Haupt: Okla. Bankruptcies on the Decline

By M. Scott Carter | July 5, 2012

OKLAHOMA CITY – Six years after Congress made major changes in the country's bankruptcy laws, bankruptcies in Oklahoma have dropped dramatically and the market has matured, statistics from the American Bankruptcy Institute show.

Buoyed by a strong economy, fewer Oklahoma residents and businesses are seeking federal protection from their debts, said Robert Haupt, a partner with the Phillips Murrah law firm.

"Oklahoma has been relatively stable," Haupt said. "We haven't seen huge bankruptcies that have happened nationally. It hasn't been as remarkable as we thought."

Data from ABI underscores Haupt's analysis. According to the ABI, 39,431 business and non-business bankruptcies were filed in Oklahoma in 2005. Of that figure, 38,487 were for non-businesses. In 2004, 26,652 businesses and non-businesses sought federal debt relief, with more than 97 percent of those filings – 25,993 – from non-businesses.

Six years later, the number of filings has dropped.

Data from the ABI shows 14,980 business and non-business bankruptcy filings for 2010; of that figure, 14,439 bankruptcies were filed by non-businesses. In 2011, the number of filings dropped again, with only 13,119 business and non-business filings for bankruptcy; non-business filings for the year were 12,713.

Haupt said the law was doing what it was designed to do.

"The bankruptcy law has made it more difficult for consumers to seek bankruptcy protection from their debts,” he said.

Still, even with the decline in the number of bankruptcies, some experts warn that the number of bankruptcies – across the nation and in Oklahoma – could increase.

In a story published on the website CreditCards.com, David Jones, president of the Association of Independent Consumer Credit Counseling Agencies, said large numbers of consumers continue to seek assistance with their financial woes.

“I believe there’s a bubble out there” Jones told the website. “When it does burst, there’s undoubtedly going to be a cascade of bankruptcies.”

Bankruptcy attorney Ken Peacher, with the firm Nash, Cohenour, Kelley and Giessmann, said most consumer bankruptcies are caused by the loss of a job, divorce or large medical bills.

“People get sick, they lose their jobs and that pushes them into a bankruptcy,” he said.

And though Peacher said most people who need to qualify for a discharge of their debts – a Chapter 7 bankruptcy – he said the 2005 change in the bankruptcy code made it much more difficult for most Oklahomans to seek bankruptcy protection.

“The means test came in the new reform act and it changed the whole landscape of bankruptcy,” he said. “It radically changed it. If a person makes above the median income in their state, then they probably won’t qualify for a Chapter 7 bankruptcy.”

Instead, he said, those consumers would be pushed into filing a Chapter 13 bankruptcy – a reorganization plan that forces the consumer to pay back a portion of their bills with their disposable income.

“The new law has made it much more interesting,” he said. “The consumer is required to develop a budget, then the disposable income is used to pay back a portion of the debt. Those funds are paid to the trustee, who in turn, pays the creditors.”

Peacher said the new law put a stop to Chapter 7 bankruptcy filings by someone who made $100,000 per year and wanted to discharge a $2,500 debt.

“It’s stopped the guys who want to discharge a debt because they got into a fight with their credit card company,” he said. “But there are still a significant number of people who are hurting from the economy and high gas prices and the fallout of medical problems or a major change in their lives. It used to be credit card debt, but we don’t see that much anymore, now it’s more about people who have fallen on hard times.”