

WHAT IS BANKRUPTCY?

Bankruptcy is a legal proceeding in which a person who cannot pay his or her bills can get a fresh financial start. The right to file for bankruptcy is provided by federal law, and all bankruptcy cases are handled in federal court. Filing bankruptcy immediately stops all of your creditors from seeking to collect from you, at least until your debts are sorted out according to law.

Once your debts are sorted out your exempt assets will be separated from your non-exempt assets. Your non-exempt assets will be used to pay your creditors in an order determined by federal law. At the conclusion of the bankruptcy proceeding all dischargeable debts will be discharged and you will be left with your exempt assets. For a discussion of what assets are exempt see our pamphlet *“How to declare your exemptions and keep your property safe from creditors”*.

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. This is called a “discharge” of debts. It is designed to give you a fresh financial start.
- ▶ 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 and other liens on your property without payment.).

- ▶ Prevent repossession of a car or other property, or force the creditor to return property even after it has been repossessed.
- ▶ Stop wage garnishment, debt collection harassment, and similar creditor 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.

WHAT BANKRUPTCY CANNOT DO

Chapter 7 bankruptcy cannot however, cure every financial problem, nor is it the right step for every individual. In bankruptcy, it is *not* usually not possible to:

- Eliminate certain rights of “secured” creditors. You generally cannot keep the collateral unless you continue to pay the debt.
- Discharge debts singled out by the bankruptcy law for special treatment such as child support, alimony, certain other debts related to divorce, some student loans, court restitution orders, criminal 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 that arise after bankruptcy has been filed.

WHO MAY BENEFIT FROM FILING BANKRUPTCY?

Some people, even though their assets and income are all within the protection of Mississippi’s exemption statutes, may nonetheless legitimately feel they need to file a Chapter 7 bankruptcy. These are people who may have medical conditions which are adversely affected by stress.

Some people may need to file bankruptcy to avoid having their wages garnished or income otherwise disrupted.

Others may have lost or be about to lose their driver’s license due to their inability to pay a judgment resulting from an auto accident. Such persons may need to file bankruptcy to regain or retain their driving privileges.

Still, others may have fallen behind on their house note or car payments. If their creditors have been unwilling to work with them Chapter 13 bankruptcy may enable them to avoid foreclosure or repossession by forcing their creditors to accept a payment plan.

WHAT DOES IT COST TO FILE FOR BANKRUPTCY?

It now costs \$299.00 to file for bankruptcy under Chapter 7 and \$274.00 to file for bankruptcy under Chapter 13, whether for one person or a married couple. The court may allow you to pay this filing fee in installments if you cannot pay all at once. If you hire an

attorney you will also have to pay the attorney’s fees you agree to.

WHAT PROPERTY CAN I KEEP?

Known as “straight” bankruptcy or liquidation, in a chapter 7 case, you can keep all property which the law says is “exempt” from the claims of creditors. In Mississippi you are required to use the exemptions authorized by Mississippi law. These exemptions include, among various others:

- \$75,000 in equity in your homestead;
- \$30,000 in equity in your trailer if you live in it and do not own the land under it;
- \$10,000.00 in tangible personal property;
- Your right to receive certain benefits such as social security, unemployment compensation, veteran’s benefits, public assistance, and pensions.

The amount of the exemptions may be doubled when a married couple files together. For a more complete discussion of Mississippi’s exemption statutes see our pamphlet *“How To Declare Your Exemptions And Keep Your Property Safe From Creditors”*.

Also known as “debt adjustment”, in a Chapter 13 case, you can keep all of your property if your plan meets the requirements of the bankruptcy law by scheduling a payment plan for your arrearage. In most cases you will have to pay the mortgages or liens as you would if you didn’t file bankruptcy, plus an additional payment to catch up your arrearage.

CAN I OWN ANYTHING AFTER BANKRUPTCY?

Yes! Many people believe they cannot own anything for a period of time after filing for bankruptcy. This is not true. You can keep your exempt property and anything you obtain after the bankruptcy is filed. However, if you receive an inheritance, a property settlement, or life insurance benefits within 180 days after filing for bankruptcy, that money or property may have to be paid to your creditors if the property or money is not exempt.

WILL BANKRUPTCY WIPE OUT ALL MY DEBTS?

Yes, with some exceptions. Bankruptcy will not normally wipe out:

- ◆ money owed for child support or alimony, fines, and taxes;
- ◆ debts not listed on your bankruptcy petition;
- ◆ loans you got by knowingly giving false information to a creditor, who reasonably relied on it in making you the loan;
- ◆ debts resulting from “willful and malicious” harm;
- ◆ student loans owed to a school or

government body, except if:

- ✓ the court decides that payment would be an undue hardship, or
- ✓ you can show that the school closed while you were still attending.

- ◆ mortgages and other liens which are not paid in the bankruptcy case (but bankruptcy will wipe out your obligation to pay any additional money if the property is sold by the creditor).

WILL BANKRUPTCY AFFECT MY CREDIT?

There is no clear answer to this question. Unfortunately, if you are behind on your bills, your credit may already be bad. Bankruptcy will probably not make things any worse.

The fact that you’ve filed a bankruptcy can appear on your credit record for ten years. But since bankruptcy wipes out your old debts, you are likely to be in a better position to pay your current bills, and you may be able to get new credit.

WHAT ELSE SHOULD I KNOW?

Utility Services—Public utilities, such as electric company, cannot refuse or cut off service because you have filed for bankruptcy. However, the utility can require a deposit for future service and you do have to pay bills which arise after bankruptcy is filed.

- ▶ **Discrimination**—An employer or government agency cannot discriminate against you because you have filed for bankruptcy.
- ▶ **Driver’s License**—If you lost your license solely because you couldn’t pay court-

ordered damages caused in an accident, bankruptcy will allow you to get your license back.

- ▶ **Co-signers**—If someone has co-signed a loan with you and you file for bankruptcy, the co-signer may have to pay your debt.

CAN I FILE BANKRUPTCY WITHOUT AN ATTORNEY?

Although it may be possible for some people to file a bankruptcy case without an attorney, it is not a step to be taken lightly. The process is difficult and you may lose property or other rights if you do not know the law. It takes patience and careful preparation. Chapter 7 (straight bankruptcy) cases are easier. Very few people have been able to successfully file chapter 13 (debt adjustment) cases on their own.

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CHAPTER 7 BANKRUPTCY

IS IT THE RIGHT OPTION FOR ME?



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