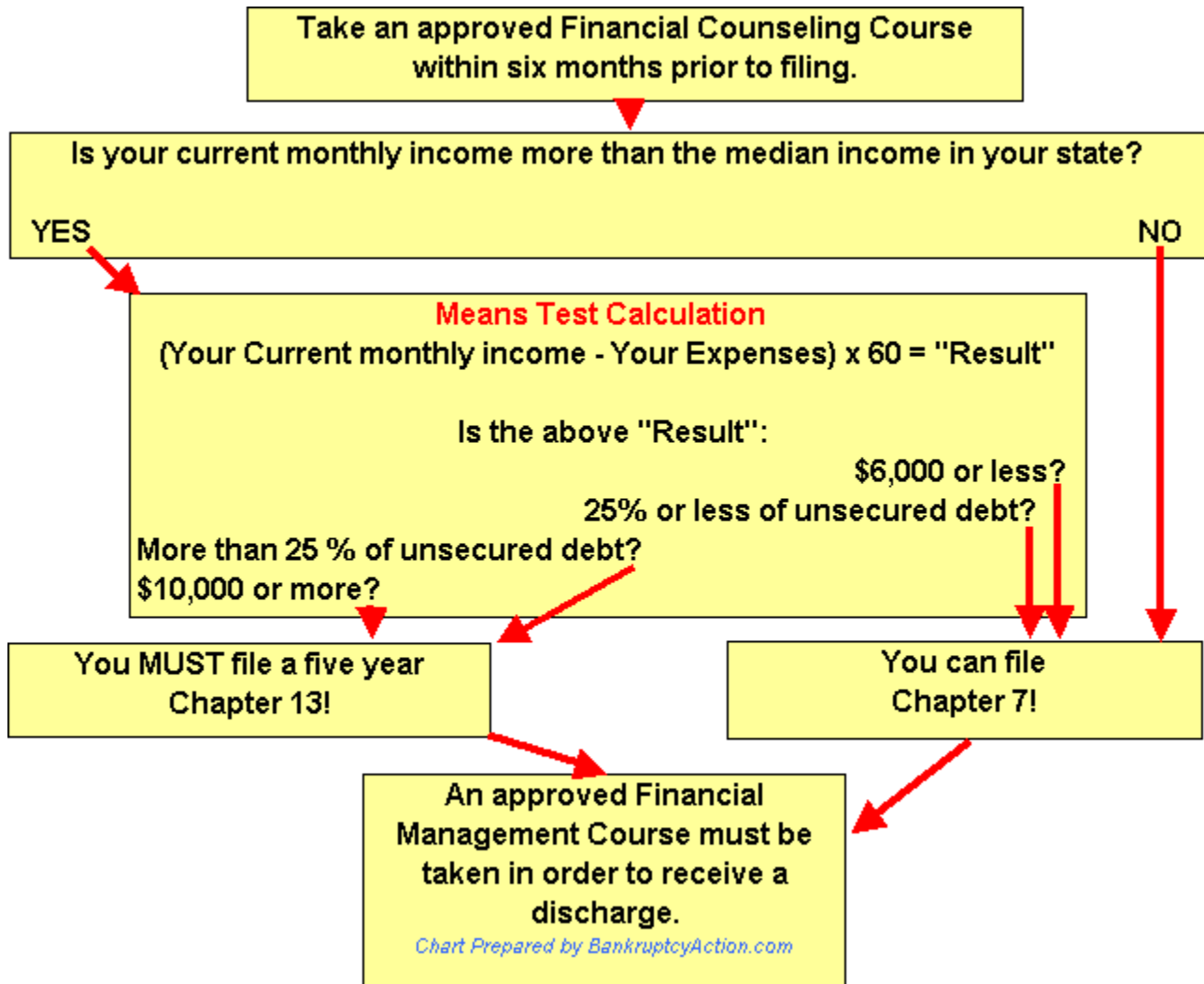


# Filing Procedures under the New Bankruptcy Code (Effective October 17, 2005)



**Major Intent of Bankruptcy Reform:**

The major intent of bankruptcy reform is to require people, who can afford to make some payments towards their debt, to make these payments, while still affording them the right to have the rest of their debt erased. These people must file Chapter 13.

**Status of the Bills:**

The Senate passed the Bill on March 11, 2005 and the Congress on April 14, 2005.

**When will this be Law:**

The bill was signed into law by the president on April 20, 2005.

Sections 308, 322 and 330, all concerning the homestead exemption, take effect immediately.

This is law now: The exemption is limited to \$125,000 if the property was acquired within the previous 1215 day (3.3 years). The cap is not applicable to any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period)

**The rest of the provisions of the law will come into effect 180 days after the Bill is signed or on October 17, 2005.**

**Major Changes:****Means Test:**

This will identify debtors who have the financial capacity to pay some money to their creditors. The test will work as follows:

**TEST # 1:**

**Is the family earning above the average income for their state?**

- 1997 US average for a family of one = \$18,762;
- 1997 US average for a family of two = \$39,343;
- 1997 US average for a family of three = \$47,115;
- 1997 US average for a family of four = \$53,165.

**If the answer is "No" Chapter 7 can be filed!**

**TEST # 2:**

If the answer is "Yes" to **TEST # 1** , do you have excess monthly income of more than \$166.66/month to pay \$10,000 of debt over 5 years?

**If the answer is "No" you must answer another question, if "Yes" Chapter 7 cannot be filed but Chapter 13 may be filed!**

**TEST # 3:**

If the answer is "No" to **TEST # 2** do you have excess income of greater than \$100/month to pay over the next 60 months at least 25% of your unsecured debt?

**If the answer is "No" you can file Chapter 7, if "Yes" chapter 7 cannot be filed but Chapter 13 may be filed!**

**Proof of Income:**

Debtors filing Chapter 7 or Chapter 13 bankruptcy, must provide to the trustee, at least seven days prior to the Meeting of Creditors, a copy of a tax return or transcript of a tax return, for the period for which the return was most recently due.

**State Exemptions:**

You cannot use the exemptions in your state of residence unless you have lived there at least 2 years.

**Homesteads:**

This goes into effect as soon as the bill is signed by the president! The exemption is limited to \$125,000 if the property was acquired within the previous 1215 day (3.3 years). The cap is not applicable to any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period)

**Counseling:**

You must have finished counseling within the last 6 months before you can file.

**Child Support and Alimony:**

These debts would go from a priority of 7th to 1st.

**Tithing:**

Up to 15% of your income can be given to charity. This is seen by some as a loophole allowing people who may be just over the threshold of having to file Chapter 13 to drop down low enough to file Chapter 7.

