



Highlights of [GAO-07-778T](#), a testimony before the Subcommittee on Commercial and Administrative Law, Committee on the Judiciary, House of Representatives

## Why GAO Did This Study

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 requires individuals to receive credit counseling before filing for bankruptcy and to take a debtor education course before having debts discharged. Concerns were raised that the new requirements could expose consumers to abusive practices by credit counseling agencies or become barriers to filing for bankruptcy. This testimony is based on GAO's report issued last month, and addresses (1) the process of approving counseling and education providers, (2) the content and results of the counseling and education sessions, (3) the fees charged, and (4) the availability of and challenges to accessing services.

To address these issues, GAO reviewed Trustee Program data and application case files, and interviewed a wide range of individuals and groups involved in the bankruptcy process.

## What GAO Recommends

In its report, GAO recommended that the Department of Justice's U.S. Trustee Program, which is responsible for the new requirements, (1) develop the capability to track and analyze the outcomes of pre-filing credit counseling, and (2) issue formal guidance on what constitutes a client's "ability to pay." The Trustee Program agreed with GAO's recommendations.

[www.gao.gov/cgi-bin/getrpt?GAO-07-778T](http://www.gao.gov/cgi-bin/getrpt?GAO-07-778T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Yvonne D. Jones at (202) 512-8678 or [JonesY@gao.gov](mailto:JonesY@gao.gov).

# BANKRUPTCY REFORM

## Value of Credit Counseling Requirement Is Not Clear

### What GAO Found

The Trustee Program's process for approving credit counseling and debtor education providers was designed to help ensure that providers met statutory and program requirements and demonstrated evidence of proficiency, experience, and reputability. The Bankruptcy Act set certain standards for providers, and the program's July 2006 rule clarified these standards and formalized the application review process. As of October 2006, the Trustee Program had approved 153 credit counseling and 268 debtor education providers. These providers have had few formal complaints lodged against them, and federal and state law enforcement authorities with whom we spoke did not identify any recent enforcement actions against them under consumer protection laws. No provider approved by the Trustee Program has had its federal tax-exempt status revoked, although four providers' tax-exempt status was being examined by the Internal Revenue Service.

The content of the required credit counseling and debtor education sessions generally complied with statutory and program requirements. Participants in the bankruptcy process largely believed the education requirement—a general financial literacy course—to be beneficial. However, the value of the credit counseling requirement is not clear. The counseling was intended to help consumers make informed choices about bankruptcy and its alternatives. Yet anecdotal evidence suggests that by the time most clients receive the counseling, their financial situations are dire, leaving them with no viable alternative to bankruptcy. As a result, the requirement may often serve more as an administrative obstacle than as a timely presentation of meaningful options. Because no mechanism currently exists to track the outcomes of the counseling sessions, policymakers and program managers cannot fully assess how well the requirement is serving its intended purpose.

Providers typically charge about \$50 per session, and evidence suggests that fees are being waived as appropriate for clients unable to pay, as the Bankruptcy Act requires. Neither the statute nor Trustee Program guidance defines what constitutes "ability to pay," and policies vary among providers. Formal guidance on this issue would have several benefits, including ensuring compliance with a minimum standard for waiving fees.

The number of approved counseling and education providers appears sufficient to allow consumers to access these services in a timely manner. In-person sessions are not available in certain parts of the country, although the great majority of clients fulfill the requirements via telephone or Internet. The Trustee Program has efforts under way to help mitigate the challenges speakers of foreign languages can face in accessing services. Further, the bankruptcy courts have taken steps recently to help ensure that filers are aware of the potential consequences of filing for bankruptcy without the required counseling certificate.