



Bankruptcy



What Is Bankruptcy?

Bankruptcy is a legal proceeding in federal court to stop creditors from seeking to collect debts until the debts are sorted out according to law. Filing for bankruptcy is complicated, and it is best to have a specialized bankruptcy attorney assist you with the process.



What CAN Bankruptcy Do for Me?

Bankruptcy may make it possible for you to:

- Eliminate the legal obligation to pay most or all of your debts to give you a fresh financial start. This is called a "discharge" of debts.
- Stop foreclosure on your house or mobile home and allow you an opportunity to catch up on missed payments. (Bankruptcy does not, however, automatically eliminate mortgages or other liens.)
- Prevent repossession of a motor vehicle or other property, or force the creditor to return property even after it has been repossessed.
- Stop wage garnishment, bank attachment, debt collection harassment, and similar actions to collect a debt.
- Restore or prevent termination of utility service.
- Allow you to challenge the claims of creditors who have committed fraud or who are otherwise trying to collect more than you really owe.
- Help you reinstate your driver's license if you lost it due to a car accident.



What Bankruptcy CANNOT Do:

Bankruptcy does not cure all financial problems. It usually cannot:

- Discharge certain types of debt such as child or spousal support, most student loans, court restitution orders and fines, and some taxes.
- Protect cosigners on your debts. When a relative or friend has co-signed a loan, and the consumer discharges the loan in bankruptcy, the cosigner may still have to repay all or part of the loan.
- Discharge debts incurred after bankruptcy has been filed.
- Eliminate certain rights of "secured" creditors who have taken a mortgage or lien on property as collateral for the loan, such as for a car loan or home mortgage. But:
 - * *You can force secured creditors to take payments over time.*
 - * *Bankruptcy can eliminate your obligation to pay additional money if your property is taken.*
 - * *Generally, you cannot keep the collateral unless you continue to pay the debt.*



What is a Chapter 7 Bankruptcy Filing?

A Chapter 7 bankruptcy fully discharges most “unsecured” debt. It is designed to give you a fresh start. “Secured debt” is debt on which a lender has kept a right to claim the property if the debt is not paid. For example, the lender for a home loan will keep a mortgage on the house. If the debt is not paid, the lender can foreclose on the mortgage and force a sale of the house to pay the loan. The same applies to motor vehicles and other property on which a lender has taken a lien. If you have secured debts, you can choose whether to continue to pay the debt (which is called reaffirmation), pay the market value of the item (which is usually referred to as “redemption”), or return the secured item to the creditor. The filing fee is \$338. Fee waivers or installment plans are available for eligible debtors.



What is a Chapter 13 Bankruptcy Filing?

In a Chapter 13, secured and unsecured debts are paid under a repayment plan. The plan must be completed within 3 to 5 years. Chapter 13 is often used when the debtor has regular income and is behind on payments for a home or car and wishes to keep the property. Chapter 13 allows the missed payments to be paid over time under the plan. The filing fee is \$313.



BEWARE! If you are planning to file for bankruptcy, make sure you plan ahead and take the following steps:

- Tax Returns – If you are expecting a tax refund within the next year, **do not use the refund to repay a family member or other single creditor.** It is ok to spend the money on normal living expenses, but keep track of how you use the money. Earned income tax credit and additional child tax credit are generally protected, but the bankruptcy court will care what you do with the money.
- New Loans – Avoid signing onto new debt right before filing. You may be at risk of not being able to discharge the debt in the bankruptcy. Be careful about signing short-term loan paperwork (like tax refund loans, payday loans, vehicle title loans); it usually says in the fine print that you’re not planning to file bankruptcy – but you are thinking about bankruptcy.
- Credit Cards – It is best to stop using your credit cards. The amounts you charge in the 90 days before you file bankruptcy may not be dischargeable.
- Transferring Property – Do not give anyone or transfer any property out of your name and into the name of someone else. Don’t buy something – like a vehicle – and put it in the name of someone else.
- Any pending litigation – If you have a current claim for money against anybody else, you may want to consider how filing for bankruptcy will affect it. Even if you don’t have a judgment against any particular person at this time, you may be at risk of having to turn over the money to the bankruptcy court to distribute to your creditors.

If you are interested in filing bankruptcy, please contact our intake line at 614-241-2001 or toll free at 1-888-246-4420 or by going to www.columbuslegallaid.org

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