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City's commercial bankruptcies soar

Jose Luis Sampedro's construction firm is one of 335 city companies to file for Chapter 11 so far this year; that's compared with 104 filings in the same period a year earlier.

BY DANIEL MASSEY

THE NUMBER of corporate bankruptcy filings in New York more than tripled in the first five months of the year as the teetering national and local economies thrust many businesses to the brink of collapse.

Through May, Chapter 11 filings at federal bankruptcy courts in the city totaled 335, up from 104 in the same period a year earlier. The increase was due to a nearly five-fold rise in filings at the U.S. Bankruptcy Court for the Southern District of New York to 288, from 60.

Already, filings in that court, which includes Manhattan and the Bronx, surpass the 231 filings made there in all of 2007.

With the economy showing little sign of improving, filings will continue to rise.

"There has to be some turnaround in the credit market before you'll see a turnaround in bankruptcies," says Marlene Rabinowitz, chairwoman of the bankruptcy and financial reorganization group of the New York State Society of Certified Public Accountants and a partner at BDO Seidman.

The jump in filings probably understates the magnitude of the problem. That's because many small business owners, daunted by the costs associated with filing for bankruptcy, are choosing to settle with creditors out of court or to simply walk away from their companies.

The declining economy is no

doubt to blame for the increase in bankruptcies. Mortgage and job woes, coupled with rising food and fuel prices, have cut deeply into discretionary spending.

Perfect storm

"THE PROBLEM IS there are so many problems," says Dan McElhinney, senior vice president for Epiq Bankruptcy Solutions. "You have oil, inflation, the credit crunch, the continuing housing debacle. You have, in a lot of ways, a perfect storm of economic problems."

Business is down, expenses are up, and banks are raising their loan standards. As a result, many companies are simply running out of options—leaving Chapter 11 as the only way forward.

"In the past, when sectors were going through distress or economic conditions were declining, businesses could always look to the credit markets," observes Dalton Edgecomb, managing director of Huron Consulting Group, which advises distressed companies. "Now, a lot of these companies don't have the ability to go out and seek additional funds to get them through the cycle."

Lawyers say the difference between this wave of bankruptcies and previous ones is that most companies now filing have no intention of staying in business. Changes in bankruptcy law instituted in 2005 make it difficult for companies to reorganize and more are using bankruptcy as a last resort after they have run out of other possibilities.



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"It used to be they would try to reorganize in bankruptcy," says Larry Gottlieb, who, as chairman of the bankruptcy and restructuring practice at Cooley Godward Kronish, represents distressed retailers including Harvey Electronics and The Sharper Image. "Now they go into bankruptcy and liquidate immediately."

Tale of woe

THIS WAVE of bankruptcies includes many small businesses, which are typically more vulnerable to a tightening credit market. New York-based companies that have filed for bankruptcy this year range from restaurants to interior decorators to construction firms.

One struggling small business is Jose Luis Sampedro's Barrera Construction & Development Corp. Under normal circumstances, the Manhattan company probably would have been able to withstand a judgment that it owes the New

York State Insurance Fund workers' compensation fees that two of its subcontractors failed to pay. But these are far from ordinary times.

Mr. Sampedro's business expenses have jumped 70% over the past year, to about \$24,000 a month, largely fueled by price increases in gas, construction materials and insurance. At the same time, the specialist in interior and exterior renovations is not landing much work.

"Everything is going up," he says. "And people don't want to do renovations anymore. It's impossible."

So in March, Mr. Sampedro had no choice but to file for Chapter 11 bankruptcy. He hopes to reorganize his finances and avoid having to start over. For the father of two young children, folding the nearly 15-year-old business is not an option.

"I'm still trying to survive," Mr. Sampedro says. "I have to struggle for this company."