DEBTORS IN CONSUMER BANKRUPTCY: NAVIGATING 2005 BANKRUPTCY REFORM

by

Levi Nelson Pace

A dissertation submitted to the faculty of
The University of Utah
in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

Department of Economics

The University of Utah

May 2013

The University of Utah Graduate School

STATEMENT OF DISSERTATION APPROVAL

The dissertation of **Levi Nelson Pace**

has been approved by the following supervisory committee members:

David M. Kiefer	, Chair	**3/13/2013** Date Approved
Richard Fowles	, Member	**3/7/2013** Date Approved
Lance Girton	, Member	**3/7/2013** Date Approved
Jean M. Lown	, Member	**3/7/2013** Date Approved
Thomas N. Maloney	, Member	**3/7/2013** Date Approved

and by **Thomas N. Maloney** , Chair of

the Department of **Economics**

and by Donna M. White, Interim Dean of The Graduate School.

ABSTRACT

In response to rising consumer bankruptcy filing rates, federal bankruptcy reform under the Bankruptcy Abuse Prevention and Consumer Prevention Act of 2005 (BAPCPA) reduced households' demand for bankruptcy through a variety of measures that made it less generous. To evaluate impacts of reform beyond plummeting filing rates, this study introduces a unique dataset of Utah bankruptcy filers from 2003-2007 that reveals changing consumer characteristics and outcomes during the bankruptcy process.

Compared to the state's general population, households in the bankruptcy sample have lower incomes, higher poverty rates, more unmarried individuals, and lower home ownership rates. More of the debtors filing since BAPCPA attempted partial repayment under Chapter 13 rather than seeking a Chapter 7 discharge. Cases under both chapters took longer to complete and were more likely to be dismissed. Households entering bankruptcy postreform were more likely to have a recent debt collection proceeding before filing and a subsequent bankruptcy after filing. The percentage of medical debt rose and share of credit card debt fell for cases filed under BAPCPA compared to before. Among Chapter 7 filers, we observe higher income and more households with nonexempt assets. Chapter 13 cases postreform exhibit a lower share of secured debt and the absence of a significant increase in the percentage of debt repaid.

Relative to those filing for the first time in 8 years, repeat bankruptcy filers were more likely to have children, mortgages, and medical debt. BAPCPA appears to have reduced repeat filings. Self-employed, repeat bankruptcy filers in large households with an income-earning spouse tended to choose Chapter 13 over Chapter 7. More income and student loans are also associated with preferring Chapter 13. Married filers with higher levels of debt, particularly medical and secured debt, are more likely to file jointly than individually, as are filers with government assistance as an income source. Joint filings were less common after BAPCPA reform than before.

TABLE OF CONTENTS

LIST OF FIGURES

Figure

CHAPTER 1

INTRODUCTION

Examining the characteristics of households going through the bankruptcy process provides a window into choices made by people in financial distress as they navigate a legal system offering conditional relief from debt collection. Extensive reform of bankruptcy law in 2005 creates an opportunity to study bankruptcy behavior under contrasting regimes. In 2011, an individual was as likely to file bankruptcy as graduate from college or file for divorce (Porter, 2012). The singularity that year in the number of consumer bankruptcy filings shown in Figure 1.1 is one metric of the impact of bankruptcy reform, which was intended to curb the long-term trend of increased bankruptcy filings.

This study employs an original dataset of bankruptcy filings from a particular judicial district with a high filing rate to shed light on the consumer bankruptcy experience and evaluate bankruptcy policy. Utah households in bankruptcy before and after the reform are different from those in other states in terms of their characteristics upon entering bankruptcy (e.g., income and assets) and their experience during the bankruptcy process (e.g., percent of debt discharged and likelihood of successful completion). Revealing comparisons are discovered between households filing with the Utah bankruptcy court and those remaining outside of bankruptcy in the state and in the U.S. Attention is given to the causes of disparities in filing rates between states. This

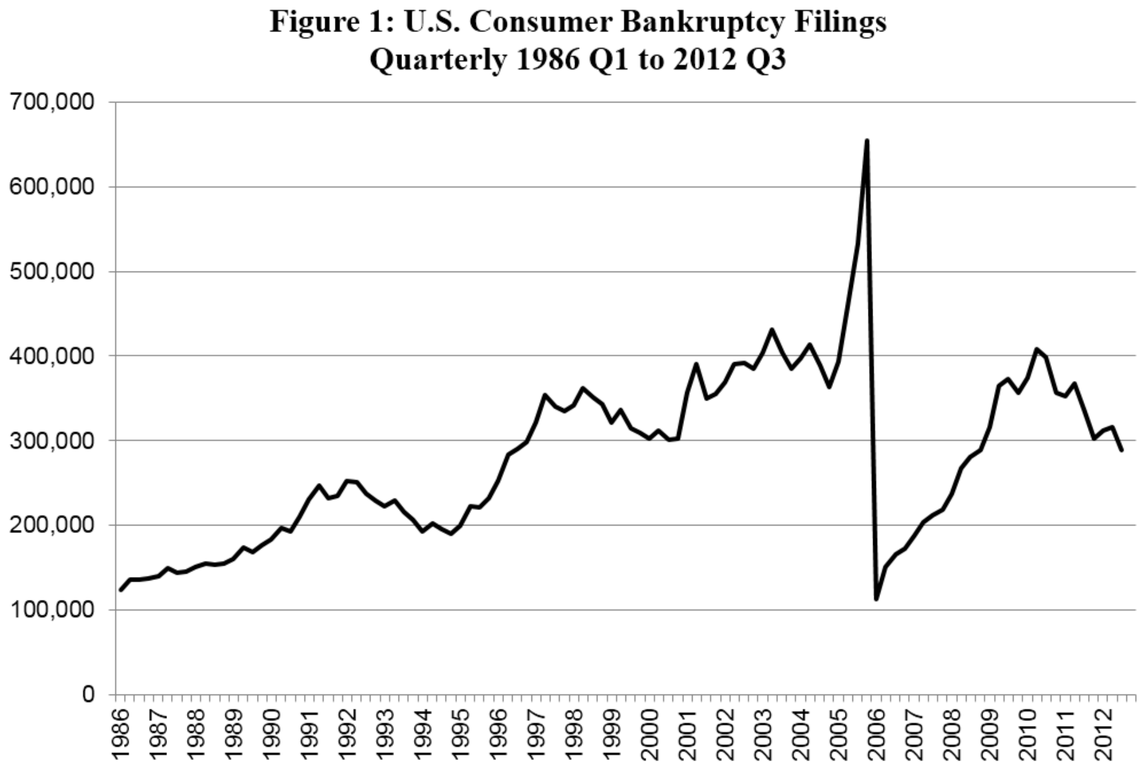

Figure 1.1: U.S. Consumer Bankruptcy Filings, 1986 Q1 to 2012 Q3
Data source: American Bankruptcy Institute (ABI)

study's original positive analysis gives rise to normative implications worthy of future study.

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) intended to encourage debtor responsibility by an income-based rule and additional procedural requirements (Lawless, Littwin, Porter, & Pottow, 2008). The passage of the law was achieved with support from the credit industry and in spite of opposition from consumer advocates and bankruptcy attorneys. Under its many provisions, less debt relief is available to consumers "across the board" (Jacoby, 2005, p. 173). A means test increases scrutiny and makes the simpler and more generous Chapter 7 option unavailable to most debtors with above-median incomes. BAPCPA requires bankruptcy filers to attend a debt counseling course, pay higher filing fees, and submit additional documents as proof of their financial standing. Access to bankruptcy relief is also restricted for people who filed a bankruptcy case previously. The types of debt that cannot be discharged during bankruptcy are expanded somewhat. Additional protections are instituted for creditors with loans secured by collateral. In cases where partial repayment of debts is required, the determination of the minimum amount to be paid is better defined. Key provisions of BAPCPA with excerpts from the law are explained in more detail in the Appendix.

The purpose of BAPCPA is to detect and dissuade bankruptcy filers who are capable of servicing their obligations without bankruptcy. The reform has been viewed as "part of a broader contraction of the social safety net," referring to efforts to reduce redistributive spending over the past two decades (Littwin, 2011). Means testing alone, even if stringent, was seen as unlikely to generate more than a slight decline in the bankruptcy filing rate in the long run (Athreya, 2002). If this earlier prediction is correct, the observed dramatic decline in filing rates following BAPCPA may be either attributed to the law's provisions outside of means testing or characterized as a short-term reaction while attorneys and debtors learn the new system. Liquidity constrained debtors since BAPCPA find it more difficult to afford bankruptcy (Gross, Notowidigdo, & Wang, 2012). Also, the reduction in the filing rate accompanying BAPCPA has been described as merely shifting the problems of default away from bankruptcy courts without prompting financial responsibility, relegating debtors in distress to address default outside the court system (Ausubel & Dawsey, 2004; Lawless et al., 2008).

Consumer Credit, Delinquency, and Bankruptcy

Debt balances and delinquency rates for major types of debt measure demand for bankruptcy. They help explain the bankruptcy filing rate and allow comparisons of Utah households' credit situations to that of households in other states. As indicated by Figure 1.2, Utah households take on heavier debt burdens than U.S. households. Such borrowing would be expected of a young population like Utah's, where average family size is greater than in other states. Total mortgage, auto, and credit card debt balances per capita were an average of $2,399 or 5.3% higher in Utah than in the U.S. for the period 2003-2007.[1] The rise in bankruptcy filing rates over time has been attributed to increased credit access, particularly for households with low income and wealth (Moss & Johnson, 1999).

Utahns generally carried higher levels of per capita mortgage and auto debt than people in other states, 10.4% and 5.1% more, respectively, on average for the period 1999-2010 (see Figure 1.3). This likely has contributed to Utah's high bankruptcy rate compared to the rest of the country. On the other hand, credit card debt per capita is 11.3% lower in Utah than in the U.S. at large. While credit card debt balances ($3,088 per capita in Utah for 2005) are considerably lower than the other two categories ($40,243 combined), credit card debt is more likely to be discharged in bankruptcy. For these debt categories, as with the total per capita debt burden from Figure 1.2, it would be difficult to identify the cause of the decrease in debt levels observed from 2007 to 2008.

[1] Mortgage, auto, and credit card debt are the three largest consumer debt categories. Types of consumer debt not represented by these data from the New York Federal Reserve Bank are student loans, revolving home equity, and other debts that together amounted to 13.7% of total U.S. consumer debt in 2005.

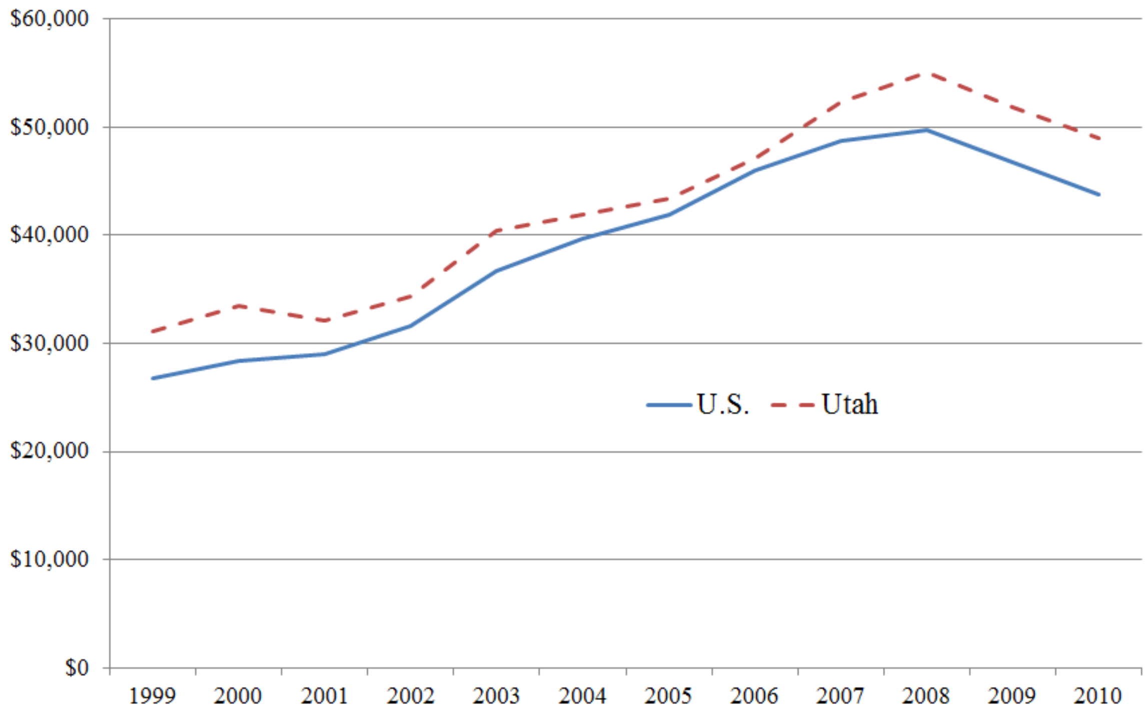

Figure 1.2: Real Consumer Debt per Capita, U.S. and Utah, 1999-2010
Year-end balances of mortgage, auto, and credit card debt, 2010 dollars
Data source: New York Federal Reserve Bank, Debt Balance per Capita

BAPCPA policy may have exerted a negative effect on demand for credit, even as the major financial crisis reduced both supply and demand for credit.

Despite the high per capita debt burdens in Utah, delinquency rates in the state during 2003-2007 are not obviously higher than the national average for the three largest consumer debt categories taken together: mortgages (0.4% higher in Utah), auto loans (52.6% lower), and credit card debt (35.7% lower). For Utah and the U.S., credit card debt consistently has a higher 90-day delinquency rate than mortgage and auto loans. Delinquency data do not explain the surge in bankruptcy filings in 2005 or the subsequent drop in demand for bankruptcy under the post-BAPCPA regime. However, Figure 1.4 does seem to explain the rise in bankruptcy filing rates that happened in 2007 and beyond

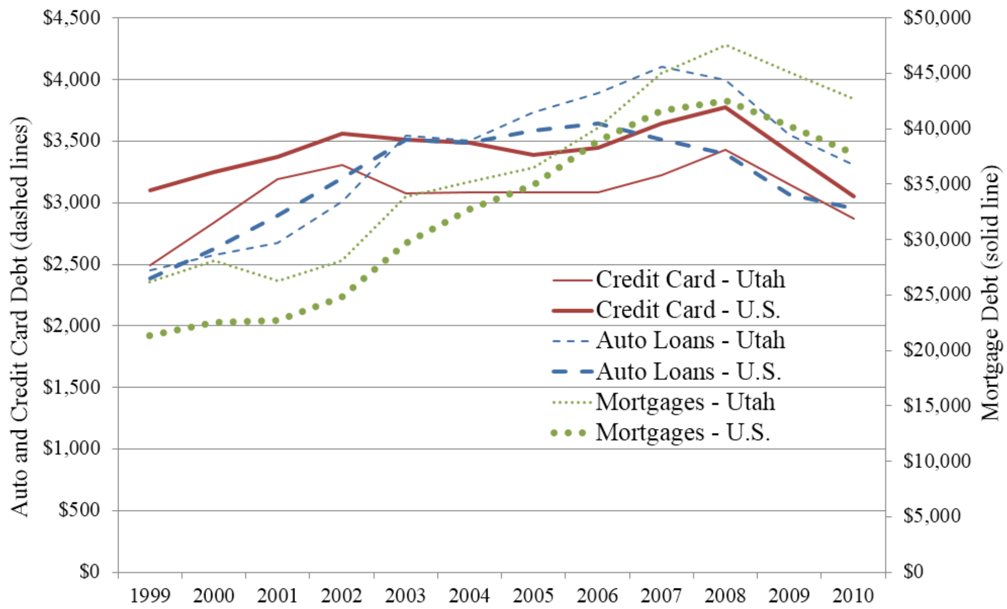

Figure 1.3: Real Consumer Debt per Capita by Type, U.S. and Utah, 1999-2010
Year-end balances of mortgage, auto, and credit card debt in 2010 dollars
Data source: New York Federal Reserve Bank, Debt Balance per Capita

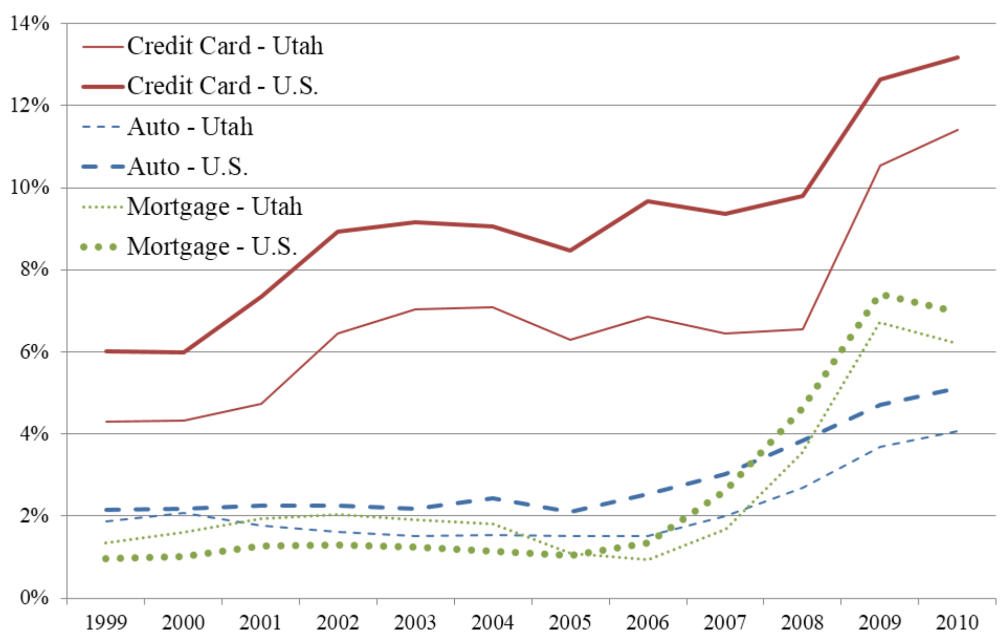

Figure 1.4: Delinquent Consumer Debt by Type, U.S. and Utah, 1999-2010
Balances at least 90 days late as a percent of total balance by category
Data source: NY Federal Reserve, Percent of Debt 90+ Days Delinquent

as exceptional credit market conditions fueled at least a short-term rise in bankruptcy filings in spite of the sweeping reforms that made consumer bankruptcy less attractive than it had been in Utah and the U.S.

Trends in consumer indebtedness and delinquency help explain the bankruptcy filing rate in the U.S. The rising personal bankruptcy filing rate leading up to 2005 (see Figure 1.1) seems to correspond to rising levels of real consumer debt better than measures of debt delinquency, shown in Figure 1.5—namely foreclosure rates and the percent of loan balances over 90 days late—which remained fairly steady. The graph shows no substantial changes in consumer debt or 90-day delinquency corresponding to the October 2005 drop in bankruptcy filings. Levels of real consumer debt did not taper until 2008, and not until 2010 did delinquency rates reverse their upward climb, which had begun following BAPCPA implementation.

Indebtedness, delinquency, and foreclosures are indicators of the underlying demand for the type of debt relief bankruptcy can provide. We have seen that delinquency and foreclosure rates were fairly stable in the years before BAPCPA implementation, while bankruptcy rates rose nonetheless, along with debt per capita. None of the three variables explain the anomalies in the bankruptcy filing rate that accompanied BAPCPA implementation. The bankruptcy rate fell from an average of 0.25% (2004 to 2005) to 0.11% (2006 to 2007) of U.S. consumers. Unprecedented rises in delinquencies and foreclosures, reaching more than triple their former levels, seem to have pressed bankruptcy filings upward from the new low up to an average of 0.19% from 2008 to 2012. Since 2005, the bankruptcy filing rate peaked in the second quarter of 2010 at 0.29%.

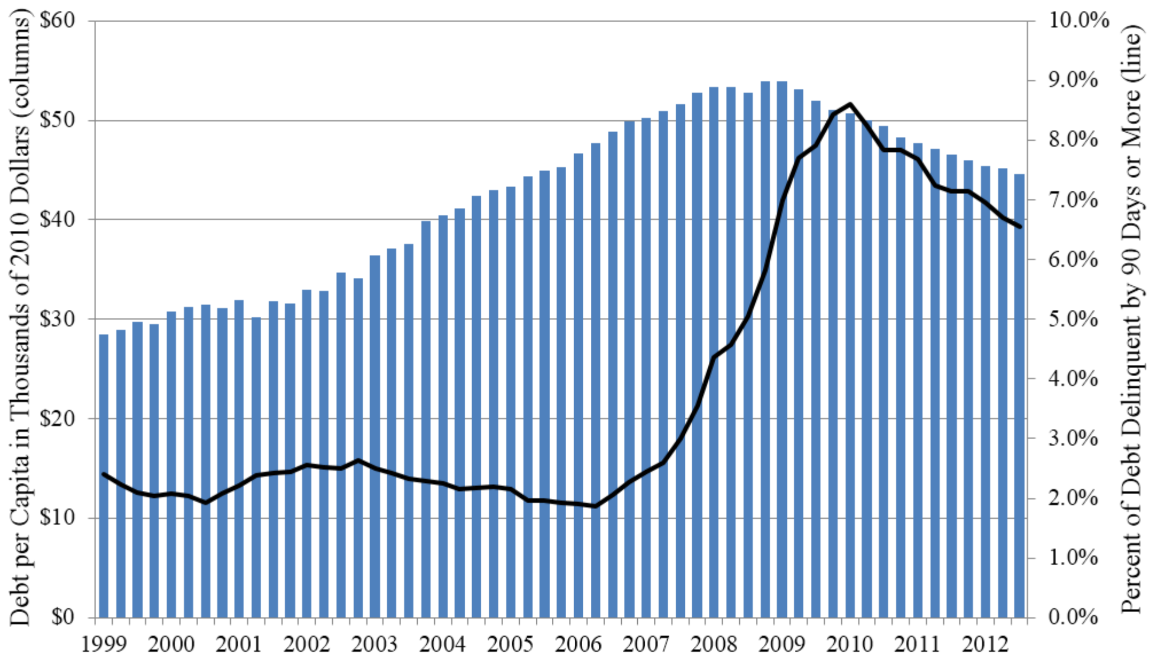

Figure 1.5: Delinquency and Real Consumer Debt, U.S., 1999 Q1 to 2012 Q3
Debt at least 90 days late as a percent of total household debt (line, right axis)
Household debt per person with a credit report (columns, left axis)
Data source: New York Federal Reserve Bank

Chapter 13 bankruptcy filings are often prompted by people's desire to protect their homes from foreclosure. In this way, home owners intend to cure mortgage arrears while foreclosure is stalled by the automatic stay. From 1999 through 2004, quarterly bankruptcy rates for Chapters 7 and 13 track fairly well with foreclosure rates, with bankruptcy rates on average 3.1 times greater than foreclosure rates.[2] However, as we see in Figure 1.6, a spike in the bankruptcy rate in 2005 to 0.39% and a subsequent drop were not preceded by commensurate movement in the foreclosure rate. Even the exceptionally high foreclosure rates that began to emerge in 2007 did not result in bankruptcy rates reaching pre-2005 levels. From 2006 through 2011, the bankruptcy rate

[2] Bankruptcy is a substitute for foreclosure, yet, for example, as economic conditions improve, homeowners' finances, bankruptcy filings, and foreclosures would fall together.

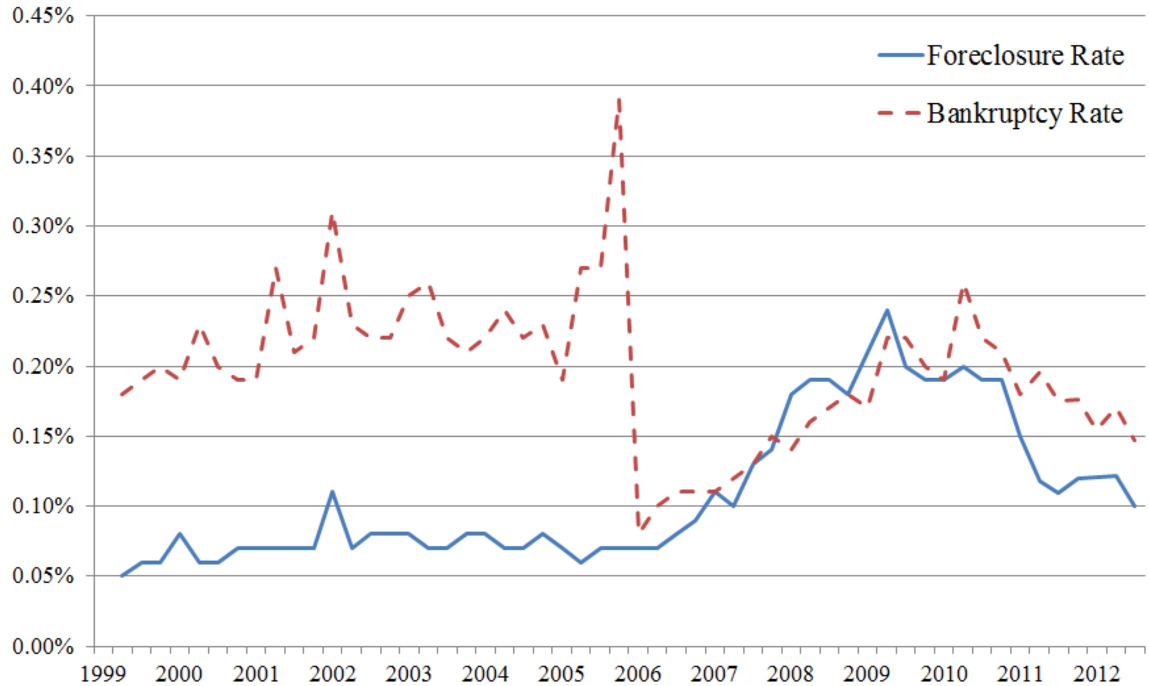

Figure 1.6: Foreclosures and Bankruptcies, U.S., 1999 Q2 to 2012 Q3
New foreclosures and bankruptcies, percent of population with credit report
Data source: New York Federal Reserve Bank

was an average of 1.1 times the foreclosure rate. The two rates seemed to follow each other at this closer distance during that period, although some separation of the bankruptcy rate above the foreclosure rate is noticeable since 2010.

Borrowing behavior and debt delinquency are a function of bankruptcy policy, among other variables. In the face of BAPCPA reforms, households expecting less relief in the event they need to file bankruptcy would tend to borrow less and default on loans less often. On the other hand, banks would tend to lend more freely, knowing consumer bankruptcy is more expensive and less attractive to debtors than before, meaning the risk of repayment is lower.

The Consumer Bankruptcy Process: Chapters 7 and 13

Historically rooted in Western civilization, bankruptcy is sanctioned by the U.S. constitution. The role of bankruptcy is to balance distressed debtors' need for assistance with unpaid creditors' right to collect. Various modern concepts of bankruptcy's functions include providing a fresh start for encumbered debtors, penalizing deviant consumer behavior, helping creditors collect debt, allocating limited funds among competing creditors, and creating a type of consumption insurance (McGregor, Klingander, & Lown, 2001; Ramsay, 1997; Zywicki, 2005). U.S. bankruptcy law has adapted over time as priorities reflect the economic climate and cultural values.

Bankruptcy allows anyone to apply to the court for full or partial relief from their debts. The court determines whether to discharge debts, thus permitting legalized default. During the time a bankruptcy case is pending, the "automatic stay" protects debtors from solicitation or collection by creditors, and debtors only must pay creditors in accordance with court decisions. There are some limits to bankruptcy relief. Certain types of debt are considered nondischargeable, such as taxes and student loans. Payments on debts secured by collateral must be kept current for debtors to retain assets pledged as collateral. Debtors may voluntarily reaffirm a debt contract as an exception to a general discharge received.

The vast majority of consumer bankruptcy cases are either Chapter 7 or Chapter 13, referring to the chapter of US Code Title 11 to which the bankruptcy filer appeals. Debtors, usually under advisement from their attorneys, choose the chapter under which they will file bankruptcy. A Chapter 7 discharge involves the liquidation of any nonexempt assets owned by bankruptcy filers. In only 16.3% of Chapter 7 cases filed in

Utah between 2003 and 2007 were there any nonexempt assets. Even in those cases, the assets were rarely valuable enough for the court to appoint a trustee to oversee their liquidation. Chapter 13 cases involve partial repayment of as much debt as the court deems filers can afford over a 3- or 5-year period, after which all nonexempt debt is discharged. To meet this requirement, filers must have an ongoing source of income. Chapter 13 filers are not expected to relinquish their assets to pay debt—and virtually all of them have nonexempt assets to protect. They need only to make satisfactory progress on a court-approved repayment plan. Chapter 7 is more common and more favorable for most filers because it requires no repayment. Also, Chapter 7 cases are typically completed in 6 months, while Chapter 13 repayment plans are designed to last about 5 years. A small percentage of filers switch to the other chapter after opening their case.

Filing fees differ by chapter. During the 2 years before BAPCPA reform, the Chapter 7 filing fee was $209, and the Chapter 13 filing fee was $194. BAPCPA created a larger differential in filing fees: Chapter 7 $274 and Chapter 13 $189. Finally, 14 months after BAPCPA reform, a major adjustment in fees tended towards equalization: Chapter 7 $299 and Chapter 13 $274. Charges for amendments, trustee withholdings, and mandatory debt counseling are separate from these initial filing fees.

Cross-State Filing Rates

What explains the wide variation in consumer bankruptcy filing rates among states? To explore cross-state bankruptcy differences, the 20 variables in Table 1.1 were selected based on the literature on filing rate differences among the states. Of the demographic, financial, and policy variables, nine are significant in exploratory

Table 1.1: State Bankruptcy Filing Rate as Dependent Variable for Univariate Linear Regressions, Fifty States and D.C., 2006

Demographic Variables	*Coefficient (p-value)*	*Utah*	*U.S.*
Average Household Size	0.261 (0.907)	3.08	2.62
Married Percent of Population Age 15 and Over	-0.021 (0.803)	57.8%	50.4%
Single (Never Married) Percent of Population Age 15 and Over	-0.077 (0.347)	28.1%	30.5%
Divorced, Separated or Widowed as a Percent of Population Age 15 and Over	0.569* (0.003)	14.1%	19.2%
Black	0.077* (0.013)	0.9%	12.4%
Hispanic	-0.052 (0.164)	11.2%	14.8%
Median Age	-0.253 (0.135)	28.4	36.4
Percent of Population Age 25 and Over with a Bachelor's Degree	-0.390* (0.002)	19.2%	17.1%
Financial Characteristics			
Uninsured—Percent without Health Coverage	0.082 (0.352)	16.7%	15.2%
Home Ownership Rate	0.056 (0.387)	73.5%	68.6%
Unemployment Rate, Annual	0.718* (0.037)	2.9%	4.6%
Poverty Rate	0.323* (0.003)	10.6%	13.3%
Median Household Income, Thousands	-0.122* (0.008)	$54,628	$48,201
Income per Capita, Thousands	-0.212* (0.021)	$21,016	$25,264

Table 1.1: Continued

Policy Variables	*Coefficient (p-value)*	*Utah*	*U.S.*
Payday Lending Is Legal†	0.577 (0.510)	Yes	Yes in 40 states
State Garnishment Restrictions Limit Collection More than Federal Law†	-2.353* (0.001)	Yes	Yes in 28 states
Exemption for Personal Property of a Married Couple, Thousands†	-0.019 (0.301)	$16,000	Above $16,00 in 38 states
Exemption for Primary Residence of a Married Couple, Thousands †	-0.007 (0.081)	$40,000	Above $40,000 in 23 states
Public Safety Net, Thousands‡	-0.260* (0.004)	$7,005	$9,543
Chapter 13 Bankruptcy Filings as a Percent of All Consumer Bankruptcies	0.080* (<0.001)	35.4%	37.3%

* This result is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

† These four variables, from Lefgren and McIntyre (2009), are only available for 2000. Unlimited primary residence exemptions are entered as $250,000.

‡ Public Safety Net equals total state spending on Unemployment Insurance, Temporary Aid to Needy Families, Food Stamps, and Medicaid divided by the number of people in poverty.

Notes: (1) The dependent variable is consumer bankruptcy filings per 1,000 households. (2) Several of the U.S. values are population-weighted means of state values, a calculation shown to be very accurate in the five cases where calculated and government-reported values were both readily available. Tables 4.4 and 4.5 provide data for most of these variables for the bankruptcy sample and the general populations of Utah and the U.S., in some cases with more years given.

univariate regressions with the state consumer bankruptcy filing rate as the dependent variable. The year 2006 chosen for this brief analysis falls within the period of our study and is postreform.[3] Values of independent variables are given for Utah and the U.S., which had filing rates of 6.4 and 5.2 per thousand households, respectively, in a year when Utah had the 12th highest rate among the states.[4]

Demographic variables help explain cross-state filing rate variation. The relationship between household size and the filing rate is positive but not significant (see Table 1.1). Similarly, Lown and Rowe (2003) did not find conclusive evidence of the positive relationship expected with a higher ratio of dependents to adults. Yet household size is related to median household income and income per capita, both of which are significant. As for marital status, states with higher percentages of divorced, separated, and widowed individuals have higher bankruptcy filing rates, which we would expect since family transitions cause financial disruption (Fay, Hurst, & White, 2002). A 1991 survey found that 15% of bankruptcy filers reported marital disruption as the cause of their financial difficulty (Sullivan, Warren, & Westbrook, 2000). We can surmise that Utah's filing rate would be even higher if the state were not below the national percentage for divorced, separated, and widowed individuals at 14.1% versus 19.2% (Table 1.1). States with a higher percentage of married or single (never married) individuals do not have significantly different filing rates in this analysis, although marriage has been found to increase the likelihood of bankruptcy (Agarwal,

[3] Multivariate regression analysis based on panel data would be more adequate than single-year, univariate regressions. Data are readily available for all but the policy variables were this analysis to be extended with more data points. The table provides exploratory treatment of the cross-state filing issue, while most of the dissertation uses household data of bankruptcy filers.
[4] See Figure 1.7 for U.S. and Utah filing rates for more years than 2006.

Chomsisengphet, & Liu, 2011). States with a greater proportion of Blacks experience higher bankruptcy filing rates. In Utah, 0.9% of the population is Black, far below the national average of 12.4%. At 11.2%, the Hispanic population of Utah is closer to the percent nationwide of 14.8%. This variable's relationship to the consumer bankruptcy rate is inverse but not significant. Utah's young median age of 28.4 is far below the U.S. median of 36.4. A younger population appears to be associated with higher filing rates among states, but the result is not significant. Finally, lower filing rates are present where a higher percentage of the population has a bachelor's degree, consistent with Lefgren and McIntyre (2009). This result is favorable to Utah, where 19.2% of adults 25 and over have bachelor's degrees, compared to 17.1% nationwide.

Most of the state financial characteristics in Table 1.1 have significant relationships to bankruptcy filing rates by state. In the literature, medical events are a contributing factor in a majority of bankruptcies (Himmelstein, Warren, Thorne, & Woolhandler, 2005; Himmelstein, Warren, Thorne, & Woolhandler, 2009). Substantial medical debt makes filing more likely (Domowitz & Sartain, 1999).[5] The percent of a state's population lacking health insurance is a significant predictor of debt delinquency and a positive, but not significant, predictor of bankruptcy filing (Gross & Souleles, 2002). In our results, the health insurance variable does not seem to capture the impact of medical events and debt on bankruptcy. Health measures that perhaps would be valuable in this regard are disease incidence, birth rates, and life expectancy.

[5] Domowitz and Sartain (1999) classified medical debt as substantial if it amounts to more than 2% of income, sufficient to account for 30% of bankruptcies in 1994.

Representing a major financial resource and more affordable credit access, home ownership should reduce filing rates, as suggested in Table 1.1. However, home ownership rates are not significant here. Although homes with equity and affordable payments are financial anchors, changes in housing prices, questionable mortgage terms, and home purchases beyond owners' earnings could instead make home ownership a financial burden. Poverty and unemployment rates, both of which are low in Utah, tend to be higher in states with more bankruptcy filings. As for income, both measures are inversely related to the filing rate, and Utah had high median household income and low income per capita compared to other states. Utah's large household size seems to account for the state's below average income per capita, based on a high dependency ratio. Median household income is not skewed by large incomes that do not reflect the middle class and lower income groups most common in bankruptcy.[6]

Collection law and the legal culture for bankruptcy differ by state (White, 1998B; Braucher, 1993). BAPCPA's tightening of state domiciliary requirements emphasizes the concern that strategic bankruptcy filers can shop for a favorable jurisdiction. Based on their judges, trustees, and attorneys, judicial districts differ from each other in various dimensions: lenience in receiving Chapter 7 cases (rather than Chapter 13), repayment expectations under Chapter 13 (which affects completion rates), repeat filing rates, and the relative priority given to unsecured and secured creditors in making distributions of debtors' assets (Norberg & Compo, 2007). Meanwhile, state-determined collection laws affect borrowing, default, and bankruptcy.

[6] The highest annual income in a random sample of 200 Utah bankruptcy cases 2003-2007 was $86,000.

Of the state policy variables in Table 1.1, the filing rate is lower in states with more public safety net spending, reinforcing the view that bankruptcy must be understood as a substitute for other elements of the broader social safety net (Littwin, 2011; McGregor et al., 2001). As expected, since aggressive garnishment drives debtors to bankruptcy, filing rates are lower where state garnishment laws limit the amount creditors can collect beyond the federal standard (Berry & Wise, 2012; Lefgren & McIntyre, 2009). Bankruptcy filers are more likely than the general population to use extremely expensive credit, such as payday loans, presumably because they do not have better options (Han & Li, 2011). However, in this analysis, states without restrictions on payday lending did not seem to have higher bankruptcy rates. In any case, payday loans are not a very common type of unsecured debt among households in bankruptcy, with payday loans amounting to merely 1.3% of unsecured debt for our sample, as discussed in Chapter 4. Our preliminary analysis does not show that generous exemptions attract more people to bankruptcy, a result contrary to Ausubel and Dawsey (2001), but consistent with Agarwal et al. (2011) and Lefgren and McIntyre (2009). A high percentage of Chapter 13 cases is a strong indicator for high bankruptcy filing rates, presumably because of the augmented rate of repeat filings under Chapter 13 compared to Chapter 7 (Lown & Rowe, 2003). Incidentally, 2006 was the only year in the past decade when Utah’s percent of Chapter 13 consumer bankruptcies was below the national percentage. Thus, if this positive relationship (between the share of Chapter 13 cases and overall consumer bankruptcy filing rates) holds true among the states for years other than 2006, it could explain Utah’s high bankruptcy filing rate historically, though further analysis would be needed to determine whether the share of Chapter 13 cases had the expected effect on Utah's 2006 filing rate, which apparently it did not.

Consumer Bankruptcy in Utah

Utah is an interesting place to study bankruptcy. As Figure 1.7 reveals, household filing rates in the state have uniformly exceeded national rates for three decades. This outcome has been ascribed to the state's unique demographics of young families and many children, below-average per capita income, high mortgage payments as a percent of income, generous charitable giving, and high rates of entrepreneurship (Johnson & Wright, 2007; Lown & Rowe, 2003). Compared to other states, Utah has typical exemption allowances for protecting basic debtor assets from repossession by creditors (Lefgren & McIntyre, 2009). Utah is one of seven states that allow payday lending without ceilings on fees and interest rates (Prager, 2009). The state has a similar number of pawnshops and payday lending locations as other states (Prager, 2009). The percent of Utah bankruptcy filings made under Chapter 13 is higher than the national figure by up to 10% for every year but one during the period 1999 to 2008 (Lown & Rowe, 2003; United States Trustee Program [USTP], 2010). Also, the share of Utahns with subprime or no credit scores is in the range of 20% to 30% by county, which is comparable to the national average (Prager, 2009). Utah's bankruptcy court receives more proposals for some debt repayment in bankruptcy compared to most other courts in the country, where partial repayment is not attempted as frequently (Lown & Rowe, 2003).

Consistent with national trends, a dramatic decline in the Utah bankruptcy filing rate occurred when BAPCPA bankruptcy reform took effect in October 2005 (see Figure 1.7). From 2005 to 2006, the Utah consumer bankruptcy filing rate fell 76.3%, a

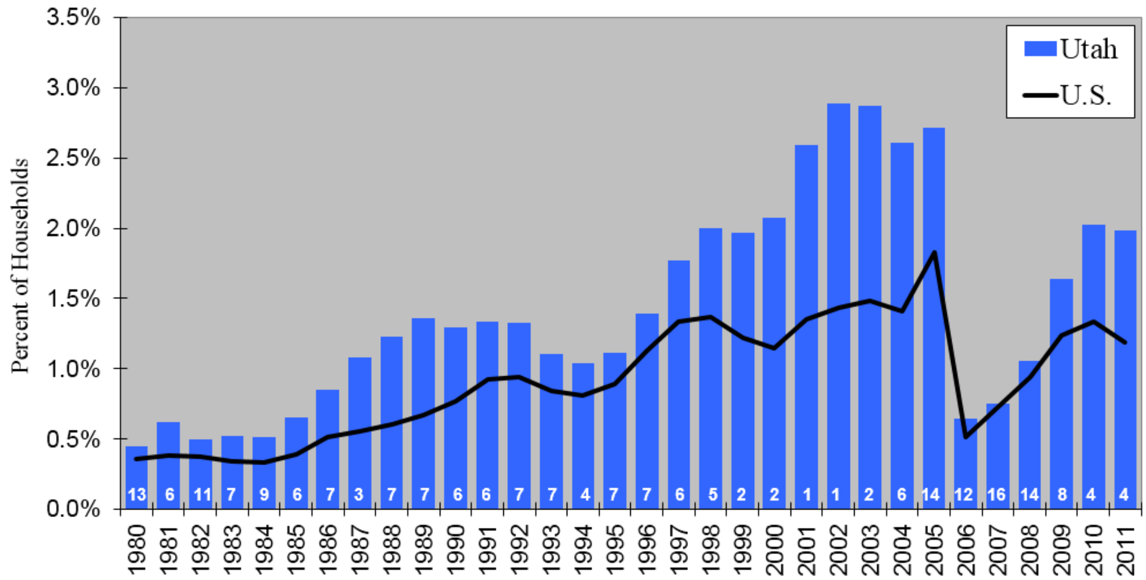

Figure 1.7: Bankruptcy Filing Rate, U.S. and Utah, 1980-2011
Utah's rank among 51 states shows at the base of the columns.
Data sources: Filing data, American Bankruptcy Institute;
household counts, American Community Survey (ACS)

somewhat deeper plunge than that of U.S. as a whole (71.6%). From November 2002 through October 2005, Utah filings averaged 1,874 per month. In contrast, postreform filing levels averaged 533 per month from November 2006 through October 2009. This outcome is striking, since major bankruptcy reform in 1938 and 1979 had little effect on filing rates[7] (Lawless, 2007). To an extent, economic expansions since the 1980s have stalled or even momentarily reversed the upward climb in filing rates, but the modest expansion underway from 2002-2007 is not sufficient to explain what occurred in late 2005. From 2008 to the present, there was a resurgence in filings, averaging 1,260 cases per month from 2008 through 2012 and reaching above 2,000 per month in 2011. This

[7] Some factors in the greater filing rate impact associated with the recent reform, compared to those in 1938 and 1979, are the exceptional level of publicity for the 2005 reform and the fact that it represented a retrenchment in bankruptcy relief afforded.

reversal certainly is connected to the historically deep recession that began December 2007 and the financial crisis that had become disruptive by September 2008.[8] Figure 1.7 shows that the household filing rate for Utah was consistently above 2.5% for the 5 years preceding BAPCPA. Since the 2005 reform, the state's filing rate has ranged from 0.5% to 2.0%. It remains to be seen what bankruptcy rates will be under BAPCPA after the dramatic drop the first couple of years, closely followed by a steady rise that coincided with poor macroeconomic performance, which rise tapered and reversed course in 2011 and 2012.

Figure 1.8 shows Utah bankruptcy filings during a narrower time period, October 2003 to October 2007, reaching 24 months before and after BAPCPA took effect. In the weeks leading up to BAPCPA implementation, financially distressed households rushed to file their bankruptcy petitions under the familiar and more lenient existing law, leading to abnormally high filing rates. National media coverage and powerful financial incentives resulted in long lines at some courthouses as the reform deadline approached. After that brief irregularity and an associated subsequent 3- to 4-month period of extremely low filing rates, a stable flow of bankruptcy filings set in at an average of 488

[8] October 2003 to October 2007 was a period of economic recovery with the monthly Utah unemployment rate falling from 5.5% to 3.0% (Bureau of Labor Statistics, BLS). For sake of comparison, from December 1986 to April 1989, the Utah unemployment rate fell from 7% to 4.5% with no major change in bankruptcy policy. The number of consumer bankruptcy cases filed *increased* by 30.4% from 1987 to 1989, apparently paying little heed to the business cycle improvement (American Bankruptcy Institute, ABI). Another unemployment rate analogy is the steady reduction in the Utah unemployment rate from 5.1% in April 1992 to 3.1% in March 1997, while the number of consumer bankruptcy cases increased by 53.2%. From 1980 to 2011, the standard deviation in the annual percent change in the number of Utah filings was 23.7% (and only 15.7% from 1980 to 2004). The 82% decline in filings associated with BAPCPA was singular. By 2011, 6 years after BAPCPA and after the most severe U.S. recession in decades, the number of consumer bankruptcy filings in Utah had risen to over 1,500 per month, 85% of prereform levels. Besides the recession, Utah's population had grown 11% (Census). Although it is difficult to unravel various demographic and macroeconomic causes of bankruptcy, which is not the object of this study, BAPCPA reform had a marked short-term effect on the choice to file for bankruptcy in Utah, and perhaps a significant long-term impact as well.

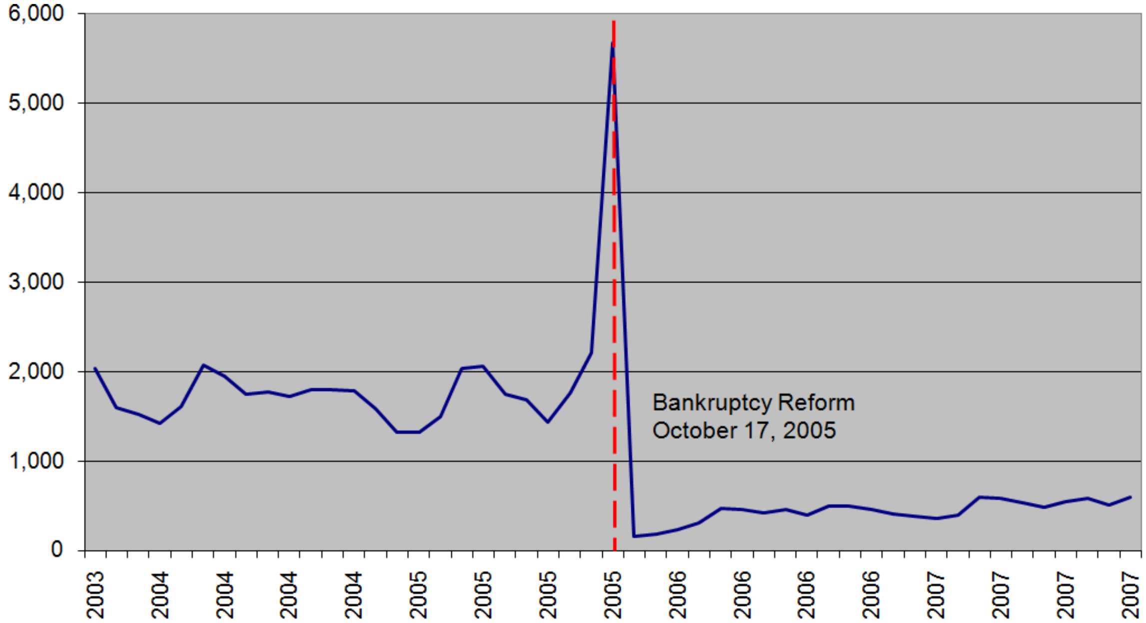

Figure 1.8: Monthly Bankruptcy Filings, Utah, Oct 2003 to Oct 2007
Chapter 7 and 13 cases filed 24 months before or after BAPCPA reform

filings per month, approximately 28% of prereform levels. To a certain extent, BAPCPA reform merely shifted bankruptcy demand forward in time as individuals contemplating bankruptcy timed their filings sooner than they would have without the policy incentive. Nonetheless, the spike in filings is dwarfed by the subsequent decline in the filing rate, suggesting a fundamental and lasting impact in addition to short-term volatility. Further research beyond this study's time horizon will help address the long-term implications of reform on the filing rate.

The decline in filing rates raises questions about what types of households no longer chose to file for bankruptcy under the new law. The transition to the new legal regime may have induced changes in debtor behavior both outside and inside of bankruptcy as bankruptcy relief becomes less accessible under BAPCPA.

CHAPTER 2

LITERATURE REVIEW

Bankruptcy studies are published in a variety of economics, consumer, law, finance, and medical journals. Most of the research explores the decision to file for bankruptcy. For example, Domowitz and Sartain (1999) used a sample of US households in and out of bankruptcy to evaluate the importance of demographic and financial characteristics of households in their decision of whether to file for bankruptcy and in the choice of bankruptcy chapter for those who do. With bankruptcy filing statistics by zip code, Lefgren and McIntyre (2009) focused on how the filing rate in each state is affected by policy variables, such as exemption allowances, garnishment laws, and welfare spending. White (1998A) estimated from 1992 Survey of Consumer Finances data the proportion of households that would benefit from filing for bankruptcy, which ranged from 15% to 50% based on different criteria, larger by any method than the 8% of households that chose to file. Based on court records for bankruptcy cases from 2007 accompanied by questionnaire responses, Himmelstein et al. (2009) concluded that at least 62% of bankruptcy filings can be considered “medical bankruptcies” because income disruption or additional expenses affected individuals who recently experienced medical events, such as personal injury or childbirth.

Relatively fewer bankruptcy studies focus on the characteristics and behavior of households already in bankruptcy. Sullivan, Warren, and Westbrook (1989) presented a landmark study based on court documents filed by about 1,500 households in bankruptcy in five different states during 1981 to learn about the circumstances of these people. Sullivan et al. later updated their study for 1991 and 2001 debtors (Sullivan, Warren, & Westbrook, 1994; Sullivan, Warren, & Westbrook, 2006). Norberg and Velkey (2006) created a dataset of 795 Chapter 13 bankruptcy cases filed in 1994 in seven judicial districts and conveyed a thorough review of the characteristics and outcomes for households in the sample. Norberg (1999) turned to a district in Mississippi to investigate income, demographics, dismissal, and bankruptcy abuse for 71 filers in the 1990s. For the state of Delaware, Zhu (2011) likewise used court records to evaluate the behavior of bankrupt households (n=3,395), including insights into their financial status, adverse life events, and assets.

Several studies review the circumstances of debtors who filed cases in Utah in 1997. Llewellyn and Lown (2005) investigated repeat bankruptcies for 2,194 cases, finding evidence of likely abuse of the bankruptcy system for 10.7% of the households, based on the timing and chapter of repeat filings, an increase over the 1981 estimate of 5.0% for cases filed in other states (Sullivan et al., 1989). Lown and Rowe (2003) performed a sweeping review of demographic and financial characteristics of 2,567 filers, focusing on differences between those who chose Chapters 7 and 13. Chapter 13 filers had more income, debt, and children than Chapter 7 filers. Evans and Lown (2008) employed logistic regressions to evaluate the likelihood of case completion for households in Chapter 13, the majority of which do not complete their cases.

Bankruptcy filers have less income and assets and more expenses and debts compared to households that do not file for bankruptcy (Sullivan et al., 1994).

Households often delay unduly in filing bankruptcy as their financial woes, which may already have been beyond their ability to correct independently, become more intractable and costly to society. Debt repayment is impractical without at least some relief, and most individuals who receive bankruptcy relief still repay a large share of their loans (Sullivan et al., 1989). Yet a subset of filers are found to have sufficient wealth and earning potential to repay much more of their debts than bankruptcy law requires of them (White, 1998A). Postbankruptcy, households face reduced access to credit compared to households without a bankruptcy in the past 10 years: fewer loan approvals, higher interest rates, and lower credit limits (Fisher & Lyons, 2010; Han & Li, 2011). In the labor market, a significant reduction in earnings is observed up to a decade after bankruptcy while controlling for an array of household characteristics, adverse events, and policy variables (Maroto, 2012).

Educational attainment affects the decision to file bankruptcy. Heads of household with more years of education were significantly less likely to declare bankruptcy between 1984 and 1995 in the presence of wide-ranging controls[9] (Fay et al., 2002). U.S. zip codes with a higher percentage of college graduates had significantly lower bankruptcy rates 1999-2001, also with a variety of controls[10] (Lefgren & McIntyre, 2009). Meanwhile, the percentage of high school graduates was a positive but not significant predictor of the zip code filing rate. In contrast to the two studies previously mentioned, Himmelstein et al. (2009) found in their research focused on the medical

[9] Controls in Fay et al. (2002) include income, employment, home ownership, marital status, age, health problems, divorce, financial benefit from bankruptcy, debts, business ownership, local filing rates, attorneys per capita, and state dummies.

[10] Lefgren and McIntyre (2009) employ the following controls: income, employment, home ownership, race, marital status, age, sex, urban versus rural, state exemptions and garnishment restrictions, the local percent of Chapter 13 filings, and restrictions on payday lenders.

causes of bankruptcy that attending college was not significant to the decision to file bankruptcy in 2001 and 2007 when controlling for age, marital status, home ownership, health insurance, and income. We acquire a more nuanced view of the impact of education on bankruptcy filing rates from three other studies. Compared to the general population, bankruptcy filers since BAPCPA implementation are more likely to have started college without graduating and less likely to have a college degree or higher (Han & Li, 2011; O'Malley & Huston, 2012). The pronounced nonlinearity indicating more bankruptcy filings for "some college" in Table 2.1 confirm the intuitive financial consequences of college success.

Agarwal et al. (2011) find from credit card data that age is a significant positive predictor of loan default and bankruptcy in regressions with a large set of other financial and demographic variables, while coefficients for age squared are negative, identifying a weakening or reversal of the positive correlation between age and bankruptcy in later years. Fay et al. (2002) confirm these results with respect to filing bankruptcy based on a large panel dataset from a longitudinal survey. Lefgren and McIntyre (2009) employ finer age categories with zip code level filing data to show that populations with a higher fraction of people ages 25-29 have significantly higher bankruptcy filing rates, while a higher fraction of people ages 30-39 has a significant negative effect on filing rates.

Lefgren and McIntyre (2009) identify a possible decrease in bankruptcy filing rates (10% significance level) for zip codes with higher percentages of female household heads. Similarly, Sullivan et al. (1989) find for cases filed in 1981 that women were slightly under-represented in seeking bankruptcy relief, at 47% of bankruptcy petitioners and 40% of separate (not joint) bankruptcy filings. Based on that study, women in

Table 2.1: Educational Attainment by Bankruptcy Filing Status,
Three Nationwide Studies

2008 survey of individuals born 1957-1964, NLSY †	*Ever Filed Bankruptcy*	*Never Filed Bankruptcy*
High school or less	52.1%	53.5%
Some college and associates degree	33.8%	25.1%
Bachelor's degree and higher	14.1%	21.4%

1998, 2001, 2004 and 2007 surveys, SCF ††	*Ever Filed Bankruptcy*	*Never Filed Bankruptcy*
High school or less	52.0%	40.7%
Some college	25.1%	17.9%
College	22.9%	41.4%

2007 CBP and U.S. Census ‡	*Filed Bankruptcy*	*U.S. Population*
High school or less	41.1%	46.6%
Some college	43.4%	27.2%
College	15.5%	26.2%

† Individuals born 1957-1964 enrolled in the National Longitudinal Survey of Youth were asked in 2004 and 2008 whether or not they ever filed bankruptcy (O'Malley & Huston, 2012; *n*=12,686).

†† Individuals of any adult age surveyed between 1998 and 2007 for the Survey of Consumer Finances are classified as filers or nonfilers based on whether they ever filed for bankruptcy prior to the survey (Han & Li, 2011; *n*=13,144).

‡ Individuals filing bankruptcy in 2007 surveyed for the Consumer Bankruptcy Project (*n*=2,314) compared to the general U.S. population from the U.S. Census (Porter, 2012).

bankruptcy, like women in the general population, have less than men in mean earnings, assets, and debt, but with relatively high standard deviations. A study of 1991 filers indicates that women accounted for an even 50% of separate bankruptcy filings from three bankruptcy districts (Sullivan et al., 2000). Of 5,441 Nebraska filings from 1996 and 1997, 51.9% were women, including 54.5% of separate filings (Pollack, 1997).

The racial composition of neighborhoods is found to affect filing rates, while controlling for income, educational attainment, unemployment rates, and other demographic and financial variables (Lefgren & McIntyre, 2009). The percentage of Hispanic individuals in an area has an insignificant (though negative) correlation with the filing rate, while a higher percentage of African American individuals in an area is correlated with significantly higher filing rates.

The literature on the impact of BAPCPA is nascent and growing. It was recognized early that the law's impact would depend on how local judges, trustees, and attorneys filtered the new requirements for application in their judicial district (Jacoby, 2005). One impact of BAPCPA was that a "formidable array of new procedural requirements" raised the monetary costs of the bankruptcy process and made bankruptcy more time-consuming and burdensome to those who need it (White, 2006, p. 873). The first empirical study with a random sample of post-BAPCPA bankruptcy nationwide concluded that the law reduced the number of bankruptcy filings by households of all income levels, failing to curb filings by higher income households without similarly restricting low income households (Lawless et al., 2008).

A variety of perspectives prevail regarding bankruptcy policy. Permissive bankruptcy rules give allowance to strategic individuals at the expense of creditors whom courts selectively deprive of their legal right to seek fulfillment of loan contracts (Ausubel & Dawsey, 2001; Fay et al., 2002). The court acts as intermediary in the power struggle between estranged debtors and creditors (Genicot, 2006). Bankruptcy courts sort out which filers merit relief (Weston, 1977). Profit-seeking lenders knowingly extend credit to individuals that possess incomplete information and bounded rationality; individuals need bankruptcy as a last resort for failures they cannot foresee (Ramsey, 1997). Without remedying underlying imbalances in spending and earning, ready bankruptcy relief condones lifelong habits of over-indebtedness that are costly for interest-paying households, particularly those that live on the verge of insolvency (Kilborn, 2005). Bankruptcy is a much-needed aid for honest individuals overwhelmed by financial difficulty beyond their immediate control; bankruptcy allows deserving individuals a fresh start so they can begin contributing more fully to the well-being of their households and the economy (Sullivan et al., 1989). Bankruptcy is a relatively neutral administrative task, merely certifying "the change in contractual obligations that insolvency necessitates" (Weston, 1977, p. 59). Compared to default with bankruptcy relief, default outside of bankruptcy is more burdensome to individuals and less likely to have a remedial outcome, and bankruptcy policy determines the extent to which default and distress are addressed within bankruptcy system (Lawless et al., 2008).

The supply of bankruptcy is perfectly price elastic. Federal and state laws guarantee this option to anyone who qualifies for it, and the price of bankruptcy is not a function of the number of filings (Weston, 1977). As for the price of bankruptcy, filing fees averaged $247 in our sample, as reported in Chapter 4. The largest costs of bankruptcy are nonexempt assets liquidated in Chapter 7 cases (sample mean $524) and payments required in Chapter 13 repayment plans (sample mean $13,139) with 9.2% of payments going to trustee fees—all of which vary based on the assets and income of each filer but do not depend on the quantity of bankruptcies. Thus, prices are uniform for filing fees, but for the prices of repayment and liquidation, third-degree price discrimination reaches for each filer's ability to pay based on extensive information submitted to the court. Although the price of bankruptcy varies based on the income and assets of filers, a horizontal supply curve (see Figure 2.1) is appropriate because the price does not change as the quantity of filings changes.

Bankruptcy law that implements price discrimination is favorable to creditors' efforts to collect a higher percentage of debt before discharge (Holmes, 1989). In the interest of burdened households and at the insistence of their attorneys, lawmakers and courts apply restraint on creditors' eagerness to extract from debtors all money owed. Ninety bankruptcy districts—and individual judges and trustees within each district—communicate their own expectations for acceptable levels of repayment in Chapter 13,

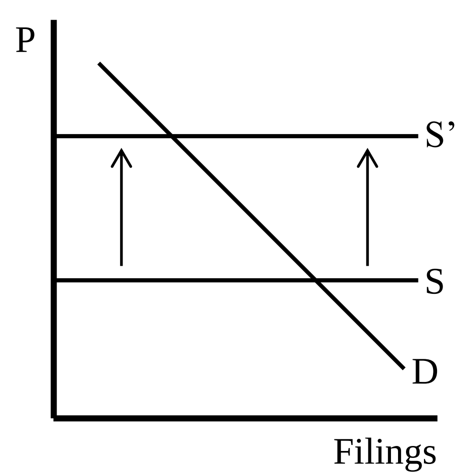

Figure 2.1: Bankruptcy Supply and Demand with Reform
Bankruptcy policy determines the price.

and judges determine differently who should receive discharge under Chapter 7 and 13 (Lefgren & McIntyre, 2009). Thus, average repayment rates and Chapter 13 filing rates differ greatly from one bankruptcy district to the next (Braucher, 1993). The bankruptcy process is designed to tailor a relief plan to each filer that accounts for jurisdictional expectations. Ultimately, the market for bankruptcy is not profit-seeking or competitive, although the court does finance much of its budget needs with filing and trustee fees. Predominantly, the supply of bankruptcy dictates a redistribution in the interest of fairness and practicality. In the process, rewards and losses are distributed through connected markets.

For example, bankruptcy policy creates demand in the market for legal services from bankruptcy attorneys—only 8% of our sample attempted bankruptcy pro se (see Chapter 4). Although the court occasionally intervenes for exceptionally high attorney fees, pricing and the supply of legal services for bankruptcy are almost entirely left up to the market.[11] BAPCPA policy transformed the market for debt counseling, which it made mandatory for all filers (Mecham, 2006). Periodic legal reform enacts discrete reconfigurations of bankruptcy supply that may lower (1978) or raise (2005) the price of bankruptcy.

Clearly, demand for bankruptcy results from strained household finances—unsustainable combinations of spending, income, and borrowing—whether bankruptcy is approached deliberately or arrived at abruptly due to disruptive life events. Bankruptcy

[11] In a personal interview March 24, 2010, Kevin A. Anderson discussed the "no-look" attorney fee in Utah at the time for Chapter 13 cases, up to $2,750 for simple cases, as well as the court's considerations in setting it. Mr. Anderson is the Chapter 13 Trustee, U.S. Bankruptcy Court, District of Utah in Salt Lake City, Utah.

demand is a predictable percentage of households that default on loans (Ausubel & Dawsey, 2004). Creditors drive indebted households to bankruptcy by pursuing invasive collection strategies and legal remedies, such as garnishment. Attorneys create demand by advertising their profitable services (Braucher, 1993). Demand is shaped by reluctance to file due to social norms and fear of diminished future access to credit (Fay et al., 2002; White, 1998B). Common substitutes for bankruptcy include family networks (payments by relatives to individuals in financial distress), debt consolidation (professional help to renegotiate loans and reduce debt payments), and government assistance (unemployment insurance, Medicaid, and other forms of welfare) (Agarwal, 2011; Sullivan et al., 1989).

Bankruptcy acts as a tax on creditors. A portion of the debts bankruptcy courts discharge could be collected by creditors absent court intervention. In the market for credit, basic tax incidence analysis reveals that consumers are more likely to bear the burden of the implicit bankruptcy tax to the extent that demand is inelastic and supply is elastic (Weston, 1977). We have explained bankruptcy's highly elastic supply. Demand for bankruptcy appears to be elastic based on the dramatic decline in filings after BAPCPA implementation raised the price of bankruptcy. Nationwide filings in 2006 and 2007 declined 61.6% compared to filings for 2004 and 2005, but the change in the price of bankruptcy with BAPCPA is more difficult to measure. Our sample has a different group of debtors in the pre- and post-BAPCPA periods, and as noted, the price of bankruptcy is tailored to each household's financial situation.

Making bankruptcy law more permissive may not be in the interest of consumers themselves if the bankruptcy tax is passed on to consumers. When their options besides repayment improve (i.e., permissive bankruptcy), the tax incidence of bankruptcy imposes an increased burden in terms of the additional cost of credit assigned due to consumers' lack of credibility in making a contract (Genicot, 2006), not to mention lingering effects in terms of labor market opportunities (Maroto, 2012). By increasing the cost of credit, bankruptcy reduces aggregate borrowing and excludes consumers who would have borrowed at a lower price. Credit history information allows creditors to require only households prone to bankruptcy to receive less favorable credit offers, thus reducing the redistributive effect from debtors who enter bankruptcy to debtors who pay (Weston, 1977).

CHAPTER 3

THEORY

The choices of debtors before and during their bankruptcy cases provide a valuable context to measure the importance of incentives, risk tolerance, and moral hazard. The government sets bankruptcy policy, and households decide how much to borrow. Households pay their debts or default. Those who default choose whether to enter bankruptcy. Lawmakers and court officials determine loose (permissive, convenient, forgiving) or tight (strict, expensive, pro-creditor) bankruptcy policy. Bankruptcy acts as consumption insurance, where court fees and credit record damage[12] are the deductible, and the policy premium is the more expensive terms of credit resulting from the percentage of debt discharged by the court that creditors otherwise would have collected. Besides loose bankruptcy policy, household borrowing is encouraged by an increase in expected future income, intertemporal consumption preferences characterized by a large discount rate, high levels of risk tolerance, more access to credit, and low interest rates. The impact of income on borrowing is generally positive, but households below a threshold level of current income may borrow more out of desperation to meet basic needs.

[12] Credit reports by the major bureaus retain a flag identifying those who have filed for bankruptcy in the past 10 years. The Fair Credit Reporting Act limits the reporting of priori bankruptcies by credit bureaus to 10 years.

After the debt level decision is made, households either fulfill loan obligations or default on their loans. The probability of default is directly related to the amount of debt held by an individual. The likelihood of default is inversely related to levels of current income and wealth, the latter of which may be subject to repossession or liquidation. Default may be caused by a disruptive life event, such as onset of an expensive illness, the birth of a son or daughter, a move, or a divorce. Policy affects default to the extent that households anticipate filing bankruptcy default strategically, rather than considering default an acceptable option only if it is unavoidable.

Finally, households that have defaulted on their loans choose whether or not to file for bankruptcy under either chapter of bankruptcy. Bankruptcy policy affects this decision by defining how much debt is dischargeable and which assets debtors must surrender. High levels of accumulated debt make filing for bankruptcy more likely, in particular the amount that is in collections. Owning more assets would reduce the incentive to file bankruptcy under Chapter 7, where liquidation is possible. Assets may be strategically shifted to forms eligible for bankruptcy exemptions, such as a primary residences, automobiles, and retirement funds.

Incentives matter to the extent that financial outcomes are important to debtors' decisions about bankruptcy. Certainly, there are nonfinancial considerations, such as a personal sense of honor and integrity in keeping agreements with lenders and the social status associated with solvency at high levels of consumption. Although constrained by character and culture, incentives are relevant as filing bankruptcy is largely a financial decision. Filers receive financial benefit from bankruptcy discharge because debt obligations are removed. On the other hand, the costs of filing for bankruptcy and the loss of any property liquidated may create disincentives to file. The actual impact of incentives packaged in bankruptcy policy depends on the knowledge consumers apply as they earn and spend, save and borrow, repay loans and default, with or without bankruptcy. Heavily indebted individuals commonly inform themselves about their bankruptcy options via an attorney and otherwise soon before they approach their bankruptcy filing and long after making the decisions and experiencing the events that landed them in financial distress.

Risk tolerance arises for households in bankruptcy because their borrowing choices reflect their willingness to accept risks associated with borrowing, such as income disruptions, unexpected expenditures, and changes in interest rates on some loans. Debtors want to avoid negative consequences from default on loans, such as damaged credit scores, wage garnishment, and losses of collateral assets. However, debtors have reasons for accepting such risk, such as the opportunity to fulfill goals such as obtaining more education or owning a home. Furthermore, they may be borrowing during periods when their income is perceived to be temporarily low in order to smooth consumption relative their expected lifetime income. The stronger the aversion to committing one's future income in borrowing, the less likely that an individual will satisfy demand for present consumption beyond one's current income and wealth.

The presence of a bankruptcy option may reduce borrowing avoidance on the basis of debtors' inherent risk aversion, if they believe that were they to borrow beyond their means, the court would help them sort it out without too much difficulty. Strict bankruptcy policies that encourage risk aversion may raise debtor vigilance to avoid default on debt. Alternatively, we must acknowledge the possibility that debtors may not be weighing risks and considering outcomes because they are borrowing desperately to cover immediate, pressing needs. Strict bankruptcy policies may also discourage people from moving ahead with business, education, and family goals that often require borrowing and generate lifelong individual gains and widespread societal benefits. Risk tolerance also arises in bankrupt debtors' choice to attempt a lengthy 3- to 5-year repayment plan under Chapter 13 in order to protect assets, while many of these debtors have the Chapter 7 option to seek the relatively prompt discharge of most debt while relinquishing certain nonexempt assets.

Moral hazard yields insight into the bankruptcy process if debtors are less cautious in taking on credit or less determined to repay debt because they have bankruptcy as an insurance policy. One implication of moral hazard in bankruptcy is that debt levels, and even the composition and value of assets, may be endogenous to the decision to file. However, moral hazard is less likely in bankruptcy than for health, life, or fire insurance because of the repetitive nature of borrowing with smaller transactions and an eye towards maintaining access to credit in the future (Weston, 1977). The brief game theory model in this study further explores moral hazard.

Game Theory Model of Bankruptcy

An imperfect information game theory model, Court v. Agent, illustrates incentives in bankruptcy (Rasmusen, 2007). The agent incurs debt (d) to buy a risky asset (a) whose value may be high ($a_{high} > d$) or low ($a_{low} < d$). If the agent acts responsibly, the probability of a_{high} is greater than if the agent acts irresponsibly.[13] The agent's effort to be financially responsible has a cost (r).

The agent facing a_{low} is recompensed by the bankruptcy court, which forgives a portion (1-k) of debt and charges a fee (f), which consists of trustee and filing fees set by the court and attorney fees approved by the court. The fee is paid out of the agent's assets. While k is a percentage, we use a money value for f since filing fees are uniform and attorney fees vary little, although trustee fees are proportional to the amount of assets liquidated or debt repaid. The portion (k) of debts not eliminated by bankruptcy account for major nondischargeable categories, such as secured debt, student loans, past-due taxes, alimony, and child support.[14] Also contributing to k, the court may require repayment of a portion of otherwise dischargeable debt under a Chapter 7 liquidation or Chapter 13 repayment plan. Figure 3.1 uses good and bad luck assigned by nature to represent the possibility of the asset value being high or low. The diagram gives agent payoffs (π_a) for each outcome.

Suppose accepting debt of d = 100 results in either a_{high} = 125 or a_{low} = 75 based on the probabilities given in Table 3.1 for responsible and irresponsible debtors.

The court can avoid moral hazard by satisfying the incentive compatibility constraint in Equations 1 and 2, which are based on the agent's expected payoff from being responsible or irresponsible. We use r = 10 for the cost of being responsible and initially assume the court forgives half of the agent's debt: k = 0.5 and kd = 50.

---

[13] Separate modeling and analysis would be needed to consider normative and economic efficiency questions related to whether careful financial behavior is better than risk-tolerant choices. The labels of responsible and irresponsible reflect prevailing views that financial failure entail an unnecessary and unproductive economic and social loss.

[14] See the Appendix for a discussion of bankruptcy law as it applies to which debts are dischargeable in bankruptcy.

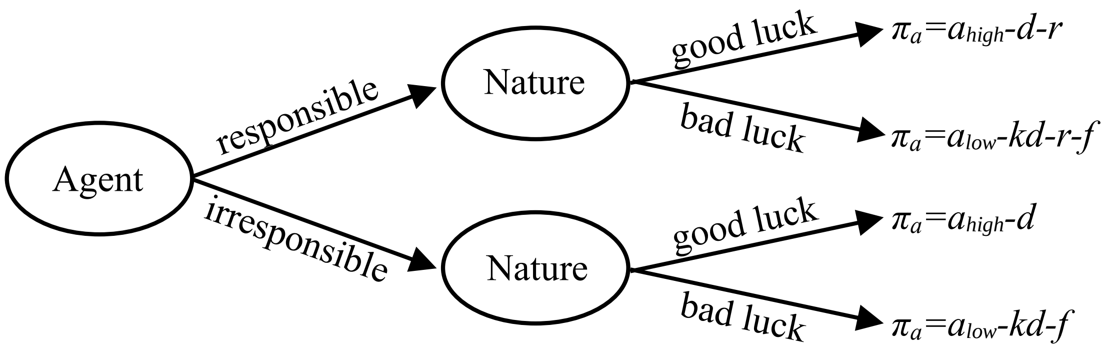

Figure 3.1: Diagram of Court v. Agent Model with Payoffs
Agent payoff, π_a; asset value, a; percent not discharged of debt, k;
debt, d; cost of being responsible, r; cost of bankruptcy, f

Table 3.1: Probabilities for Asset Values
Based on Agent Responsibility

	a_{low} = 75	a_{high} = 125	*Total*
Responsible	0.1	0.9	1.0
Irresponsible	0.5	0.5	1.0

$$E\pi_a(responsible) > E\pi_a(irresponsible) \tag{1}$$

$$0.9(125-100-10)+0.1(75-50-10-f) > 0.5(125-100)+0.5(75-50-f) \tag{2}$$

The court can induce responsibility by setting $f > 25$.

The policy makers who approved BAPCPA felt bankruptcy was too lenient to reliably induce debtor responsibility. BAPCPA increased the costs of bankruptcy (f), including attorney and filing fees. BAPCPA also raised the portion of debts not forgiven by requiring more debt repayment[15], effectively raising k.

[15] To this end, BAPCPA shortened the reprieve given for mortgage payments, classified even the unsecured portion of most auto loans as nondischargeable, and applied means testing to require of more households partial repayment under Chapter 13 rather than complete forgiveness of dischargeable debt under Chapter 7.

In Equation 3, less generous debt forgiveness raises k from 0.5 to 0.55 and kd to 55. The result is that a lower minimum fee satisfies the incentive compatibility constraint introduced in Equation 1.

$$0.9(125-100-10)+0.1(75-55-10-f)>0.5(125-100)+0.5(75-55-f) \quad (3)$$

The court can now induce responsibility by setting $f>20$. A combination of less debt forgiveness and higher fees makes responsible behavior more attractive to the agent than either change separately could accomplish.

Next, in Equation 4, we pursue a more general solution by not restricting k for the constraint given by Equation 1.

$$0.9(125-100-10)+0.1(75-100k-10-f)>0.5(125-100)+0.5(75-100k-f) \quad (4)$$

The result, which can be expressed as $f>75-100k$, is illustrated in Figure 3.2.

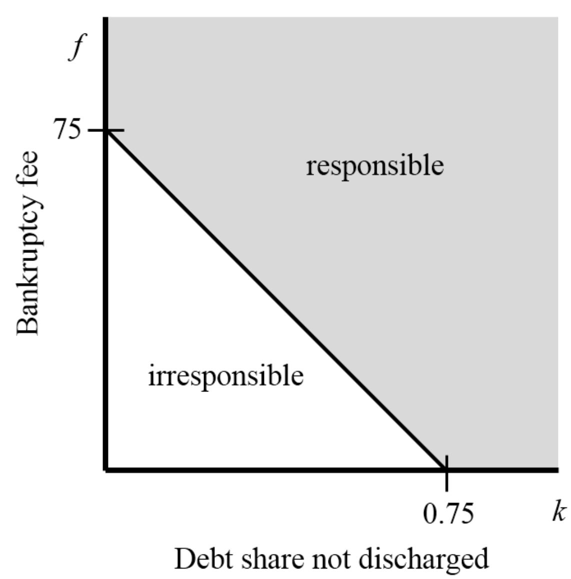

Figure 3.2: Bankruptcy Policy and Debtor Responsibility
$f>75-100k$ as an incentive compatible solution

CHAPTER 4

DATA

Online court records for the Utah district of the U.S. Bankruptcy Court include thorough documentation for all cases filed in Utah from January 1, 1984 to the present.[16] Basic information for 335,728 cases filed through December 2012 was readily downloadable. As indicated in Table 4.1, the resulting summary dataset gives the number of filings, the frequency of Chapter 7 and 13 cases, filers' home addresses, whether filings are joint or single, whether filers have assets, the duration of a case, the outcome (discharge, dismissal, or conversion), and the attorneys and trustees for each case.

While preliminary case data are readily available from online court records, a second, original dataset requires manual data entry from documents produced by debtors or the court. The data provide a detailed financial profile of households at the time of filing and disclose many nonfinancial variables. This study introduces a detailed and unique dataset. One comparable dataset existed for the Utah bankruptcy district prior to this study, based on 1997 cases (Lown & Rowe, 2003), and only a handful of such

[16] This study was made possible by the generosity of the Utah district of the United States Bankruptcy Court for providing exempt access to PACER data that otherwise would have cost thousands of dollars to obtain. Since personal information with identifying information was accessed to construct the dataset for this study, we submitted a request for approval regarding human research to the Institutional Review Board of the University of Utah, identification number IRB_00061209. In correspondence dated February 9, 2013, the IRB stated its determination that this study is exempt from further review.

Table 4.1: Basic Information Readily Downloadable from Court Records

Item	*Description*
Case number	unique identifier
Chapter	bankruptcy under Chapter 7 or Chapter 13
Filer(s) name	names of filer and joint filer
Address	complete mailing address
SSN-4	last four digits of Social Security number
Date filed	filing date
Date converted	for cases converted between Chapters 7 and 13
Date discharged	for filings for which bankruptcy relief is granted
Date dismissed	for filings terminated without discharge
Asset	whether filers own any assets that may be liquidated
Fee	filing fee
Judge	last name of the judge assigned to the case
Trustee	last name of the court-appointed trustee
Other parties	creditors that file a special claim or motion

datasets have been created for any bankruptcy district.

Nearly all of the information indicated in Table 4.2 for the original data set is available in the initial filing submission, although it may be amended or challenged during the case. For example, debtors provide updated information about income, tax returns, or attorney fees by submitting amendments to documents submitted in the initial filing; trustees may challenge the Chapter 13 repayment plan; creditors may revise a claim amount previously submitted; the court may grant specific creditors relief from the automatic stay to repossess property that secures their loan as collateral; debtors may agree to reaffirm a loan agreement, usually for secured debt, to exempt it from discharge; and judges may confirm the debtor’s repayment plan, perhaps with stipulations.

Table 4.2: Original Dataset from Court Records, Details Manually Entered

Item	*Description*
Marital Status	married, single, widowed, divorced
Dependents	gender and ages of each child or adult dependent
Employment	occupation, employer name and address, duration of employment for debtor and spouse
Tenure	homeowner or renter
Prior Addresses	for the past 24 months with dates of occupancy
Prior Bankruptcies	date, case number, and location filed in the past 6-8 years
Attorney	name and address
Filing Expenses	payments already made for attorney, counseling, and filing fee within 12 months, total amount still owed to lawyer
Assets: Real Property	includes mortgage amount, market value for homes
Assets: Personal Property	classified in 35 categories, such as cash, home furnishings, savings accounts, clothing, and automobiles
Exempt Property	each exempt asset identified based on Utah exemption laws
Debtor's Intention in the Disposition of Assets	for Chapter 7 cases only, whether debtor prefers to continue paying debt for each asset used as collateral or surrender it
Liabilities: Secured Claims	identifies each loan secured by collateral with creditor name and address, claim amount, value of collateral property
Liabilities: Unsecured Claims	itemized with creditor name and address, claim amount, etc. most creditors are identifiable as student loan agencies, collections companies, credit card companies, retail stores, medical providers, and payday/title lenders
Other Liabilities: Priority Claims, Contracts & Leases	includes priority claims, mainly taxes and child support, and active leases or contracts
Income	detailed by source (e.g., wages/salary, interest, alimony, social security, and pension) for debtor and spouse
Prior Income	total income, current year and 2 previous calendar years
Expenditures	regular expenses given by 28 categories, such as rent, house payment, food, laundry, recreation, and debt payments
Debtor's Proposed Repayment Plan	For Chapter 13 cases only, amount intended for each secured and priority creditor, percent of unsecured debt to be paid, other details of 3-5 year repayment plan
Court Confirmation of Chapter 13 Repayment Plan	approves the plan proposed by filers and specifies any required changes

The original dataset enables us to create a profile of current bankruptcy filers to address many questions. How has the composition of filers changed in terms of marital status, household size, age of children, stability of residence, occupation, duration of employment, previous bankruptcies, etc.? Has there been a shift in the income of filers, the amount of debt, the type of debts owed, the value of assets, the type of assets, the proposed budgets, the total cost of filing, etc.? Has behavior changed in terms of choice of bankruptcy chapter and repayment amounts in Chapter 13 bankruptcy? We can compare our findings to those of Lown and Rowe (2003) for Utah filers in 1997 and Evans and Lown (2008) for Utah filers in 1999. We can also reference Zhu (2008) for Delaware filers in 2003; Norberg (1999) for Mississippi filers in the 1990s; Sullivan et al. (1989) for filers in Illinois, Pennsylvania, and Texas in 1981; and Himmelstein et al. (2009) for filers nationwide in 2007.

The people in our data only include those in households that filed bankruptcy. Court documents give several pieces of information that illuminate factors leading to each decision to file bankruptcy. For further investigation of the decision to file, data that includes both bankrupt and nonbankrupt households would be needed. To that end, the Survey of Consumer Finances and the National Longitudinal Survey of Youth, for example, have been employed to great avail. That avenue of research has been fruitful and is well-traveled. Neither dataset gives state-specific results, and neither offers much information about subjects’ bankruptcies.

Unfortunately, we do not have data on the gender, race, age, or educational status of bankruptcy filer.[17] We have no estimate from our sample for whether the bankruptcy process serves a percentage of female filers comparable to that found in the general population, although we discussed this issue previously[18] (see Literature Review). Likewise, we lack the data to ascertain the impact of bankruptcy policy in general and BAPCPA in particular on people of a variety of educational backgrounds, races, and age categories. These variables would be insightful for an array of descriptive statistics and regression analyses. Finally, a sample with a longer post-BAPCPA time horizon would yield additional insights on the longer-term impact of reform.

Sample Design and Comparison to the General Population

The number of cases to be included in the sample is an important consideration due to the need for reliable results weighed against the feasibility of preparing the dataset set. The sample includes cases filed within 24 months of when 2005 BAPCPA bankruptcy reform took effect. Sample sizes from the bankruptcy literature for significant studies that used case-level court records range from 71 to 3,395.[19] These studies have varying degrees of detail in terms of the number of data pieces collected for

[17] Sullivan et al. (2000) employed a questionnaire to ascertain age, marital status, race, and educational background.

[18] In most cases, gender could be reliably judged based on individuals' names and, if present, the spouse's name. Most court documents do not use gender-specific pronouns or make other references to a person's sex. Names may also suggest nationality or race, but even less dependably than for gender. The age of an adult can scarcely be surmised, except perhaps by the age of dependents. Occupation and employer information give clues as to the likely educational background of some filers. So far, we have embarked on none of these interpretive ventures to better understand the people in our sample, although I believe Sullivan et al. (1989) did for gender.

[19] Sullivan et al. (1989) 1,529 cases from five states with excellent detail; Sullivan et al. (1994) 898 cases from three states, ancillary to their 1989 study; Domowitz and Sartain (1999) 827 cases from five states with moderate detail; Norberg (1999) 71 cases from Mississippi with limited detail; Norberg and Velkey (2006) 795 cases from five states; Eraslan et al. (2007) 1,084 Delaware cases with limited detail; Lown and Rowe (2003) 2,567 Utah cases with moderate detail; and Zhu (2011) 3,395 Delaware cases with less detail.

each case. The number of cases included in our sample is heavily influenced by the resources available for data entry and preparation of the detailed, original dataset. Our sample has more information per case than what was presented in the other studies, except for Sullivan et al. (1989).

Maintaining a consistent sampling ratio for the periods before and after BAPCPA implementation would result in an unbalanced number of records for each period, since 3.6 times more cases were filed in the prereform period compared to the postreform period (see Table 4.3). To obtain balanced counts in the sample of Chapter 7 and 13 cases and of prereform and postreform cases, a stratified sampling procedure with 200 cases was selected, including 50 cases from each category mentioned. Cases were included if a random number assigned to each case was among the 50 highest such values within each of the four categories.

Statistics from 2005 compiled in Table 4.4 suggest the extent to which households in our sample are comparable to those in Utah and the U.S. generally, regardless of bankruptcy status, for the general time period of the study. In 2005, median household income in Utah was 18.3% higher than the national average, but Utah's large household size was an important factor in judging the adequacy of higher household incomes. In

Table 4.3: Stratified Sample of Consumer Bankruptcy Cases
[Number in sample] of [total cases filed]

	Filed Oct 17, 2003 to Oct 16, 2005 before BAPCPA implementation	Filed Oct 17, 2005 to Oct 16, 2007 after BAPCPA implementation
Chapter 7	50 of 34,643	50 of 6,294
Chapter 13	50 of 11,445	50 of 4,002

Table 4.4: Comparison of Bankruptcy Filers in Sample to the General Population, Filers, and Nonfilers, for Utah and the U.S.

	Sample Oct 2003-Oct 2007	*Utah* 2005	*U.S.* 2005
Median household income †	$20,932	$54,813	$46,326
Income per capita	$9,160	$20,814	$25,035
Household size	2.70	3.12	2.57
Marital status			
Married	48.7%	59.9%	53.4%
Single – never married	25.5%	26.7%	28.1%
Single – divorced, separated, widowed	25.8%	13.5%	18.4%
Median age ‡	--	28.5	36.4
College graduates ‡	--	19.2%	17.2%
Median home value †	$128,631	$167,200	$167,500
Homeownership rate	38.4%	73.9%	68.9%
Foreclosure rate	0.8%	1.1%	1.0%
Credit card delinquency rate ††	--	6.3%	8.5%
Self-employment rate	3.1%	5.6%	6.4%
Poverty rate †	17.5%	10.2%	13.3%
Unemployment rate †	5.3%	4.1%	5.1%
Percent without health insurance ‡	--	15.5%	14.6%

Note: Sample values given above are weighted estimates to correct for sample data having an equal number of Chapter 7 and 13 cases, rather than a preponderance of Chapter 7 filings. Sample values for income and home value from 2003-2007 are adjusted for inflation to 2005 values for comparison to Utah and U.S. figures from those years.

† Annual values for these four variables are provided in the next table within this chapter.

‡ Bankruptcy records do not report filers' age, educational attainment, or health insurance status.

†† Credit card balances at least 90 days late as a percent of total credit card balances; see Figure 1.4 for a graph showing more years than 2005; presumably, a high percentage of credit card balances in the sample could be classified as delinquent, but our data do not permit us to make an estimate for 90+ day delinquency rates.

Sources: Sample data; Mortgage Bankers Association National Delinquency Survey; New York Federal Reserve Bank's Consumer Credit Panel; U.S. Census Bureau's American Community Survey, American FactFinder, Current Population Survey, and 2011 and 2012 Statistical Abstracts fact, per capita income in Utah was 16.9% lower than U.S. per capita income of $25,034. Median household income of bankruptcy filers ($20,932) was merely 38.2% of the median income in Utah ($54,813), and the per capita income disparity was similar, with individuals in bankruptcy living with 44.0% of per capita income for the state as a whole. Compared to the rest of the country, more people in Utah were married and fewer were divorced, separated, or widowed. Utah bankruptcy filers in our sample were much more likely to be divorced, separated, or widowed (25.8%) than the general population of Utah (13.5%).[20] Related to household size and the presence of more children in Utah, the median age was much lower in Utah (28.5) than in the U.S. at large (36.4). Utahns were more likely to be college-graduates than residents of other states. Median home values in Utah and the U.S. for 2005 were almost identical, while the homes in our sample were much more affordable. Homeownership among bankruptcy filers is very low (38.4%) compared to the national rate (68.9%) and Utah's rate (73.9%). Foreclosure is about as common among bankruptcy filers as for the general population, which presumably would not be the case if the automatic stay did not protect bankruptcy filers from foreclosure.[21] Self-employment, sometimes related to less financial stability, is less common in our sample (3.1%) than in Utah at large (5.6%) and less common in Utah than in the nation at large (6.4%). Finally, compared to individuals nationwide, Utahns are less likely to have some form of medical insurance, but also less likely to be unemployed or in poverty. Although unemployment is hardly more common in bankruptcy than outside of

[20] This is consistent with the findings from the National Longitudinal Survey of Youth for the U.S. at large, in which 32.9% of individuals with a previous bankruptcy were divorced, separated, or widowed, compared to 21.2% for the general population (Maroto 2012).
[21] Foreclosures are suspended during bankruptcy. The sample data for foreclosure reflect the 12 months previous to filing.

bankruptcy in Utah, poverty rates reached 17.5% in bankruptcy, compared to 10.2% for the state at large, consistent with the income disparity noted above.

Of course, macroeconomic conditions were changing during the period of study, October 2003 to October 2007. Household income was rising in Utah, though not as markedly as in the country at large. As shown in Table 4.5, the Utah unemployment rate fell incrementally from 5.7% in 2003 to 2.6% in 2007. Median home values rose 39.6% in Utah and 31.9% nationwide from 2003 to 2007, with home prices peaking in the first quarter of 2007 for the U.S. and in the fourth quarter of that year for Utah, declining slowly in both cases until the economic crisis intensified mid-2008.[22] Based on general economic improvement during the period of study, absent policy changes, we would expect a somewhat lower bankruptcy rate.

The financial situation of individuals in our bankruptcy sample changed over time relative to the general population in the state and country, as shown in Table 4.5. We observe that nominal median household income for Utah bankruptcy filers in the sample rose an average of 16.3% per year from 2004 to 2007, growing much faster than the 2.2% average annual increase for the state at large. Meanwhile, the poverty rate in the sample fell from above 20% in 2004 to 6.3% in 2007, while the Utah and nationwide rates were fairly stable. An aggressive trend in rising median home values for the bankruptcy sample, which followed the state and national trends, was disrupted in 2006. Foreclosures were becoming less common in Utah at large during 2003-2007, while nationwide, foreclosures began to rise in 2006. All three foreclosures in the sample

[22] Median home prices are from the U.S. Census Bureau's American FactFinder. Home prices' maximums for the U.S. and Utah are based on the Federal Housing Finance Agency's quarterly House Price Index.

Table 4.5: Income, Home Value, Foreclosures, Unemployment, and Poverty
Comparison of sample of Utah bankruptcy filers to the
general population of Utah and the U.S., 2003-2007

	2003 †	2004	2005	2006	2007 †
Household income, median					
Bankruptcy sample (*n*=196)	$19,465 (*n*=12)	$18,777 (*n*=47)	$19,967 (*n*=41)	$24,149 (*n*=36)	$34,204 (*n*=60)
Utah	$49,275	$50,871	$54,813	$54,628	$53,529
U.S.	$43,318	$44,334	$46,326	$48,201	$50,233
Home value, median					
Homeowners in bk. sample (*n*=89)	$70,000 (*n*=3)	$124,832 (*n*=26)	$135,882 (*n*=22)	$101,089 (*n*=14)	$142,000 (*n*=24)
Utah	$156,657	$157,275	$167,200	$188,500	$218,700
U.S.	$147,275	$151,366	$167,500	$185,200	$194,300
Foreclosure rate					
Homeowners in bk.	0.0%	0.0%	0.8%	3.2%	2.1%
Utah	2.0%	1.6%	1.1%	0.7%	0.7%
U.S.	1.3%	1.2%	1.0%	1.2%	2.0%
Unemployment rate					
Bankruptcy sample ‡	10.7%	5.2%	4.9%	0.0%	6.3%
Utah	5.7%	5.1%	4.1%	2.9%	2.6%
U.S.	6.0%	5.5%	5.1%	4.6%	4.6%
Poverty rate					
Bankruptcy sample ‡	26.4%	17.1%	20.5%	9.7%	6.3%
Utah	10.6%	10.9%	10.2%	10.6%	9.7%
U.S.	12.7%	13.1%	13.3%	13.3%	13.0%

Values from the bankruptcy sample are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for each year (see Table 4.3).

† Sample data come from the last 2 months of 2003 and the first 10 months of 2007 in order to cover a 24-month period before and after October 17, 2005 BAPCPA implementation.

‡ Annual sample counts for the unemployment and poverty rates are the same as for median household income where *n*=196. Four bankruptcy filers in the sample failed to report on their income, employment, and home value.

Sources: Sample data; Mortgage Bankers Association National Delinquency Survey; U.S. Census Bureau's American Community Survey, American FactFinder, and 2011 and 2012 Statistical Abstracts happened to households filing from 2005 to 2007, too small a number to make inferences about the foreclosure rate for households in bankruptcy. The unemployment rate in the sample decreased through 2006, much like the rates for the general population, but then unemployment jumped to 6.3% in 2007, perhaps due to the oncoming recession. Overall, economic conditions are not clearly reflected in our bankruptcy sample for the variables in Table 4.5, particularly not for income and the poverty rate. Clearly, during this period of bankruptcy reform, changes in bankruptcy demand cannot be understood without examining BAPCPA and its influence, but first, we will persevere somewhat more to understand economic conditions and demand for bankruptcy, particularly with regards to debt, which is not available in Table 4.5.

Bankruptcy Filings and Case Outcomes

Court records provide a wealth of information for bankruptcy filings during the period October 17, 2003 to October 16, 2007. Table 4.6 addresses filing patterns. Including spouses and children, 607 individuals live in the 200 households included in our sample. In terms of the number of Chapter 7 and Chapter 13 cases filed by debtors, our sample selects an equal number before and after BAPCPA, so we refer to actual numbers based on total filings. During these 4 years, 2.7 Chapter 7 cases are filed for every Chapter 13 case filed. It appears that, as intended, BAPCPA provisions led to more people choosing Chapter 13, with Chapter 13 cases as a percent of all consumer bankruptcy cases rising from 24.8% to 39.1%. This 14.3% shift in the composition of Utah filings is consistent with a nationwide increase of a somewhat smaller magnitude (11.8%). The percent of Chapter 13 cases filed by consumers in the U.S. rose from 26.9% for 2004-2005 to 38.7% for 2006-2007 (USTP, 2010). Of course, the percent of

Table 4.6: Choice of Chapter and Joint Status for Bankruptcy Filings
24 months before and after BAPCPA implementation

	All filings	before BAPCPA	after BAPCPA	*t* value
Number				
Sample	200	100	100	
All cases	56,384	46,088	10,296	
Joint filing status				
Sample†	33.3%	33.0%	35.0%	-0.24
All cases	38.9%	39.3%	36.9%	4.57*
Chapter 7 cases				
Sample	50.0%	50.0%	50.0%	--
All cases	72.6%	75.2%	61.1%	-26.95*

The period before BAPCPA is Oct 17, 2003 – Oct 16, 2005; after is Oct 17, 2005 – Oct 16, 2007.

† Sample values for joint status are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah overall and for the pre- and post-BAPCPA periods (see Table 4.3).

* Difference in means is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05. The critical value of the *t* statistic for a two-tailed situation with 100-200 degrees of freedom is 1.98; for over 1,000 degrees of freedom, it is 1.96.

Chapter 7 cases filed decreased correspondingly after BAPCPA implementation for Utah and the U.S.

The percentage of debtors filing jointly has apparently declined in the past few decades, based on a large sample of consumer bankruptcy filings from 1981, with 57% joint filings for five states which did not include Utah (Sullivan et al., 1989). In Nebraska, 40.6% of cases filed during 1996 or 1997 were joint (Pollack, 1997). That percentage was less than 40% for Utah during 2003-2007 (see Table 4.6), and joint filings became less common under BAPCPA (36.9%), compared to before the reform (39.3%). For the entire period of the sample, 66.7% of the 108 cases filed by married couples were joint. Joint filings are somewhat under-represented in the sample. The sample's increase in the percentage of joint filings after BAPCPA implementation, though insignificant, is misleading, since the true percentage declines.

Many changes in bankruptcy filings occurred following BAPCPA reform: a markedly reduced number of cases under both chapters of bankruptcy, an increased percentage of Chapter 13 filings, a lower success rate for Chapter 7 cases, an increased duration for Chapter 13 cases, and a potential increase in creditor payments under both chapters (see Table 4.7). Total consumer bankruptcy filings in the 24-month period following BAPCPA implementation dropped 77.7% from the number for the corresponding pre-BAPCPA period. The percentage of cases filed under Chapter 7 decreased from 75.2% for the 2 years preceding BAPCPA implementation to 61.1% for the 2 years following. A larger share of cases was dismissed and a smaller share discharged postreform, results that are highly significant for the sample as a whole and for Chapter 7 cases separately; they are present but not significant for Chapter 13 cases. Table 4.7 also makes it apparent that as debtors sought the most favorable chapter for which they could qualify, more cases were converted from one chapter to another after filing—a 40% increase in Chapter 7 to 13 conversions and a 60% increase in Chapter 13 to 7 conversions. In the 24 months after BAPCPA implementation, fewer bankruptcy cases were joint filings—whether for Chapter 7 cases (4.6% fewer) or for Chapter 13 cases (2.8% fewer). Couples were holding back from filing at all or were more likely to choose to file individually. Individuals and couples who managed to file bankruptcy (under either chapter) were likely to obtain somewhat less favorable treatment because of BAPCPA.

Table 4.7: Selected Characteristics of All Chapter 7 and 13 Bankruptcy Cases in Utah 24 months before and after BAPCPA implementation, October 17, 2005

	Chapter 7			*Chapter 13*		
	Before BAPCPA	*After BAPCPA*	t *value*	*Before BAPCPA*	*After BAPCPA*	t *value*
Filings	34,643	6,294	--	11,445	4,002	--
- Percent of total	75.2%	61.1%	-26.95*	24.8%	38.9%	-26.95*
Joint filings, percent of filings	36.7%	32.1%	7.05*	47.3%	44.5%	3.07*
Assets, percent of filings with nonexempt assets	14.9%	17.1%	-4.61*	99.9%	99.4%	5.14*
Case outcomes †						
- Discharged	94.5%	89.2%	12.93*	36.3%	35.3%	1.04
- Dismissed	4.2%	6.7%	-7.95*	63.7%	62.6%	-0.13
- Outcome not recorded	1.2%	3.7%	-10.14*	0.1%	2.1%	-8.83*
- Converted to the other chapter after filing	4.0% (7 to 13)	5.6% (7 to 13)	-5.16*	1.7% (13 to 7)	2.7% (13 to 7)	-3.58*
Duration, median days	99	104	-11.77*	503	621	-4.94*
- Discharged cases only	99	105	-11.86*	1,303	1,372	-5.31*
- Dismissed cases only	68	76	-1.96	229	321	-6.34*

The period before BAPCPA is October 17, 2003 to October 16, 2005; the period after BAPCPA implementation is October 17, 2005 to October 16, 2007. Source: Analysis of basic court data for all consumer bankruptcy filings as of Jan 19, 2013, *n*=56,384

† Outcomes of consumer bankruptcy cases are given as a percent of filings. These values for discharged, dismissed, and outcome not recorded may not add up to 100.0% due to rounding. Converted cases also belong to one of the other three categories.

* Difference in means is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

Besides the reform steering debtors away from bankruptcy, particularly Chapter 7 bankruptcy, a significantly lower percentage of cases under that chapter were successful in obtaining discharge after BAPCPA (89.2%) compared to before BAPCPA (94.5%). More of the households filing under Chapter 7 had at least some assets the court could claim on behalf of creditors, with the percent rising from 14.9% to 17.1%. As we find later in this chapter, creditors and the court stood to collect partial repayment from more

Chapter 7 bankruptcy filers after BAPCPA implementation, a group with higher income and a greater share of holders of nonexempt assets than the group that chose bankruptcy prior to BAPCPA. As virtually all Chapter 13 cases reported assets, unchanged by BAPCPA, it appears households without assets increasingly did not file bankruptcy.

Chapter 13 cases also became more challenging for debtors. Their duration was 23.5% longer after BAPCPA (621 days) compared to before (503 days), representing an increase in repayment plan length that was intended by bankruptcy reform. Thus, the court extracted disposable income on behalf of creditors over a longer period of time from filers who continued making payments until discharge. Dismissed filers also persisted longer in their Chapter 13 cases. Referring to two common reasons for Chapter 13 dismissal, filers since BAPCPA implementation may have continued longer without allowing some circumstance to prevent their compliance with expected regular payments; alternatively, many filers may have required longer to mend their mortgage arrears, at which point they no longer needed bankruptcy protection to prevent foreclosure.

Household Characteristics

Table 4.8 compares households before and after BAPCPA reform implementation.[23] Sample data are weighted for these estimates to correct for the disproportionate presence of Chapter 13 cases based on our balanced sampling strategy. In general, aside from 3 out of the 16 variables, household characteristics in the sample did not change to a statistically significant extent from before to after BAPCPA

---

[23] In Table 4.8, household size, marital, and employment information is missing for four or five debtors, depending on the specific variable, two before and two or three after, resulting in $n < 200$ for the complete sample and $n < 100$ for before and after BAPCPA. Also, there are 108 spouses in the files, n=55 before and n=53 after reform. For purposes of the “Mean years…” variable, the primary debtor in 166 households has employment.

Table 4.8: Selected Household Characteristics

	complete sample	*before BAPCPA*	*after BAPCPA*	t *value*
Household size				
Mean dependents	1.24	1.14	1.68	-2.07*
Percent with any dependents	55.4%	54.5%	59.3%	-0.67
Mean number in household	2.70	2.60	3.16	-2.21*
- Chapter 7	2.45	2.36	2.94	-1.70
- Chapter 13	3.38	3.34	3.50	-0.43
Marital status				
Single	25.5%	25.8%	24.0%	0.28
Married	48.7%	47.9%	52.3%	-0.60
Divorced, separated, or widowed	25.8%	26.3%	23.7%	0.41
Divorced	20.9%	22.2%	14.7%	1.36
Separated	4.1%	3.5%	6.6%	-0.96
Widowed	0.9%	0.5%	2.5%	-1.16
Employment status				
Mean years at current job, if any	4.56	4.80	3.52	1.43
Employed:				
Debtor	84.6%	83.3%	90.5%	-1.49
- Self-employed	3.1%	3.0%	3.6%	-0.23
Spouse	41.3%	37.8%	55.5%	-1.85
Unemployed				
Debtor	5.6%	6.1%	3.7%	0.76
Spouse	4.0%	3.1%	7.8%	-1.07
Retired or disabled				
Debtor	4.7%	5.0%	3.3%	0.62
Spouse	9.7%	12.3%	0.0%	2.37*
Residence †				
Mean prior addresses, past 2 or 3 yrs	0.75	0.73	0.84	
Percent with any prior address	42.7%	41.5%	47.8%	
Percent homeowners	38.4%	38.9%	36.1%	0.41

The sample dataset is weighted to make the stratified sample representative of the number of cases under each chapter before and after BAPCPA implementation, as indicated in Table 4.3.

* Difference in means is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

† Before BAPCPA, previous addresses for the past 2 years were required. Under BAPCPA, filers report on addresses for the past 3 years. The *t* values for mean prior addresses and percent with any prior address have been omitted because comparisons using our data for these two variables would be invalid. Finally, homeowners include households with mobile homes as a primary residence, though they may or may not own the land for their residences.

implementation. We find that people filing under Chapter 13 tend to come from larger households, with an average of 3.4 people compared to 2.5 people per household filing under Chapter 7. After BAPCPA implementation, the average household size of filers was higher, including more dependents, compared to that of filers before BAPCPA.

Changes in marital status have been found to trigger bankruptcy (Fay et al., 2002; Zhu, 2008). Unfortunately, bankruptcy documents do not reveal how recently a person became divorced, separated, or widowed. In our sample, 25.8% of bankruptcy filers are divorced, separated, or widowed (Table 4.8), compared to only 13.5% of the Utah population over age 15 (American Community Survey [ACS], 2005). The prevalence of divorce prior to bankruptcy fell from 22.2% before BAPCPA to 14.7% afterwards. The overall change in the share of divorced, separated, or widowed filers post-BAPCPA was less pronounced, declining from 26.3% to 23.7%.

Since BAPCPA, bankruptcy filers are less likely to be retired or unemployed, consistent with the decline in the average seasonally adjusted monthly unemployment rate from 4.7% to 2.9% during this time.[24] As expected, the unemployment rate is significantly higher for bankruptcy filers than it is for the general population of the state during both periods. The people in our sample are overwhelmingly employed. They work in retail, government, construction, marketing, educational, healthcare, and real estate, among other sectors. They include a senior account manager with 16 years of tenure, a maintenance worker at a car wash for 10 years, an airline ramp agent for 2 years, and a drywall construction worker with 1 month on the job. In spite of the

[24] On the other hand, spouses of bankruptcy filers are somewhat more likely to be unemployed. Source for Utah unemployment figures: Bureau of Labor Statistics, Local Area Unemployment Statistics, Seasonally adjusted monthly statewide unemployment for Utah, downloaded Nov 2011.

improvement in unemployment for the post-BAPCPA period, average job duration became considerably shorter.

Filers may be less stable in their residence post-BAPCPA, reporting more prior addresses on average for the 2 or 3 years prior to their filing (see Table 4.8). This observation is questionable, however, since the reporting requirement was lengthened from 2 years prereform to 3 years postreform. The change in reporting could account for the entire difference in previous addresses, confounding our ability to report on the importance of relocation as a disruptive event contributing to bankruptcy.

Repeat Bankruptcies and Other Debt-Collection Proceedings

During the period 1984 to 2012, multiple filings exist for 39.4% of individuals in the sample.[25] Nearly one-third (31.5%) of households in the sample have a repeat filing. Table 4.9 indicates that in the first 2 years under BAPCPA reform, the likelihood of bankruptcy filers having a previous filing was reduced, but the increase in repeat bankruptcy in the 5 years following is significant.[26] We note that all 43 households that filed bankruptcy sometime after their cases within the sample also had filed bankruptcy prior to the sample case.

Table 4.10 is fairly consistent with similar analyses of households in bankruptcy in Utah and other states. Llewellyn and Lown (2005) reviewed 1997 filings for a time span of 21 years (1984-2004). In that study, 33.9% of bankruptcy cases were not the debtors' only filing, below the 41% of households in our sample that had repeat filings

[25] The figure 39.4% comes from 200 filers along with 77 joint filers, of whom 78 filers and 31 joint filers have multiple bankruptcies.

[26] In the case of joint filings, Table 4.9 and Table 4.10 present the total number of bankruptcies for the joint debtor with the most filings.

Table 4.9: Multiple Bankruptcy Filings Jan 1984 – Oct 2012 for Households in Sample before and after BAPCPA

	Percent of Households		t *value*
	Before BAPCPA (n=100)	*After BAPCPA (n=100)*	
Any filings 20 years before sample case	29.9%	28.3%	0.80
Any filings 5 years after sample case	9.5%	21.7%	-2.40*
Any filings besides sample case	30.4%	36.3%	-0.88

Values are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3).

* Difference in means pre- and post-BAPCPA is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

Table 4.10: Total Bankruptcy Filings for Households in Sample, Jan 1984 – Oct 2012

Number of Filings	*Before BAPCPA*	*After BAPCPA*
1	59	59
2	13	15
3	13	9
4	9	8
5-9	6	9
Total	100	100

Since these values are unweighted frequencies based on an equal number of Chapter 7 and Chapter 13 cases before and after BAPCPA, the results do not match the weighted estimates given in Table 4.9.

(unweighted percentage). As for the number of repeat filings, 17.6% of households from 1997 filed exactly twice total, compared to 14.0% from the 2003-2007 sample, while 16.2% from 1997 filed three or more times, compared to 27.0% in the later sample. The somewhat higher number of repeat filers in our sample may be attributed to the difference in the time span covered.

Table 4.11 describes bankruptcies and other debt-related court proceedings involving bankruptcy petitioners in the sample. Since BAPCPA implementation, somewhat fewer people with previous bankruptcies in the past 8 years have attempted to obtain debt relief by filing again for bankruptcy, significantly fewer among Chapter 7 filers. The share with a previous bankruptcy within that time frame decreased from 24% to 16%. A minimum waiting period of 2 to 8 years applies to Chapter 7 and 13 bankruptcy filings, depending on the chapters of previous and current bankruptcy cases, as well as their outcomes (see Appendix). For each situation, BAPCPA regulations lengthened or retained the waiting period. Judging by the narrower differences before and after BAPCPA implementation for previous bankruptcies over a 20-year period—from 30% to 28%—the extended waiting period policy does not reduce the number of repeat filers so much beyond 8 years.

For all time periods shown before and after bankruptcy, repeat filings are much more likely for Chapter 13 filers than for Chapter 7 filers. The 50% figure for Chapter 13 cases with a previous bankruptcy in the past 8 years is much higher than the 30% observed for 1994 Chapter 13 filers in five states[27] (Norberg & Velkey, 2006). Repeat

[27] The data from five states used by Norberg and Velkey (2006) allowed them to ascertain repeat filings for debtors during the period 1988 to 2002, 5 years shorter than the period covered by the figures in Table 4.11.

Table 4.11: Households' Other Bankruptcies and Debt Collection Court Proceedings

	Complete sample n=*200* †	*Before BAPCPA* n=*100* ‡	*After BAPCPA* n=*100* ‡	t *value*
Previous bankruptcies, past 20 years				
0	70.4%	70.1%	71.7%	-0.25
1	17.0%	16.5%	19.3%	-0.53
2	5.9%	7.0%	0.8%	2.29*
3	5.5%	6.0%	3.1%	0.97
4-7	1.3%	0.5%	5.1%	-1.99*
Mean	51.5%	50.4%	56.5%	-0.39
Any previous bankruptcies, past 20 years	29.6%	29.9%	28.3%	0.25
Chapter 7	18.8%	20.0%	12.0%	1.09
Chapter 13	58.4%	60.0%	54.0%	0.60
Any previous bankruptcies, past 8 years	22.4%	23.9%	15.5%	1.49
Chapter 7	11.8%	14.0%	0.0%	2.82*
Chapter 13	50.4%	54.0%	40.0%	1.40
Any future bankruptcies, 5 years after	11.7%	9.5%	21.7%	-2.40*
Chapter 7	4.9%	4.0%	10.0%	-1.17
Chapter 13	29.6%	26.0%	40.0%	-1.49
Court proceedings besides bankruptcy, past year				
any proceeding	42.2%	39.5%	54.4%	-2.13*
debt collection	31.6%	29.5%	40.8%	-1.67
wage garnishment	9.3%	9.0%	10.8%	-0.42
asset repossession, except home	14.5%	13.0%	21.2%	-1.54
home foreclosure	0.9%	0.5%	1.7%	-1.14

Values are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3).

† For Chapter 7 and 13 subcategories of the complete sample *n*=100.

‡ Both before and after BAPCPA implementation, *n*=50 for Chapter 7 and 13 subcategories.

* Difference in means is significant at the 0.05 level; Pr < |*t*| is less than 0.05.

filing behavior varies over time and by state. As for recent changes associated with bankruptcy reform, the percent with a previous bankruptcy in either the past 8 years or the past 20 years decreased with BAPCPA for Chapter 7 and Chapter 13 cases. However, the likelihood of future bankruptcy within 5 years increased for both chapters after BAPCPA implementation, from 10% to 22% overall, a statistically significant development. In steering filers towards Chapter 13 and away from Chapter 7, bankruptcy courts under BAPCPA were more likely to serve households with previous and future bankruptcies. The new limitations on bankruptcy relief under both chapters, however, may increase demand for multiple filings beyond the impact of the constrained chapter choice mechanism.

Whereas a bankruptcy case is brought by a debtor, the other proceedings noted in Table 4.11 are brought by creditors and tend to induce indebted households to file for bankruptcy protection (Braucher, 1993). The percent of bankruptcy petitioners that had been the subject of debt collection, wage garnishment, repossession, or foreclosure cases increased from 40% before BAPCPA to 54% afterwards. Of these, debt collection proceedings and repossessions increased the most for our sample. One possible explanation is that, with a decline in consumer bankruptcy cases to 28% of pre-BAPCPA levels (see Figure 1.8), a more desperate group of debtors attempted to find relief under the stricter law, many of them prodded to file by creditors’ court actions, rather than choosing proactively to use bankruptcy to re-order their finances before being prompted by creditors to do so. Eraslan, Li, and Sarte (2007) find that 53% of its much larger sample from 2001-2002 had at least one proceeding pending upon filing for bankruptcy in Delaware.

Bankruptcy may remove a dischargeable debt for which wages had been garnished, and during the bankruptcy case, the automatic stay protects debtors from standing garnishment judgments. Furthermore, the monthly payment required in a Chapter 13 case may be less than the amount garnished. In Utah, up to 25% of disposable income may be withheld by employers or assistance programs, such as the Social Security Administration.[28] Once a debtor has sustained the credit injury that accompanies garnishment, the deterrent to bankruptcy of protecting one's credit score weakens, and bankruptcy relief appears less repulsive and more urgent.

Income

Households in bankruptcy generally have one income earner. In 52.7% of the 74 households filing jointly, one adult joint filer receives no income.[29] In an analogous measure, 56.5% of the 108 households with a married couple (including many who chose not to file jointly) report one spouse as having receiving no income.

As shown in Table 4.12, the income of Chapter 7 filers rose significantly with BAPCPA implementation. Clearly, the intent of the reform was to prevent households with high income from filing under Chapter 7. However, similar to its outcome nationwide (Lawless et al., 2008), BAPCPA in Utah has not reduced bankruptcy use by higher level households alone, but has reduced its use by households across income groups. A decrease in income post-BAPCPA would have suggested the prevalence of

[28] Utah Code Title 70C Chapter 7 § 103 states that the "maximum part of… disposable earnings… which is subjected to garnishment… may not exceed the lesser of: (a) 25% of his disposable earnings for that pay period: or (b) the amount by which his disposable earnings for that pay period exceed 30 hours per week multiplied by the federal minimum hourly wage…"

[29] Data for spousal income in joint households is from the last Schedule I amendment submitted by filers, if any, whereas the income data in Table 4.12 is from the original Schedule I, which documents employment and income.

Table 4.12: Real Monthly Household Income

	Mean (Standard Deviation)		
	before BAPCPA	*after BAPCPA*	t *value*
Chapter 7	\$1,585 (\$753)	\$2,305 (\$1,053)	-3.94*
Chapter 13	\$3,379 (\$1,402)	\$3,394 (\$1,378)	-0.05
Both Chapters	\$2,017 (\$1,432)	\$2,718 (\$1,334)	-3.90*

Means are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3). Standard deviation is not weighted. Income was not reported by four households in Chapter 13.

* Difference in means is significant at the 0.05 level; Pr(mean before = mean after) < 0.05.

bankruptcy filers with above-median income before BAPCPA. We found in Table 4.5 that median income for households in the bankruptcy sample rose far more than median income for the general population of Utah and the U.S. (in absolute and percentage terms).

Sullivan et al. (1989) emphasized the prevalence of recent income interruption as a characteristic of debtors in bankruptcy in 1981. Sullivan et al. (2000) reported that income disruption from job loss happened in 52% of households' bankruptcies in 1991. That figure is based on any unemployment in the past 2 years lasting at least 2 weeks, although short-term unemployment does not necessarily reflect a significant change in income (White, 2007). Fay et al. (2002) find adverse events, including unemployment, are not significant predictors of filing for bankruptcy during 1984-1995. A cursory review of filing rate and the incidence of divorce, unemployment, and medical spending likewise do not suggest an important relationship (White, 2007).

To evaluate the income disruption hypothesis for our sample, a *t* test is used to compare income 1 and 2 years previous to filing to annual income at the time of filing. We find a statistically significant decline in income compared to the 12 months before filing (difference in means = -$3,455 or -9.8%, *t* value = 3.12, *p* = 0.0021). The result persists when we compare income at filing to average annual income for the 24 months preceding bankruptcy (difference in means = -$3,194 or -9.1%, *t* value = 2.27, *p* = 0.0242).

Assets

There appear to be some changes in the value of assets owned for debtors that file for bankruptcy after BAPCPA. First, we view all real estate and personal assets. The main reason assets have declined under BAPCPA for Chapter 13 filers in the sample (see Table 4.13) is that fewer Chapter 13 filers are home owners compared to before

Table 4.13: Total Real Assets
Mean (Standard Deviation)

Chapter	*Before BAPCPA*	*After BAPCPA*	t *value* †
7	$42,413 ($57,898)	$41,498 ($68,625)	0.07
13	$122,726 ($83,838)	$91,612 ($77,803)	1.88

Asset values are adjusted for inflation to 2005 dollars based on the BLS Consumer Price Index. Means are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3). Standard deviation is not weighted.

† The critical value is 1.98 for significance at the 0.05 level.

BAPCPA, although the value of automobiles has also decreased somewhat for Chapter 13 filers.

Real property is the largest component of total real and personal property. As indicated in Table 4.14, since BAPCPA implementation, a smaller percent of filers were home owners, with the home ownership rate decreasing slightly for Chapter 7 filers and markedly, from 72.9% to 54.2%, for Chapter 13 filers (*p*-value = 0.057). Households in with any real property, including mobile homes, that filed Chapter 7 bankruptcy after BAPCPA implementation are better off in terms of real property value (14.4% increase) compared to households that filed before BAPCPA. On the other hand, home equity for

Table 4.14: Real Property
by Chapter Before and After BAPCPA Implementation
Mean (Standard deviation)

	Chapter	*Before BAPCPA*	*After BAPCPA*	t *value* ‡
Percent with any real property	7	28.0%	26.0%	0.22
	13	72.9%	54.2%	1.93
Value of real property, for filers with any †	7	$111,388 ($42,599)	$127,373 ($72,272)	-0.61
	13	$140,951 ($47,215)	$140,118 ($32,336)	0.08
Home equity, real property minus mortgage(s), for filers with any real property †	7	$3,419 ($11,266)	-$5,979 ($41,232)	0.91
	13	$11,019 ($31,560)	$6,009 ($59,485)	0.41

Property values are adjusted for inflation to 2005 dollars based on the BLS Consumer Price Index. Means are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3). Standard deviation is not weighted.

† Summary statistics for these variables represent households with any real property. The number of cases for each chapter and time period is 50, with missing data from households as follows: Chapter 7 before (0), Chapter 13 before (2), Chapter 7 after (0), and Chapter 13 after (2).

‡ The critical value is 1.98 for significance at the 0.05 level.

those with any property appears to have decreased with BAPCPA for both chapters, with a larger absolute and percent change for Chapter 7 filers. Chapter 13 filers have considerably more home equity to protect during bankruptcy than Chapter 7 filers. Under Chapter 13, they can avoid liquidation meant to recover nonexempt equity, which is part of the Chapter 7 process. The majority of households in the sample are well within the home exemption limits of $20,000 per individual and $40,000 per couple under either chapter before and after BAPCPA implementation. Very few have home equity available for distribution to creditors.

Motor vehicles are the second largest category of property. Median values of all motor vehicles owned by debtors in our sample declined somewhat (7.7%) under Chapter 7 and considerably (30.2%) under Chapter 13, as indicated in Table 4.15. The standard deviation of this variable decreased considerably since BAPCPA in Chapter 13 cases.

Table 4.15: Real Value of Automobiles
Mean (Standard Deviation)

Chapter	*Before BAPCPA*	*After BAPCPA*	t *value* †
7	$6,586 ($7,725)	$6,081 ($6,993)	0.36
13	$12,324 ($12,919)	$8,608 ($9,316)	1.62

Data values are adjusted for inflation to 2005 dollars based on the BLS Consumer Price Index. Means are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3). Standard deviation is not weighted.

† The critical value is 1.98 for significance at the 0.05 level.

Debt

Two hundred households list a total of 4,383 individual debts in the court records amounting to $21.7 million. Households have an average of 21.9 debts worth $4,958 each. Aside from mortgages, these obligations average $2,433 each. Since BAPCPA implementation, the median debt level rose 47.9% for Chapter 7 cases and fell 9.1% for Chapter 13 cases, while means for each chapter changed by 13.4% and -5.7%, respectively. We can conjecture as to the logic of those changes: people wait until they are in more debt to file Chapter 7 bankruptcy after BAPCPA made the bankruptcy process more stringent; on the other hand, because of the means test pushing more bankruptcy filers towards Chapter 13, even people who have neither high levels of assets to protect nor high levels of associated secured debts to manage may still file under Chapter 13, including some who before BAPCPA would have preferred Chapter 7. The larger movement in medians than means suggests some exceptionally high values post-BAPCPA.

Debt-to-income ratios are one indication of the overall financial standing of debtors in bankruptcy. The unsecured debt category in Table 4.16 consists of both priority claims (e.g., taxes) and nonpriority claims (e.g., credit card debt) that are not secured by collateral. While the secured debt-to-income ratio is much higher for Chapter 13 filers, the unsecured debt-to-income ratio is much higher for Chapter 7 filers. In considering the debt burden these two ratios represent, unsecured debt, though smaller in magnitude, generally has a shorter repayment term and higher interest rates compared to secured debt. Secured debt burdens of bankruptcy filers are much smaller after BAPCPA than before. In contrast, unsecured debt burdens are somewhat higher. The overall debt

Table 4.16: Ratio of Median Debt to Annual Income by Type of Debt

	Before BAPCPA n=*95* †	*After BAPCPA* n=*97* †	t *value* ‡
Total Debt			
Chapter 7	233.0%	281.0%	1.35
Chapter 13	361.2%	295.7%	1.34
Secured debt			
Chapter 7	44.4%	28.9%	0.89
Chapter 13	262.1%	177.6%	1.74
Unsecured debt			
Chapter 7	166.0%	125.2%	0.74
Chapter 13	82.0%	85.5%	-0.62

† Due to missing values, for all three types of debt before BAPCPA implementation *n*=47 for Chapter 7 cases and *n*=48 for Chapter 13 cases; after BAPCPA implementation *n*=49 for Chapter 7 cases and *n*= 48 for Chapter 13 cases.

‡ The critical value is 1.98 for significance at the 0.05 level.

burden has increased at the median only under Chapter 13. Mean total debt under Chapter 7, however, fell from 402.8% to 328.6% of income.

Court records make use of three broad debt categories—secured, priority unsecured, and nonpriority unsecured—whose values for our sample are presented in Table 4.17. Secured debt, 61.3% of total debt, includes all loans that have collateral, such as homes or cars. Debt classified as priority in bankruptcy includes overdue taxes, child support, alimony, and other debts, amounting to only 1.9% of total debt, all ineligible for forgiveness in bankruptcy. Unsecured debts without priority status, amounting to 36.8% of the total, are generally dischargeable. This includes credit cards and unpaid bills.

The rather high standard deviation values in each debt category indicate the broad variety in characteristics of individual filers, as well as the presence of a handful of

Table 4.17: Real Secured, Priority and Other Household Debt
Mean (Standard deviation)

Type of Debt	*Chapter*	*before BAPCPA*	*after BAPCPA*	t *value* †
Total	7	$80,720 ($69,475)	$85,081 ($74,133)	-0.30
	13	$151,511 ($94,541)	$133,522 ($110,802)	0.86
Secured	7	$38,194 ($57,537)	$44,077 ($72,424)	-0.45
	13	$112,065 ($76,984)	$82,748 ($81,094)	1.82
Priority	7	$404 ($1,389)	$1,041 ($5,123)	-0.85
	13	$2,798 ($7,906)	$4,424 ($15,410)	-0.67
Nonpriority, unsecured	7	$42,123 ($41,984)	$39,963 ($25,566)	-0.31
	13	$36,648 ($36,205)	$46,351 ($57,395)	-0.98

Debt values are adjusted for inflation to 2005 dollars based on the BLS Consumer Price Index. Means are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3). Standard deviation is not weighted.

† The critical value is 1.98 for significance at the 0.05 level.

households with very high levels of debt in a certain category. The distributions of these debt variables are skewed right.

Secured debt consists almost entirely of mortgages (85.9% of total secured debt in the sample) and automobile loans (12.5% of the total), with only 1.6% remaining as other secured debt. The percentage with some type of secured debt fell after BAPCPA implementation from 74.0% to 67.3% for Chapter 7 cases and from 89.6% to 83.3% for

Chapter 13 cases. Secured debt levels on average are much higher for Chapter 13 cases than they are for Chapter 7 cases, as expected, since many debtors choose Chapter 13 because they have assets they want to protect from repossession while catching up on loan arrears. BAPCPA implementation is associated with a noteworthy decline in the amount of secured debt by Chapter 13 filers. Given a 20.8% decrease in the mean and a 48.4% decrease in the median for our sample, secured debt means would have been much lower post-BAPCPA but for some very high values after BAPCPA implementation. For Chapter 7 filers, median secured debt decreased 21.4%, while its mean actually rose significantly. With very high standard deviations, we cannot identify statistically significant shifts in secured debt post-BAPCPA.

Priority debts in our sample consist mainly of tax claims (74.6% of total) and domestic support payment claims (16.0%), with 9.4% of the claims falling outside the two subcategories. One fourth of all bankruptcy filers in our sample report any priority debts. After BAPCPA implementation, the percentage of filers with any priority debt decreased from 18% to 12% for Chapter 7 and from 38% to 35% for Chapter 13. For those with priority debt, the median and mean amounts rose dramatically for Chapter 7 cases in the sample. Households with priority claims are more likely to file under Chapter 13 than Chapter 7, but that propensity is somewhat weaker under BAPCPA.

The value of nonpriority, unsecured debts—those not secured by collateral and without priority status—increased dramatically since BAPCPA for Chapter 13 filers and only somewhat for Chapter 7 filers. All but one household that filed the required schedules reported at least some nonpriority, unsecured debt. Nonpriority, unsecured claims can be classified as follows: credit cards, collections, medical bills, payday loans, student loans, and other. Porter (2012) reported that 25% of 2007 debtors sampled had student loans. Domowitz and Sartain (1999) found that medical and credit card debt in particular lead to bankruptcy filings and that high levels of medical debt are associated with choosing Chapter 7. Payday loans include outlets for advance check cashing, title loans, and pawn shop loans. The relative importance of these categories is given in Table 4.18. The collections subcategory is not mutually exclusive of the others, in that a credit card balance or medical bill, for example, may be in collections and thus count under two categories. We see that medical debt is the most common and the largest debt outside of secured and priority debts like mortgages and child support obligations, followed closely by credit card debt. In Chapter 5, we find associations between these debt categories and bankruptcy filers' chapter and repeat filing status. Though the share of debt that comes from student and payday loans may be smaller categories here, they are significant in that analysis.

Table 4.18: Nonpriority, Unsecured Debt Subcategories

	Percent reporting any of debt type, n=*196* †	*Percent of nonpriority unsecured debt, aggregate*	*Real median debt for cases with any of type*
Medical	87.9%	39.7%	$9,464
Credit card	87.1%	40.4%	$8,740
Collections ‡	61.2%	15.8%	$4,717
Student loans	20.0%	6.3%	$8,794
Payday	10.7%	1.1%	$1,234
Other	62.0%	12.3%	$2,258

† In four cases, households failed to itemize their nonpriority, unsecured claims.

‡ Claims from any other debt category can also be in collections. Debt types besides collections are mutually exclusive.

Table 4.19 explores changes in the composition of nonpriority, unsecured debts since BAPCPA implementation. The share of medical debt presented in bankruptcy rose from 37.7% before BAPCPA to 48.8% after reform, while the share of credit card debt declined from 42.7% to 30.1%. The rise in debt to pawn shops and payday lenders to 2.4% is also significant. An increase in the percentage of nonpriority, unsecured debt in collections is significant at the 0.10 level with a *p*-value of 0.069. Meanwhile, student loans and the "other" category remained about the same across policy regimes.

Expenditures

Debtors are required to report their monthly spending in several categories. As indicated in Table 4.20, inflation-adjusted expenses are significantly higher for Chapter 7 cases after BAPCPA compared to before, while expenses in Chapter 13 cases decreased slightly. Changes in expenses mirror changes in income by chapter before and after BAPCPA implementation. In fact, expenses as a percent of income at the median only rose from 100.1% to 102.3% for Chapter 7 filers and from 87.0% to 88.1% for Chapter

Table 4.19: BAPCPA and Nonpriority, Unsecured Debt Composition
Debt types as a percentage of total nonpriority, unsecured debt, means

	Before BAPCPA n=*98*	*After BAPCPA* n=*97*	t *value*
Medical	37.7%	49.0%	-2.50*
Credit card	42.7%	30.1%	2.59*
Collections	14.8%	20.6%	-1.70
Student loans	6.5%	5.6%	0.40
Payday	0.1%	2.4%	-2.04*
Other	12.2%	13.0%	-0.26

* This result is significant at the 0.05 level; Pr(mean before = mean after) < 0.05.

Table 4.20: Real Monthly Expenditures

Chapter	*Value*	*Before BAPCPA*	*After BAPCPA*	t *value*
7	Mean	$1,844	$2,500	-3.36*
	Standard Deviation	$762	$1,139	
	Percent of Monthly Income	100.1%	102.3%	
13	Mean	$2,925	$2,853	0.27
	Standard Deviation	$1,389	$1,196	
	Percent of Monthly Income	87.0%	88.1%	

* This result is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

13 filers. As expected, practically all Chapter 13 filers have some disposable income with which to fund the required repayment plan under that chapter. On the other hand, most Chapter 7 filers report having no disposable income. Predictably, total expenses tend to vary directly with household size (see Table 4.21). Standard deviations remain high for these results, even when cases under each chapter are analyzed separately.

Table 4.21: Real Expenditures by Household Size

Household Size	*n*	*Mean*	*Standard Deviation*
1	46	$1,365	$514
2	50	$2,532	$1,058
3	36	$2,191	$971
4	26	$2,705	$742
5	18	$3,683	$1,336
6	12	$3,672	$753
7	9	$3,816	$1,099
8	3	$4,566	$1,546

Means are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3). Standard deviation is not weighted.

Table 4.22 shows the relative importance of subcategories of expenses in terms of aggregate spending amounts as a percent of the $494,842 in aggregate expenditures (real 2005 dollars) reported for sample households. These expenses, which were originally given in 28 categories, are grouped for simplicity into the nine categories shown below. Expenditure information gives insight into the lifestyle of debtors.

The costs of filing for bankruptcy rose since BAPCPA implementation, as documented in Table 4.23. Filers were required to pay for mandatory debt counseling post-BAPCPA at an average expense of $50. As expected, considering the increased complexity of the bankruptcy process postreform, the number of debtors filing bankruptcy without an attorney decreased after BAPCPA implementation. The average inflation-adjusted fees charged by attorneys increased dramatically, by $326 or 55.8% for

Table 4.22: Expenditures by Subcategory
Aggregate subcategory spending as a
percent of aggregate total spending

House payment or rent	29.2%
Transportation expenses	17.5%
Food	17.4%
Utilities, home maintenance, and homeowner/renter insurance	11.7%
Medical expenses	6.8%
Clothing and laundry	4.4%
Recreation	2.4%
Charitable contributions	2.3%
Other	8.3%

Values are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3).

Table 4.23: Real Bankruptcy Expenses

	Complete sample n=*200*	*Before BAPCPA* n=*100*	*After BAPCPA* n=*100*	*t value*
Attorney fees				
Attorney fee, mean †	$1,059	$938	$1,626	-5.27*
- Chapter 7	$632	$584	$910	-5.27*
- Chapter13	$2,228	$2,053	$2,728	-7.72*
% pro se, without attorney	8.1%	9.0%	4.0%	1.44
Court fees				
Total court fees, mean	$230	$217	$286	-14.41*
- Chapter 7	$232	$220	$300	-11.02*
- Chapter 13	$223	$208	$264	-13.17*
Debt counseling ‡				
Cost, mean of nonzero values	$50	$43	$51	-0.75
% receiving counseling, past yr.	15.3%	5.0%	81.7%	-20.36*

All values are adjusted for inflation to 2005 dollars based on the BLS Consumer Price Index.

* Difference in means is significant at the 0.05 level; Pr(mean before = mean after) < 0.05.

‡ Missing values for the attorney fee variable are as follows: Chapter 7 before (1), Chapter 13 before (2), Chapter 7 after (6), and Chapter 13 after (2).

† Missing values for the cost of debt counseling are as follows, reflecting debtors who did not submit a completed Statement of Financial Affairs: Chapter 13 before (2) and after (2).

Chapter 7 cases and by $675 or 32.9% for Chapter 13 cases. Chapter 13 attorney fees are almost entirely taken from the regular debt payments required over a 3- to 5-year period, with a small retainer if any. In contrast, Chapter 7 fees are almost always paid up front. Since BAPCPA implementation, mean real court fees rose by $69 or 31.8%.

Spending on charitable contributions as a percent of income is higher in Utah than in most other states.[30] This could be seen as a source of financial strain contributing to

[30] For example, this observation is documented in a study by the Utah Foundation (2004), which reports that Utahns' charitable contributions, as reported on their tax returns, rank the state second out of 50 for giving as a percent of income.

Utah's high bankruptcy filing rates historically. Another view is that charitable contributions provide leeway in a debtor's budget, which reduces disposable income available for Chapter 13 repayments and makes plan completion more likely (Klee, 2001). Of households in our sample, 33.2% report charitable contributions. Chapter 7 filers were more likely to report charitable contributions in their budgets, particularly before BAPCPA implementation. The median giving amount is 7.1% of income.[31] Since BAPCPA implementation, for whatever reason, the number of debtors making any contributions has fallen, while the total amount given has risen somewhat, as shown in Table 4.24.

Table 4.24: Charitable Contributions

	complete sample n=*195*	*before BAPCPA* n=*97*	*after BAPCPA* n=*98*	t *value*
Percent of households with any	33.2%	35.6%	22.5%	2.03*
- Chapter 7	37.8%	40.0%	26.0%	1.49
- Chapter 13	20.1%	21.3%	16.7%	0.57
Percent of income, median of nonzero contributions	7.1%	7.0%	8.0%	-0.45

Values are weighted estimates that align data from a stratified sample with the actual number of Chapter 7 and Chapter 13 cases in Utah for the pre- and post-BAPCPA periods (see Table 4.3). There are fewer than 200 cases total, and fewer than 100 per sub-period, because a few bankruptcy filers did not report their expenditures.

* Difference in means is significant at the 0.05 level; Pr(mean before = mean after) < 0.05.

[31] There is some incentive to report high values for charitable contributions, up to 15% of income, because a provision in bankruptcy code, present since before BAPCPA, allows up to that amount in charitable contributions in debtor-reported expenditures. Reporting higher amounts of charitable contributions reduces disposable income. However, there are also legal imperatives for accuracy on court documents, as debtors avoid perjury and attorneys protect their reputations.

Chapter 13 Plans

Chapter 13 plans involve a lengthy repayment period. The office of the Chapter 13 trustee receives filers' payments and distributes them to creditors after withholding the stipulated trustee and attorney fees.[32] As each case closes, the trustee files a final report of these activities. As shown in Table 4.25, based on those reports, money collected was distributed as follows: secured debt (33.2%), unsecured debt (23.8%), attorneys (32.7%), and trustee (10.0%). Median attorney payments via the plan increased after BAPCPA reform from $1,709 to $2,287. Trustee fees remained steady at 8.1% of total receipts from filers.

Median payments declined from $10,272 before BAPCPA to $8,740 postreform. One evident reason for this is that Chapter 13 plans were much less likely to be completed under BAPCPA: fewer payments were made by filers whose cases were converted or dismissed than for filers who continued through to discharge. In particular, confirmed Chapter 13 repayment plans were about half as likely to be completed after BAPCPA reform compared to before. Although payment amounts declined, payments as a percent of total debt obligations increased somewhat with BAPCPA implementation, although the change in means is not statistically significant. Eraslan et al. (2007), by simulating BAPCPA collection outcomes based on Delaware cases from 2001 and 2002, found repayment was likely to increase in Chapter 13 under BAPCPA. While the dollar amount of Chapter 13 repayments decreased in Utah, consistent with Eraslan et al., the driving factor was the changing profile of debtors attempting bankruptcy under

[32] Trustee fees are collected on a sliding scale with a lower percentage of receipts withheld as trustee fees for amounts over defined threshold levels. Apparently, the distribution of payment amounts per case did not change sufficiently with BAPCPA to alter the trustee fee percentage.

Table 4.25: Chapter 13 Plan Payments by Bankruptcy Filers
Payments before Discharge, Conversion, or Dismissal
based on Trustee Final Report

	Complete sample	*Before BAPCPA*	*After BAPCPA*	t *value*
Chapter 13 cases in sample†	104	53	51	
Repayment plans confirmed	83	40	43	
Repayment plans completed	48	31	17	
Total payment by filers‡				
Median	$9,011	$10,272	$8,740	
Mean	$13,298	$14,695	$11,874	0.89
Percent of total debt, median	7.2%	7.8%	7.0%	
Percent of total debt, mean	16.7%	14.6%	18.9%	-0.84
Cases with payment of zero	9	5	4	
Payment for secured debt‡				
Median	$1,111	$1,711	$1,111	
Mean	$5,502	$6,508	$4,477	1.05
Percent of secured debt, median	2.9%	3.5%	2.9%	
Percent of secured debt, mean	12.9%	11.3%	14.5%	-0.61
Percent of total payment, median	27.4%	28.6%	26.8%	
Percent of total payment, mean	33.2%	34.0%	32.4%	0.25
Cases with no payment to secured debt	32	20	12	
Payment for unsecured debt‡				
Median	$531	$0	$770	
Mean	$4,971	$5,391	$4,544	0.44
Percent of unsecured debt, median	3.6%	3.6%	3.6%	
Percent of unsecured debt, mean	12.0%	11.2%	12.9%	-0.33
Percent of total payment, median	10.4%	6.7%	15.4%	
Percent of total payment, mean	23.8%	22.4%	25.2%	-0.48
Cases with no payments to unsecured debt	50	27	23	

Table 4.25: Continued

	Complete sample	*Before BAPCPA*	*After BAPCPA*	t *value*
Attorney fee paid through plan‡				
Median	$2,004	$1,709	$2,287	
Mean	$1,677	$1,537	$1,820	-1.43
Percent of total payment, median	20.4%	16.1%	21.6%	
Percent of total payment, mean	32.7%	34.0%	31.3%	0.45
Trustee fee‡				
Median	$736	$771	$653	
Mean	$1,120	$1,259	$978	1.02
Percent of total payment, median	8.1%	8.1%	8.1%	
Percent of total payment, mean	10.0%	9.6%	10.4%	-0.39

The *t* values evaluate the difference in means pre- and post-BAPCPA. The critical value is 1.98 for significance at the 0.05 level.

† This table includes cases begun under Chapter 13 and those converted from Chapter 7 to Chapter 13.

‡ These variables are adjusted for inflation to 2005 dollars using the BLS consumer price index.

BAPCPA, namely less secured debt (see Table 4.16), for which the Delaware simulation did not account.

BAPCPA provisions were seen as a way to raise the priority in repayment of secured creditors over unsecured creditors (Jacoby, 2006; Wedoff, 2005). However, our sample gives no indication of an increase in the percent of plan payments allocated to secured creditors. If anything, the percentage of debt payments decreased for secured debt and increased for unsecured debt, though these changes are not conclusive. The ratio of secured debt to unsecured debt paid through Chapter 13 plans in our sample decreased post-BAPCPA from 1.2 to 1.0. However, it should be noted that the debt portfolios of Chapter 13 filers in our sample include a greater share of unsecured debt and a smaller share of secured debt post-BAPCPA (see Table 4.16).

Table 4.26 presents information from the Chapter 13 plans filed by debtors. We focus on the percent of nonpriority unsecured debt to be repaid, because this is the most discretionary component of debt repayment, based on disposable income and, in some cases post-BAPCPA, based on an additional review. Secured debt amounts, including arrears, and priority unsecured loans are not reduced or forgiven in bankruptcy.

Table 4.26: Payment Proposed in Chapter 13 Plans

	All ch13 cases n=*92*	*Before BAPCPA* n=*50*	*After BAPCPA* n=*42*	t *value* †
Percent of nonpriority unsecured claims to be repaid, mean	24.4%	26.9%	21.4%	0.92

† The critical value is 1.99 for significance at the 0.05 level.

BAPCPA includes provisions that strengthen the ability of secured creditors and some priority unsecured creditors to collect their dues, often at the expense of unsecured nonpriority creditors. As expected, we see that lower repayment percentages are proposed in cases that specify a percent of nonpriority unsecured claims to be repaid.

About half of all repayment plans are completed, resulting in discharge for those individuals and couples in Chapter 13 bankruptcy. Cases are dismissed for filers who do not timely submit required paperwork or who do not make monthly payments for a 3- or 5-year period, as stipulated by a Chapter 13 partial repayment plan. Historically, Chapter 13 dismissal rates have been high. For example, Norberg and Compo (2007) found that dismissal rates varied widely by district, from 53% to 80%, for 795 Chapter 13 cases filed in seven judicial districts outside of Utah in 1994. Of the 94 cases in our sample that ended up in Chapter 13 (either originally filed under Chapter 13 or converted from Chapter 7), fully 51 were dismissed. As shown in Table 4.27, dismissal is primarily an issue for Chapter 13 cases, of which more than half were dismissed. A higher percentage

Table 4.27: Cases Dismissed Before and After BAPCPA Reform

	Complete Sample	*Before BAPCPA*	*After BAPCPA*	t *value* ‡
Chapter 7 †	4 (3.8% of 106)	2 (3.9% of 51)	2 (3.6% of 55)	0.08 (0.940)
Chapter 13 †	51 (53.7% of 94)	22 (44.9% of 49)	29 (64.4% of 45)	-1.92 (0.058)
Total	51 (53.7% of 94)	24 (24.0% of 100)	31 (31.0% of 100)	-1.11 (0.270)

† This table's bankruptcy chapter designation reflects the chapter filers ended up choosing for cases that were converted from Chapter 7 to Chapter 13 (three cases) or from Chapter 13 to Chapter 7 (10 cases) before dismissal or discharge.

‡ The critical value is 1.98 for significance at the 0.05 level.

of cases was dismissed after BAPCPA implementation (64.4%) compared to before (44.9%). According to a *t* test at the 0.05 confidence level, the increase in dismissals is not quite significant for Chapter 13 cases in the sample.

Dismissals in the post-BAPCPA period were not concentrated immediately after the reform, contrary to the expectation that initially high dismissal rates might gradually diminish as attorneys and their clients learned to comply with judges' expectations under the new law. It appears judges and attorneys ably helped filers comply with the new requirements from the commencement of the reform period. Dismissal rates for sequential 6-month periods starting with BAPCPA implementation were 10%, 32%, 26%, and 38%.

For some bankruptcy filers, case dismissal is a better outcome than following the Chapter 13 repayment plan through to discharge. A dismissal may indicate a household's financial position has improved sufficiently that loan forgiveness is no longer needed. With a period of court protection, the automatic stay, many households are able to reassume their full financial obligations.

For other households in bankruptcy, dismissal reflects failure. Perhaps the repayment requirements are excessive. Depending on available income and the types and amounts of debt, a household is required to make consistent payments that usually amount to 5% to 20% of the unsecured, potentially-dischargeable debt from which the household can seek relief under Chapter 13. A household that is unable to make payments in Chapter 13 bankruptcy may resort to default without court assistance. That situation includes re-exposure to collection efforts and possible wage garnishment.

The data indicate a dismissal rate of 71.7% for cases ending in Chapter 13 that were filed by a person with a previous bankruptcy within 8 years, compared to 37.5% for similar cases filed by someone without a previous bankruptcy in that time frame (*t* value -3.51, p = 0.001). Also, a Chapter 13 case filed by one of the nine households in the sample with a garnishment in the past 12 months appears to be more likely to be dismissed (77.8% dismissal rate) compared to those without a recent garnishment proceeding (51.8%), although the result is not statistically significant for our small sample (*t* value -1.49, p = 0.139). Households without previous debt collection proceedings are more likely to continue to discharge in Chapter 13 cases.

Norberg (1999) found that dismissed Chapter 13 cases were generally filed by debtors who had never previously filed[33] and who had less secured debt than people who completed their repayment plans. The latter observation is not contradicted by sample data, for which mean real secured debt is 21.7% lower for dismissed Chapter 13 cases than for discharged cases, but the corresponding *t* value is only 1.38 (*p* = 0.170).

Chapter 13 cases filed by a divorced, separated, or widowed person have a 68.8% dismissal rate, while those who are married or never married have a 48.7% dismissal rate (*t* value 1.46, p = 0.148). On the other hand, cases filed by households with mortgages are less likely to be dismissed. While only 46.4% of those with mortgages are dismissed, 65.8% of those without a mortgage are dismissed (*t* value 1.86, p = 0.066). Perhaps having a home and mortgage is a sign of financial stability suggesting the ability to meet repayment requirements, rather than being the mark of a household seeking to catch up on arrears and leave bankruptcy before discharge.

[33] This finding is contrary to our results and those of Evans and Lown (2008).

CHAPTER 5

MODELS

The data present opportunities to explore the characteristics of repeat filers, as well as filers' choice between Chapter 7 and Chapter 13 and between joint and separate filing status. Logistic regression analysis is suitable since the dependent variables addressed in this section are all binary.

Previous Bankruptcies

BAPCPA reform appears to have resulted in fewer bankruptcy filings in Utah by people who previously filed for bankruptcy. The results in Table 5.1 indicate that the post-BAPCPA decline in the prevalence of repeat filers (over the 8 years prior to the case in within the sample) is significant in all model specifications. As noted previously (see Table 4.11), repeat filings are far more common among Chapter 13 debtors in our sample (50.4%) than among Chapter 7 debtors (11.8%).[34] The model that best fits the data includes bankruptcy chapter and a BAPCPA dummy variable, as well as a variety of variables, most of which relate to debt composition, but a few of which reflect household demographics and income.

[34] That is to say, over the 8 years previous to the current case, 47% of Chapter 13 filers have at least one other bankruptcy, whereas 7% of Chapter 7 filings are not households' first bankruptcies in 8 years. Furthermore, 57% of Chapter 13 filers have a previous filing in the past 20 years, compared to 16% for Chapter 7.

Table 5.1: Reform and Repeat Bankruptcy Filings
Dependent variable is any previous bankruptcy in the past 8 years.
Odds ratio (*p*-value)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Post-BAPCPA reform = 1	0.342* (0.009)	0.280* (0.004)	0.323* (0.008)	0.255* (0.002)	0.240* (0.004)	0.255 * (0.005)	0.422* (0.031)
Chapter 13 = 1	12.470* (<0.001)	20.208* (<0.001)	20.215* (<0.001)	15.155* (<0.001)	12.451* (<0.001)	12.881* (<0.001)	8.985* (<0.001)
Children, any = 1			2.900* (0.022)			4.072* (0.008)	
Household size (1 to 8)	1.402* (0.004)	1.315* (0.025)		1.329* (0.018)	1.274* (0.047)		1.307* (0.015)
Credit card debt, any = 1					0.185* (0.004)	0.180* (0.004)	0.218* (0.003)
Payday loans, any = 1					5.791* (0.001)	6.716* (0.001)	
Debt in collections, any = 1 †				3.170* (0.021)	2.670 (0.053)	3.085* (0.028)	
Medical debt, percent †		4.601* (0.025)	5.044* (0.018)	3.492 (0.075)			
Mortgage, any = 1 ‡	0.369* (0.029)	0.353* (0.026)	0.447 (0.067)	0.426 (0.076)			
Unpaid taxes, any = 1	2.297 (0.052)						2.404* (0.042)
Alimony, any = 1		3.268* (0.038)	2.769 (0.075)		4.254* (0.017)	3.183 (0.056)	
Likelihood ratio Chi-Square	58.864* (<0.001)	65.561* (<0.001)	65.759* (<0.001)	66.993* (<0.001)	82.466* (<0.001)	87.518* (<0.001)	62.713* (<0.001)

For this regression, the chapter is defined as the chapter a case starts under, even if the filer(s) later converts the case to the other chapter.

* This result is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

† Both of these types of debt are given in reference to nonpriority, unsecured debt. Debt in collections only includes this type of debt, and medical debt is given as a percent of nonpriority, unsecured debt.

‡ The mortgage variable is in thousands of 2005 dollars adjusted for inflation based on the BLS Consumer Price Index from the month of filing. Income is monthly.

From the logistic regressions documented in Table 5.1, we learn that larger households are more likely to have previously filed for bankruptcy. Depending on the model specification, one more household member increases the odds of a previous bankruptcy by 27% to 40%. Including a binary variable for whether there are children, rather than employing the household size variable, makes a noteworthy improvement in the likelihood ratio for Model 6, which is higher than the ratio for Model 5 by 5.1. However, for other specifications, the binary child variable is not always measurably better than household size by that metric, as suggested by the negligible improvement by 0.2 in the likelihood ratio for Model 3, which includes the presence of any children, compared to Model 2, which uses household size. The presence of children and other dependents, and the number of household members both reveal the potential need for higher expenditures, including the probability of events that trigger bankruptcy, such as divorce and health problems. In the sample, 56.5% of married filers report that one spouse earns no income; an increase in household size often does not imply more earnings or income stability.

Households with a mortgage are significantly less likely to have a previous bankruptcy. The home ownership variable was significant in rather limited model specifications (not shown), always inversely related to the presence of previous bankruptcies, but having a mortgage is a better indicator. Households with mortgages appear to have enjoyed a greater measure of financial stability in the past compared to households without mortgages. Homeowners with mortgages are more likely than people without mortgages to be facing bankruptcy for the first time.

People with some debt in collections or some payday loans are more likely to have a previous bankruptcy filing. It appears nonrepeat filers are more likely to access bankruptcy assistance before defaulting outside bankruptcy or resorting to exorbitantly priced credit sources. Having payday and collections debt indicate greater financial desperation and/or a lack of financial prudence. Of the two, loans in collections are far more common: 61.2% of filers have loans in collections, versus 10.7% of filers with payday loans (see Table 4.18). However, the payday loans variable has higher odds ratios and lower *p*-values, indicating a stronger relationship to previous filings than the collections variable.

A few other debt types are important to this analysis. A higher percentage of medical debt (defined as a percent of unsecured, nonpriority debt) is an excellent predictor of repeat filing status under most model specifications. Repeat filers are often those with health care needs that exceed their resources. Perhaps unexpected, filers with some credit card debt (84% of the sample) are less likely to be entering bankruptcy after their first time. This relationship is robust and pronounced, with odds ratios not exceeding 0.22 in the models shown in Table 5.1. Finally, having unpaid taxes is probably related to having a bankruptcy filing in the past 8 years. The odds of having a previous filing are over twice as high for filers with tax bills outstanding, but the result is not statistically significant at the 0.05 level for all model specifications.

Income is significant to the likelihood of previous bankruptcies, but only when the variable for bankruptcy chapter is removed: income is higher for Chapter 13 filers and filers with previous bankruptcies. Specifically, Chapter 13 filers in our sample have 95.1% higher real median income than Chapter 7 filers in our sample, $3,368 versus

$1,726 per month in 2005 dollars. Bankruptcy chapter is used without income in all specifications shown in this section. However, one income source was found to be significant under certain model specifications: alimony income as a binary variable.

To summarize, repeat filers are households with children, high medical debt, and perhaps alimony obligations. They generally do not own homes or have mortgages. They are likely to file under Chapter 13 to attempt partial repayment.

Chapter Choice at Filing

BAPCPA was designed to influence certain bankruptcy filers to choose Chapter 13 over Chapter 7, an emphasis which is generally favorable to creditors and consistent with increased debtor responsibility in bankruptcy. As explained earlier, Chapter 13 requires partial repayment over 3 to 5 years before discharging debt, while Chapter 7 liquidates all nonexempt assets (there are none in most bankruptcy cases) and discharges debt not paid by proceeds from asset sales. Since BAPCPA, a means test prevents some people with higher incomes from choosing Chapter 7. Figure 5.1 indicates some recent success in steering filers towards Chapter 13. The mean percent of Chapter 13 cases out of all consumer bankruptcy cases rose from 27.6% in the 4 years before BAPCPA implementation to 35.7% in the 4 years after, a difference that yields a significant t value of 3.72.

Exploratory linear univariate regressions give rise to various significant predictors of the percent of states' 2006 consumer bankruptcy filings that are Chapter 13. More consumer bankruptcies are filed in states where Chapter 13 cases are more common. Chapter 13 cases are more common in states with low marriage rates and high

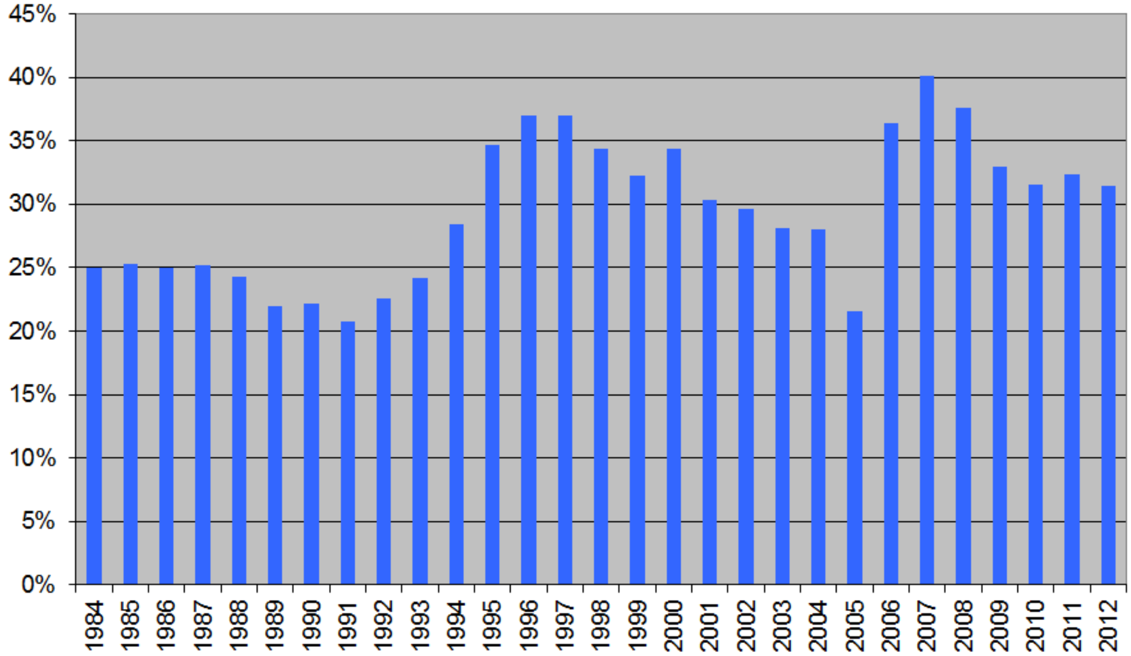

Figure 5.1: Chapter 13 Filings, Percent of Consumer Bankruptcy Filings, Utah, 1984-2012

proportions of divorced, separated, and widowed persons. Household size, median age, and home ownership rates do not seem to have any effect on chapter choice. States with more of its population having graduated from college appears likely to have lower filing rates, but the result is not significant. Poverty and unemployment are significant and positive, but the result weakens considerably when we control for the filing rate. Health insurance, home homeownership, and median income are not significant here to chapter choice.[35] Regression results are shown in Table 5.2.

The only state policy variable that is significant is the primary residence exemption, which is inversely related to the share of Chapter 13 filings, but only if the filing rate is omitted from the regression. If these variables do not conclusively reveal the

[35] Domowitz and Sartain 1999 find substantial medical debt (more than 2% of income) makes the choice of Chapter 7 over Chapter 13 significantly more likely.

Table 5.2: Chapter 13 Cases as a Percent of All Consumer Bankruptcy Filings as Dependent Variable for Linear Regressions, Fifty States and DC, 2006
Coefficient (*p*-value)

Demographic Variables	*Univariate Regressions*	*Multivariate Regressions with Bank. Filing Rate*
Consumer Bankruptcy Filing Rate	3.116* (<0.001)	--
Average Household Size	7.203 (0.606)	6.393 (0.601)
Married Percent of Population, Age 15 and Over	-1.063* (0.039)	-0.999* (0.026)
Single (Never Married) Percent of Population Age 15 and Over	0.362 (0.482)	0.614 (0.174)
Divorced, Separated or Widowed as a Percent of Population Age 15 and Over	3.771* (0.002)	2.400* (0.040)
Black	1.010* (<0.001)	0.876* (<0.001)
Hispanic	-0.258 (0.271)	-0.100 (0.636)
Median Age	-0.817 (0.441)	-0.032 (0.973)
Percent of Population, Age 25 and Over with a Bachelor's Degree	-1.515 (0.062)	-0.366 (0.646)
Financial Characteristics		
Uninsured—Percent without any Health Coverage	0.806 (0.138)	0.562 (0.243)
Home Ownership Rate	0.167 (0.680)	-0.008 (0.983)
Unemployment Rate, Annual	4.992* (0.020)	3.012 (0.130)
Poverty Rate	1.820* (0.009)	0.971 (0.153)
Median Household Income, Thousands	-0.365 (0.213)	0.016 (0.954)
Income per Capita, Thousands	-0.334 (0.570)	0.366 (0.501)

Table 5.2: Continued

Policy Variables		
Payday Lending Is Legal†	0.143 (0.979)	-1.959 (0.684)
State Garnishment Restrictions Limit Collection More than Federal Law†	-5.950 (0.184)	1.765 (0.693)
Exemption for Personal Property of a Married Couple, Thousands†	-0.002 (0.989)	0.058 (0.563)
Exemption for Primary Residence of a Married Couple, Thousands†	-0.060* (0.018)	-0.040 (0.086)
Public Safety Net, Thousands‡	-0.708 (0.222)	0.123 (0.826)

* This result is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

† These four variables are from Lefgren and McIntyre (2009) for 2000, except unlimited primary residence exemptions are entered as $250,000.

‡ Public Safety Net equals total state spending on Unemployment Insurance, Temporary Aid to Needy Families, Food Stamps and Medicaid divided by the number of people in poverty.

impact of policy, yet we know households do not choose the chapter under which they will file independently. Besides the requirements of federal bankruptcy code and state policies, local legal culture is highly influential on chapter selection, and bankruptcy jurisdictions often do not correspond to state boundaries on a one-to-one basis (Braucher, 1993). Bankruptcy judges issue rules and together with trustees communicate expectations to attorneys regarding what types of filings are acceptable under Chapters 7 and 13, among other things. Absent a principal-agent problem, debtors with their attorneys navigate codified and unspoken parameters to do what is in debtors' perceived best interest.[36] The resulting behavior lines up with a variety of income, debt, and demographic variables as we will see in the regression from the Utah sample that follows.

Turning to regressions from our sample of 200 debtors, the models in Table 5.3 provide further basis for discussion of which debtors end up in each chapter. We consider repeat filing status, debt composition, income, employment status, and household demographics. Of the 54 households in our sample with at least one previous bankruptcy in the past 8 years, 47 or 87.0% chose Chapter 13 over Chapter 7 for the current filing. The shorter minimum waiting period between bankruptcies for Chapter 13 (compared to the waiting period for Chapter 7) is a binding constraint for many such households. Having a previous bankruptcy is the most important factor leading to a Chapter 13 filing, as indicated by odds ratios above 10 for this variable.

[36] One possible scenario for a principal-agent problem interrelates with local legal culture. The Utah court sets a limit for what attorneys can charge their clients for a standard bankruptcy filing. The limits differ by chapter, being much higher for Chapter 13. If these produce different profit rates, attorneys may steer their clients towards the more profitable chapter, even if the court would have permitted the household to file under either chapter.

Table 5.3: Chapter Choice
Dependent Variable: Chapter 13 = 1, Chapter 7 = 0
Odds ratio (*p*-value)

	(1)	(2)	(3)	(4)	(5)
Previous bankruptcy, any = 1	13.073* (<0.001)	10.787* (<0.001)	12.840* (<0.001)	11.336* (<0.001)	17.905* (<0.001)
Income, $ †	2.372* (<0.001)		2.492* (<0.001)		3.311* (<0.001)
Secured debt percent ‡	4.291* (0.011)	6.699* (<0.001)	3.258* (0.032)	6.345* (<0.001)	5.157* (0.007)
Student loans percent ‡	39.278* (0.016)				64.267* (0.010)
Spouse has income = 1				2.917* (0.007)	
Self-employed = 1					18.587* (0.044)
Household size					0.705* (0.015)
Married = 1		1.931 (0.054)	0.623 (0.287)		
Likelihood ratio Chi-Square	93.661* (<0.001)	63.091* (<0.001)	88.785* (<0.001)	66.997* (<0.001)	105.468* (<0.001)

* This result is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

† Income is monthly in thousands of 2005 dollars adjusted for inflation based on the BLS Consumer Price Index from the month of filing.

‡ Secured debt and student loans are given as percentages of total debt, including both secured and unsecured loans.

Debtors with a higher percentage of secured debt are more likely to choose Chapter 13, where there is no procedure for liquidation of equity held in assets. Many people with mortgage arrears use Chapter 13 for a reprieve to catch up and avoid foreclosure, whether or not they continue to achieve discharge. Most subcategories of unsecured debt were not found to significantly affect chapter choice, including medical, payday, and credit card debts, variables evaluated in light of Domowitz and Sartain (1999). However, that study did prompt the appropriate inclusion of student loans as a percentage of total debt in our models. The share of student loans is an excellent predictor of Chapter 13 bankruptcy rather than Chapter 7. Student loans are not discharged under either chapter, but the repayment plan under Chapter 13 allows a longer reprieve from creditors' effort to collect student loan debt.

Employment and income are also important to chapter choice. We find that households with higher income, hence more ability to repay some of their loans, have 122% to 200% greater odds of choosing Chapter 13, per thousand dollars in monthly inflation-adjusted income. Households with a spouse contributing income are more likely to choose Chapter 13. Besides raising household income, having multiple income sources makes income less volatile over the repayment period. Nonetheless, the presence of spousal earnings is not significant once we include monthly income. The total amount of income matters more to chapter choice than the particular source does. Finally, self-employed debtors may be more likely to choose Chapter 13.[37]

Household characteristics like marital status, number of dependents, and job tenure are not significant to chapter choice once we control for debt and income variables. For example, a married filer is more likely to choose Chapter 13 than Chapter 7 (odds ratio = 2.645, p = 0.001) if marital status is the only independent variable in a logit model of chapter choice. However, once we add debt, previous bankruptcy, and, particularly, income variables, marital status is no longer significant (see Models 2 and 3,

[37] Eight self-employed filers under either chapter in our sample is too small a number upon which to rely for results, although the odds ratio and p-value are intriguing.

Table 5.3). Model 4 indicates that the contribution of at least some spousal income (*n*=56) is more important than the mere presence of a spouse (*n*=108) in terms of the odds ratios for those two variables, as well as the likelihood ratios for Models 2 and 4. Also noteworthy, a dummy variable for BAPCPA reform was not significant in any model specification attempted (none shown). Although a smaller share of filers selected Chapter 13 since BAPCPA implementation, those who choose it seem to do so for essentially the same reasons as before. Financial characteristics, such as income and debt composition (secured versus unsecured) matter most to chapter choice, with higher income households with more secured debt choosing Chapter 13. Model fit with a parsimonious number of independent variables is quite good (see Models 1 and 5).

Model 5 in Table 5.3 shows that larger households are less likely to file Chapter 13 bankruptcy than Chapter 7. In a univariate regression, however, household size is positively related to choosing Chapter 13 over Chapter 7 (odds ratio = 1.242, *p*-value = 0.008). The second result, not shown in Table 5.3, accords with Lown and Rowe's (2003) finding for chapter choice without control variables, while the contrary result from Model 5 indicates the merits of this multivariate analysis. Controlling for higher levels of income and secured debt, larger households prefer Chapter 7. One reason is large households are less likely to have home equity they would need to protect from Chapter 7 liquidation.[38] Households with one or two members (*n*=92) have mean net equity in their homes of $3,980, while households with three or more members (*n*=104) have -$863 in equity. Another reason for filers with larger household sizes to file Chapter 7 cases is

[38] Not shown in Table 5.3, home equity makes Chapter 13 significantly more likely than Chapter 7, but only at the 0.10 level, when substituted for household size in Model 5.

that larger households are held to more lenient income and spending restrictions, especially since BAPCPA implementation with means testing.

In general, these results substantiate the research of Domowitz and Sartain (1999) for a sample of 1980 filers in five jurisdictions outside of Utah. That study used similar data to determine that the following variables increase the probability a household will choose Chapter 13 bankruptcy over Chapter 7: having a previous bankruptcy filing, being married, having employment, owning a home, having more home and auto equity as a percent of income, and owing more in student loans as a percent of income. We tested for previous filings and marital status directly with similar results, albeit less conclusive for marital status. We did not find employment to be significant in most model specifications (not shown), although it is significant in a univariate regression. Home ownership was significant and positive in a variety of models, but since the percent of debt that was secured provided slightly more explanatory power, the secured debt measure was preferred. Not shown, home and auto equity as a percent of income was significant in a variety of model specifications at the 0.10 level. As noted above, student loans as a percent of debt was a significant variable in our regressions, while student loans as a percent of income was significant for Domowitz and Sartain (1999), but not in any models we attempted (not shown).

Lown and Rowe (2003) analyzed differences between Chapter 7 and 13 filers for a sample of households that filed bankruptcy cases in Utah in 1997. Based on descriptive statistics, their study reports that Chapter 13 debtors compared to Chapter 7 filers have somewhat larger families (means of 3.3 and 2.8, respectively), are twice as likely to have a mortgage (40.0% versus 20.1%), pay more each month for housing (medians of $490 and $600), carry 30.2% more in total debt, and have twice as much secured debt (exact amounts not reported). Confirming their results, we find all of these variables are positively correlated based on Pearson's coefficients. Our variables for income and secured debt subsume most of the story of family size, presence of a mortgage, housing expenses, and total and secured debt.

Whether Married Couples File Jointly

Of 108 married bankruptcy petitions in our sample, 36 were not joint filings. The seminal study of debtors in consumer bankruptcy found—mostly based on deductive reasoning before marital status was reported on bankruptcy documents—that it would be rare for a married individual filing in 1981 under competent legal advice to choose to file alone (Sullivan et al., 1989). Our data indicate this phenomenon is fairly common more than two decades later. Married individuals may prefer to file separately for a variety of reasons. Spouses retain varying degrees of financial independence. A couple with separate credit accounts from before or during the marriage may strategically protect the credit record of one spouse. Bankruptcy law's allowances for married debtors may not always be deemed sufficiently valuable. Also, filing alone preserves the option of the other spouse filing at a later time before the stipulated waiting period ends for the first spouse filing alone.

On the other hand, there are reasons to file a joint bankruptcy petition, as did two-thirds of the married couples in our sample. Spouses are often jointly liable for debts, particularly mortgages, such that the discharge of one co-debtor would not free the other from payment obligations or collections efforts. Joint filers receive higher exemptions for assets when it comes to liquidation. For example, the exemption from liquidation for home equity under Chapter 7 doubles from $20,000 for an individual to $40,000 for a married couple filing jointly. Under Chapter 13, court allowances for debtors' expenses are more permissive for married couples, allowing them to keep more of their income and reducing the portion due the trustee for creditor payments.

Logistic regressions for the married filers in our sample reveal certain characteristics of those who file jointly, primarily debt composition, home ownership, and household size. Married bankruptcy filers with a home (see Table 5.4) or a mortgage (not shown) are significantly more likely to file jointly than those without a home or mortgage.[39] Fully 78.1% of married home owners file jointly, compared to 56.8% of married filers who do not own homes. The higher home exemption for joint couples may help explain the positive connection between home ownership and joint filings.

The measures of secured and total debt included in regressions are clearly associated with home ownership.[40] Secured debt represents assets used as collateral, particularly homes, but also automobiles and other possessions. Among other reasons for a higher probability of joint filings as either debt variable rises, loans with collateral or large values are more likely to be signed by both spouses.

In the sample, 89.8% of married filers report at least some medical debt. All but 3 of the 10 filings without medical were joint. The modest number of observations for the any medical debt variable affects our confidence in the sizeable odds ratios observed in each specification.

---

[39] Home ownership was a slightly better predictor of joint status for married couples than the presence of a mortgage. The *p*-values for the mortgage variable in a model specification not shown in Table 5.4 are 0.021 for a univariate regression and 0.023 with the medical debt variable added.

[40] None of these three variables included once each in Models 1-3 result in a substantially different likelihood ratio compared to the others. Their explanatory power appears to be comparable, although the odds ratios are not easily compared since two are continuous variables with different units.

Table 5.4: Whether to File Bankruptcy Jointly if Married
Odds ratio (*p*-value)

	(1)	(2)	(3)	(4)
Homeowner = 1	3.234* (0.012)			
Total debt, real, hundreds of thousands †		1.773* (0.027)		
Secured debt, % of total			5.152* (0.014)	3.608 (0.063)
Medical debt, any = 1	14.715* (0.003)	12.593* (0.005)	13.646* (0.004)	16.131* (0.003)
Government assistance income, any = 1 ‡	6.551* (0.034)	6.294* (0.033)	7.587* (0.024)	10.500* (0.010)
Household size				1.343* (0.049)
Likelihood ratio Chi-Square for the model	19.695* (<0.001)	18.741* (<0.001)	19.404* (<0.001)	23.598* (<0.001)

* This result is significant at the 0.05 level; Pr(mean before = mean after) is less than 0.05.

† Total secured and unsecured debt is adjusted for inflation from the month of filing to 2005 values based on the BLS Consumer Price Index and divided by 100,000.

‡ This variable indicates whether either spouse receives income from Social Security or any other government programs.

Nineteen married couples are among the 30 households in our sample who received some form of government income assistance. While total income was not significant at the 0.05 level when included with any combination of the variables in Table 5.4, the receipt of any income from a government program was consistently a good predictor of joint filing status. Regarding one other income source, the presence of any earnings from a spouse was significant at the 0.10 level when added to Model 1, suggesting couples with two wage earners are more likely to file bankruptcy together.

Household size is significant when added to Models 2 and 3, but in each case, its inclusion reduces the debt variables' significance to the 0.10 level. Model 4 in Table 5.4, regarding the percent of secured debt, illustrates one of these cases. When household size is added to Model 1, the home ownership variable loses significance, and the *p*-value for household size is 0.051. The odds ratio is quite stable at 1.34 in all specifications. We conclude that household size is positively related to the choice to file jointly, although part of its importance lies in its association with measures of debt and home ownership, which are larger and more likely, respectively, for large households.

The likelihood of joint petitions might be expected to vary by chapter since the benefits of filing jointly are different for repayment versus liquidation. In particular, joint exemptions should matter more under Chapter 7. Therefore, we might expect Chapter 7 cases would have more joint petitions than Chapter 13. However, of married Chapter 7 filers, 58.1% file jointly, whereas 72.3% of Chapter 13 filers file jointly, a result whose *t* statistic of -1.53 is not significant. Perhaps married couples are more likely than single filers to be able to report enough income to fund a satisfactory repayment plan, a mechanism that would encourage joint filings under Chapter 13 more than Chapter 7. The chapter variable was not significant in any model specification.

The goodness of fit for our models of the decision to file jointly are not as impressive as for the repeat bankruptcy and chapter choice models, as indicated by likelihood ratios that do not rise far above 20 in the joint filing model. While a larger sample size would aid somewhat in this regard, whether married couples file jointly is likely also based on considerations not captured by the range of financial and household characteristics available from the sample.

CHAPTER 6

CONCLUSION

Consumer debt burdens have risen steadily since the early 1990s, accompanied by default and bankruptcy rates that troubled creditors, debtors, and policy makers alike. In response, federal bankruptcy reform, under the Bankruptcy Abuse Prevention and Consumer Prevention Act (BAPCPA) implemented October 2005, reduced the attractiveness of bankruptcy to households through a variety of measures that raised their costs and limited debt forgiveness. Subsequently, the bankruptcy filing rate in the U.S. fell dramatically. Indebtedness, delinquency, and macroeconomic conditions do not account for the sudden change in the filing rate that accompanied BAPCPA implementation. The resurgence of bankruptcy filings in the U.S. under BAPCPA, which has since subsided somewhat, was associated with extraordinarily high delinquency and foreclosure rates. To evaluate impacts of BAPCPA beyond the visible change in the filing rate, this study introduces a unique dataset of Utah bankruptcy filers that reveals changing consumer characteristics and outcomes during the bankruptcy process.

Compared to the rest of the country in 2005, Utah had a higher percentage of home owners, more household debt per capita, a lower poverty rate, a younger population, and higher bankruptcy filing rates. Utah households are roughly comparable to U.S. households in terms of home values, delinquency on auto loans and the percentage without health insurance. Utah's above-average filing rate can be partially explained by its low income per capita, less public safety net spending, and high percentage of Chapter 13 cases compared to other states. On the other hand, Utah's low unemployment rate, above-average percentage of college-educated adults, and garnishment restrictions would tend to reduce the state's filing rate. Insights from Utah carry a degree of relevance for consumer bankruptcy wherever BAPCPA applies. This project also finds an interesting context for studying incentives, policies, and consumers.

Bankruptcy and collections policies affect borrowing and default. Collections proceedings and foreclosure often spur debtors to file bankruptcy. Society's stance on debt collection and forgiveness affects households' financial opportunities, including their willingness to take risks, whether for entrepreneurial investments or nondurable consumer goods. Bankruptcy policy can set a fee sufficient to induce consumer responsibility in a theoretical model where probabilistic earning outcomes for debtors are affected by household choices, luck, and bankruptcy relief.

The original dataset created by this research project draws from detailed court records for 200 cases from the bankruptcy district of Utah from October 2003 to October 2007, 24 months before and after BAPCPA implementation. Compared to the state's general population, households in the bankruptcy sample have lower median income and income per capita; more divorced, separated or widowed individuals; smaller household size; more poverty; and lower home values and home ownership rates. The sample appears to be similar to those who did not file in terms of home foreclosures and employment characteristics.

Analysis of sample cases from before and after legal reform suggests the contours of change, yet with some continuity. As intended, more of the debtors filing since

BAPCPA chose to attempt partial repayment under Chapter 13 rather than seek a Chapter 7 discharge, which is more generous but more restricted. Unanticipated, a significantly greater share of joint filings were made under both chapters post-BAPCPA. Debtors and their counsel more commonly converted their cases mid-stream from Chapter 7 to Chapter 13. Likewise, significantly more Chapter 13 cases were converted to Chapter 7. Mean job tenure declined among postreform filers during a period of falling unemployment. Households entering bankruptcy after October 2005 were more often the subject of at least one debt collection proceeding (e.g., garnishment or repossession) in the past year. During the 2 years after BAPCPA, significantly fewer bankruptcy filers under Chapter 7 had previously filed for bankruptcy, compared to filers before its implementation. However, we discovered a significant jump in repeat bankruptcies during the 5 years following the filing in our sample. The number of dependents and household size increased post-BAPCPA, particularly under Chapter 7. As a share of nonpriority, unsecured claims, medical debt rose and credit card debt fell for cases filed under BAPCPA compared to before. It also appears that more nonpriority, unsecured claims were in collection postreform.[41] Other developments in Utah for households in bankruptcy vary by chapter.

Chapter 7 filers under the new law were more likely than pre-BAPCPA filers to have at least some nonexempt assets the court could receive on behalf of creditors. Within that chapter, postreform real income at the time of filing and reported

[41] The increase in debt within collections is significant at the 0.10 level (*p*-value = 0.069).

expenditures were significantly higher. Since the reform, more Chapter 7 cases were dismissed, and a prompt discharge under that chapter became less routine.[42]

Compared to households in prereform Chapter 13 cases, Chapter 13 filers under BAPCPA carried less secured debt as a share of total debt and probably less secured debt as a percent of income, as somewhat fewer households in the postreform sample were home owners.[43] Although Chapter 13 repayment periods were lengthened after the reform and new scrutiny over the amount of disposable income was brought to bear, there was no increase in repayment amounts in dollar terms and no significant rise in the percent repaid of debt outstanding upon filing.[44] The framers of BAPCPA intended to increase creditor repayments where possible, and the reform was viewed as being more favorable to secured creditors than unsecured creditors, although payments of secured debt under Chapter 13 did not see a significant rise.

BAPCPA certainly did not change everything. Under its provisions, households resorting to bankruptcy still have much lower incomes, less wealth, and more debt than the general population. Mean household income and expenditures under Chapter 13 were unaffected by the reform, and income within that chapter remained higher than for Chapter 7. The value of assets in Chapter 7 cases scarcely rose postreform, and as before, did not approach the value of assets owned by Chapter 13 filers. Since before bankruptcy reform, filers had lower levels of educational attainment compared to the

---

[42] The result for Chapter 7 dismissal and discharge is from a complete sample of cases during the period our 200-case sample covers, whereas the smaller sample only captured four Chapter 7 dismissals, insufficient to make such conclusions.

[43] The *p*-value for the difference in means for the secured-debt-to-income ratio and home ownership under Chapter 7 are 0.089 and 0.057, respectively. Both are significant only at the 0.10 level, whereas the decrease in the percentage of debt that is secured is significant at the 0.05 level.

[44] The medians for debt repaid and debt repaid as a percent of debt outstanding both decreased. Mean repayment as a percent of total debt increased somewhat. Mean debt repaid as a dollar amount decreased.

general population. Households before and after BAPCPA implementation include similar percentages of married couples and families with at least one dependent.

Logit models explore characteristics of repeat filers, filers' chapter choice, and whether married couples file jointly. Compared to those filing for the first time within 8 years, repeat bankruptcy filers were more likely to have children, mortgages, and medical debt. BAPCPA appears to have successfully reduced repeat filings, even controlling for a variety of variables. Turning to the chapter choice model, self-employed repeat bankruptcy filers in large households with an income-earning spouse tended to prefer Chapter 13 over Chapter 7. More income and a higher percentage of debt held in student loans and secured debt are also associated with choosing Chapter 13. As for filing jointly or individually, married filers with higher levels of debt, particularly medical and secured debt, are more likely to file jointly. Large household size and government assistance as an income source are also correlated with married couples choosing to file jointly. Joint filings were less common for married bankruptcy filers after BAPCPA reform than before.

BAPCPA implementation has also been associated with a marked increase in attorney fees, a modest hike in court fees, and new expenses for mandatory pre-bankruptcy debt counseling. Case duration lengthened under both chapters. The law created legal costs and procedural burdens that reinforce incentives for people to be financially responsible, if in their circumstances they are capable of such autonomy. On the other hand, the law withdrew support from those seeking adequate relief to permit them a fresh start financially. The reform's direct and indirect fees especially affect low-income debtors, while means testing targets higher-income debtors' ability to pay. To the extent people are aware of their default options at the time they make earning and spending decisions, BAPCPA has successfully reduced moral hazard in borrowing and delinquency. At the same time, BAPCPA has reduced access to bankruptcy assistance. Even with detailed financial disclosure, the court can scarcely detect abuse of the bankruptcy system to distinguish a strategic, spendthrift debtor from an unfortunate, deserving one—if such a dichotomy even exists.

At least in the short run, BAPCPA reduced the demand for consumer bankruptcy in Utah. While indebtedness and default did not decline in the U.S. during 2003-2007, fewer households opted to use the bankruptcy system to work out their financial problems post-BAPCPA. Confronted with new requirements, a different profile of debtors filed under each chapter of consumer bankruptcy. Though they paid a higher price to access bankruptcy and faced a lower discharge rate once they began the process, for households that received a discharge, the extent of debt forgiveness was not significantly diminished.[45] The ongoing impact of bankruptcy policy will be discernible in future trends in consumer credit markets and bankruptcy filings, augmented by careful analysis of household-level data.

[45] The percent of debt discharged for completed Chapter 13 cases decreased with BAPCPA, as a somewhat greater percentage was repaid, but the change is not significant. On the other hand, the percent of debt discharged in Chapter 7 cases increased with BAPCPA, as the combined amount of student loans and priority claims decreased, though this change also was not statistically significant. It is not clear what the overall change in percentage of debt discharged is for both chapters in our sample, but the change is not significant.

APPENDIX: BANKRUPTCY REFORM

This section contains an explanation of bankruptcy law before and after the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCA). The law, which is approximately 196 pages in length, was approved by Congress April 14. President George W. Bush signed it April 20 (United States Government Printing Office [USGPO], 2005). Its provisions, except a few as noted in this section, took effect in all states October 17, 2005. The features of BAPCPA selected for inclusion are those that were mentioned in detailed reviews of the bill (e.g., Gerdano, 2009; Jacoby, 2005; Wedoff, 2005; Yerbich, 2012). Still, the policy information summarized here comes from the bill itself. Footnotes give references to the legal code and, in many cases, relevant excerpts. The section near the beginning of the dissertation called "The Consumer Bankruptcy Process: Chapters 7 and 13" gives an overview to provide context for the key provisions of BAPCPA that follow. With reference to the name of this major legislation, the focus rests on abuse prevention without substantive measures to protect consumers in bankruptcy, but with intended benefits for solvent consumers who bear the indirect costs of others' bankruptcies.

BAPCPA reforms can be categorized as either substantive or procedural (White, 2005). Substantive changes include who is eligible to file under which chapter and what debt can be discharged. Procedural reforms require credit counseling, attorney accountability, and the submission to the court of additional documents, such as tax returns and pay stubs. In this case, both types of reforms make bankruptcy less attractive to a debtor. Substantive reforms limit debtors' options, and procedural reforms make the process more costly.

Credit counseling must be completed before submitting any bankruptcy filing. [46] It may be done by phone or internet. Prior to BAPCPA, there was no such counseling requirement, although the courts themselves have sometimes offered instructions to bankruptcy filers before their discharge.

An income *means test* is required for Chapter 7 filers with income higher than the current state median income for their household size.[47] Abuse is presumed if disposable income expected over 5 years would exceed 25% of the debtor's nonpriority unsecured claims, but the threshold amount must be at least $6,000 and may not exceed $10,000. For reference, $6,000 is $100 per month for 5 years, and $10,000 is $167 per month.[48]

---

[46] Source for credit counseling: BAPCPA § 106 amending US Code Title 11 § 109, with the following addition: "an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis."

[47] Source for Chapter 7 means test: BAPCPA § 102 amending US Code Title 11 § 707, which states "the court…may dismiss a case filed by an individual debtor under this chapter [7]…or, with the debtors consent, convert such a case to a case under chapter… 13 of this title, if it finds that the granting of relief would be an abuse of the provisions of this chapter." Following that statement in paragraph (1), the following was added: "In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of— (I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or (II) $10,000." Current monthly income is defined in US Code Title 11 § 101 Par. 10A.

[48] The following expression indicates abuse presumed under BAPCPA where true: 60*(monthly income – allowed monthly expenses) > MIN($10,000,MAX(0.25(unsecured nonpriority claims),$6,000)). If nonpriority unsecured claims are $24,000 or less, the maximum acceptable disposable income for 5 years is $6,000, not less. If nonpriority unsecured claims are between $24,000 and $40,000, the maximum acceptable disposable income is 25% of the total such claims. If nonpriority unsecured claims are $40,000 or more, still the maximum acceptable disposable income will not rise above $10,000. This is intended to

Monthly expenses are not just debtor-supplied, but many of them must conform to statistically derived national and local standards. A judge may also use other criteria for determining if debtor conduct is abuse of bankruptcy law.[49] If abuse is found, the judge may dismiss the case or give the debtor the option to convert it to Chapter 13.

Additional *paperwork* is required. Within 45 days of filing, to avoid automatic dismissal,[50] debtors must submit evidence of any payments received from an employer in the past 60 days,[51] a separate form itemizing monthly net income for the means test where applicable, and documentation of any expected increase in income or expenditures in the next 12 months.[52] Debtors must also submit their most recent income tax return,[53]

---

remove households who can afford partial repayment in Chapter 13 from receiving a broad and prompt Chapter 7 discharge.

[49] Source for other criteria for Chapter 7 abuse besides the means test: BAPCPA § 102 amending US Code Title 11 § 707, to which was added in paragraph (3), "the court shall consider— (A) whether the debtor filed the petition in bad faith; or (B) the totality of the circumstances … of the debtor's financial situation demonstrates abuse."

[50] Source for 45-day filing deadline: BAPCPA § 315 adding US Code Title 11 § 521 paragraph (i), "if an individual debtor in a voluntary case under Chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition."

[51] Source for evidence of payment from employer filing requirement: BAPCPA § 314 amending US Code Title 11 § 521, to which was added: "The debtor shall—(1) file--…(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor."

[52] Source for monthly net income filing requirement: BAPCPA § 314 amending US Code Title 11 § 521, to which was added the provision that the debtor file "(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and (vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition."

[53] Source for most recent income tax return filing requirement: BAPCPA § 315 amending US Code Title 11 § 521 with the following addition: "The debtor shall provide--(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and (ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy. (B) If the debtor fails to

copies of any tax returns filed during the case,[54] and, if requested, a photo ID.[55] Since before BAPCPA, the following filing requirements were in place: schedules of assets, liabilities, current income, and current expenditures, as well as a statement of intention regarding property with secured claims attached.

BAPCPA reform places an increased *burden on attorneys for accuracy* based on requirements for "debt relief agencies," which include bankruptcy attorneys.[56] Debt relief agencies must not commit intentional or negligent errors as they assist bankruptcy clients. A debt relief agency may not misrepresent the benefits and risks of filing for bankruptcy, and they must refrain from advising clients to incur debt to file for bankruptcy. They cannot provide information or advise their clients to provide information that with "exercise of reasonable care, should have been known by such

---

comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor."

[54] Source for any new income tax return filing requirement: BAPCPA § 315 adding US Code Title 11 §521 paragraph (f), "At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court— (1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter," including any late filings for previous years and any amendments.

[55] Source for photo ID filing requirement: BAPCPA § 315 adding US Code Title 11 § 521 paragraph (h), "If requested by the United States trustee or by the trustee, the debtor shall provide— (1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or (2) such other personal identifying information relating to the debtor that establishes the identity of the debtor."

[56] Source for bankruptcy attorneys being debt relief agencies: BAPCPA § 226 which adds to US Code Title 11 § 101 definitions (12A) "The term 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer…" and (4A) "The term 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title."

agency to be untrue or misleading."[57] An attorney who signs a client's bankruptcy petition certifies to have "no knowledge after an inquiry that the information in the schedules…is incorrect."[58] Debt relief agencies must provide a new disclosure with wording stipulated by law, including the requirement of "reasonable inquiry" for values provided of assets, liabilities, and income.[59] Consequences and procedures for violations of the new law by debt relief agencies are explained.[60] Professionalism has always been expected of attorneys, but the expectation to verify and vouch for the accuracy of clients' statements represents a higher standard. The attorney general is made responsible to

---

[57] Source for debt relief agency restrictions: BAPCPA § 227 which adds to US Code Title 11 § 526 these restrictions "(a) A debt relief agency shall not— (1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title; (2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading; (3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to— (A) the services that such agency will provide to such person; or (B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or (4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title."

[58] Source for attorney verification expectation: BAPCPA § 102 amending US Code § 707 paragraph (b) (4) (D) with the following addition, "The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect."

[59] Source for the new item of disclosure: BAPCPA § 228 amending US Code Title 11 § 527 with this addition: "A debt relief agency…shall provide…a clear and conspicuous written notice…that-- (A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful; (B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value; (C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and (D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction."

[60] Consequences and procedures of violations by debt relief agencies are found in BAPCPA § 227 which adds to US Code Title 11 § 526, particularly paragraph (c).

conduct random audits of at least 1 in 250 bankruptcy cases to verify their accuracy beginning April 20, 2007.[61]

The duration of the *automatic stay provision was limited* for debtors with recent previous bankruptcies.[62] The stay only lasts 30 days from the date of filing for debtors who filed a previous bankruptcy case that was dismissed in the past year. Debtors may

---

[61] Source for random audit procedure: BAPCPA § 603 which adds audit procedures instructions to US Code Title 28 § 586: "The Attorney General…and the Judicial Conference of the United States…shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act [Apr. 20, 2005]. (2) Procedures. - Those procedures required by paragraph (1) shall - (A) establish a method of selecting appropriate qualified persons to contract to perform those audits; (B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit; (C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses…; and (D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits..."

[62] Source for the limitation on automatic stay for previous filers: BAPCPA § 302 amending US Code Title 11 § 362, to which was added the following, referring to a debtor who has filed for bankruptcy: "if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)— (A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case; (B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors … only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and (C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)— (i) as to all creditors, if— (I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period; (II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to— (aa) file or amend the petition or other documents as required by this title or the court without substantial excuse … ; (bb) provide adequate protection as ordered by the court; or (cc) perform the terms of a plan confirmed by the court; or (III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—
(aa) if a case under chapter 7, with a discharge; or (bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed…"

make a motion to have the stay extended beyond 30 days if their previous case was not dismissed due to their own negligence, and if they demonstrate "substantial change in … financial or personal affairs." Before BAPCPA, the automatic stay was in force for the duration of a bankruptcy case.

The *minimum waiting period* for repeat filers that received a prior discharge was lengthened for some sequences of repeat filings. A Chapter 7 discharge will not be granted if at least 8 years (lengthened from 6 years) have not passed between any previous Chapter 7 filing and the current Chapter 7 filing.[63] BAPCPA created minimum waiting periods for Chapter 13 cases, whereas before there were none. Before filing under Chapter 13, debtors must wait at least 4 years from any previous Chapter 7 filing and at least 2 years from any previous Chapter 13 filing.[64] Unchanged, a Chapter 7 discharge will not be granted unless at least 6 years have passed between any previous Chapter 13 filings and the filing date of the present Chapter 7 case.[65] Conversion before discharge to a different bankruptcy chapter is still permitted.

[63] Source for waiting period since previous Chapter 7 filing for Chapter 7 discharge: BAPCPA § 312 revised US Code Title 11 § 727 which now uses the number eight instead of six in this part: "(a) The court shall grant the debtor a discharge, unless— … (8) the debtor has been granted a discharge under this section, under section 1141 of this title, or under section 14, 371, or 476 of the Bankruptcy Act, in a case commenced within 8 years before the date of the filing of the petition;"

[64] Source for waiting period for Chapter 13 discharge: BAPCPA § 312 added the following as US Code Title 11 § 1328 paragraph (f): "the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge-- (1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief [automatic stay commenced at filing] under this chapter, or 2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order."

[65] Source for waiting period since previous Chapter 13 filing for Chapter 7 discharge: US Code Title 11 § 727 paragraph (a) (9)

Chapter 13 *repayment plan length* is specified at 3 years (unless the court has cause to approve a longer repayment period) for debtors with income below the state median income for their household size.[66] The plan must be exactly 5 years for debtors with income equal to or greater than the state median income for their household size. Plans are only shorter if all allowed unsecured claims are paid in full, which means that all secured claims must be caught up, and all priority claims must be paid first, since unsecured claims are the last to be paid in a repayment plan.[67] Before BAPCPA, if the trustee or unsecured creditor objected to the plan, the debtor could be required to pay all disposable income for 3 years into the plan, unless all claims were paid off sooner.[68] Also before BAPCPA, there was a limit on repayment plan duration of 3 years, unless the

---

[66] Source for Chapter 13 plan repayment period length, prescribing limits of 3 or 5 years: BAPCPA § 318 adding the following to US Code Title 11 § 1322 (d), "(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than— (A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; (B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or (C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 5 years. (2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than [the applicable median income] the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years."

[67] Source for Chapter 13 plan repayment period length, prescribing standard length of 3 or 5 years: BAPCPA § 318 adding the following to US Code Title 11 § 1325 paragraph (b) (4), the `applicable commitment period'— (A) subject to subparagraph (B), shall be-- (i) 3 years; or (ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than— [the applicable median income]; and (B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period."

[68] Source for Chapter 13 plan repayment period length before BAPCPA, prescribing length of 3 years: US Code Title 11 § 1325 (b) (1) "If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan— (A) the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or (B) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan."

court demonstrated cause to extend the period to no more than 5 years. To summarize, since BAPCPA, this 3-year provision only applies to cases where household income is less than the applicable median family income.[69]

Before BAPCPA, Chapter 13 *disposable income* was more loosely defined as all income received minus "reasonably necessary" expenses, specifically allowing for charitable contributions and business expenses. Expenses for this purpose were taken from a debtor-reported budget. Since BAPCPA, income is defined to specifically exclude child support payments. The provisions for charitable contributions and business expenses are the same as before, and the "reasonably necessary" standard with a debtor-reported budget of expenses remains for debtors with income below the applicable state median income.[70] If a debtor's income is greater than or equal to the applicable state median income, reasonably necessary expenses are more rigorously determined, based on standards of allowed expenses.[71] Allowed expenses include monthly expenses based on amounts specified by IRS standards with some leeway for food and clothing and, in certain categories, based on the debtor's actual expenses.[72] Allowed expenses also

[69] Source for Chapter 13 plan repayment period length before BAPCPA, prescribing limit of 3 years except under certain circumstances: US Code Title 11 § 1322 (d) "The plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years."

[70] The definition of disposable income is found in US Code Title 11 §1325 paragraph (b) (2).

[71] Source for disposable income determination for people above the median income: BAPCPA §319 added to US Code Title 11 §1325 paragraph (b) (3), which reads "Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b) (2), if the debtor has current monthly income, when multiplied by 12, greater than— [the applicable median income]."

[72] Source for definition of monthly expenses: BAPCPA § 102 adds US Code Title 11 § 707 paragraph (b) (2) (ii), "The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the

include average monthly payments on secured debts for essential items like a home and car, and payments for priority claims like child support and alimony.[73]

Some debt is *nondischargeable* in bankruptcy. Before BAPCPA, certain recent purchases over a specified amount were nondischargeable before BAPCPA for Chapter 7 cases. BAPCPA extends the time periods considered "recent," lowers the threshold

---

debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence … In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service. (II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses. (III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees. (IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I). (V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary."

[73] Source for definition of monthly expenses: BAPCPA § 102 adds US Code Title 11 § 707 paragraphs (b) (2) (iii) and (iv), "The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—
(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and (II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; divided by 60. (iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60."

amounts, and applies the provision to Chapter 13 cases as well as Chapter 7 cases.[74] Nondischargeable debts include cash advances of over $750, rather than over $1,225, obtained within 70 days of filing, rather than within 60 days. Nondischargeable debts also include luxury goods over $500, rather than over $1,225, obtained within 90 days of filing, rather than within 60 days.[75] BAPCPA also broadens the scope of debts that are nondischargeable under Chapter 13 cases, including certain taxes, debt obtained by fraud or false pretenses, civil and criminal restitutions, debt to creditors not given adequate notice, which before were only nondischargeable in Chapter 7 cases.[76] The definition of student loans that are nondischargeable was expanded somewhat by BAPCPA to include *any* qualified education loan besides those associated with a government unit or nonprofit institution, which basically includes for-profit lenders.[77] BAPCPA gave child support

---

[74] Source for applying cash advance and luxury good purchases to Chapter 13 cases: BAPCPA § 314 adds a reference to US Code § 523(a) paragraph (2) among the debts nondischargeable per §1328(a).

[75] Source for limitation on discharge of recent cash advances and luxury good purchases: BAPCPA § 310 changes the amounts and time limits of US Code Title 11 § 523 paragraph (a), which now states, "A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt—… (2) for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by—… (C)(i) for purposes of subparagraph (A)— (I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and (II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and (ii) for purposes of this subparagraph— …the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor."

[76] Source for considering additional types of debt nondischargeable in Chapter 13 cases: BAPCPA § 314 adds a reference to US Code § 523(a) paragraphs (1)(B), (1)(C), (3), and (4) among the debts nondischargeable per §1328(a), and adds these two items, "(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or (4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual."

[77] Source for nondischargeable student loans: BAPCPA § 220 which revises US Code Title 11 § 523 paragraph (a) (8), mainly by the addition of subparagraph (B), "unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for— (A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or

payments higher priority by removing exceptions to domestic support being nondischargeable on the basis of ability to pay and detrimental consequences to the debtor.[78]

BAPCPA substantially raises the filing fee for Chapter 7 cases and slightly lowers the filing fee for Chapter 13 cases. The changes in *filing fees* made Chapter 13 cases relatively cheaper than Chapter 7 cases. Chapter 7 filing fees were raised from $209 to $274 as of October 17, 2005, when Chapter 13 fees were lowered from $194 to $185.[79] Incidentally, fees changed again about a year later when the difference in fees between the two was reduced markedly: Chapter 7 increases modestly to $299, while Chapter 13 increases to $274.

Chapter 7 *filing fees may be waved* for individuals below 150% of poverty line.[80] Before BAPCPA, there was no standard for waiving fees except by special hardship petition.

---

made under any program funded in whole or in part by a governmental unit or nonprofit institution; or (ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or (B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;" The IRS Code § 221 definition is very broad, available at http://www.taxalmanac.org/index.php/Sec._221.

[78] Source for child support being nondischargeable: BAPCPA § 215 amending US Code Title 11 § 523 so that discharge under Chapters 7, 11, 12, and 13 does not discharge a debtor from debt, as paragraph (a) (5) states simply, "for a domestic support obligation," and as paragraph (a) (15) states, "to a spouse, former spouse, or child of the debtor and not of the kind described in paragraph (5) that is incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit;"

[79] Source for change in filing fees: US Code Title 28 § 1930.

[80] Source for new policy on waiving the filing fee: BAPCPA § 418 which adds US Code Title 28 § 1930 paragraph (f), "(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family

The *homestead exemption* is limited to $125,000 for any residence purchased within 1,215 days (about 40 months), even if the state exemption were higher.[81] The Utah exemption has been $20,000 for a single filer or $40,000 for joint filers for a primary residence; real property that is not a primary residence has a $5,000 exemption for single filers or a $10,000 exemption for joint filers.[82] The new federal maximum homestead exemption does not affect Utah. Other state exemption limits are $2,500 for one automobile per individual and $3,500 for work tools per individual.[83] Exemption limits did not change between October 2003 and October 2007. On a related subject, the Utah wage garnishment limit of 25% of disposable income has not changed since 1985.[84]

Debtors are required to meet *domiciliary requirements* (to reside within a jurisdiction a certain amount of time) in order to be eligible for exemption laws of a particular state. Before BAPCPA, to receive a state's exemptions, a debtor had to be domiciled in a state for 180 days or for more of the previous 180 days than they were

---

of the size involved and is unable to pay that fee in installments… (2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c)."

[81] Source for homestead exemption: BAPCPA § 322 adds the following to US Code Title 11 § 522, "a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in-- (A) real or personal property that the debtor or a dependent of the debtor uses as a residence; (B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; (C) a burial plot for the debtor or a dependent of the debtor; or (D) real or personal property that the debtor or dependent of the debtor claims as a homestead."

[82] Source for Utah household exemptions is Utah Code Title 78B Chapter 5 Section 503 formerly 78-23-3 before Feb 2008 recodification. A May 3, 2004 revision includes mobile homes in the exemption.

[83] For exempt household possessions, such as oven, clothes, and beds, see Utah Code Title 78B Chapter 5 Section 505 formerly 78-23-5. For exempt work tools and motor vehicles and for value limits of household possession exemptions, see Utah Code Title 78B Chapter 5 Section 506 formerly 78-23-8. A May 2, 2005 revision specifically exempts life insurance owned by debtor, spouse, or children, except where collateral for a loan; the revision also exempts alimony and maintenance payments. Both life insurance and alimony were presumably included as exemptions by less specific language before this time.

[84] See Utah Code Title 70C Chapter 7 Section 103

domiciled in any other state. Under BAPCPA, in order to receive a state's exemptions, a debtor must be domiciled in that state for 730 days (2 years). If the debtor has not been domiciled in the state for 730 days, the law looks to where they were domiciled for the majority of the 180 days preceding the previous 730 days.[85] Since before BAPCPA, Chapter 13 plans were required to provide *secured creditors* with at least the value of the collateral property on the effective date of the plan or be current on a contract-specified payment schedule towards that end. If the claim amount was higher than that property value, the unsecured portion of the loan could be paid in the same proportion as other unsecured loans, and the secured creditor could not exercise its lien on the property, as long as the secured portion of the claim was repaid under the plan.[86] BAPCPA retains those provisions, but it creates an exception for certain recent purchases. Secured claims on motor vehicles incurred within 910 days (about 30 months) of filing must be paid in full, including any unsecured portion, or the creditor's lien on the vehicle remains. Likewise, for any secured claims based on collateral of "any other thing of value"

[85] Source for domiciliary requirements for exemptions: BAPCPA § 307 which amends US Code Title 11 § 522 paragraph (b)(3), which now reads as follows, "any property that is exempt under Federal law, other than subsection (d) of this section, or State or local law that is applicable on the date of the filing of the petition at the place in which the debtor's domicile has been located for the 730 days immediately preceding the date of the filing of the petition or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place; (B) any interest in property in which the debtor had, immediately before the commencement of the case, an interest as a tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant is exempt from process under applicable nonbankruptcy law; and (C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d)."

[86] Source for treatment of secured loans with claim amount above the property value in Chapter 13 cases: US Code Title 11 § 1325 paragraph (a) (5) (B) states that one condition for confirmation of a plan is that "the plan provides that-- (ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim;"

purchased within one year of filing, that secured claim must be paid in full, not just the secured portion.[87] BAPCPA also defines property value as retail value or replacement value.[88]

BAPCPA requires certain procedures for *notices* from debtors to creditors. For example, debtors must obtain the correct address for creditors and include certain information like their account numbers in such notices.[89]

Debtors in a Chapter 13 bankruptcy case are required to make *adequate protection payments* to creditors with secured claims of an amount that is intended to compensate the creditor for depreciation of the property on which they have a lien until regular debt payments resume.[90] Before BAPCPA, adequate protection payments to the trustee were to commence no later than 30 days after the plan filing, and if a plan were not confirmed, adequate protection payments would be returned to the debtor. Under

[87] Source for treatment of secured claims in Chapter 13 cases, exception for recent purchases: BAPCPA § 306 adding this paragraph to the end of US Code Title 11 § 1325 paragraph (a), "For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910- day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing."

[88] Source for definition of values: US Code Title 11 § 506 paragraph (a) (2) was added under BAPCPA (previously value was not carefully defined), "such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."

[89] Source for notice requirements: US Code Title 11 § 342

[90] Source for definition of adequate protection: unchanged by BAPCPA, US Code Title 11 § 361 "When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by— (1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;"

BAPCPA, adequate protection payments are made either directly to the creditor or to the trustee, if that is provided in the plan. Payments commence no later than 30 days of the plan filing or an order for relief from stay to the creditor involved, whichever is sooner. If a plan is not approved, adequate payment amounts collected so far by the trustee will be distributed to secured creditors.[91]

Trustee fee limitations did not change with BAPCPA. The limit is 10% of receipts from a repayment plan in a Chapter 13 case,[92] and for money from Chapter 7 liquidations the limit is 25% of the first $5,000 received to 10% for amounts up to $50,000 to 5% up to $1 million.[93]

---

[91] Source for adequate protection procedures: BACPA § 309 adds paragraphs (a) (1) (A) – (C) and revises paragraph (a) (2) to US Code Title 11 § 1326, "(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount— (A) proposed by the plan to the trustee; (B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and (C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment. (2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b)."

[92] See 28 U.S.C. 586(e) for trustee fees in Chapter 13 cases. 10% applies to amounts up to $450,000 which is not exceeded by any Chapter 13 case in our sample.

[93] See 11 U.S.C. 326(a) for trustee fees in Chapter 7 cases. Amounts over $1,000,000 are assessed a 3% trustee fee.

REFERENCES

Agarwal, S., Chomsisengphet, S., & Liu, C. (2011). Consumer bankruptcy and default: The role of individual social capital.” *Journal of Economic Psychology*, *32*, 632-650.

American Community Survey. (2005). Marital status: Utah. Table S1201, available online at http://factfinder2.census.gov.

Athreya, K. B. (2002). Welfare implications of the bankruptcy reform act of 1999. *Journal of Monetary Economics*, *49*, 1567-1595.

Ausubel, L. M., & Dawsey, A. E. (2004). Informal bankruptcy. University of Maryland College Park, Department of Economics, Working Paper, available online at www.ausubel.com/creditcard-papers/informal-bankruptcy.pdf.

Berry, A. A., & Wise, D. (2012). How the culture of the court affects consumer bankruptcy filings. *Consumer Interests Annual*, *58*, 2 pp.

Braucher, J. (1993). Lawyers and consumer bankruptcy: One code, many cultures. *American Bankruptcy Law Journal*, *67*(4), 501-584.

Bucks, B. K., Kennickell, A. B., Mach, T. L., & Moore, K. B. (2009). Recent changes in U.S. family finances from 2004 to 2007: Evidence from the Survey of Consumer Finances. *Federal Reserve Bulletin*, *95*, A1-A55.

Bureau of Labor Statistics. (2013). National Longitudinal Survey of Youth 1979, online February 2013, http://www.bls.gov/nls/nlsy79.htm.

Current Population Survey. Health insurance coverage status and type of coverage by state—all persons: 1999 – 2011. U.S. Census Bureau Health Insurance Historical Tables, Table HIB-4, available online at http://www.census.gov/hhes/www/hlthins/data/historical/HIB_tables.html.

Domowitz, I., & Sartain, R. L. (1999). Determinants of the consumer bankruptcy decision. *Journal of Finance*, *54*(1), 403-420.

Dranove, D., & Millenson, M. L. (2006). Medical bankruptcy: Myth versus fact. *Health Affairs* (online edition), *25*(2), w74-w83.

Eraslan, H., Li, W., & Sarte, P. G. (2007). The anatomy of U.S. personal bankruptcy under Chapter 13. *Federal Reserve Bank of Richmond*, Working Paper number 07-05.

Evans, D. A., & Lown, J. M. (2008). Predictors of Chapter 13 completion rates: The role of socioeconomic variables and consumer debt type. *Journal of Family and Economic Issues, 29*, 202-218.

Fay, S., Hurst, E., & White, M. J. (2002). The household bankruptcy decision. *American Economic Review, 92*(3), 706-718.

Federal Housing Finance Agency. (2012). All-transactions quarterly house price index data (U.S. and States), online at http://www.fhfa.gov/Default.aspx?Page=87.

Federal Reserve Board. (2013). Household debt service and financial obligations ratios, updated Dec 13, 2013, Data Releases for Household Finance, online at http://www.federalreserve.gov/releases/housedebt/default.htm.

Federal Reserve Board. (2013). Survey of Consumer Finances, 1983-2010, online February 2013, http://www.federalreserve.gov/pubs/oss/oss2/scfindex.html.

Fisher, J., & Lyons, A. (2010). Information and credit access: Using bankruptcy as a signal. *Applied Economics*, *42*, 3175-3193.

Genicot, G., & Ray, D. (2006). Bargaining power and enforcement in credit markets. *Journal of Development Economics, 79*, 398-412.

Gerdano, S. (2009). Bankruptcy Abuse Prevention and Consumer Protection Act of 2005: 25 changes to personal bankruptcy law. *American Bankruptcy Institute*, accessed March 2009, online at http://abiworld.net/bankbill/changes.html.

Gross, T., Notowidigdo, M. J., & Wang, J. (2012). Liquidity constraints and consumer bankruptcy: Evidence from tax rebates. *NBER Working Paper Series*, working paper number 17807.

Gross, D. B., & Souleles, N. S. (2002). An empirical analysis of personal bankruptcy and delinquency. *The Review of Financial Studies*, *15*(1), 319-347.

Han, S., & Li, G. (2011). Household borrowing after personal bankrupty. *Journal of Money, Banking and Credit*, *43*(2-3), 491-517.

Himmelstein, D. U., Warren, E., Thorne, D., & Woolhandler, S. (2005). Illness and injury as contributors to bankruptcy. *Health Affairs, 24*, 63-73.

Himmelstein, D. U., Warren, E., Thorne, D., & Woolhandler, S. (2009). Medical bankruptcy in the United States, 2007: Results of a national study. *American Journal of Medicine*, *122*(8), 741-746.

Holmes, T. J. (1989). The effects of third-degree price discrimination in oligopoly. *The American Economic Review*, *79*(1), 244-250.

Jacoby, M. B. (2005). Ripple or revolution? The indeterminacy of statutory bankruptcy reform. *American Bankruptcy Law Journal*, *79*, 169-190.

Johnson, E., & Wright, J. (2007). Are Mormons bankrupting utah? Evidence from the bankruptcy courts. *Suffolk University Law Review,* 30(3), 607-639.

Kilborn, J. J. (2005). Behavioral economics, overindebtedness and comparative consumer bankruptcy: search for causes and evaluating solutions. Emory Bankruptcy Development Journal, 2005-2006, *22*, 13-45.

Klee, K. N. (2001).Tithing and bankruptcy. *American Bankruptcy Law Journal*, *75*, 157-196.

Kowalewski, K. (2000). Personal bankruptcy: A literature review. *Congressional Budget Office*, 1-53.

Lawless, R. M. (2007). Consumer bankruptcy and credit in the wake of the 2005 act: The paradox of consumer credit. *University of Illinois Law Review*, 347-374.

Lawless, R. M., Littwin, A. K., Porter, K. M., & Pottow, J. A. E. (2008). Did bankruptcy reform fail? An empirical study of consumer debtors. *American Bankruptcy Law Journal*, *82*, 349-406.

Lefgren, L., & McIntyre, F. (2009). Explaining the puzzle of cross-state differences in bankruptcy rates. *Journal of Law and Economics, 52*, 367-393.

Littwin, A. (2011). The affordability paradox: How consumer bankruptcy's greatest weakness may account for its surprising success. *William and Mary Law Review*, *52*(6), 1933-2024.

Llewellyn, B. C., & Lown, J. M. (2005). Are debtors abusing bankruptcy by repeat filings? *Consumer Interests Annual*, *51*, 54-60.

Lown, J. M., & Rowe, B. R. (2003). A profile of Utah consumer bankruptcy petitioners. *Journal of Law and Family Studies*, *5*, 113-130.

Maroto, M. (2012). The scarring effects of bankruptcy: Cumulative disadvantage across credit and labor markets. *Social Forces*, *91*(1), 99-130.

McGregor, S., Klingander, B., & Lown, J. (2001). Comparative analysis of Canadian, American and Swedish consumer bankruptcy policy: Why do governments legislate consumer debt? *International Journal of Consumer Studies*, *25*(3), 208-227.

Mecham, L. R. (2004). Bankruptcy basics: Applicable to cases filed before October 17, 2005. Administrative Office of the United States Courts, Apr 2004, online at http://www.uscourts.gov/FederalCourts/PublicationsAndReports.aspx, 73 pp.

Mecham, L. R. (2006). Bankruptcy BASICS: Applicable to cases filed after October 17, 2005. Administrative Office of the United States Courts, Apr 2006, online at http://www.uscourts.gov/FederalCourts/PublicationsAndReports.aspx, 78 pp.

Mittlböck, M., & Schemper, M. (1999). Computing measures of explained variation for logistic regression models. *Computer Methods and Programs in Biomedicine*, *58*, 17-24.

Moss, D. A., & Johnson, G. A. (1999). The rise of consumer bankruptcy: Evolution, revolution, or both? *American Bankruptcy Law Journal*, *73*, 311-351.

National Delinquency Survey. Mortgage foreclosures started, NSA, quarterly 1979-2011. National Bankers Association. Online at http://www.mbaa.org/researchandforecasts/productsandsurveys/nationaldelinquencysurvey.htm.

Norberg, S. F. (1999). Consumer bankruptcy's new clothes: An empirical study of discharge and debt collection in Chapter 13. *American Bankruptcy Institute Law Review*, *7*(2), 415-463.

Norberg, S. F., & Compo, N. S. (2007). Report on an empirical study of district variations, and the roles of judges, trustees and debtors' attorneys in Chapter 13 bankruptcy cases. *American Bankruptcy Law Journal*, *81*(4), 431-470.

Norberg, S. F., & Velkey, A. J. (2006). Debtor discharge and creditor repayment in Chapter 13. *Creighton Law Review*, *39*, 473-559.

O'Malley, T. C., & Huston, S. J. (2012). Student loan debt and personal bankruptcy. *Proceedings of the Association for Financial Counseling and Planning Education*, *2012 Annual Conference*, 97-106.

Pollack, O. B. (1997). Gender and bankruptcy: An empirical analysis of evolving trends in Chapter 7 and Chapter 13 bankruptcy filings 1967-1997. *Commercial Law Journal*, *102*(3), 333-338.

Prager, R. A. (2009). Determinants of the locations of payday lenders, pawn shops and check-cashing outlets. *Finance and Economics Discussion Series*, Federal Reserve Board, working paper number 2009-33.

Porter, K. (2012). *Broke: How debt bankrupts the middle class.* Palo Alto, CA; Stanford University Press.

Rasmusen, E. (2007). *Games and information: An introduction to game theory* (4th ed.). Malden, MA: Blackwell Publishing.

Sullivan, T. A., Warren, E., & Westbrook, J. L. (1989). *As we forgive our debtors: Bankruptcy and consumer credit in America.* New York, NY: Oxford University Press.

Sullivan, T. A., Warren, E., & Westbrook, J. L. (1994). Consumer debtors ten years later: A financial comparison of consumer bankruptcy 1981-1991. *American Bankruptcy Law Journal*, *68*, 121-154.

Sullivan, T. A., Warren, E., & Westbrook, J. L. (2000). *The fragile middle class: Americans in debt.* New Haven, CT: Yale University Press.

Sullivan, T. A., Warren, E., & Westbrook, J. L. (2006) Less stigma or more financial distress: An empirical analysis of the extraordinary increase in bankruptcy filings. *Stanford Law Review*, *59*, 213-256.

United States Government Printing Office. (2013). *109th Congress public law 8*. February 2013, http://www.gpo.gov/fdsys/pkg/PLAW-109publ8/html/PLAW-109publ8.htm.

United States Trustee Program. (2010). Percent of cases filed as Chapter 13. *U.S. Department of Justice Bankruptcy Statistics*, updated April 2010, available online at http://www.justice.gov/ust/eo/public_affairs/statistics/stats_state.htm.

Utah Foundation. (2004). Going for broke: Utah’s alarming bankruptcy problem. *Utah Foundation Research Report*, number 670, online at http://www.utahfoundation.org/reports/?p=28.

Wedoff, E. R. (2005). Major consumer bankruptcy effects of the 2005 reform legislation. *American Bankruptcy Institute*, July 11, online at http://www.abiworld.org/pdfs/s256/mainpoints11.pdf, 34 pp.

Weston, J. F. (1977). Some economic fundamentals for an analysis of bankruptcy. *Law and Contemporary Problems*, *41*, 47-65.

White, J. (2006). Abuse prevention 2005. *Missouri Law Review, 71*, 863-878.

White, M. J. (1998A). Why it pays to file for bankruptcy: A critical look at the incentives under U.S. personal bankruptcy law and a proposal for change. *University of Chicago Law Review*, *65*(3), 685-732.

White, M. J. (1998B). Why don't more households file for bankruptcy? *Journal of Law, Economics, and Organization*, *14*(2), 205-31.

White, M. J. (2007). Bankruptcy REFORM AND CREDIT CARDS. *Journal of Economic Perspectives*, *21*(4), 175-199.

Wiggins, M. J. (2006). Conservative economics and optimal bankruptcy policy. *Theoretical Inquiries in Law, 7,* 347-363.

Winship, C., & Radbill, L. (1994). Sampling weights and regression analysis. *Sociological Methods and Research*, *23*(2), 230-257.

Yerbich, T. J. Esq. (2012). Synopsis of Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. *American Bankruptcy Institute*, accessed July 2012, online at http://www.abiworld.org/pdfs/s256/yerbich.pdf, 46 pp.

Zagorsky, J. L., & Lupica, L. R. (2008). A study of consumers' post-discharge finances: Struggle, stasis, or fresh-start? *American Bankruptcy Institute Law Review*, *16*(1), 283-319.

Zhu, N. (2011). Household consumption and personal bankruptcy. *Journal of Legal Studies, 40*(1), 1-37.

Zywicki, T. J. (2005). An economic analysis of the consumer bankruptcy crisis. *Northwestern University Law Review*, *99*(4), 1463-1541.