



## **A Guide to Bankruptcy**

by: Pennsylvania Legal Aid Network, Inc.

**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 for by federal law, and all bankruptcy cases are handled in federal court. Therefore, it is wise to have an attorney.

A person who files for bankruptcy is called a *debtor*. By filing for bankruptcy, you may:

- get most or all of your bills *discharged* (wiped out);
- get to keep most or all of your property which otherwise might have been lost to *creditors* (people to whom money is owed);
- get extra time to pay bills if you have regular income.

The two usual kinds of bankruptcies for individuals are *Chapter 7 (called straight bankruptcy)* and *Chapter 13*.

### **Chapter 7 - straight bankruptcy**

In a bankruptcy case under Chapter 7, you file a petition asking the court to discharge your debts. The basic idea in a Chapter 7 bankruptcy is to wipe out (*discharge*) your debts in exchange for giving up your property, except for *exempt* property which the law allows you to keep. In most cases, much or all of your property may be exempt. Property which is not exempt is sold and the money distributed to creditors.

### **Chapter 13 bankruptcy**

In a Chapter 13 case, you file a plan showing how you will pay off some of your past-due and current debts over an extended period, normally three to five years. After you complete the plan, the unpaid balance on certain debts may be wiped out.

The most important thing about a Chapter 13 case is that it can allow you to keep valuable property?especially your home?which might otherwise be lost.

You should consider filing a Chapter 13 plan if you:

- own your home and are in danger of losing it because of money problems;
- are behind in debt payments, but can catch up on the most important debts if given some time; and
- have regular income. (This can include government benefits such as social security or public assistance.)

### **What does it cost to file for bankruptcy?**

It now costs \$299 to file a Chapter 7 bankruptcy and \$274 to file a Chapter 13 bankruptcy, whether for one person or a married couple. The court may allow you to pay the filing fee in installments if you cannot pay it all at once. If your income is very low (up to 150% of poverty), the filing fee in a Chapter 7 can be waived.

## What property can I keep?

You can keep all property which the law says is *exempt* from the claims of creditors. You can choose between your exemptions under Pennsylvania law or under federal law. The federal exemptions are better for most people.

The federal exemptions allow you to keep:

- \$20,200 in *equity* in your home (Equity is the value of the property minus the amount you still owe on mortgages and other liens.);
- \$3,225 equity in your car;
- \$525 per item in any household goods, up to a total of \$10,775;
- \$2,025 in things you need for your job (tools, books, etc.);
- \$1,350 in jewelry;
- \$1,075 in any property, plus up to \$10,125 of any unused exemption in your home;
- your right to receive certain benefits such as social security, unemployment compensation, veterans benefits, public assistance, and pensions?regardless of the amount.

The amounts of the exemptions are **doubled** when a married couple files together.

### Secured creditors

Some of your creditors may have a *security interest* in your home or personal property. This means that you gave the creditor a mortgage on your home or put your property up as collateral for a debt. If you don't make your payments on the debt, the creditor may be able to take and sell the home or property.

There are several ways that you can keep collateral or mortgaged property after you file bankruptcy. If you are behind in your payments, the court in a Chapter 13 bankruptcy can give you time to catch up. For some types of property, you can pay the creditor the amount that the property is worth rather than the full debt. If you put up your household goods as collateral for a loan, you may be able to keep them without making any more payments on the debt.

### 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. However, if you receive an inheritance, a property settlement, or life insurance benefits, that money or property may have to be paid to your creditors if:

- the property or money is not exempt, and
- you receive it within 180 days after filing for bankruptcy.

## **Does bankruptcy wipe out all my debts?**

In a Chapter 7 bankruptcy you can wipe out all debts except:

- money owed for child support, alimony, fines, property settlements, criminal restitution, some taxes, and limited other kinds of debts;
- debts not listed on your bankruptcy petition, although there are some exceptions to this rule;
- loans you got through fraud or by knowingly giving false information to a creditor, who reasonably relied on it in making the loan;
- debts resulting from "willful and malicious" harm;
- student loans owed to a school or government body, unless payment would be an undue hardship;
- debts for deaths or personal injuries resulting from driving while intoxicated.
- debts incurred to pay taxes

Some of these debts can be wiped out in a Chapter 13 bankruptcy.

## **Discharge**

If everything goes normally in a bankruptcy case, the final thing the court does is to grant you a *discharge*, which excuses you from paying all your debts (except possibly for the few mentioned above). The Discharge Order also forbids creditors from doing anything to try to collect a debt that has been discharged.

The court can refuse to grant a discharge, but only in very limited cases if you have done something improper, such as trying to cheat a creditor by hiding your property, giving false information to the court, refusing to obey a court order, etc.

## **Will bankruptcy affect my credit?**

Yes. The fact that you've filed a bankruptcy can appear on your credit record for 10 years. But since bankruptcy wipes out your old debts, you should be in a better position to pay your current bills, so bankruptcy may actually help you get credit.

## **Other information**

**Utility service.** A public utility, such as an electric company, cannot refuse or cut off service because you have filed for bankruptcy. However, the utility can require a deposit for future service.

**Discrimination.** Employers and government agencies 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 civil 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.

## **REMEMBER**

The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.

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