

THE NEW BANKRUPTCY CODE- HIGHLIGHTS

The new law goes into effect on **Oct 17, 2005** in full force. There no longer is an **Automatic Stay under 362**, which provides creditors 10 exemptions to the stay. The new provisions also limit the stay protection if the debtor filed for bankruptcy with in the proceeding 12 month period.

These are not stay violations:

- w/h income to repay pension loans
- foreclose if the stay was lifted in another case w/in 2 years preceding the current case
- evict a debtor-tenant if the landlord obtained a judgment for possession
- start or continue eviction proceedings when landlord claims a danger to property or debtor is using illegal controlled substance
- transfer of property if not avoidable under 544 & 549
- setoff tax refunds
- take set offs in netting agreements
- exclude debtor from Medicare participation
- The debtor will not receive any stay if the debtor filed bankruptcy with 12 months prior to current filing
- The actual knowledge of the debtor's bankruptcy --actual notice-- no longer counts as notice
if the creditor contacted you in writing 2 or more times within 90 days preceding bankruptcy then you must send the notice to the address they provided in order for them to receive notice and they can continue calling you until you do so.
- the stay does not apply to: establishing child support, paternity, custody, visitation, or modifying the same
or obtaining a divorce decree, or domestic violence injunction or collecting support, or wage garnishments for support, reporting past due child support, or intercepting tax refunds for support.