcy law are mostly Blacks and migrants (Aslam).

(Continued on Page 3)



BANKRUPTCY OPTIONS

Chapter 7: A debtor’s assets, net of those exempted in the state of residence, are liquidated and used to pay the creditors. Under this arrangement, most of the remaining debts are cancelled and the debtor is able to “wipe the slate clean” and embark on an almost “fresh start.” Non-exempt assets are taken over by a trustee who takes care of liquidating the assets and repays the creditors in the order of their secured interests. An important feature of this option is that the wages earned by the debtor is off limits to the creditors with vested interest on the date of filing.

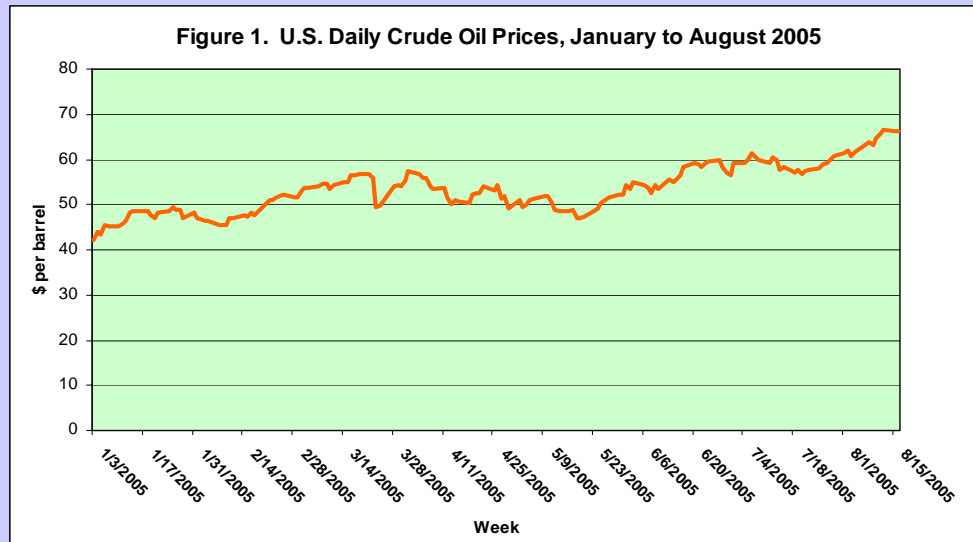
Chapter 13: This involves the restructuring of debt with a new payment schedule. This is the option available to those that have more than enough disposable income to qualify for Chapter 7 or own assets that they want to protect.

Inside this issue:

Going bankrupt the much harder way!!!	1
Tracking farm production costs under the recent oil price hike	2
Recent publications	6

TRACKING FARM PRODUCTION COSTS UNDER THE RECENT OIL PRICE HIKE

Oil prices have registered a record high price of about \$66 per barrel in mid-August, representing a 56.87% increase over the price at the beginning of the year (Figure 1). Fears of terror attacks in Saudi Arabia and American refinery problems have often been cited as having instigated the current oil price hike. Analysts have already started getting fidgety about the inflationary or recessionary (or both) effects of high oil prices, although some are quick to note that the current demand-driven price increases are not expected to wreck havoc on the economy as the supply shock of the 1970s did.



Source: Energy Information Administration, http://www.eia.doe.gov/oil_gas/petroleum/info_glance/crudeoil.html

So how are farmers' operations affected by this sudden surge in fuel prices? According to an index developed by the *National Agriculture Statistics Service (NASS)* for prices paid by farmers for their production inputs, certain cost components experienced an increase in their index over the last 12 months (Table 1 and Figure 2).

Table 1. Price Paid Indexes for Selected Farm Production Cost Components

Cost Component	2004	2005		One-year Change
	July	June	July	
Seeds	158	171	171	13
Fertilizer	138	159	160	22
Fuels	161	216	225	64
Farm Supplies and	137	143	143	6
Autos and Trucks	113	114	114	1
Farm Machinery	161	171	171	10
Building Materials	135	141	142	7
All Prod'n Costs	133	139	140	7

Source: USDA – National Agricultural Statistics Service, <http://usda.mannlib.cornell.edu/reports/nassr/price/pap-bb/2005/>

(Continued on Page 5)

Going bankrupt the much harder way!!! (Continued from Page 1)

Nonetheless, the bankruptcy bill has successfully weathered the debates and deliberations in the Senate and the Congress early this year. Its homestead provisions immediately took effect when the President signed the law last April, while the rest of the provisions become effective on October 17, 2005 (or 180 days after Presidential approval). Elsewhere in the country nowadays, the bankruptcy courts are flooded with the surge of Chapter 7 filings as the October deadline approaches.

IMPORTANT CHANGES IN THE NEW LAW

There are three important provisions that modify the eligibility criteria and procedures used in filing for bankruptcy: new financial counseling and management courses, the means test for determining Chapter 7 filing eligibility, and revised homestead exemption provisions.

A. Training Requirements

Debtors contemplating on filing for bankruptcy are now required to take an approved Financial Counseling Course within six months prior to filing. An approved Financial Management Course is also required in order for debtors to fully discharge their debts via bankruptcy.

B. The Means Test

The state median income is used as the initial criterion for determining Chapter 7 filing eligibility. Debtors with incomes below the median state income easily qualify for Chapter 7 filing. When the debtor's current monthly income exceeds the median income in the state of residence, a means test is used to determine the type of bankruptcy a debtor will be qualified to file under. The new law recommends Chapter 13 bankruptcy if the debtor's current monthly income reduced by allowable amounts for personal and living expenses and multiplied by 60 is NOT LESS THAN the lesser of

- a) 25% of debtor's non priority unsecured claims or \$6,000, whichever is greater; or
- b) \$10,000.

The new law also requires judges and trustees to accept without discretion the Internal Revenue Service (IRS) national standards for living expenses in determining an individual's disposable income. These standards are applied to all individuals in all circumstances automatically (*Please see related extension publication for details at <http://www.ces.uga.edu/Agriculture/agecon/pubs/manage.html>*).

C. Homestead Provisions

The homestead provisions actually take effect as soon as the bill was signed by the president last April. The following changes in homestead exemptions are introduced in the new law:

1. The new law now requires home ownership for a minimum of 40 months. This means that if you filed for bankruptcy and you purchased your new home within the last 3.3 years, that home will no longer be spared from the creditors, even if the home is located in the state that offers homestead exemptions. Five states (Florida, Iowa, Kansas, South Dakota, and Texas) that have unlimited homestead exemptions will be most affected by this change.
2. The new law limits the homestead exemption to \$125,000 if the property was acquired within the 40-month or 3.3 year period. Homes that were purchased prior to the cut-off, however, will still qualify for the full exemption allowed in the state where it is located.
3. A 2-year state residence requirement has to be satisfied in order to enable the filer to use the exemptions allowed in the state of residence.

The extension publication *Understanding the New Bankruptcy Law* (available at <http://www.ces.uga.edu/Agriculture/agecon/pubs/manage.html>) contains specific homestead provisions applicable to bankruptcy filings in the state of Georgia.

Historical Bankruptcy Filing Trends

A compilation of bankruptcy filing statistics from U.S. Courts over the period 2000 to 2004 (Table 1) indicates that there indeed has been an increasing trend in bankruptcy filings, especially Chapter 7 cases, in the country. Consumer-debt related cases comprise the bulk of the cases, with the proportion of consumer to total filings increasing annually from 97.2% in 2000 to 97.9% in 2004. The proportion of Chapter 7 bankruptcies range from 68.55% (2000) to 71.24% (2004).

(Continued on Page 4)

Important Reminder:

The **NEW LAW**

becomes fully

effective on

**OCTOBER 17,
2005!!!**

Going bankrupt the much harder way (Continued from Page 3)

In Georgia, the proportion of consumer to total filings has been decreasing since 2001 (Table 1). In 2004, this proportion stands at 97.32%, down from its peak of 98.34% in 2001. Notably, the Chapter 7 filing proportions in the state (ranging from 36.69% in 2000 to 46.50% in 2004) are significantly lower than national levels throughout the five-year period.

Among the 12 district courts in the country (encompassing 50 states and U.S. territories, i.e. Puerto Rico (PR), Virgin Islands (VI), Guam, and Northern Marianas Islands (NMI), two districts (Districts 5 and 11) had the two lowest proportions of Chapter 7 filings (please see detailed information in the extension publication at <http://www.ces.uga.edu/Agriculture/agecon/pubs/manage.html>). Notably, these two districts include the Southern states of Louisiana, Mississippi, Texas, Alabama, Florida, and Georgia.

Analysts have pointed out that the culture in the South influences the bankruptcy filing trend. They contend that “there is more social pressure in the South to pay off your debt” (Axtman). Thus, in these areas, fewer people opt for the “fresh start” style of Chapter 7 bankruptcy and more debtors try hard to honor their debts under restructuring plans allowed in Chapter 13. Thus, the Southern states are expected to embrace the new bankruptcy law more easily than other areas in the country where debtors are more used to take the Chapter 7 bankruptcy refuge.

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U.S. Courts. *Bankruptcy Statistics*. Available online at <http://www.uscourts.gov/bnkrpctstats/statistics.htm#quarterly>

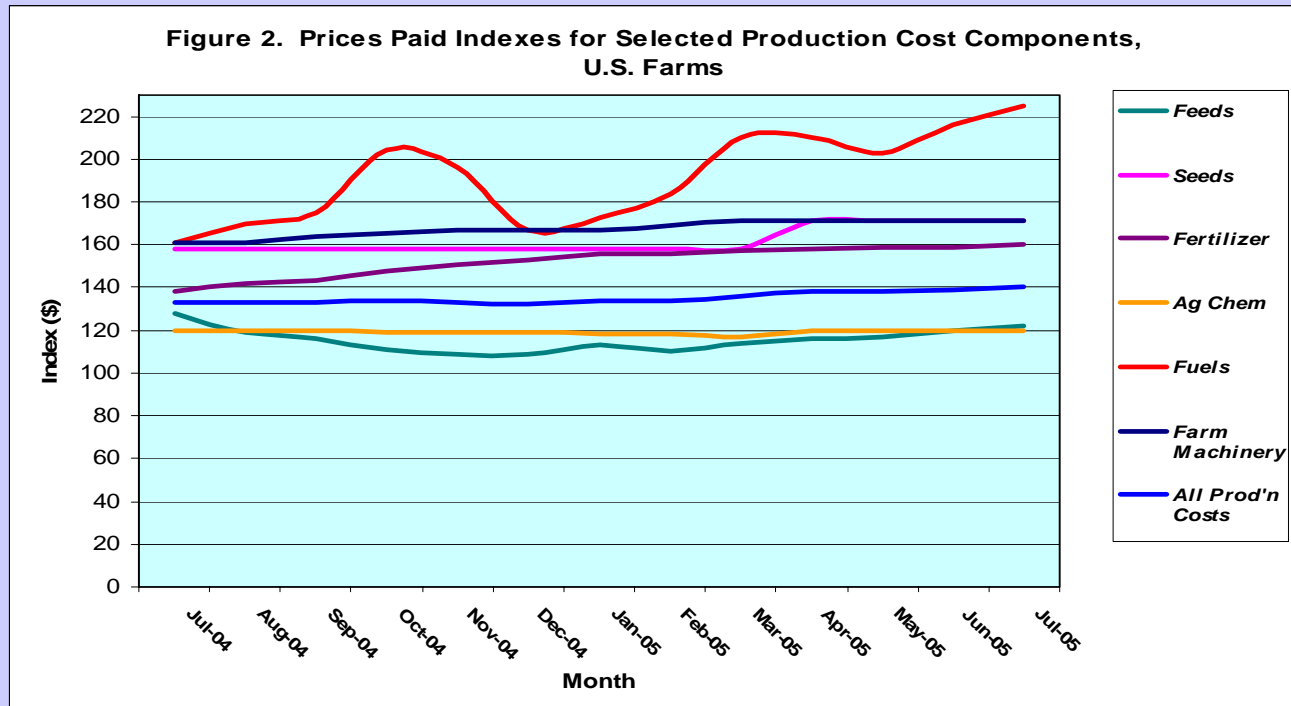
By: Cesar L. Escalante , Assistant Extension Professor

Table 1. U.S. and Georgia Bankruptcy Filings (No. of Cases), 2000-2004

Categories	United States					Georgia				
	2000	2001	2002	2003	2004	2000	2001	2002	2003	2004
Total Filings	1,253,444	1,492,129	1,577,651	1,660,245	1,597,462	59,927	70,095	75,713	81,205	77,960
Business	35,472	40,099	38,540	35,037	34,317	1,012	1,162	1,359	1,585	2,090
Consumer	1,217,972	1,452,030	1,593,111	1,625,208	1,563,145	58,915	68,933	74,354	79,620	75,870
% Consumer	97.17	97.31	97.56	97.89	97.85	98.31	98.34	98.24	98.05	97.32
By Type										
Chapter 7	859,220	1,054,975	1,109,923	1,176,905	1,137,958	21,985	28,117	32,200	37,200	36,253
Chapter 13	383,894	425,292	455,877	473,137	449,129	37,664	41,676	43,189	43,677	41,400
Others	10,330	11,862	11,851	10,203	10,375	278	302	324	328	307
% Chapter 7	68.55	70.70	70.35	70.89	71.24	36.69	40.11	42.53	45.83	46.50

Source: <http://www.uscourts.gov/bnkrpctstats/statistics.htm#quarterly>

Tracking farm production costs (Continued from Page 2)



Source: USDA – National Agricultural Statistics Service, <http://usda.mannlib.cornell.edu/reports/nassr/price/pap-bb/2005/>

The trends in Figure 2 indicate that fuel is expectedly the most responsive cost item to oil price increases. Fertilizer and seed costs register the second and third most sensitive reaction, respectively, to such price increases. Farm machinery costs have gone up by only 10 points over the last twelve months. Smaller increases were registered in some other production cost components (farm supplies and repair, building materials, and farm services) while others have either remained stable (livestock and poultry, agricultural chemicals, and autos and trucks) or decreased from their levels last year (wage rates and feed). Feed costs, for instance, have increased to 122 in July compared to its June level of 120, but decreased by 4.7% from its July 2004 level of 128, owing to decreasing prices for hay and forages.

While July 2005 price paid indexes for certain cost components like seeds, fertilizer, fuels, and farm machinery have gone up significantly (i.e. 10 to 64 points) from their July 2004 levels, the overall production cost index has only gone up by 7 points for the same one-year period. Georgia farms' overall production costs could possibly fare better than this national estimate, considering that the abundance of rain during the summer months could have been translated to even greater production cost savings (irrigation costs) for crop farmers.

The Consumer Price Index (CPI) has posted a big increase of 0.5% in July, although the core CPI which excludes food and energy was estimated to be just 0.1 percent higher. But the core inflation could not be expected to stay low longer, given the fact that gas prices over the past week, according to the Energy Information Administration, have registered an average cost increase of \$0.18.

Meanwhile, the Federal Reserve has increased again on August 9 the federal funds rate by a quarter of a percentage point to 3.5%, the 10th increase in a span of 12 months. As an immediate reaction, banks increased their prime rates to 6.5%. Quickly, short term and variable rates were expected to rise as well as these rates are indexed to the banks' prime rates. The rate increase is meant to keep a lid on inflationary pressures, especially fueled by the current trend in oil prices.

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