

# Restrictive bankruptcy bill to remain in place for Hurricane Katrina victims

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The Bush administration made clear this week that it will not revoke or delay a law that will make it harder for tens of thousands of working-class Americans to file for bankruptcy. With the support of the White House, Republican congressmen rejected calls from consumer groups and some Democrats to place a moratorium on the bill's provisions for victims of Hurricane Katrina.

The government and the media made much of an announcement on Wednesday that the Justice Department would use a provision of the bill to waive a requirement that bankruptcy applicants in parts of Louisiana and Mississippi undergo credit counseling before they file. However, this is only one of the provisions in the law that makes it more difficult for consumers to use bankruptcy as a last resort to escape from their debt obligations.

The new bankruptcy law, passed in April 2005 with substantial support from the Democratic Party, is scheduled to take effect on October 17. It places restrictions on the ability of individual debtors to file for Chapter 7 bankruptcy, which includes the cancellation of all debts. In particular, individuals who either have incomes that exceed the state median or who can pay at least \$100 a month to creditors must file instead for Chapter 13 bankruptcy protection. Under Chapter 13, filers are required to follow a three- to five-year debt repayment plan to pay off some of their creditors.

The legislation was virtually written by the financial industry, which stands to reap substantial profits by squeezing more from debtors. It is one of the most overtly class-based, pro-business pieces of legislation passed during Bush's second term.

In addition to waiving the counseling requirement, Assistant Attorney General William Moschella, in a

letter to House Judiciary Committee Chairman James Sensenbrenner on Wednesday, said that the government program that manages bankruptcy filings "will consider income loss, expense increase, and other adverse impacts of a natural disaster to constitute 'special circumstances' " in determining whether to seek court enforcement of the Chapter 13 bankruptcy requirement.

However, this statement provides no guarantee that hurricane victims will be given any leeway, but only requires that the government take their circumstances into consideration. The many other provisions of the law, including one that will make it easier for landlords to throw out tenants who have filed for bankruptcy, remain in effect.

The purpose of the Justice Department's statement was to make a show of concern for the victims of the hurricane while ensuring that the draconian bankruptcy law is neither delayed nor repealed. Sensenbrenner, a Republican from Wisconsin, rejected outright any suggestion that the legislation be changed. Opponents of the bill "ought to get over it," he said last month.

This attitude stands in sharp contrast to the speed with which the administration moved in the aftermath of Katrina to suspend existing laws and regulations on corporations, including the Davis-Bacon Act, which requires that companies receiving federal money pay their workers the prevailing local wage.

Many victims of the hurricane have seen their houses destroyed, lost their jobs and been burdened by substantial new living expenses after being evacuated from their homes. These victims have received very little aid from the federal government, and what they have received is quickly drying up.

Shortly after the hurricane, the Federal Emergency Management Association (FEMA) announced a program to give victims \$2,000. This was later

cancelled in favor of a program to provide the victims with assistance to pay for up to three months of housing costs.

The government housing assistance program will come to an end just as other factors come together to push hurricane victims into financial crisis. The *Wall Street Journal* reported on October 6 that many workers have received paychecks from their employers during the first several weeks following the hurricane, under the assumption that they might be able to return to work quickly. However, many of these companies are now moving to terminate these employees.

Mortgage firms and banks that have allowed homeowners or individuals to put off paying regular bills will be ending this practice by the end of the year and will demand that individuals make up for lost payments. Different banks put in place different policies after the storm hit, but most involved a 60- to 90-day suspension of payments, expiring in November and December.

Poor residents with subprime, high-interest loans (a last resort for borrowers with a poor credit history) will have even less leeway than those borrowing from the more traditional lenders. The Mortgage Bankers Association estimates that at least a third of the 360,000 housing mortgages affected by Hurricane Katrina are subprime.

A survey done by the New Orleans-based Association of Community Organizations for Reform Now (ACORN) found that only half of the subprime lenders had suspended payments for at least 90 days, with some offering no payment suspensions. The report ("Another Crisis in the Making: How the Subprime Mortgage Industry is Sandbagging Katrina-affected Homeowners") found that "most subprime servicers are only suspending payments, late fees, and credit reporting for 30 days, and many of these are only granting relief on a case-by-case basis. Some subprime servicers say they will extend relief after 30 days 'if conditions merit'; however, a few have said that 30 days is the maximum they will grant."

Hurricane victims who fall behind on their housing payments could face foreclosures on their homes, losing the only remaining asset that many of them have. Late or missed payments will also lead to reduced credit scores, making it harder for them to receive loans in the future. Credit-reporting agencies have refused

requests from consumer groups to make allowances for those affected by Hurricane Katrina.

ACORN representative Bruce Dorpalen told *ConsumerAffairs.com*, "People aren't going to complete their recovery from this disaster in one month, or even in the first three months. Negative information coming into the credit files of hurricane victims could devastate their chances to recover by driving up the cost of credit, and hurting chances to qualify for jobs or apartments."

In its October 6 article, the *Wall Street Journal* noted that insurance payments will also be coming due soon. According to the newspaper, Louisiana's insurance commissioner J. Robert Wooley "said he anticipates 'a flood of phone calls' from cash-strapped residents once a moratorium blocking insurers from dropping policyholders who fall behind on their premium payments ends Oct. 26."

The announcement on the bankruptcy bill comes as legislation to extend Medicaid benefits to all hurricane victims has stalled in Congress, apparently at the urging of the White House. Instead, the hurricane disaster is being used to justify across-the-board cuts in all social programs.

In remarks on Tuesday, Bush repeated his insistence that "Congress needs to pay for as much of the hurricane relief as possible by cutting spending." He added, "I will ask them to make even deeper reductions in the mandatory spending programs than are already planned. As Congress completes action on the 2006 appropriation bills, I call on members to make real cuts in non-security spending."



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