

WHAT IS BANKRUPTCY?

Bankruptcy is a process that helps people who can no longer pay their debts to get a fresh start by liquidating assets to pay their debts or by creating a repayment plan. There are several different types of bankruptcy, but the two most common for individuals are:

- **Chapter 7 Bankruptcy:** The sale of a debtor's nonexempt property and the distribution of the proceeds to creditors.
- **Chapter 13 Bankruptcy:** A plan for those with a regular income to repay all or part of their debts over three to five years. During this time, the law forbids creditors from starting or continuing collection efforts. There are many advantages to this plan, most notably the potential to avoid foreclosure on your home.

NONDISCHARGEABLE DEBT:

Nondischargeable debts are those that **cannot** be eliminated in bankruptcy. Examples include: home mortgages, debts for alimony and child support, certain taxes, student loans, and debts based on a criminal fine included in a sentence of a conviction.

BANKRUPTCY AS A STRATEGIC MOVE:

Aside from using bankruptcy as a way to clear a large debt, some people use it strategically. For example, Chapter 7 Bankruptcy can be used:

- To delay a foreclosure and force banks to work with you or provide a loan modification
- For someone who may lose their driver's license due to inability to pay a bill for a large traffic violation or accident
- To clear debt to allow you to rent property

WHO CANNOT FILE FOR BANKRUPTCY?

An individual cannot file under Chapter 7 if, during the preceding 180 days, a prior bankruptcy petition was dismissed due to the debtor's willful failure to appear before the court or comply with order of the court, or if the debtor voluntarily dismissed the case after creditors sought relief from the bankruptcy court to recover property which they hold liens.

Also, no one may file for bankruptcy unless he or she has, within 180 days before filing, received credit counseling from an approved credit counseling agency.

IMPORTANT THINGS TO CONSIDER BEFORE FILING FOR BANKRUPTCY:

- You should only take this route if you are seeking relief from **ENORMOUS DEBT**.
- Do you have assets that can be used to pay off creditors? If you do not have assets or income that can be garnished to pay off your debt, declaring bankruptcy will not be beneficial.
- If you file for bankruptcy, you must wait **8 years** before you are allowed to file again.
- Bankruptcy does not have a good impact on a credit report or credit score.
- Bankruptcy should only be used as a **last resort**.

BALANCING YOUR BUDGET:

Before considering bankruptcy, you should balance your budget. If your expenditures exceed your income, you will fall back into debt after the bankruptcy. Therefore, you cannot successfully go through bankruptcy until your typical monthly expenses are lower than your income. Sometimes, balancing your budget can be a good alternative to filing for bankruptcy altogether.

FILING FOR BANKRUPTCY WITHOUT AN ATTORNEY:

Seeking advice from a qualified attorney is strongly recommended because bankruptcy is a complex process that has long-term financial and legal consequences. However, individuals can file for bankruptcy without an attorney, known as filing pro se.

Bankruptcy procedures are handled in federal court and governed by federal law. The government requires completion of pre-bankruptcy credit counseling before you file for bankruptcy, as well as pre-discharge debtor education after you file.

CHECKING YOUR CREDIT SCORE:

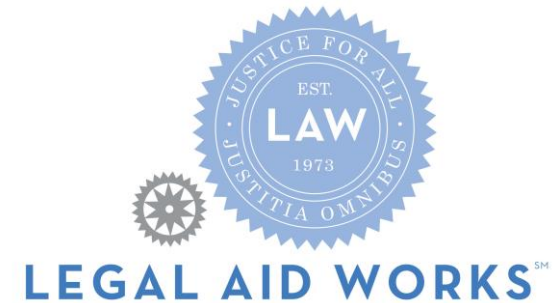
You are entitled to a free copy of your credit report from each of the three nationwide credit reporting companies- Equifax, Experian, and TransUnion- once every 12 months.

Be aware of phony credit report sites that claim to provide free credit reports but will actually charge you for the report. Visit www.annualcreditreport.com to get your free credit report.

This brochure is intended for information purposes only and is NOT a suitable substitute for legal advice from a certified attorney.

If you have a specific question, please consult Legal Aid WorksSM at:

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BANKRUPTCY

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