



Highlights of [GAO-08-94](#), a report to Congress

Why GAO Did This Study

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (referred to hereafter as the Reform Act) included provisions to better inform individuals who file for personal bankruptcy about their options for reaffirming debt—whereby filers may voluntarily agree to pay certain creditors in an effort to retain assets, such as an automobile. Reaffirmation agreements between debtors and creditors are required, by law, to formally disclose to debtors the terms of the agreement, such as the amount of debt reaffirmed. Some requirements differ for credit unions, such as an exemption for reporting debtor financial information when the debtor's attorney signs the agreement.

The Reform Act required GAO to study the bankruptcy reaffirmation process. This report discusses (1) the extent to which required Reform Act disclosures and other information have been incorporated into reaffirmation agreements, (2) the types of debts reaffirmed and the percent this debt comprised of debtors' overall debt burden, and (3) how reaffirmed and original interest rates compare.

GAO reviewed a representative sample of bankruptcy files with agreements in five bankruptcy courts (in AL, CA, IL, TX, and WV) selected by, among other things, filing volume and geographic dispersion. Estimates from our sample cannot be generalized to all bankruptcy courts, but can be generalized to each of the selected bankruptcy courts.

To view the full product, including the scope and methodology, click on [GAO-08-94](#). For more information, contact William O. Jenkins Jr. at (202) 512-8777 or jenkinswo@gao.gov.

BANKRUPTCY

Implementation of Reform Act's Debt Reaffirmation Agreement Provisions

What GAO Found

Most reaffirmation agreements across the five districts included Reform Act disclosure statements and other required information. For example, for the five districts, the required disclosure statement for the “Annual Percentage Rate” was included in an estimated 86 to 97 percent of agreements and the disclosure statement for the “Amount Reaffirmed” and the amount was included in an estimated 87 to 98 percent of agreements, as shown below.

Estimated Percentage of Reaffirmation Agreements That Included Disclosure Statements and Other Information for Selected Statements and Information

Required disclosure statements and other information	AL	CA	IL	TX	WV
“Annual Percentage Rate” and the amount	86	97	91	92	86
“Amount Reaffirmed” and the amount	90	98	96	93	87
Debtor monthly income, expense, and net income information to make determination of whether a presumed undue hardship exists ^a	67	71	88	75	67

Source: GAO analysis of bankruptcy file reviews.

Note: The margin of error for this data is plus or minus 10 percent, or less at the 95 percent confidence level.

^aBecause this disclosure statement and the inclusion of information differs for credit unions, these data are for non-credit unions only.

We also estimate that, for the five districts, 67 to 88 percent of non-credit union agreements included monthly income, expense, and net income information—conversely, 12 to 33 percent were missing this information. This information helps to inform debtors, debtor attorneys, creditors, and court officials of the potential inability of the debtor to make payment on reaffirmed debt. In May 2007, a federal judiciary advisory committee proposed the use of a reaffirmation agreement coversheet that, if approved, would make it mandatory for debtors to provide required financial information to determine an undue hardship. If approved, the coversheet would appear to address the issue of missing financial information.

For the five districts, debts secured by assets, such as an automobile, were the most frequently reaffirmed type of debt—comprising an estimated 90 percent or more of all reaffirmations. Unsecured debt—such as credit card debt—was reaffirmed infrequently in reaffirmation agreements, occurring in an estimated 2 percent to 10 percent among all agreements in the five districts. For the five districts, we estimate that in approximately two-thirds of cases the reaffirmed debt burden comprised 25 percent or less of the debtors' total debts.

In those cases where an original interest rate was provided, rates on reaffirmed debt were generally less than or equal to the original rate. Specifically, the interest rates were equal to the original rate in an estimated 56 to 84 percent of reaffirmed debts for the five districts, less than the original rate for 10 to 44 percent of debts, and greater in 0 to 8 percent of debts. (The margin of error for these estimates is at most plus or minus 16 percent at the 95 percent confidence level.)