

**Homeownership and Financial Distress:
The Interplay of Tax, Real Estate and Bankruptcy Laws
A Report to the Ford Foundation
by Michael Schill, Susan Wachter and Elizabeth Warren
April 22, 2004**

The focus on American housing policy has intensified in recent years. Presidential candidates from both parties stress their commitment to homeownership, particularly among under-served populations such as low- and moderate-income families and those composed of racial and ethnic minorities. Politicians' messages are reinforced by advertising campaigns from Fannie Mae and from individual mortgage lenders promoting homeownership as the central goal of the middle class—and treating homeownership as if purchase were the only hurdle.

Despite the determinedly positive message, there is increasing evidence that some homeowners are in substantial financial trouble. The rates of mortgage foreclosures have increased more than three fold in the past twenty-five years, and the number of homeowners seeking bankruptcy protection has increased nearly five fold. Last year alone, an estimated 800,000 homeowners declared themselves in complete financial collapse as they sought protection from the bankruptcy courts. These data show that homeownership is not a certain path to wealth accumulation for every family and that purchasing a home and remaining in that home are not always congruent.

In 2001, with substantial funding from the Ford Foundation, we undertook a study of homeowners in financial trouble. We hoped that the data we gathered would give us a better understanding of the risks facing American homeowners and provide a basis for some policy recommendations that might avert growing financial distress among a subset of homeowners.

The main paper from this study will be published as a chapter in Howard Rosenthal (ed), *Credit Market for the Poor* (Russell Sage Foundation 2004). Data collected for this study were also reported in detail at Elizabeth Warren and Amelia Warren Tyagi, *The Two-Income Trap: Why Middle Class Mothers and Fathers Are Going Broke* (Basic Books 2003); Elizabeth Warren, *The New Economics of the American Family*, __ American Bankruptcy Institute Law Journal __ (2003) (25th Anniversary Symposium Issue); Elizabeth Warren, *The Growing Threat to the Middle Class*, __ Brooklyn Law Review __ (Sparer Lecture)(2003); Elizabeth Warren, *Financial Collapse and Class Status: Who Goes Bankrupt?* (Lewtas Lecture), 41 Osgoode Hall Law Review 115 (2003); Elizabeth Warren, *Bankrupt Children* (Lockhart Lecture), 86 MINNESOTA LAW REVIEW 1003 (2002); Teresa Sullivan, Deborah Thorne, and Elizabeth Warren, *Young, Old and In Between: Who Files for Bankruptcy?*, NORTON BANKRUPTCY LAW ADVISOR 1 (September 2001). Other papers will be published in scholarly journals.

Data Gathering

We have now nearly completed the data-gathering phase of our project. We have examined in detail the financial condition of 2220 families that filed for bankruptcy in 2001. We collected detailed questionnaire data and court records for each family. For the families in Chapter 13 payout plans, we are in the process of completing a second review of their court records to see how many have successfully remained in payment plans and how many have failed and either had their cases converted to liquidation or have been dismissed from the bankruptcy system altogether.

In addition to the questionnaire and court record data, we attempted to interview each family who had agreed at their initial bankruptcy meeting that we could make a follow up call. We successfully completed interviews with 930 families within a year after they filed bankruptcy. Approximately two years later, we revisited the families we had interviewed initially. We completed second round interviews for 705 families. Altogether we have a rich, complex database that permits the most extensive study of financially troubled homeowners ever undertaken. The details of the data collection and response rates are attached as Appendix I. In addition, the questionnaires, the court record coding protocols for first and second round of data collection, and the telephone interview surveys are attached as Appendix II.

Data Analysis

Our first report, dated August 13, 2002, explains in detail the analytic methods and the central findings. We attach “Homeownership and Financial Distress: The Interplay of Tax, Real Estate and Bankruptcy Laws,” as Appendix III.

The project has two distinct pieces. The first is based on what we learned about homeowners in financial distress by examining data about the homeowners who filed for bankruptcy. These findings have been linked to national data on mortgages and to changes in the tax laws. This work is discussed at length in our paper with Raisa Bahchieva, “Mortgage Debt, Bankruptcy and the Sustainability of Homeownership.” This paper was presented at a conference at Princeton University in 2003 entitled “Credit Markets for the Poor,” organized by Professor Howard Rosenthal. It is slated to become a chapter in the book he is editing, also entitled *Credit Markets for the Poor*, to be published by the Russell Sage Foundation later this year.

The findings from that part of the work can be briefly summarized: “Sustainability of Homeownership” explores the phenomenon of increasing mortgage debt over time. The disaggregated data on borrowing suggests that families’ borrowing behaviors are likely to be influenced by a variety of factors. While there is evidence that the highest income debtors substitute mortgage debt for other debt consumer debt in order to take advantage of tax advantages available only for mortgage debt, the picture looks very different for homeowners of more modest incomes. These homeowners seem not to have moved in response to changes in the tax laws. Instead, they seem to be caught between intensive mortgage marketing and a

willingness to turn to the equity in their homes in times of financial stress. Their mortgage debt in bankruptcy is extraordinarily high relative to the value of their property. This may be because the now-bankrupt families initially saw their financial troubles as temporary, and they borrowed against their homes in an effort to stabilize themselves financially. That strategy may have worked for many troubled families—the ones who do not end up in bankruptcy. But for hundreds of thousands of other families who are in bankruptcy their earlier efforts to borrow one's way out of trouble backfired. Moreover, given their increased mortgage debt relative to the house value, they are at heightened risk of losing their homes.

The data reported in “Sustainability of Homeownership” also suggest that low homestead exemptions in many states may play a role in high mortgage levels for financially troubled households. Low homestead exemptions may provide some incentive for households to obtain high LTV loans in an effort to hold on to their homes as they spiral into bankruptcy. When added to the other incentives homeowners have to mortgage their residences that we have discussed in this paper—the tax incentives created by the TRA and the increased availability of high risk debt—the result is high and increasing levels of mortgage debt relative to home values for homeowners in bankruptcy. The data presented suggest that the increase in the number of bankrupt homeowners over time has been accompanied by a substantial increase in their use of mortgage debt, which cannot be reduced or eliminated at filing and which may substantially reduce their prospects for continued homeownership.

The fuller paper, “Sustainability of Homeownership,” is attached as Appendix IV.

The second phase of this project focuses on what happened to the homeowners who filed for bankruptcy. No one had ever engaged in any post-bankruptcy survey or other follow up with bankrupt families, so this research breaks entirely new ground. For this phase we re-interviewed families and followed up with further collection of court records to determine how the cases were faring. Because the longitudinal aspect of the research is just now coming together, we have not completed every possible analysis of the data. Nonetheless, a clear picture has emerged of the difficulties facing families as they try to stabilize financially.

The first observation is that families generally are not recovering financially even after their bankruptcy. One in every five families (20.5%) says that their financial lives have worsened after their bankruptcy filings. Nearly a third (31.1%) are struggling to pay their bills. These data are indistinguishable for homeowners and non-homeowners alike, with substantial subsets of both groups in financial difficulty after they have filed for bankruptcy.

Homeowners who have turned to the bankruptcy courts have not been consistently successful in saving their homes. At the time we interviewed these families a second time, about one in four homeowners (25.8%) had lost their homes. The majority had seen their homes repossessed, but others had sold their homes quickly to avoid repossession or turned the houses over to the mortgage company to avoid repossession. Just over half of all the debtors (51.4%) had missed at least one mortgage payment after they had filed for bankruptcy, and 14% of those who still owned their homes were behind on their house payments at the time of the second interview. These data strongly suggest that bankruptcy is not an across-the-board solution to the

problems homeowners face in bankruptcy.

Their financial problems do not seem to scare off all mortgage lenders. Three-quarters (74.2%) of the debtors said they had received solicitations post-bankruptcy from other mortgage lenders to refinance their homes. In addition, about 12.7% of the homeowners received refinance offers after bankruptcy from their own mortgage companies. On both the new finance offers and the refinance offers from the existing mortgage company, about half of the mortgage lenders offered to lend the debtors more money as part of the refinance.

The pre-bankruptcy decisions homeowners made weaken their chances to save their homes. For example, about a third of the homeowners (33.8 percent) explain that they had borrowed more money against their homes after purchase and before their bankruptcy filings. They identify the reasons for their additional borrowing, including paying other bills, medical debts and college expenses. It is clear that many people have tried to tap into the equity in their homes when they had extraordinary expenses or got into financial trouble, but they were not able to borrow their way out of difficulty. Now that they are in bankruptcy, they face much greater challenges to cope with debts that would have been discharged in bankruptcy, but that now must be paid or they will lose their homes.

One possible difficulty facing homeowners is how they use the bankruptcy system. Homeowners are disproportionately likely to file for Chapter 13. The core random sample shows the distribution.

Chapter * Homeowner? Crosstabulation

Count		Homeowner?		Total
		No	Yes	
Chapter	Chapter 7	542	230	772
	Chapter 13	121	350	471
Total		663	580	1243

While 29.8 percent of the Chapter 7 filers are homeowners, an astonishing 74.3 percent of the Chapter 13 filers are homeowners. The attraction of Chapter 13 is that it permits homeowners who are behind on their mortgages to disaccelerate a foreclosure and catch up on their defaulted payments. The difficulty, however, is that Chapter 13 also requires payments to other creditors and it offers no discharge until the debtor has completed a repayment plan that must run for three to five years. While some homeowners may need that feature, many do not, and the extra burdens of Chapter 13 may be putting too much financial stress on homeowners. This finding opens avenues both for redrafting rules governing the disposition of defaulted home mortgages and alerting attorneys to practices that may not best serve the needs of homeowners.

The data also give us a chance to explore what happens to people who lose their homes.

We are able to learn about their alternative arrangements, moving into apartments or other cheaper quarters (52%), moving in with relatives (43.8%), or becoming homeless (4.2%). We recognize that we are least likely to be able to interview those debtors whose housing situations became most chaotic. Even so, these data provide an insight into the lives of the families whose financial difficulties cost them their homes.

While the circumstances facing bankrupt homeowners is difficult, these data might be read as the glass-half-full. Three-quarters of the homeowners were still in their homes despite their severe financial difficulties. We hope these data will give us some insight into the risks associated with refinancing and help us identify consumer behavior or external events that are most likely to push homeowners toward foreclosure.

Because most scholarly and policy analysis ends with a family's filing for bankruptcy, the discovery that bankruptcy does not end their financial difficulties opens several new lines of inquiry about homeownership generally, about the role of bankruptcy as relief for troubled homeowners, and about what happens to homeowners when other problems such as job loss and medical debt leave them in financial difficulty.

Appendix I: The Consumer Bankruptcy Project, 2001

In 1999 and 2000, a group of scholars began to assemble the pieces of what would become the Consumer Bankruptcy Project of 2001. A dozen professors from seven different research universities contributed to the design and implementation of the study. Dr. Teresa A. Sullivan, Executive Vice-Chancellor for Academic Affairs of the University of Texas System and Professor of Sociology; Professor Elizabeth Warren, Leo Gottlieb Professor of Law at Harvard University; and Professor Jay Lawrence Westbrook, Benno Schmidt Professor of Law at the University of Texas, took principal responsibility for designing the basic questionnaire and telephone survey questions for the 2001 study. In addition, Professor Michael Schill, Professor of Law at New York University and Director of the Furman Center for Real Estate and Urban Policy, and Dr. Susan Wachter, Professor of Real Estate and Finance at the Wharton School, University of Pennsylvania, were principal drafters of survey questions about housing and real estate. Dr. David Himmelstein and Dr. Steffie Woolhandler, both Associate Professors of Medicine at Harvard Medical School, designed the medical questions. Bruce Markell, Doris S. and Theodore B. Lee Professor of Law, and Robert Lawless, Professor of Law, both at the University of Nevada–Las Vegas, drafted the small business questions. Katherine Porter, Harvard Law School '01, John Pottow, Assistant Professor of Law at the University of Michigan, and Dr. Deborah Thorne, Assistant Professor of Sociology at Ohio University, served, in turn, as Project Director, each with a hand in both the design of portions of the project as well as direct oversight of the data collection. These dozen principal investigators brought expertise from a number of policy areas such as family economics, demographics, employment, health care finance, housing policy, small business, women's issues, law, sociology, business, and economics, as well as specific skills in data collection and analysis.

The 2001 Consumer Bankruptcy Project builds on three previous empirical studies of families that file for personal bankruptcy, conducted by Sullivan, Warren, and Westbrook. The earlier Consumer Bankruptcy Projects are detailed in the Appendices to *As We Forgive Our Debtors*¹ (1981 study) and *The Fragile Middle Class*² (1991 study). In addition, there was a supplementary study in 1999, the details of which are noted in Jacoby, Sullivan, and Warren's "Rethinking the Debates over Health Care Financing: Evidence from the Bankruptcy Courts."³

¹ Teresa Sullivan, Elizabeth Warren, and Jay Lawrence Westbrook, *As We Forgive Our Debtors: Bankruptcy and Consumer Credit in America* (New York: Oxford University Press, 1989). The study examined court records for 1,529 randomly chosen debtors filing in all the judicial districts of three states—Illinois, Pennsylvania, and Texas—in 1981.

² Teresa Sullivan, Elizabeth Warren, and Jay Lawrence Westbrook, *The Fragile Middle Class: Americans in Debt* (New Haven, CT: Yale University Press, 2000). The study examined both court records and a one-page questionnaire for 2,400 randomly chosen families filing for bankruptcy in all the judicial districts of five states—California, Illinois, Pennsylvania, Tennessee, and Texas—in 1991.

³ Melissa Jacoby, Teresa Sullivan, and Elizabeth Warren, "Rethinking the Debates over Health Care Financing: Evidence from the Bankruptcy Courts," *New York University Law Review* 76 (2001): 375. The study collected questionnaire data from a random sample of 1,455 families who filed for bankruptcy in eight federal judicial

The Methodology

Although existing data sources could shed some light on one or two of the questions set forth above, primary data collection was necessary to obtain information about the others. The research team used a combination of data gathering techniques including analyses of litigation files and surveys of people who file for bankruptcy to study the relationship between bankruptcy, real estate and tax law and homeownership. Several of these techniques have already been used successfully by one member of the research team in three major studies of bankruptcy law. The current research would update the existing databases and extend them to provide information about homeownership.

We generated an original database using four sources: bankruptcy court records, questionnaires, telephone interviews and, for two districts, local real estate records. This combination permitted us to document both the homeowner's financial history and what happens to the debtor both during and after bankruptcy. This approach also permitted us to develop a detailed demographic profile of the debtors that will be useful as we continue to compare these people with the population generally.

We used a five-district sample, with a random sample in all five of the districts and a more detailed supplemental sample solely of homeowners in two of the districts. This ensured both geographic diversity and a longitudinal connection to earlier studies. The larger samples of homeowners for two districts also permitted us to control for sub-city geographical conditions and characteristics. In addition, we are able to analyze sub-groups of bankrupt homeowners because of the bigger cell sizes made possible by the larger samples.

We copied the bankruptcy file for each debtor in the sample. Bankruptcy files are extraordinary court documents. Unlike the papers filed in many two-party lawsuits, each bankruptcy file must include detailed information about a wide variety of topics so that creditors and courts have an opportunity to evaluate the debtor's overall financial condition. The files contain extensive information about the assets, debts and income of the families in bankruptcy. A file reveals, for example, the address of the debtor's home, the current value of the home, the number of mortgages against the property, the lenders to whom the mortgage loans are owed, the current balances on the mortgages, when the mortgages were incurred, and whether the debtor claims the home as a homestead property exempt from unsecured creditor attachment. The files contain similar information for other creditors, so that it is possible to place the mortgage debt in the context of the debtor's overall financial circumstances. Once we had copies of the files, we coded about 130 pieces of information from each file for our data analysis.

In addition to gathering official information from the files, gave each debtor in the sample a questionnaire. Bankruptcy law requires that each debtor attend a meeting of creditors (a so-called "341 meeting," named after the section of the bankruptcy code that requires

districts: the Northern District of California, the Northern District of Illinois, the Eastern District of Kentucky, the Southern District of Ohio, the Eastern District of Pennsylvania, the Middle District of Tennessee, the Northern District of Texas, and the Eastern District of Wisconsin in 1999.

attendance), and we distributed our questionnaires at those meetings. With the questionnaires, we were able to gather basic demographic information, such as sex, age, race, and marital status. We were also able to ask about other information that might bear on a family's financial collapse, such as the presence of health insurance or the need to move to keep a job. We are also about to ask questions of debtors who are currently renters whether they were previously homeowners. Once again, we coded the information collected so as to link the responses of the debtors with the information reported in their bankruptcy files.

A third source of information was the follow-up interviews. Both the limited length of a survey and the fact that the survey occurs at a single point in time limit the information we can gather. We asked each debtor if he or she would be willing to participate in telephone interviews over time, offering a cash reward (perhaps \$50) for those who agree. We obtained information at the 341 meeting on home phone numbers and next-of-kin numbers so that we could remain in contact with the debtors. We talked with the debtors twice, once shortly after filing and once about three years later. These data permit us to track what happens to them after bankruptcy and whether they were able to save their homes. Once again, we coded these data so that we would have information about the same debtors from their files, their questionnaires, and their multiple interviews.

Although the interviews with debtors were a significant expense, the rewards for the research community and for policymakers are extraordinary. There are no longitudinal studies of debtors in bankruptcy and no systematic work to determine whether the people who file for bankruptcy with specific goals, such as saving their homes, are able to do so. These data are the first solid information for evaluating the efficacy of certain federal policies to protect homeowners through bankruptcy protection.

With respect to the research question concerning the impact of the Tax Reform Act of 1986 on home loan borrowing, several data sources were utilized. Existing research typically focuses on aggregate data and does not seek to link the increase in home mortgage debt related to the change in deductibility rules to measures of leverage (e.g., loan-to-value ratios) and household demographics (e.g. income, race). We obtained appropriate data from two longitudinal data sets: the Survey of Consumer Finances (SCF) and the American Housing Survey (AHS). The SCF, sponsored by the Federal Reserve Board every three years, provides detailed information on the finances of American families. The survey obtains information from respondents about the amount of their home-secured debt, other debt and a variety of demographic details. [Susan—Is this right? Is this what we used? This is what we said in our proposal to Ford.]

The AHS (national sample), conducted every two years by the U.S. Bureau of the Census, contains a wealth of information about individual and housing characteristics. Of immediate interest for our research, the survey asks homeowners to report home value, purchase price, number of mortgages, type of mortgages, year of origination, outstanding principal amounts and total debt as a percentage of house value. With data from the SCF and the AHS, we will be able to model the impact of the 1986 tax law on household mortgage debt and learn more about whether the incentives created by the Act have led to loan-to-value ratios that might

threaten the stability of ownership. [Susan—Is this right? Is this what we used? This is what we said in our proposal to Ford.]

The Data

Debtors who file for Chapter 7 and Chapter 13 bankruptcies must attend a meeting with the bankruptcy trustee assigned to the case. The debtor's attorney nearly always attends the meeting with the debtor. The debtor's creditors receive formal notice of the meeting and are invited to attend as well. The 2001 core sample was constructed by distributing questionnaires to debtors who attended these meetings in the target cities on the target dates. The goal was to collect a quota of 250 questionnaires from each district, with the proportion of Chapter 7 and Chapter 13 questionnaires in the sample reflecting the proportion that occurred naturally in each district. For example, in the Central District of California, 80 percent of the petitions filed in 2000 were for Chapter 7 bankruptcies and 20 percent were for Chapter 13 bankruptcies. Thus, of the 250 questionnaires collected in this district in 2001, the researchers sought to match that same distribution: 200 Chapter 7 questionnaires and fifty Chapter 13 questionnaires. In order to achieve this distribution, questionnaires were distributed at Chapter 7 meetings until 200 debtors responded and at Chapter 13 meetings until fifty debtors responded. The same approach—quota sampling by district, by type of chapter—was followed in each of the other four districts until a full sample of 250 cases per district was collected. The total 1,250 cases (250 cases per district) constitute what is called the “core sample,” which includes a split between Chapter 7 and Chapter 13 cases that is representative in each of the filing districts.

One questionnaire was completed per case. When couples filed jointly, they completed a *single* questionnaire. The questionnaire, however, collected separate demographic data for both husband and wife. The core sample consists of 1,250 cases, but because 320 of those cases were married couples filing jointly, there are 1,570 people in the core sample who filed for bankruptcy.

Core Sample

The 2001 core sample was drawn from California, Illinois, Pennsylvania, Tennessee, and Texas. This overlaps with the 1991 core sample, which was drawn from the same five states, and with the 1981 sample, which was drawn from three of the five states (Illinois, Pennsylvania, and Texas). Rather than drawing from multiple districts in each state, as in the earlier study, the 2001 Consumer Bankruptcy Project concentrated its resources by drawing a larger sample from one district per state: the Central District of California, which includes Los Angeles; the Northern District of Illinois, which includes Chicago; the Eastern District of Pennsylvania, which includes Philadelphia; the Middle District of Tennessee, which includes Nashville; and, the Northern District of Texas, which includes Dallas.⁴ These five states represented 407,047 nonbusiness

⁴ Because one focus of the 2002 study was the relationship between home ownership and bankruptcy, the Northern District of Texas (Dallas) was chosen over the Western District, which included San Antonio. It was the belief of the researchers that the housing market of Dallas was more typical and provided a more accurate representation of an urban center. San Antonio's housing market was considered atypical for two reasons: proximity to the Mexico

Chapter 7 and Chapter 13 filings in 2001, or about 26.4 percent of the 1,539,111 nonbusiness bankruptcy cases listed by the Administrative Office of the United States Courts nationwide. Districts from five different states, each from a different region in the country, provided some geographic diversity. In addition, by drawing from some of the same districts as the 1981 and 1991 samples, the 2001 study maintains some continuity for researchers interested in longitudinal research. The choice of the specific districts within each state increased the size of the pools from which the sample was drawn, increasing the representativeness of the sample within the geographic location.

The five metropolitan areas captured in the core sample represent another form of diversity: the incidence of bankruptcy filings in the local population. To the extent that the decision to file for bankruptcy might be influenced by local legal cultures, variance in the filing rates per thousand may indicate differing bankruptcy practices as well.⁵ According to data compiled by SMR Research Corporation, one area, Nashville, has higher rates of bankruptcy filings than most other U.S. cities, at 9.70 bankruptcy filings per 1,000 adults. Closer to the other end of the spectrum were Philadelphia (4.91) and Dallas (5.02), which have lower rates of bankruptcy filings than the U.S. population generally. In between were Chicago (5.83) and Los Angeles (8.02).⁶

This core sample varies from a representative national sample of bankrupt debtors in that it represents relatively few districts. The distribution and completion of the questionnaires also introduce an opportunity for nonresponse bias. This bias could be introduced if the people who complete the questionnaires differ systematically from the people who do not complete questionnaires in ways that might affect the variables of interest. It is possible, for example, that people who are very uncomfortable in the courthouse would reject the questionnaire. This discomfort (an unmeasured characteristic) might be linked to some other characteristic that was measured (such as size of total debt). By their very nature, such biases are difficult to detect. Because our data were collected before the events of September 11, 2001, and their subsequent economic impact, the data do not reflect any changes that may have occurred at that time.

Supplemental Homeownership Samples

border and the fact that San Antonio is home to three major military installations. Each debtor must file in the district where he or she is a resident (legally defined), but some districts have more than one office to accept filings. So, for example, if the debtor resides in the Northern District of Illinois, he or she can file in Chicago or Rockford, a suburb, although very few are filed in Rockford. The researchers sampled only in the big cities, which is where the overwhelming majority of bankruptcies are filed in four of the five districts. In the Central District of California, the researchers sampled only Los Angeles, but in that district a larger proportion of cases are also filed in outlying areas. As we note in the text, this may result in a bias toward larger cities and an underrepresentation of rural and small town areas.

⁵ For a discussion of this phenomenon, see Teresa A. Sullivan, Elizabeth Warren, and Jay Lawrence Westbrook, "The Persistence of Local Legal Culture: Twenty Years of Evidence from the Bankruptcy Courts," *Harvard Journal of Law and Public Policy* 17 (1994), reprinted in Charles J. Tabb, *Bankruptcy Anthology* (Westbury, NY: Foundation Press, 2002).

⁶ Mean bankruptcy filing rate per 1,000 adults, 1990–2000. SMR Research Corporation, *The New Bankruptcy Epidemic: Forecasts, Causes, and Risk Control* (Hackettstown, NJ, June 2001), pp. 181–187.

To expand the analysis and probe the experiences of homeowners in much greater depth, two supplemental samples were developed. To study the relationships between homeownership, mortgage debt and bankruptcy with greater reliability, the research design included supplementary collections of homeowners in bankruptcy, drawn from Los Angeles, Chicago, and Philadelphia. In order to examine financial problems outside urban centers, an extended sample was drawn from rural areas in Tennessee and Iowa.

The quota sampling technique was also employed for both supplemental samples (homeowners and rural debtors), with the addition of more qualifying criteria. The supplemental rural sample consists only of those debtors living in certain predetermined rural zip codes; all respondents not in those zip codes were eliminated from the supplemental sample. The Los Angeles supplemental housing sample was developed by continuing to collect questionnaires beyond the original target of 250 until an additional group of 100 homeowners had been collected; nonhomeowner cases were discarded from this supplemental sample. The supplemental housing sample for Philadelphia and Chicago used two filters: The debtors were homeowners and they agreed to be interviewed by telephone; and nonhomeowners and those who did not wish to be interviewed were omitted from those supplemental samples.

To recap: The core sample consists of 1,250 debtors, 250 from each of the first five states. This sample was supplemented by an extended sample of 571 debtors, which includes an extended selection of homeowners from the five core sample districts. None of the supplemental data is part of the core sample.

Protection of Confidentiality

Before we entered the field, the study's procedures and instruments were reviewed by Harvard University and the University of Texas to guarantee protection of study participants. Consistent with those reviews, access to debtor identity has been limited to guarantee respondents' confidentiality. All researchers who had access to respondents' names and data were required to sign a statement promising to maintain confidentiality. Finally, responses are reported only in the aggregate. When individual quotations are used, the debtors' names and any other obvious identifiers have been changed.

Instruments

Data were collected using three types of instruments: debtor questionnaires, court records, and telephone interviews.

Questionnaires. The debtor questionnaires included the same demographic questions asked in the 1991 and 1999 research. In addition, many new questions were added in response to the data collected from the open-ended questions asked in 1991 and 1999, as well as developments in consumer law and practice. For example, the 2001 questionnaire asked debtors why they had filed for bankruptcy; the options provided on the

questionnaire were based on the eight reasons most often given by debtors in 1991, plus an option to fill in a blank after “other”. In addition, because so many debtors in 1991 and 1999 had indicated that an illness or injury was the catalyst for their bankruptcy, the 2001 research asked debtors if they had lost income as a result of their own or a family member’s medical problems. The 2001 questionnaire also gathered information on health insurance, medical debt, child support, home ownership, mortgage debt, alternatives to bankruptcy, and number of dependents.

The majority of the questions were closed-ended and required the debtor only to check a box. One opened-ended question was for occupation: Debtors were asked for their occupations and, if married, the occupations of their spouses. Debtors’ answers were entered verbatim into the database. Dr. Sullivan coded each entry using the 1970 U.S. Census codes and the corresponding prestige scores developed by the National Opinion Research Center.⁷ Dr. Thorne recoded each entry to ensure accuracy and consistency.

In addition to the closed-ended questions, debtors were invited to use the back of the questionnaire to tell the story of their bankruptcies in their own words. The responses were included in the database as a text field.

At the bottom of the last page of the questionnaire, a form offered debtors \$50 for participating in follow-up telephone interviews, with the possibility that they might eventually complete three such interviews over the next few years. Debtors who were willing to be interviewed signed the forms and provided their telephone numbers. Only those debtors who signed this form and provided a phone number were called for an interview. Debtors whose primary language was Spanish were given a Spanish version of the questionnaire. The questionnaire was translated into Spanish and back-translated into English to verify that the translation was accurate.

With the assistance of the Bankruptcy Court in Boston and the United States Trustee for Region One, the questionnaire was pretested in January 2001. Because this questionnaire was considerably more comprehensive than the one used in 1991, there was some concern about respondents’ reactions to the amount of time it would take to complete it. The average time required to complete the questionnaire was six minutes, and no respondent expressed any concern about the length of the questionnaire. After testing, the questionnaires were refined and retested in the Boston courthouse. Once that was complete, the same questionnaire was used in all districts.

The questionnaires asked each debtor for more than thirty pieces of information, for a total of about 75,000 pieces of information gathered from the questionnaires. Copies

⁷ The 1970 occupational codes have been used in all of the preceding Consumer Bankruptcy Projects. They are also still widely in use as the last “pure” occupational codes used by the Census Bureau. They have been used in major studies such as the General Social Survey. Since the 1970 census, the Bureau has adopted sets of codes that incorporate industry as well as occupation, but several “walkovers” are available that permit correspondence from one set of codes to another.

of the questionnaire are available from the Consumer Bankruptcy Project, Harvard Law School.

Court records. For every questionnaire that debtors returned, a copy of the corresponding court records was collected; thus the researchers coded court record data from all 1,821 cases in the core and supplemental samples. Court records for bankruptcy are a matter of public record. A photocopy of the court records or a printout from the online court records was added to each debtor's file.

Three people with legal training reviewed the court records, determined which information to code, and assisted in the development of a coding program for data entry. The information reported in the debtors' schedules, which are filed under penalty of perjury, includes income, assets, debts, household expenses, and several legal events. The research team entered approximately 160 pieces of information from each case into the database, for a total of more than 350,000 pieces of information gathered from the court records.

With rare exception, Chapter 7 cases were complete at the time we collected the data, but Chapter 13 repayment plans were often underway. Plans are scheduled to last a minimum of three and a maximum of five years, with debtors subject to dismissal or conversion of their cases if they stop making the payments required under the plan. In 2004, we returned to the court records to determine how many Chapter 13 debtors were current on their plan payments and how many had either seen their cases converted or dismissed. That data collection is underway now.

Telephone surveys. The telephone survey comprised four specialized schedules: general questions presented to all respondents, a medical section presented to those who indicated that a medical problem had contributed to their bankruptcies, a small business section presented to current or former small business owners, and a homeowner section presented to those debtors who owned a home at the time of filing or who had owned a home within the previous five years but had lost it through foreclosure or other financial problems. Interviews took about twenty minutes for each section.

Telephone interviewers were trained and supervised by Dr. Thorne. All initial interviewers were graduate students or postdoctoral students in sociology; later, other trained interviewers were added. All interview responses were entered directly into a Microsoft Access database designed specifically for this project. We successfully completed 930 telephone interviews with an average of about 250 pieces of information from each debtor. Approximately 226,000 pieces of data from the first round of the telephone survey were entered in the database.

After approximately two years, the debtors were contacted again. The second interview was to find out what had happened to these families. Once again, there were four principal sections: general, homeowner, small business, and medical. Before entering the field, interviewers received extensive training from Dr. Thorne. In total, 705

interviews were completed. Thus, we contacted 75.8% of those debtors whom we originally interviewed. Approximately 137,000 pieces of data from the second round of telephone interviews were coded.

Response Rates

In some districts, the Chapter 7 and Chapter 13 trustees distributed and collected the questionnaires; in other districts, we trained a local person to complete the distribution and collection, with the cooperation of the trustees. In almost all cases, the questionnaires were distributed and completed when the debtors attended a mandatory meeting at the courthouse, although a few people took their questionnaires home and returned them by mail a few days later.

Without the cooperation of the trustees, it would have been almost impossible to gather a useful sample from among the debtors attending these meetings. The need to rely on the trustees, however, meant that we lost some degree of control over the distribution of the questionnaires. Although we can be nearly certain that the questionnaires were distributed to every debtor who attended a meeting scheduled on a particular day, on some days the trustees did not distribute questionnaires, often because they had no help, because they felt especially pressed for time, or because they forgot. In one district, the Middle District of Tennessee, the trustees went far beyond our expectations and maintained especially careful records, and we could determine that the response rate was 99 percent. In the remaining four districts, however, we could not impose on the trustees to keep similar records, so it is not possible to identify the questionnaire response rates with precision. We estimate that in Texas and Illinois, response rates were approximately 90 percent on the days the trustees distributed the questionnaires. In Illinois, California, and Pennsylvania, when someone other than the trustee distributed the questionnaires, the response rates were lower, estimated at about 60 percent, 55 percent, and 45 percent, respectively. Because court records are public data, we collected court records for each debtor in the sample, effectively a 100 percent response rate.

Debtors from the core sample and the supplemental homeowner samples were eligible to participate in the telephone survey. Participants in the Iowa supplemental rural sample were not part of the telephone interview portion of the study because those questionnaires were gathered later.

From the core sample of 1,250, 875 debtors (70 percent) agreed to a telephone interview. Of these, it was possible to contact and complete at least one schedule of the telephone survey with 609 debtors, for a response rate of 69.6 percent of those who agreed to be interviewed, or 48.7 percent of all debtors in the core sample. In the supplemental housing sample, 521 debtors were eligible to be interviewed; of these, 328 completed telephone surveys, for a response rate of 62.9 percent. In total, 930 telephone interviews were completed between the core and the supplemental samples.

The goal of the second round of telephone interviews was, of course, to re-interview all 930 of our original debtors. Unfortunately, we were unable to contact, via letter or telephone, a

total of 208 (22.4%) debtors. Of the remaining 722 debtors whom we did contact, we had confirmation that 3 (.4%) had died, 5 (.7%) were too ill to participate in an interview, and 9 (1.2%) refused to talk with us a second time. Thus, we completed 705 interviews for an overall completion rate of 75.8%. By state, the completion rates are as follows: CA was 79.3%; IL was 75.1%; PA was 73.2%; TN was 76.8%; TX was 75.6%.

Coding Accuracy

Data from both the questionnaires and court records were entered into a Microsoft Access database designed specifically for this instrument. Training was extensive, particularly for collecting data from court records. Ten percent of all questionnaire entries were rechecked for errors. The error rate was approximately 0.7 percent. Because the court record data coding was extremely complex, on completion of the data entry, the researchers arranged to recode 500 cases. All mistakes were corrected; therefore, the accuracy of these 500 cases approaches 100 percent. Of the remaining approximately 1,720 cases, 15 percent were randomly selected for quality control checks. On average, there was one error per 160 data points, which translates into accuracy exceeding 99 percent.