

One Million Bankruptcies

The rate of bankruptcy filings is now over 1 million per year. Given that nearly all personal Chapter 7 bankruptcy cases (the most common type of case) end with no payments at all to creditors (i.e., with the debtor giving up no assets), it should be clear that more and more people are stiffing their creditors because they can do so at little cost to themselves.

Failure to repay borrowed money was once regarded as a form of theft. Insolvent debtors were sent to debtors' prison. The *threat* of incarceration may have intensified the efforts of debtors and their families to make payment, but imprisonment did not serve to make debtors productive or enable them to return funds to creditors.

As a result, insolvent debtors are no longer viewed as criminals unless it can be shown that they obtained loans by fraudulent means and/or with no intention of repaying them (the McDougals of Whitewater fame, being a recent example). No one is forced to extend credit and, when a loan goes bad, the lender may be responsible to some extent. Lenders need to review the circumstances of prospective borrowers, but even where such investigations are thorough and accurate, circumstances can change in ways that cannot always be foreseen by either borrowers or lenders.

Bankruptcy proceedings are designed to enable all creditors to receive equitable treatment, while enabling the debtor to discharge debts and have a "fresh start." In this country, bankruptcy has been handled in Federal courts since the Constitution was ratified. The framers viewed this as a means of ensuring a genuinely national economy. Credit can flow freely within the United States because borrowers cannot hide behind the individual state laws.

Over the years, bankruptcy statutes have become increasingly favorable to debtors. "Voluntary bankruptcies," including Chapter 11 proceedings (used mainly by business), Chapter 12 (designed for farmers), and Chapter 13 (used mainly by individuals) allow the debtor to retain con-

trol of assets, while his debt payments are essentially frozen. Voluntary bankruptcy proceedings call for the debtor and the creditors to negotiate a plan for repayment, which can involve a reduction in the amounts due, postponement of payments, changes in the rate of interest, or all three in combination. Once a plan has been approved by the court, the debtor "comes out of bankruptcy" with re-structured debts.

In business bankruptcy cases, the interest of the courts has increasingly been focused on continuing the business in operation. Not only does this serve to maintain employment, but also the assets of a business are often more valuable in a "going concern" than when sold off on a piecemeal basis.

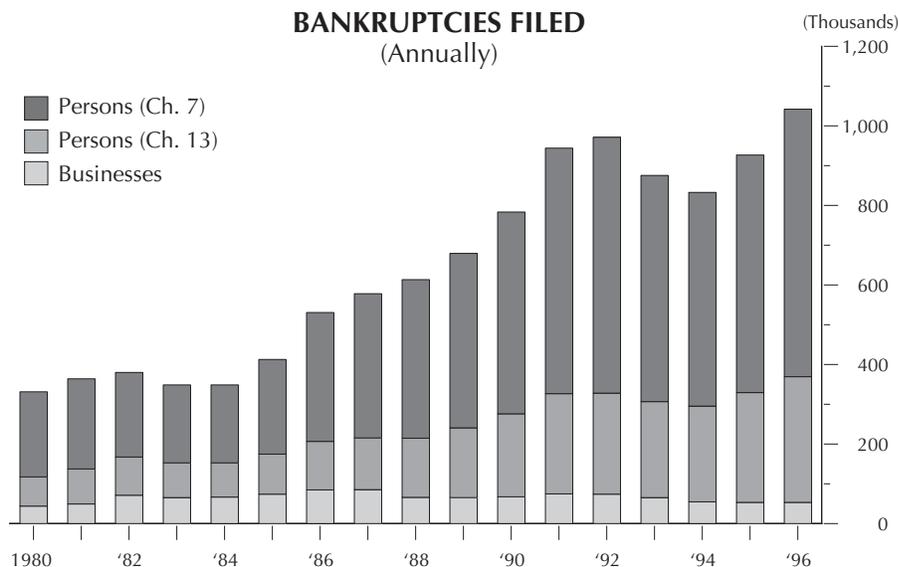
In Chapter 7 proceedings, an officer of the court takes control of the assets of the

debtor¹, and distributes them to creditors. Individual debtors are allowed to keep certain assets. These traditionally included equity in a home, a car, clothing, tools of a trade, etc. The value of what a bankrupt debtor can keep has increased over the years, especially in the 1978 revision of the Federal statutes, which took effect in 1980. Where state laws are more generous than the Federal Statutes, the debtor can elect for the former, and *vice versa*.

Recent Trends

The accompanying chart shows the number of filings in Federal Bankruptcy Courts since 1980. As can be seen in this chart, business bankruptcies, which account for a very small portion of the total of filings (but presumably a much larger portion of the debt involved in bankruptcy proceedings) increased markedly during the recessions of the early 1980s, perhaps in response to changes in the law as well as the recessionary conditions then, to a peak in 1987. Since then, the trend of business bankruptcy filings has been downward, with only a slight increase during the 1990-91 recession. The number of

¹ It is a sign of the times that the Federal statutes governing bankruptcy no longer refer to "the bankrupt," a somewhat pejorative name, but use the word "debtor" instead.



Note: Data for 1996 are for the 12 months ended June 30.

businesses filing bankruptcy petitions this year will be the lowest since 1981.

However, the total number of bankruptcy filings has more than tripled since 1980, and, during the 12 months ended June 30, 1996, this total exceeded 1 million for the first time. Personal bankruptcies accounted for nearly all of the growth. Chapter 7 proceedings account for more than two-thirds of personal bankruptcies.

The accompanying table shows the

number of bankruptcy filings during the 12 months ended June 30, 1996, the estimated rate per 100 households, and the rate of increase in filings during the past 11 years and during the past year by state. As indicated in the table, the incidence of bankruptcy varies widely among the states, from less than 1 for every 200 households in Alaska to more than 1 for every 50 household in Tennessee. Much of this variation appears to reflect local patterns and mores, which change rela-

tively slowly. For example, filings in Tennessee increased at about same rate as the National averages during the past 11 years, suggesting that Tennessee has long been at the top of the list.

The growth in filings has also varied markedly — the state with the largest percentage increase, Massachusetts, where filings have increased more than 6-fold since 1985, remains relatively low (no. 42) on the list of rankings of filings per household, which suggests that while bankruptcy may be becoming more acceptable among Bay Staters, it remains uncommon relative to the entire Nation. Special factors may also be involved in the variation in the rates of growth — the low rate of growth in states such as Iowa and Nebraska since 1985 may reflect the distress of farmers during the mid-1980s.

Why do People Declare Bankruptcy?

The simple answer to this question is that they cannot pay their debts. There are many reasons for this. One's circumstances change suddenly as the result of divorce, unemployment, disability, high medical expenses not covered by insurance, etc. A court judgment in favor of a creditor, or as the result of a tort claim (again not covered by insurance) may be the precipitating factor. However, the distinction between "cannot" and "do not want to" pay debts is increasingly blurred.

There can be little doubt that the surge in bankruptcy filings during the 1980s reflected changes in the law that permitted debtors to "wipe the slate clean" while retaining more (even significant) assets as noted above. In addition, individuals hold an increasing portion of their assets in pension plans, which often cannot be touched in bankruptcy proceedings.

In any event, most analysts concluded that these factors had largely worked their way through the system, *i.e.*, that consumers in general and bankruptcy lawyers in particular had fully adjusted to the new rules, by the end of the 1980s. Thus, the increases in filings during 1991 and 1992 and the subsequent decrease in 1993 and 1994 were believed to reflect mainly cyclical factors. However, the increase in filings during 1995 and 1996, years of continued economic expansion, have called this into question.

According to the Administrative Office of the United States Courts, "Approximately 95 percent of... Chapter 7 cases are terminated as 'no asset' cases — where all property of the debtor is exempt from sale by the court-appointed trustee." Most of the assets distributed in the other 5 percent of Chapter 7 cases appear to be assets of bankrupt businesses.

BANKRUPTCY FILINGS BY STATE

(Including Puerto Rico and the District of Columbia)

	Filings during 12-mos. ended 6/30/96			Increase since 1985		Increase from 1995	
	Number	Rate*	Rank	Percent	Rank	Percent	Rank
Alabama	29,288	1.85	(3)	170%	(28)	20.3%	(34)
Alaska	1,029	0.50	(52)	93%	(47)	11.6%	(51)
Arizona	17,975	1.19	(14)	247%	(16)	21.4%	(31)
Arkansas	11,214	1.20	(12)	184%	(26)	42.8%	(1)
California	164,284	1.52	(5)	166%	(30)	17.0%	(40)
Colorado	14,945	1.05	(21)	113%	(40)	14.2%	(47)
Connecticut	10,181	0.83	(30)	453%	(5)	19.4%	(38)
Delaware	1,892	0.71	(39)	320%	(11)	33.1%	(8)
District of Columbia	1,639	0.69	(44)	135%	(34)	14.1%	(49)
Florida	51,929	0.95	(26)	468%	(4)	19.8%	(37)
Georgia	50,909	1.96	(2)	254%	(15)	20.8%	(33)
Hawaii	2,438	0.64	(45)	300%	(12)	37.9%	(4)
Idaho	4,754	1.18	(15)	98%	(45)	27.6%	(16)
Illinois	48,545	1.12	(17)	90%	(48)	23.9%	(22)
Indiana	25,985	1.20	(13)	113%	(41)	16.5%	(42)
Iowa	7,619	0.70	(41)	62%	(51)	28.7%	(12)
Kansas	10,097	1.04	(22)	110%	(42)	19.3%	(39)
Kentucky	16,620	1.15	(16)	136%	(32)	27.6%	(17)
Louisiana	17,084	1.11	(19)	122%	(38)	27.6%	(15)
Maine	2,618	0.55	(51)	320%	(10)	39.1%	(3)
Maryland	20,370	1.11	(18)	416%	(7)	24.6%	(20)
Massachusetts	15,692	0.70	(42)	685%	(1)	11.8%	(50)
Michigan	28,002	0.80	(34)	225%	(20)	23.2%	(26)
Minnesota	16,332	0.95	(25)	203%	(23)	15.8%	(43)
Mississippi	13,347	1.41	(6)	175%	(27)	25.9%	(18)
Missouri	19,750	0.98	(24)	168%	(29)	30.8%	(10)
Montana	2,475	0.76	(35)	135%	(33)	15.8%	(44)
Nebraska	4,568	0.75	(37)	66%	(50)	34.2%	(7)
Nevada	8,924	1.59	(4)	209%	(22)	22.7%	(28)
New Hampshire	3,424	0.81	(33)	540%	(2)	11.5%	(52)
New Jersey	30,597	1.08	(20)	358%	(9)	20.0%	(35)
New Mexico	5,221	0.89	(28)	229%	(19)	42.0%	(2)
New York	56,107	0.84	(29)	296%	(13)	15.0%	(45)
North Carolina	18,868	0.70	(40)	247%	(17)	34.6%	(5)
North Dakota	1,501	0.62	(48)	120%	(39)	21.3%	(32)
Ohio	38,800	0.93	(27)	99%	(44)	19.9%	(36)
Oklahoma	16,089	1.30	(8)	126%	(36)	21.9%	(30)
Oregon	15,551	1.27	(10)	133%	(35)	14.1%	(48)
Pennsylvania	28,151	0.62	(49)	187%	(25)	27.7%	(14)
Puerto Rico	8,830	0.73	(38)	478%	(3)	14.7%	(46)
Rhode Island	3,763	1.02	(23)	402%	(8)	23.9%	(23)
South Carolina	8,518	0.64	(46)	269%	(14)	23.3%	(25)
South Dakota	1,673	0.63	(47)	83%	(49)	28.5%	(13)
Tennessee	43,656	2.22	(1)	197%	(24)	22.9%	(27)
Texas	54,221	0.83	(32)	222%	(21)	23.8%	(24)
Utah	8,047	1.35	(7)	103%	(43)	16.6%	(41)
Vermont	1,223	0.56	(50)	434%	(6)	31.4%	(9)
Virginia	31,684	1.30	(9)	245%	(18)	24.3%	(21)
Washington	25,019	1.22	(11)	122%	(37)	34.2%	(6)
West Virginia	4,917	0.70	(43)	160%	(31)	29.5%	(11)
Wisconsin	14,372	0.76	(36)	93%	(46)	21.9%	(29)
Wyoming	1,486	0.83	(31)	43%	(52)	25.4%	(19)
	1,042,110	1.08		186%		21.4%	

* Per 100 Households (using Bureau of the Census estimates as of July, 1994).

Moreover, even where a debtor holds assets that could be distributed in a Chapter 7 proceeding, the possibility of greatly delaying a resolution and excluding a substantial portion of those assets under Chapter 7 is a powerful bargaining tool in negotiations with creditors under Chapter 13.

Reportedly, an increasing proportion

of personal bankruptcies involve over-extended consumers, who have run up substantial balances on multiple credit card accounts, and who are simply tired of juggling balances and paying a significant portion of their disposable income in interest. With the law enabling them to declare bankruptcy at little cost other than

an often quite temporary loss of available credit and the apparently rapidly diminishing social stigma of being a bankrupt, the new answer to why people borrow money they can't pay back is *because they can*. In these circumstances the lenders who get stiffed have no one to blame but themselves. □

BUSINESS-CYCLE CONDITIONS

The current business outlook remains favorable. According to the latest data, there is little on the horizon that would suggest a business-cycle contraction is likely to occur in the months ahead. Half of our leading indicators are clearly expanding, and three others are probably expanding.

As the fourth quarter begins to wind down, there is little to suggest that the expansion will not continue into 1997. Four of our 12 primary leading indicators reached new highs in our latest appraisal of business-cycle conditions. They are *initial claims for state unemployment insurance* (inverted), *new orders for consumer goods and materials*, *contracts and orders for plant and equipment*, and the *index of 500 common stock prices*. (All dollar-denominated series are adjusted for price inflation). All four series are appraised as clearly expanding.

Although the *ratio of manufacturing and trade sales to inventories* decreased this month, the downturn was insufficient to warrant a change in the series' cyclical status. It remains appraised as clearly expanding. The appraisal for the 3-month *percent change in sensitive materials prices*, one of our most volatile indicators, was upgraded from probably expanding to clearly expanding. This highly erratic series has increased for the past 8 months, and if present trends persist, it will likely increase above zero soon. With this upgrade, fully half of our primary leading indicators are clearly expanding.

Despite a decrease in the data, the *M2 money supply*, a broad measure of the money supply, remains appraised as probably expanding. The *index of housing permits* also decreased, but it, too, remains appraised as probably expanding. There was no change in the *average workweek in manufacturing*, thus its cyclical status also remains appraised as probably expanding.

Vendor performance, the percentage of purchasing managers reporting slower deliveries from their suppliers, increased in October, but the 2-month moving average decreased to 50.2 percent. It is not clear whether this series is expanding or contracting, thus its cyclical status remains indeterminate.

The 3-month *percent change in con-*

sumer debt has been trending downward for 21 months, and the series remains appraised as clearly contracting. The *M1 money supply* also is clearly contracting.

Overall, among the leading indicators with apparent cyclical trends, 82 percent (9 out of 11) are expanding. This is unchanged from last month. AIER's cyclical score is 68 — up 1 point from last month's revised score of 67. In prior business cycles, the percent of leaders expanding has peaked an average of 3 months before the economy turned. Thus, the recent performance of this percentage, and

the cyclical score, suggests that the economy will continue expanding into 1997. The indicators are not useful for predicting whether the rate of economic growth is likely to speed up or slow down in the months ahead, but expansion is almost assured.

There were five new highs among the six primary roughly coincident indicators. After a decrease last month, *nonagricultural payroll employment* increased by 210,000 new jobs to reach a new historical high. *Personal income in manufacturing*, *manufacturing and trade sales*, *civilian employment as a percentage of the working-age population*, and *gross domestic product* are all at new highs as well.

The *index of industrial production* was the only coincident indicator not to reach a new high this month. The index decreased by half a percent in October. Most of this decrease was due to a sharp drop in the production of motor vehicles and mo-

Statistical Indicators of Business-Cycle Changes

Change in Base Data				Primary Leading Indicators	Cyclical Status		
Jul.	Aug.	Sept.	Oct.		Sept.	Oct.	Nov.
-	-	-		M1 money supply	-	-	-
-	+	-		M2 money supply	+?	+?	+?
+	+	+		Change in sensitive materials prices	+?	+?	+
+	-	+		New orders for consumer goods	+	+	+
+	-	+		Contracts and orders for plant and equipment	+	+	+
+	-	-		Index of new housing permits	+	+?	+?
+	-	-		Ratio of manufacturing and trade sales to inventories	+	+	+
-	+	-	+	Vendor performance	?	?	?
-	+	+	+	Index of common stock prices (constant purchasing power)	+	+	+
-	+	+	-	Average workweek in manufacturing	+?	+?	+?
+	+	-		Initial claims for unemployment insurance (inverted)	+?	+	+
+ ^f	-	-		Change in consumer debt	-	-	-
<i>Percentage expanding cyclically</i>					82	82	82
Primary Roughly Coincident Indicators							
+	+	-	+	Nonagricultural employment	+	+	+
- ^f	+	+	-	Index of industrial production	+	+	+
-	+	-		Personal income in manufacturing	+	+	+
+	-	-		Manufacturing and trade sales	+	+	+
+	-	+	+	Civilian employment to population ratio	+	+	+
+	+	+		Gross domestic product (quarterly)	+	+	+
<i>Percentage expanding cyclically</i>					100	100	100
Primary Lagging Indicators							
+	-	+	+	Average duration of unemployment (inverted)	+?	?	?
+	+	-		Manufacturing and trade inventories	?	+	+
+ ^f	- ^f	+		Commercial and industrial loans	+	+	+
+	-	-		Ratio of consumer debt to personal income	+	+	+?
-	+	+		Change in labor cost per unit of output, manufacturing	?	?	?
+	-	+	-	Composite of short-term interest rates	?	?	?
nc No change. ^f Revised.					<i>Percentage expanding cyclically</i>		
					100	100	100

Under "Change in Base Data," plus and minus signs indicate increases and decreases from the previous month or quarter and blank spaces indicate data not yet available. Under "Cyclical Status," plus and minus signs indicate expansions or contractions of each series as currently appraised; question marks indicate doubtful status when shown with another sign and indeterminate status when standing alone.

tor vehicle parts. Motor vehicle assemblies decreased more than 7 percent from a month ago, because of a shortage of parts made by strike-affected plants in Canada. The index, however, remains appraised as clearly expanding. Overall, 100 percent (6 out of 6) of the roughly coincident indicators with apparent cyclical trends are expanding.

Among the six primary lagging indicators, both *manufacturing and trade inventories* and *commercial and industrial loans* reached new historical highs. The *average duration of unemployment* (inverted) increased to 16.9 weeks. This reduction in the average length of time unemployed was not enough, however, to clarify the series' cyclical trend, which remains indeterminate.

The *ratio of consumer debt to personal income* decreased to 17.92 percent. This was sufficient to downgrade the series to probably expanding from clearly expanding. This ratio indicates that, on average, consumers would have to spend almost 18 cents out of every dollar of income (before taxes) to get out of debt (and this does not include mortgage debt or home equity loans). The ratio would be even higher net of tax payments.

The *percent change from a year earlier in manufacturing labor costs per unit of output* still does not have an apparent cyclical trend. The series increased this month, but remains below zero (a value above zero means that labor costs are rising, and a value below zero means that labor costs are falling). With the current unemployment rate at a low 5.2 percent, it is a bit surprising that the cost of labor in the manufacturing sector is not increasing. Conventional wisdom states that tight labor markets put upward pressure on wages and, unless there are compensating productivity gains, increases in labor cost per unit of output. That this is not happening is good news, because it implies that the inflationary fears commonly associated with a tight labor market are not warranted. The *composite of short-term interest rates* decreased slightly this month to 5.34. Short-term rates have been relatively flat during the past year, however, and the cyclical trend of this series remains in doubt. Overall, 100 percent (3 out of 3) of the lagging indicators with apparent cyclical trends are expanding.

Where The Job Growth Has Been

To date, 1996 has stood out as a stellar year for job growth. Over the past 10 months (January to October), nonfarm employment has increased by an average of 194,000 jobs per month. Over the past year (October 1995 - October 1996) the total increase in nonfarm employment is

almost 2.5 million jobs. Yet, these national figures mask the divergent job growth from state to state during 1996. The accompanying table shows the change in nonfarm employment over the past 12 months, in term of the percentage change and in the actual number employed, for each state and the District of Columbia. The states are ranked with the fastest growing states on the top and the slowest growing states on the bottom.

The fastest job growth has occurred in the western states. With the exception of Georgia, 9 of the 10 states with the top job growth are in the west. California, which initially experienced very slow job growth coming out of the recession, partly due to significant cuts in defense spending, now ranks much further up the list with a job growth rate of 2.3 percent. In terms of the increase in the number of jobs, California ranks number 1 with a 12-month increase of 288,300 jobs. California also stands out as the state with the most jobs.

Looking at the bottom of the list, Hawaii, Mississippi, and the District of Columbia have suffered net job losses over the past year. The bottom ten also includes three New England states: New Hampshire, Rhode Island, and Maine. Vermont, ranked number 20, is the highest ranking New England state. Clearly, the substantial job creation during the past year has not been shared evenly across the Nation. From a broader

WHERE THE JOBS ARE

Employment Level and Change from a Year Earlier
Ranked by 12-month Percentage Job Change

Rank	State	Employment (thousands)	12 Month Change Percent	Number
1	Nevada	858.1	6.64	53.4
2	Utah	970.9	5.58	51.3
3	Idaho	503.8	5.33	25.5
4	Arizona	1,870.7	4.21	75.5
5	Oregon	1,491.0	4.13	59.2
6	New Mexico	716.1	3.51	24.3
7	Washington	2,431.7	3.14	74.1
8	Texas	8,311.7	3.05	245.9
9	Georgia	3,547.4	2.89	99.8
10	Oklahoma	1,356.9	2.84	37.5
11	Florida	6,225.0	2.73	165.3
12	North Dakota	310.7	2.61	7.9
13	Minnesota	2,438.3	2.33	55.6
14	California	12,820.4	2.30	288.3
15	Montana	360.0	2.30	8.1
16	Michigan	4,348.3	2.22	94.4
17	Kansas	1,229.4	2.08	25.1
18	Virginia	3,130.2	2.05	62.8
19	Tennessee	2,573.6	2.03	51.2
20	Vermont	276.5	2.03	5.5
21	South Dakota	352.4	1.94	6.7
22	South Carolina	1,690.6	1.83	30.4
23	Kentucky	1,678.4	1.83	30.2
24	Colorado	1,890.9	1.78	33.0
25	Nebraska	832.5	1.75	14.3
26	Delaware	375.1	1.65	6.1
27	Arkansas	1,091.9	1.58	17.0
28	Missouri	2,566.3	1.53	38.6
29	Iowa	1,381.0	1.51	20.5
30	Alaska	266.9	1.48	3.9
31	Illinois	5,706.7	1.44	81.2
32	Massachusetts	3,030.9	1.34	40.1
33	North Carolina	3,520.6	1.29	44.9
34	Wyoming	222.9	1.27	2.8
35	Wisconsin	2,594.0	1.26	32.3
36	West Virginia	696.9	1.12	7.7
37	Ohio	5,312.6	1.09	57.2
38	Connecticut	1,584.9	0.97	15.2
39	Louisiana	1,806.0	0.87	15.5
40	New York	7,944.8	0.83	65.6
41	New Jersey	3,647.0	0.83	30.0
42	New Hampshire	546.9	0.76	4.1
43	Indiana	2,812.9	0.68	18.9
44	Alabama	1,821.1	0.51	9.2
45	Pennsylvania	5,279.3	0.48	25.3
46	Maryland	2,194.3	0.38	8.3
47	Rhode Island	444.0	0.29	1.3
48	Maine	543.4	0.11	0.6
49	Mississippi	1,069.5	-0.81	-8.7
50	Hawaii	525.1	-1.20	-6.4
51	District of Columbia	626.5	-2.51	-16.1

Source: Department of Labor.

perspective however, the sluggishness in some states is being more than offset in other states, and the overall outlook for continued growth remains favorable. □

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