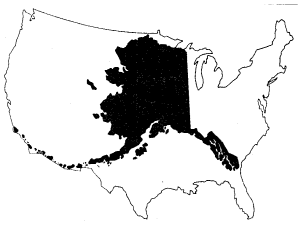

United States Bankruptcy Court
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Jan S. Ostrovsky
Clerk of Court

NOTICE TO INDIVIDUALS WISHING TO FILE BANKRUPTCY ABOUT REQUIREMENT TO OBTAIN CREDIT COUNSELING

The Bankruptcy Code was amended effective October 17, 2005. Under the new provisions of the Code, an individual is not eligible to file a bankruptcy petition unless that individual has first received credit counseling from an approved credit counseling agency. You can find a list of approved agencies offering the credit counseling course at http://www.justice.gov/ust/ or by contacting the local office of the United States Trustee at 907-271-2600. These agencies will give credit counseling to individuals wishing to file bankruptcy and, after the counseling is completed, will give the individuals a certificate showing that they have received the counseling. This certificate ***must*** be filed with the bankruptcy petition.

There are two exceptions to the credit counseling requirement. One is for "exigent circumstances" and the other is for individuals who are unable to get credit counseling due to incapacity, disability, or active military duty in a combat zone. *The Clerk can't explain these exceptions to you or tell you how to qualify for them.*

The section of the Bankruptcy Code that covers the requirement to obtain credit counseling, and the two exceptions to that requirement, is 11 U.S.C. § 109(h). A copy of the applicable portions of that section is attached to this notice. The staff in the Clerk's Office can't give legal advice. If you have not obtained credit counseling and have questions about whether you can qualify for one of the exceptions to the credit counseling requirement, it is recommended that you seek legal advice from a bankruptcy attorney.

11 U.S.C. § 109(h) provides:

> (1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.
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> (3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that –
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> > (i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);
> >
> > (ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and
> >
> > (iii) is satisfactory to the court.
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> . . . .
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> (4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and a hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).