



U.S. Department of Justice

Executive Office for United States Trustees

PRESS RELEASE

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U.S. TRUSTEE PROGRAM ANNOUNCES ENFORCEMENT GUIDELINES FOR BANKRUPTCY DEBTORS AFFECTED BY NATURAL DISASTERS

WASHINGTON, D.C.—The United States Trustee Program today announced it has issued bankruptcy enforcement guidelines that take into account the hardships experienced by victims of recent hurricanes in the Gulf Coast region.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), which takes effect on October 17, 2005, contains various new requirements for parties to a bankruptcy proceeding. The Program announced it is taking the following steps to address the impact of current law and the BAPCPA upon victims of natural disaster.

- **Document Requirements** –Under current law and the BAPCPA, debtors provide documents such as payment advices and statements of income. U.S. Trustees will not file enforcement motions against debtors who cannot produce documents due to natural disasters, if they are otherwise eligible for bankruptcy relief.
- **Means Test** – Under the BAPCPA, individual debtors undergo a “means test” to determine whether they are eligible for Chapter 7 relief or whether Chapter 7 relief is presumed abusive. Generally speaking, the BAPCPA permits a debtor to rebut that presumption of abuse by showing “special circumstances.” In determining whether to file an enforcement motion on grounds of presumed abuse, the Program will consider income loss, expense increase, and other adverse effects of a natural disaster to constitute “special circumstances.”
- **Attendance at Creditors’ Meetings** – U.S. Trustees will exercise flexibility and provide alternative means for a debtor to attend the mandatory meeting of creditors if, due to the adverse effects of a natural disaster, the debtor cannot appear personally and testify under oath in the district where the case is filed.
- **Venue** – U.S. Trustees will not raise or support venue objections in cases in which the debtor was displaced due to a natural disaster, unless the filing constitutes a systemic abuse or presents extraordinary circumstances.
- **Small Business Chapter 11 Bankruptcies** –U.S. Trustees will not take enforcement actions against Chapter 11 small business debtors who, as a result of a natural disaster, cannot reasonably be expected to perform statutory duties such as attending an initial

debtor interview and filing financial reports. U.S. Trustees will not seek conversion or dismissal of a small business Chapter 11 case if the grounds for filing the case are attributable to a natural disaster and there are reasonable prospects for reorganization. U.S. Trustees will not oppose reasonable and necessary extensions of time to file a disclosure statement and confirm a reorganization plan, if a small business debtor cannot comply with the deadlines because of a natural disaster.

The BAPCPA requires individual debtors to undergo credit counseling before filing for bankruptcy. The BAPCPA authorizes U.S. Trustees to approve credit counseling agencies according to criteria set forth in the law. On October 4, 2005, the Program announced a temporary waiver of the statutory requirements for credit counseling for bankruptcy filers in Louisiana and the Southern District of Mississippi due to the effects of Hurricane Katrina.

The U.S. Trustee Program is the component of the Justice Department that promotes integrity and efficiency in the nation's bankruptcy system by enforcing bankruptcy laws, providing oversight of private trustees, and maintaining operational excellence. The Program has 21 regions and 95 field offices. Under federal law, the Program is not responsible for overseeing bankruptcy cases filed in Alabama or North Carolina.

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