The following chart is designed to help explain the main differences between the "old" bankruptcy law (for cases filed prior to 10/17/05) and the "bankruptcy reform" (for cases filed on 10/17/05 and later). Although Debt Relief Agencies are mentioned in this chart, I am providing information on them only as they pertain to Attorneys.

THIS CHART IS NOT MEANT AS A SUBSTITUTE FOR LEGAL ADVICE FROM AN ATTORNEY. YOUR CASE MAY BE DIFFERENT. ALWAYS CONSULT WITH AN ATTORNEY BEFORE TAKING LEGAL ACTION.

	Old Bankruptcy Law (prior to 10/17/05)	**Bankruptcy Reform 10/17/05 and later**
Credit Counseling	Done informally with the debtor's attorney during consultations prior to filing a case. If you were not a good candidate for bankruptcy, the attorney would suggest alternatives for you to consider.	Debtors are required to take a credit counseling class (which can be done online) within 180 days prior to filing a case. Check with an attorney, the court, or trustee to find out who offers these classes. The court can waive the requirement for those who are "disabled," "incapacitated," or on active duty in a military combat zone or if counseling services are not available in your district.
Debt Relief Agency	Attorneys who practice bankruptcy law were subject to State Bar rules as well as Bankruptcy Code and Rules during representation. "Bankruptcy Petition Preparers" who are not attorneys had some guidelines in the Bankruptcy Code, but the Bankruptcy Code clearly differentiated between attorneys and non-attorneys.	The reform creates a new entity called the "Debt Relief Agency" and puts requirements on what a Debt Relief Agency (or DRA) is required to do. Despite at least one court ruling otherwise, attorneys appear to fall under the definition of Debt Relief Agency and have additional requirements of them, some of which likely contradict their State Bar requirements (such as not providing advice to incur debt, even if doing so would be in the best interest of the client and also would not be fraudulent or illegal, such as refinancing or replacing items necessary for the support of the debtor and dependents). Non-attorney "bankruptcy petition preparers" also fall under the definition of Debt Relief Agency. Because of the definition of Debt Relief Agency in the Code, some attorneys who do not practice bankruptcy law may accidentally become DRA's if they ever

		provide advice to someone who has primarily consumer debts and less than $150,000 in non-exempt property, even if the advice is unrelated to a bankruptcy case. It is also unclear if the attorney is only a DRA while providing the advice or if one becomes a permanent DRA upon ever giving advice. It is also unclear if a large law firm becomes a DRA if one of the attorneys working there practices bankruptcy (even if only occasionally). We are hoping for court decisions to come out clarifying exactly what attorneys, if any, are "DRA's."
Advertising	State Bar Rules largely governed attorney advertising.	Ads from Debt Relief Agencies are regulated by the Bankruptcy Code. The ads must mention clearly that bankruptcy relief is offered and the advertiser is a Debt Relief Agency. This change was apparently targeted at attorneys who advertised bankruptcy as a "federal debt repayment plan."
Contract	Your attorney would have you sign a written contract explaining what services would be provided and how much they would cost, usually at the time you decide to hire the attorney or soon thereafter but no matter what, prior to filing a bankruptcy case for you.	Your attorney (if a Debt Relief Agency) is required to execute a written contract with you within 5 days you are first given assistance and prior to filing a case. The statute creates an odd requirement because a debtor could decide they do not want to sign the contract (thus the contract would not be "executed") or not sign it until after 5 days (which was common under the old law). Obviously a DRA cannot force a potential client to sign a contract. We hope Congress changes the wording to state the Debt Relief Agency is required to *furnish* a written contract to the Debtor rather than execute a contract.
Information Gathering	Your attorney would have you fill out detailed paperwork regarding your assets, creditors, income,	Largely the same, though the attorney now also certifies that the petition, pleading, or written

	financial affairs, dependents, and expected changes in circumstances. Your attorney would review the information with you and prepare your petition, schedules, and statements, which you would sign under penalty of perjury that the documents were true and correct.	motion is well grounded in fact and complies with existing law or reasonable modification thereof and is not an abuse of Chapter 7. The schedules have some more detail to them and you may have to file additional documents, such as a certificate of credit counseling, a record of your interest in any IRA or educational savings account, tax returns or transcripts, a statement of current monthly income, annual statements of income and expenditures, and proof of a post-filing but pre-discharge financial education course.
Current Monthly Income	The court looked at your current monthly income and would take into consideration expected changes up or down to your income or expenses.	Current Monthly Income is now defined as the money you made the six months prior to filing your case (but not including the month you file) divided by six. This can create abuse or problems if your current income is drastically different than your income of the six months prior to the month of filing. This change was probably written to stop people from leaving high paying jobs to file bankruptcy, however it creates a loophole for those who leave low paying jobs for high paying jobs – they may be able to get a Chapter 7 discharge despite the ability to pay all of their debts comfortably. Conversely, those who lose their jobs may be prevented from successfully filing Chapter 7 bankruptcy for up to six months.
Monthly Expenses	The court looked at your monthly expenses and might disallow some if they were unreasonably high.	Very similar, except now there are statutory formulas to calculate some of the expenses using IRS guidelines for Chapter 7 cases.
Financial Documents	Typically you were required to provide copies of tax returns, pay stubs, bank statements, and other financial documents to the trustee. You were also required to show proof of identity through a drivers	Required to do the same though the statutes now set deadlines and specify what documents.

	license, social security card, military ID, or other document.	
Filing Fees	$185 for Chapter 13, $200 for Chapter 7. Convert a Chapter 13 to 7 $15.	$274 for Chapter 13, $299 for Chapter 7. Convert a Chapter 13 to 7 is $25.
Jurisdiction	You filed your case in the district in which you had lived the longest portion of the last 180 days prior to filing.	Unchanged.
Automatic Stay	With very rare exception, upon filing your case creditors were prohibited from taking action to collect against you. Lawsuits, foreclosures, and repossessions were stopped. Many times property that had been repossessed had to be returned to you. Creditors wishing to take action outside of bankruptcy had to get the stay “lifted” for cause, such as your failure to do things you promised to do in your bankruptcy (such as stay current on taxes, insurance, payments, etc.). Some family court judges believed the stay applied to family cases and required debtors to lift the stay to get divorced.	The stay was clarified to show that divorce and child support/custody cases are not stayed by bankruptcy except to the extent that such proceeding attempts to divide property of the bankruptcy estate. The main changes involve repeat bankruptcy filers. For those who have had a prior bankruptcy case dismissed within one year of filing the new case, the automatic stay now terminates 30 days after filing your case unless it is extended by the court by showing you filed the new case in good faith or if your prior case was dismissed under abuse of Chapter 7. There is a presumption of bad faith if you have filed more than one prior bankruptcy in the past year; if you have failed to amend documents, provide adequate protection, or perform the terms of a confirmed plan; there has not been a substantial change in your circumstances to suggest prior failed cases would be different now; or a creditor had a pending motion for relief from stay when the prior case was dismissed (though the last would only affect the one creditor). There is no stay at all if you have had two (or more) prior cases dismissed within one year other than refiling after dismissal for abuse of Chapter 7.

		For landlord-tenant situations, the stay does not apply if the landlord had (prior to bankruptcy) obtained an eviction unless the debtor has a right to cure the default and does so by depositing with the bankruptcy clerk money to cure the default. Another new provision involves landlords who believe illegal drugs are being used on the debtor's property or that the debtor is endangering the property. The landlord must certify under penalty of perjury and give the debtor 15 days to respond and object. The stay does not affect payments to retirement loans, good faith transfers which are not avoidable under section 544 or 549, nor tax setoffs (where the IRS takes your tax refund to pay back taxes). Damages for violation of the stay are now limited – creditors must receive "effective notice" to an address they provide you and creditors can violate in good faith and only be limited to actual damages.
Exemptions	You chose the exemptions available in the jurisdiction where you filed your case. For Texas that meant you could select either Texas exemptions (main advantage for those with large homesteads) or federal exemptions (ideal for most debtors). Your attorney would likely calculate which exemption set would result in the smallest amount of non-exempt property. If you had non-exempt property you had to either give it or the cash equivalent to the trustee in Chapter 7 or pay the cash equivalent in	If you have lived in the same state for at least the last 730 consecutive days you follow the rule of the state you live in. For Texas that means choosing either Texas state exemptions or Federal Exemptions (the benefits of each are discussed to the left). If you have not lived in the same state for the last 730 days, you must choose the exemption law of the area in which you lived the longest portion of time during the 180 day period preceding the 730

	monthly payments in Chapter 13.	day period. In other words, where did you live the most from 910 days ago to 730 days ago. Then you choose the exemptions offered as if you lived there now. The homestead exemption is now capped at $125,000 equity (but appears that it is doubled to $250,000 for married couples filing a joint bankruptcy case under a literal reading of section 522m) for debtors who: 1. have homesteads acquired within 1215 days of filing bankruptcy unless the new house was purchased after selling a house that was acquired prior to 1215 days and both are in the same state; 2. have converted non-exempt property, with intent to hinder, delay, or defraud a creditor, within 10 years of bankruptcy; 3. Convicted felons whose filing is an abuse under the circumstances; and 4. for those who owe debts arising from wrongful conduct, defined as security law violation, fraud, deceit, or manipulation in a fiduciary capacity related to securities purchases, violation of RICO, or criminal act, intentional tort, or willful or reckless conduct which results in serious physical injury or death in the five years prior to filing bankruptcy. #3 and #4 can be waived if it is shown that the property is reasonably necessary for the support of the debtor and dependents. Retirement exemptions have been expanded to include pension, profit sharing, and stock bonus plans; employee annuities; IRA's; Roth

		IRA's; deferred compensation plans; and certain trusts. This exemption is now also available to debtors in states who have opted out of federal exemptions. Certain property, rather than being exempt, is now excluded from "property of the estate." Subject to some limitation, this property includes education IRA's and tuition programs and certain pension and benefit contributions which are withheld from the debtor's wages. A scary change for debtors is a new provision which says domestic support creditors may now proceed against exempt property. A liberal interpretation of this new law would be that the debtor's home (and other exempt property) could be forcibly sold to pay domestic support obligations, even if the property could not be taken from the debtor outside of bankruptcy.
Valuation	Property was valued based on different standards, such as replacement cost, retail value, value in publications (such as NADA book, internet, classifieds), or garage sale value, taking into consideration the condition of the property. The value was determined on the date of filing bankruptcy, even if a valuation hearing was held much later.	Replacement cost is now the standard for valuation and valuation is determined as of the day of valuation rather than the day of filing bankruptcy.
Information Sheet	You were asked if you had read the "bankruptcy information sheet" prior to the 341 meeting. Most attorneys provided a copy of this document to you and explained to you the bankruptcy chapters (7, 9, 11, 12, and 13) and which ones you were eligible to file and what the pros and cons of each were.	Debt Relief Agencies are now required to provide you a document which lists the requirements of DRA's and describes Chapters 7 and 13 and warns you about fraud and perjury. The clerk of the court also has to give you similar information. Having read the required

		document, I believe it will probably confuse debtors more than help them because it appears to be written for an audience who is very familiar with bankruptcy procedure.
341 Appearance	You had to appear at a "meeting of creditors" also known as a 341 meeting. The trustee presided over the meeting and asked questions regarding your financial situation. Creditors were allowed to attend and question you as well (though they rarely attended). You were required to bring your financial documents (tax return, pay stubs, bank statements) and proof of identity (drivers license, social security card, military ID)	Largely unchanged other than the documentation may be required to be presented to the trustee prior to the 341 meeting and may need to be filed of record with the court. Also you are required to file all back tax returns that were required to be filed but were not yet filed.
Lien Avoidance	If you had non-purchase money liens (loans where you put up collateral you already owned) or a judicial lien (given because you were sued and lost – except those for family court obligations) generally you could avoid those liens in bankruptcy and turn those debts into dischargeable unsecured debts unless the debt was secured by a vehicle or real estate.	The main change is they have now defined what "household goods" qualify for lien avoidance: clothing, furniture, appliances, 1 radio, 1 television, 1 VCR, linens, china, crockery, kitchenware, children's school materials, medical equipment and supplies, furniture for the elderly, disabled, or kids, personal effects of the debtor and dependents, and 1 personal computer and equipment. The list then goes on to specify items which are not household goods: works of art, electronic equipment worth more than $500 except 1 TV, 1 radio, 1 VCR, antiques worth more than $500, jewelry worth more than $500, a (second?) computer, motor vehicle (including lawn tractors), boat, motorized recreation vehicle, watercraft, or aircraft. The $500 limits are aggregated, meaning you total all of your jewelry to come to the $500 limit. Prudent debtors will be cautious when borrowing money and putting up household goods as collateral to limit the

		collateral to items which are listed on the avoidable list. They changed the language of the statute, but the meaning remains unchanged, you cannot avoid liens on family court obligations (such as child support, alimony, spousal maintenance, etc.).
Non-dischargeable Debts	Certain debts were not dischargeable in Chapter 7 but dischargeable in Chapter 13, which is why Chapter 13 was called the "super discharge." Certain debts required a creditor to object to dischargeability through an adversary lawsuit and some debts required the debtor to file an adversary to ask the judge to declare them dischargeable.	A careful reading of sections 507, 523, and 1328 are required for specifics and limitations. However, as a summary, the Chapter 13 "super discharge" was eliminated. Debts which are not discharged (all chapters) are: 1. taxes; 2. obtained under fraudulent circumstances, which is broadly defined to include debts which total $500 or more to a single creditor for luxury goods or services within 90 days of filing, or cash advances which total $750 or more within 70 days. It could be argued that luxury goods and services include everything that is not "reasonably necessary for the support or maintenance of the debtor and dependents;" 3. not scheduled in time for a creditor to file a proof of claim; 4. fraud or defalcation in fiduciary capacity; 5. domestic support obligation; 6. student loans (despite what the statute says, under current case law in Texas they are not dischargeable because it is impossible to prove undue hardship); 7. death or injury caused by you driving under the influence of drugs or alcohol. #2 and 4 are discharged unless a creditor objects and the judge rules in their favor. Under Chapter 7, 11, 12, and

		hardship 13 discharge, the following are not discharged: 1. willful and malicious injury to someone or property; 2. fine, penalty, or forfeiture to governmental entity; 3. debt from prior bankruptcy in which the debt was not discharged; 4. fraud in fiduciary capacity to a financial institution; 5. malicious or reckless failure to fulfill commitment to financial institution; 6. restitution under title 18 of the United States Code; 7. incurred to pay a non-dischargeable tax; 8. family court obligations other than domestic support (this would typically be court orders where you are required to reimburse your former spouse as part of a divorce); 9. homeowners association fees; 10. fees charged to prisoners for filing documents; 11. Money owed to retirement accounts and pensions; and 12. Federal securities law violations. #1 above is discharged unless a creditor objects and the judge rules in their favor.
Chapter 7		
Presumption	You were presumed to be entitled to a discharge. Courts came up with their own formula for what was "abuse" of Chapter 7, such as if you had the ability to pay a certain percentage of your unsecured debt.	No longer a presumption you are entitled to discharge. Now you must prove you should get one if a party in interest objects. There is a presumption of abuse if you can pay back 25% of your unsecured debt or $100 per month, whichever is higher up to $10,000 maximum. Roughly this translates to mean if you can pay back at least $6,000 to $10,000 depending on your debt load, you are presumed to be abusing Chapter 7. As an

		example, if you have $100,000 in unsecured debt, 25% would be $25,000. If you can afford to pay back $11,000 of your unsecured debt, then you would be abusing Chapter 7 because you could pay back more than $10,000 and 25% of your unsecured debt is $10,000 or higher.
Secured Debts	You had the option of reaffirmation (sign an agreement to continue to pay under the contract as if no bankruptcy had been filed), redemption (pay a lump sum equal to the value of the collateral), surrender (give the property back and owe nothing) , or continue to pay without reaffirming. Many creditors were willing to allow redemption in installments. Many creditors also abandoned the collateral to you in cases where the value of the collateral (such as furniture) was very low or repossession was likely more expensive than the property was worth.	The options of redeem with installment payments and continue to pay without reaffirming have been eliminated. You are now required to choose either reaffirmation, redemption, or surrender and perform your intention within 45 days of the 341 meeting or the creditor is free to repossess or take other legal action.
Lease	Leases were either assumed (keep paying the lease as if no bankruptcy was filed) or rejected. Rejection of a lease usually meant you owed no further money to the lease creditor.	Rejection of a lease (either by choice or act of law) means the lease creditor can repossess the property or take other legal action.
Chapter 13		
Plan	You filed a "Plan" to repay the debt you could over a three to five year period. All of your disposable income was given to the trustee who divided it up and paid your creditors, minus a percentage to cover his costs.	You file a Plan and must pay for five years if you are above the median income for your state or three years if you are under the median income. You can only use your actual expenses on your budget if you are under the median, otherwise your budget will be the IRS allowable expenses for your area.
Plan Payments	Plan payments began 30 days after filing your Plan, which could be filed 15 days after your case – or	Plan payments are required to begin within 30 days of filing the case, regardless of when the Plan

	later with court permission, meaning some Debtors first Plan payment did not happen until 60 days after filing the case.	is filed.
Adequate Protection Payments	Your Plan payment was calculated to pay off all your secured and priority debts and the most you could pay to your unsecured creditors. Most plans proposed "pro rata" payments meaning the secured and priority debts were not paid equal monthly payments, but rather as debts paid off, more money went to others, until they were all paid off.	Adequate protection payments are required to be paid to secured creditors and secured creditors must be paid in equal monthly installments during the Plan. Adequate Protection Payments (APP) are to be paid directly to the creditor for any purchase money secured debt which is due after filing bankruptcy and Plan payments are to be reduced by the amount of the APP's. APP's were designed to protect vehicle lenders, but they apply to other secured creditors, such as furniture
Lease	Leases could be assumed or rejected. If assumed, you had to make the regular lease payments.	Despite a lot of extra language added to the statutes, the meaning is not changed.
Vehicles and Secured Personal Property	You only had to pay the value of your motor vehicles (and other secured debts besides your home) if the collateral was worth less than the total debt. This helped Debtors who were "upside down" on their vehicle to keep their vehicle by paying only what it was worth. This also helped prevent rampant furniture repossession for people who owed money on furniture. Since many furniture debts were on "zero payments and zero interest for X years" loans, many times debtors had furniture that was several years old but never had a payment made on it at the time of bankruptcy. Without the "cram down" feature, a lot of this furniture would have been surrendered back to the creditor at an enormous loss to the creditor.	You must pay the full debt on your: 1. personal use motor vehicle if it was purchased within 910 days of filing bankruptcy; and 2. Other secured debt if purchased within one year of filing.
Objection to Claims	The debtor could object to claims which were improperly filed.	Now added a provision to object to the claim of an unsecured creditor who unreasonably refused to negotiate a reasonable repayment

		plan through a nonprofit budgeting and credit counseling agency. The claim of such a creditor can be reduced by no more than 20% of the claim amount if the proposal was made at least 60 days prior to filing bankruptcy and proposed to pay back at least 60% of the debt. This new provision is not likely to come up in too many cases.
Confirmation	Many districts had “late” confirmation, meaning plans were up for confirmation (court approval) after all the information had come in, such as proofs of claim, objections, adversary pleadings, and so on. This avoided the problem of confirming a plan and then having a proof of claim come in that made the plan infeasible.	Confirmation hearings must be scheduled between 20 and 45 days after the 341 meeting. This can create problems in cases where the proof of claim deadline has not yet happened because claims could come in after confirmation that make the Plan infeasible. This will likely result in many Plans having to be modified post-confirmation to pay claims.