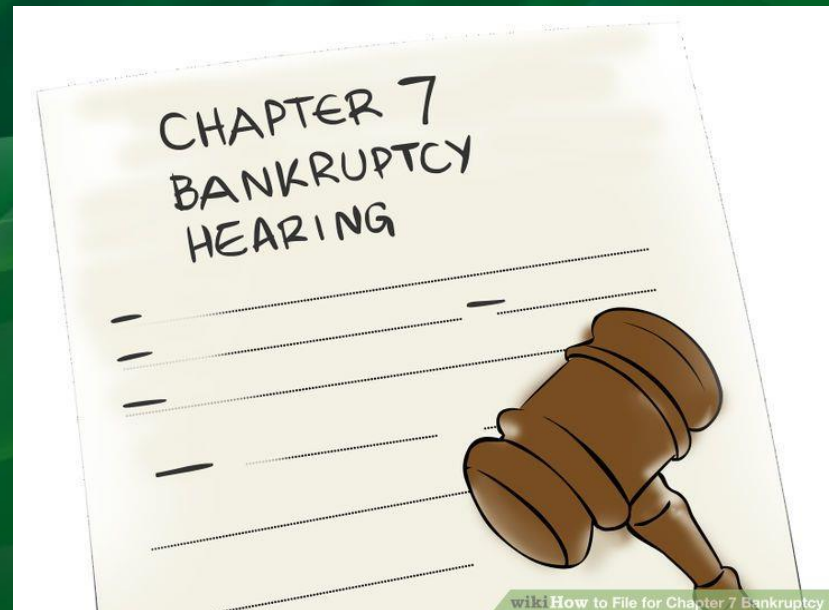


Bankruptcy Abuse Prevention and Consumer Protection Act

Law 19
Teresa Amigon



BAPCPA

- The largest overhaul of the bankruptcy system occurred when President George W Bush signed into law BAPCPA.
- Before BAPCPA debtor's had an option to file Chapter 13 or Chapter 7 regardless of their income.



BAPCAP Requirements

- **Mandatory Credit Counseling**

Required to attend a credit counseling session within 180 days prior to bankruptcy filing.

- **Eligibility for Chapter 7 Filing**

Required to take the Means Testing

- **Tax returns and Proof of Income Required**

The debtor must provide a copy of the most recent tax return and all of their income to any creditor that requests one.

- **Filing Under Chapter 13**

You also have to submit their tax return for the past 4 years prior to filing Ch 13 bankruptcy.

- **Fewer Automatic Stay Protection for filers**

Is when a debtor files bankruptcy they automatically receive a stay on the debt owed.

- **New priority for Unpaid Child Support and Alimony**

Chapter 7 Means Test

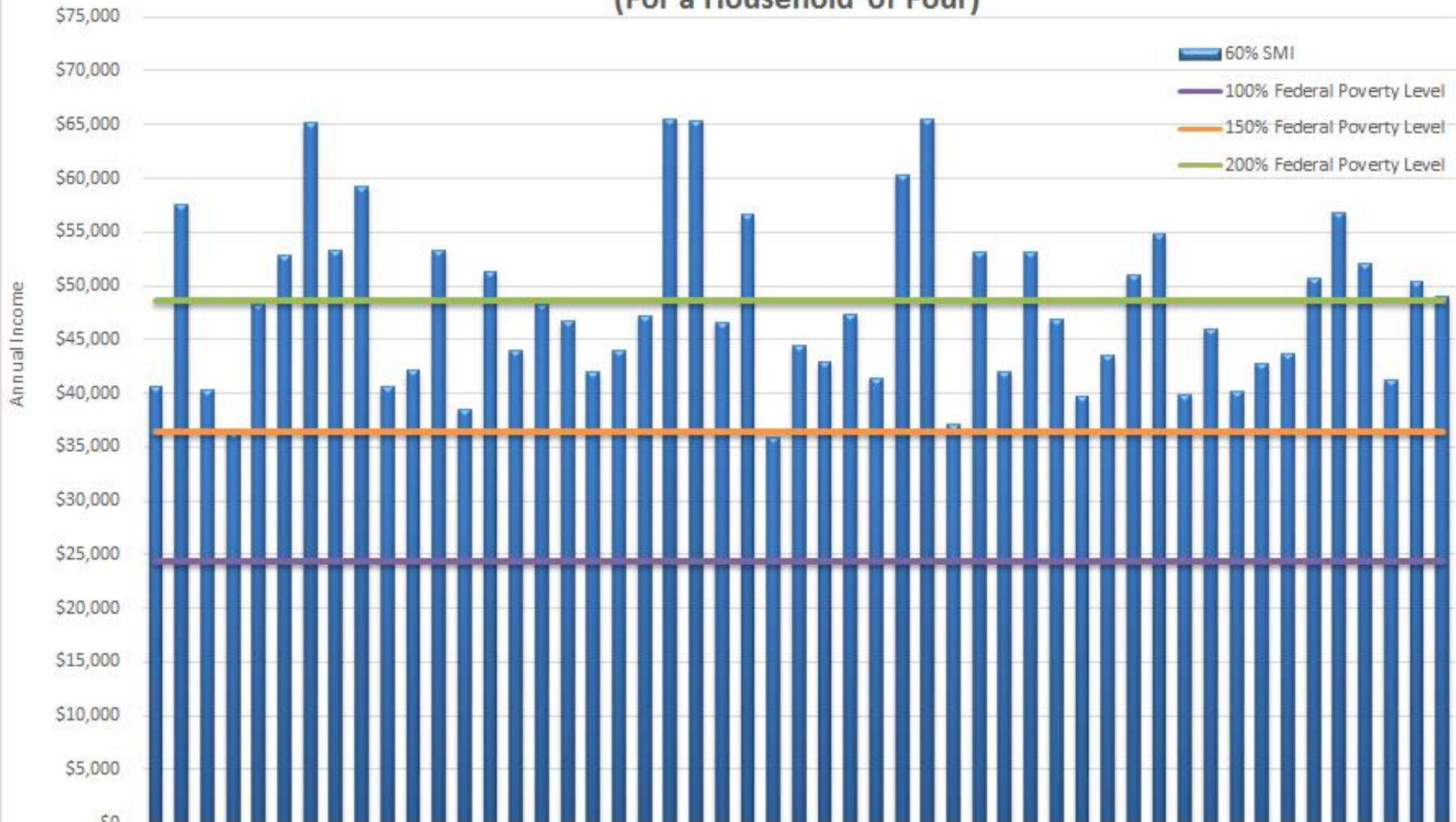
- Individuals with primarily debts that want to file for Chapter 7 Bankruptcy need to take the Means Test.
- Under the means test if your current monthly income is less than the median income in your state, you can file for bankruptcy under Ch.7.
- If your monthly income is more than the median income of your state, whether you can afford to pay \$100.00 to the creditors or more. The eligibility to file for Ch 7 will be terminated and you must proceed under chapter 13.

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Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION					
2	Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed. a. <input type="checkbox"/> Unmarried. Complete only Column A ("Debtor's Income") for Lines 3-11. b. <input type="checkbox"/> Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: "My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code." Complete only Column A ("Debtor's Income") for Lines 3-11. c. <input type="checkbox"/> Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11. d. <input type="checkbox"/> Married, filing jointly. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.				
	All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.			Column A Debtor's Income	Column B Spouse's Income
3	Gross wages, salary, tips, bonuses, overtime, commissions.			\$	\$
4	Income from the operation of a business, profession or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part V.				
	a.	Gross receipts	\$		
	b.	Ordinary and necessary business expenses	\$		
	c.	Business income	Subtract Line b from Line a	\$	\$
5	Rent and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part V.				
	a.	Gross receipts	\$		
	b.	Ordinary and necessary operating expenses	\$		
	c.	Rent and other real property income	Subtract Line b from Line a	\$	\$
6	Interest, dividends and royalties.			\$	\$
7	Pension and retirement income.			\$	\$
8	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child support paid for that purpose. Do not include alimony or separate maintenance payments or amounts paid by your spouse if Column B is completed. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.			\$	\$
9	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:				
	Unemployment compensation claimed to be a benefit under the Social Security Act		Debtor \$ _____	Spouse \$ _____	\$

State Median Income Graph

FY 2017 60% State Median Income by State
(For a Household of Four)



Case analysis Chapter 7

- **Form 122A-1.** The first form of the means test, determines whether your income is below the median income for your state. If it is, you qualify for a Chapter 7 bankruptcy and do not need to fill out the other two forms.
- **Form 122A-2.** If you aren't exempt and your income is above the state median, you fill out the final form, Form 122A-2. It is the final step determining whether you have funds to pay your creditors. If you don't, you can file a Chapter 7 bankruptcy. If you do, you must file a Chapter 13 bankruptcy instead.

Discharge Exceptions

- ❖ Most Taxes
- ❖ Student Loan
- ❖ Domestic Support and other divorce obligations.

Chapter 7 unconditionally discharge certain personal debts through the liquidation and distribution of their non-exempt assets.

Chapter 13 debtor to comply with the repayment plan to repay all or part of their debts. Under this chapter, will repay making installments payments to creditors over the next three to five years.

Conclusion of BAPCPA

. The main goal of the law is to prevent debtors from abusing the bankruptcy system by ensuring debtors who are able to make payments on their debts do so through a chapter 13 bankruptcy. To determine whether or not an individual will be able to file under a chapter 7 bankruptcy, which allows debtors to write off their debts, the bankruptcy act requires debtors to take the means test. The means test is one of the many major changes made to the bankruptcy code.