LA Piper LLP laid off 101 lawyers this year. Miles & Stockbridge P.C. shortened its summer associate program by two weeks. And Whiteford, Taylor & Preston LLP offered incoming associates $3,500 a month — to delay starting work at the firm.

These are some pretty drastic moves for a profession that escaped past economic downturns mostly unscathed. But this recession has been an equal-opportunity business-buster, overwhelming even the biggest law firms along with the rest of the U.S. economy.

In response, firms have been forced to change the way they do business in ways like—

LA Piper, the firm. Ven-...
The end of the billable hour?

Perhaps the biggest change brought about by the recession is a greater push by clients who want to be billed in a way different than the traditional per-hour basis. Billable hours have been as much a part of big law firms as pinstripe suits and wing tip shoes.

But as companies look to rein in legal costs, and want to know how much money they need to budget for legal services, they’re asking their law firms for other billing arrangements.

“There are a lot of great litigators and a lot of great corporate lawyers, so if you’re not getting satisfaction from one firm, you can transfer your work to another one,” said H. Ward Classen, deputy general counsel at Computer Sciences Corp. in Hanover and a past-president of the Baltimore chapter of the Association of Corporate Counsel.

These arrangements include charging clients a flat fee for certain work, offering discounts or doing work on a contingency basis, where the client doesn’t pay anything if a deal isn’t completed.

Saul Ewing LLP, a Philadelphia-based law firm, rolled out a highly publicized “cost certainty commitment” in June. The firm will do certain types of work, such as M&A due diligence, on a flat-fee basis, rather than billing by the hour.

The firm’s Baltimore office is handling three deals for a pharmaceutical industry client on a flat-fee basis, said Barry Levin, a partner in the Baltimore office and a member of the firm’s executive committee.

“We’ve always had some percentage of alternative fee arrangements,” Levin said. “It’s not a new topic, but it’s receiving a lot more attention and emphasis. And I think that’s directly related to the economy.”

The firm is “more sensitive and sensitized to our client needs in these down economic times,” he added.

Frisch, the chairman at Miles & Stockbridge, said he hasn’t seen “a groundswell” of clients asking for flat fees or other alternatives to billable hours. However, the firm is having more discussions with clients about legal fees before starting a project, he said.

“Clients don’t like to be surprised,” Frisch said. “That’s the No. 1 rule.”

Frisch also said he’s visiting more of the firm’s clients this year to gauge their level of satisfaction.

Attract and retain

While some have been predicting the demise of the billable hour for years, Woldow, the legal industry consultant, doubts that will happen. Billable hours will always be the primary way in which firms bill because that’s how they judge the productivity of their lawyers and compare firms on cost, Woldow said.

“It’s not going to be like a light switch where billable hours go away immediately,” she added. “It will be an evolution.”

Thomas Cabaniss, managing partner at McGuireWoods, agrees that billable hours aren’t going away. What he does see out of the recession is clients moving some of their work away from the big New York law firms to smaller firms “because they can do the work as well at generally lower costs.”

Miles & Stockbridge and Whiteford, Taylor each say they are getting work that in the past would have gone to bigger, more expensive firms in New York and Washington, D.C. Whiteford, Taylor’s Fletcher declined to name the clients but said they included a manufacturing company that had been using New York firms for all its legal work.