



DEBT SOLUTIONS 101: DEBT CONSOLIDATION vs. BANKRUPTCY

YOUR GUIDE TO CHOOSING THE RIGHT DEBT SOLUTION FOR
YOUR FINANCIAL SITUATION



WE DON'T JUDGE YOU, WE HELP YOU GET YOUR LIFE BACK™

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INTRODUCTION

Debt is nothing new, and if you are experiencing debt problems, you are not alone. "The Consumer Financial Protection Bureau estimates that 30 million Americans currently have debts in collection, owing, on average, about \$1,500."

Debt usually happens for one of 5 reasons:

- 1. POOR FINANCIAL DECISIONS**
- 2. INCOME DROP**
- 3. DIVORCE**
- 4. MEDICAL ISSUES**
- 5. BUSINESS FAILURE**

None of these reasons are crimes. They are simply bad situations that happen to good people. Dealing with these consequences can be a scary, daunting situation that puts you under a lot of stress and pressure. This mix of fear, anxiety and panic can be dangerous, causing you to act quickly and irrationally. However, the first solution that comes to mind may not always be the best for your specific situation.

Throwing another wrench into the mix of high emotions and an embarrassingly stressful situation is the web of tangled misconceptions, beliefs and stigmas that exist around each debt solution. We are going to set the record straight by giving you the facts plus the advantages and disadvantages for each option. Knowledge is power and we want to make sure you are equipped to face this seemingly uncontrollable situation.

When it comes to handling debt, there are multiple options and we will discuss all of them in this ebook. So, we ask you to take a deep breath and pause for a minute to learn about your options and solutions available to you. We are confident there is a solution that fits your needs.

Dealing with debt options discussed below:

- DO NOTHING**
- DEBT CONSOLIDATION**
- FILING FOR BANKRUPTCY**



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WHAT YOU CAN EXPECT DURING
A BANKRUPTCY CONSULTATION
(AND WHY IT ISN'T AS SCARY AS YOU THINK)

**A CLOSER LOOK
AT YOUR DEBT OPTIONS**

DO NOTHING

With a lack of knowledge and fear, doing nothing is a common response when financial struggles begin. Debt can happen to anyone, yet everyone is firmly convinced it can never happen to them. As a result of this belief, it is easy to talk yourself into postponing acceptance of the debt problem, making excuses and planning to catch up with your next big bonus, paycheck, tax return, etc. However, this is the worst possible response when it comes to falling into debt. Denying your reality and avoiding acceptance stalls the recovery process of climbing out of debt and rebuilding credit and causes your family to suffer needlessly. Denying a debt problem only delays getting your life back- which is what this is all about!

THE SNOWBALL EFFECT

The problem with doing nothing is debts' ability to snowball, fast. The longer you wait to react, the further into debt you fall. Let's consider a credit card example. Every month you miss a payment you will be charged a fee. After missing several payments, your charging privileges will be suspended and your interest rate will jump to the default rate of 36%. The late monthly fees and accrued interest adds up very quickly.

Late or missed payments impact your credit score negatively. Payments less than 90 days late will temporarily hurt your score. Payments 90 or more days late affect your score for up to seven years.

After missing multiple payments the credit card company will begin to take action to collect on your debt. Often there will be routine phone calls, emails and direct mail attempts to persuade, intimidate or embarrass you into making payments. If you continue to ignore the issue your account will be terminated and your debt will be bought by a collection agency. The collection agency will continue the harassment.

Eventually you will be sued for your initial debt amount, plus principle and interest acquired on the account, plus any attorney fees. Once a judgment is entered, your bank account can be seized and your wages taken to pay off this debt.

Not only is this situation embarrassing but your credit score suffers, your livelihood thwarted and your initial debt has doubled, tripled or more. Doing nothing heightens the anxiety and impossibility of bouncing back. Doing nothing is a prolonged process that can make your life miserable for years- making your family suffer unnecessarily.

DEBT MISERY

Not only is this situation embarrassing but your credit score has been ruined, your livelihood thwarted and your initial debt has doubled, tripled or more. Doing nothing heightens the anxiety and impossibility of bouncing back. Additionally it is a prolonged process that can make your life miserable for years.

Following this route of dealing with debt is not recommended. In the end you will be forced to file bankruptcy. Although filing bankruptcy will significantly improve your life (in fact, we recommend filing for bankruptcy later in this ebook), doing so under these circumstances is not advised. You have already sustained quite a bit of damage that may be irreparable in the bankruptcy process.



DEBT CONSOLIDATION

Debt consolidation entails taking out one loan to pay off many others. This is often done to secure a lower interest rate, secure a fixed interest rate or for the convenience of servicing only one loan. Debt consolidation programs, at first glance, sound great. However, they can easily turn a bad financial situation into a worse nightmare. At best, you will be in the same position you were in before you entered the program.

Debt consolidation can simply shift a number of unsecured loans into another unsecured loan but more often it involves taking out a secured loan against an asset that serves as collateral, most commonly a house. For example, a mortgage can be secured against your house. The collateralization of the loan allows a lower interest rate, because by collateralizing, the asset owner agrees to allow the forced sale (foreclosure) of the asset to pay back the loan. The risk to the lender is reduced so the interest rate offered is lower.

There is a danger in the newly available credit that returns when consolidating debt. This may be tempting to capitalize on, but can often put you right back into the same situation you were in before you consolidated, especially if you have poor money management habits.

We only recommend debt consolidation if you are capable of making your payments and are simply looking to consolidate multiple payments into one, simplifying your bill paying process. Additional advantages, other than simplification, include lower monthly payments and interest rates. These advantages wrongly motivate debtors to consider this as a viable debt solution.

Consolidation Companies Need to Make Money, Too

Consolidation companies are first and foremost a business. They need to make money, and the more the better. In order to make money these companies charge fees that, in the end, will cancel out any interest savings you are looking for when signing on.

And as for the lower monthly payments, these are often due to extended payment plans causing you to pay more in the end. Essentially, lower monthly payments raise the cost of your debt. Moreover, you will not have any decision authority on what your monthly payments will be. Monthly payments are set by your creditor and have the potential of being very high.

Additionally, these programs and repayment plans are not court ordered. This means your creditors aren't required to participate. Cooperation is voluntary for creditors, so even if you are enrolled in a program, a creditor can choose not to participate and continue to demand full payment. They can continue to harass you and are capable of garnishing your wages or repossessing your property, depending on the nature of the claim.

- **UNSECURED DEBT IS AN EXTENSION OF CREDIT BASED UPON AN EVALUATION BY THE CREDITOR OF THE YOUR ABILITY TO PAY (I.E. CREDIT CARDS, PERSONAL LOANS TAKEN FOR HOME IMPROVEMENT OR VACATION PURPOSES)**
- **SECURED DEBT IS AN EXTENSION OF CREDIT BASED UPON THE CREDITOR'S RIGHT TO SEIZE COLLATERAL ON DEFAULT, IN ADDITION TO THE DEBTOR'S ABILITY TO PAY (I.E. CAR LOANS, MORTGAGES).**



SHIFTING DEBT

If consolidation programs are used to pay off debt it is important to know that this option will not solve your debt problem, it will only make it easier to pay off your debt. It will free up cash short term giving you a little bit of breathing room, but will cost you more in the end.

Debt consolidation also shifts your debt from one creditor to another. All creditors' priorities are the same – to make money. These creditors are often out of state which can make it difficult to communicate and they have no concern for your wellbeing. There is no personal relationship being built for you to rely on if you fall into trouble. In a bankruptcy case, you are advised to seek professional, legal counsel who will fight for your wellbeing and positive results.

The advantage of immediate breathing room must be weighed against the extended or raised payments, extra fees, inflexibility and personal money-making interest of creditors.

Instead of shifting your debt with a debt consolidation program, have you considered wiping it away completely?



FILING FOR BANKRUPTCY

Eliminating debt can change your life forever, for the better. The load that is lifted off your shoulders is incredible. Those who go through bankruptcy say it best.

"I just wanted to express our very sincere thanks to you, for helping us through an extremely difficult time in our lives. Through following your guidance and expertise, we are now living a stable day to day life. We can go to bed at night and sleep. When we wake up in the morning we are not filled with dread and anxiety. We are happier now and looking forward to a brighter future. I am very grateful we found you!"

Debt is not a pleasant experience and getting out of debt isn't a walk in the park. But there is hope. And contrary to common belief, bankruptcy can be a stress-relieving, life-regaining solution to fix your financial troubles.





Bankruptcy options can halt repossessions, foreclosures, wage garnishments and any other debt collection actions. It can also help you learn to manage your finances and avoid debt in the future because you will be required to attend credit counseling and complete, under chapter 13, a financial management course.

Filing for bankruptcy must be done in the state where you live. State bankruptcy laws vary, so you should consult legal counsel in the state where you will file. There are also timelines associated with your length of residence that align with the date you file, preventing debtors from relocating to a state that will positively impact their filing.

COMMON MISCONCEPTIONS

A major worry accompanying bankruptcy is public opinion. Due to the stigma surrounding bankruptcy, it is no wonder you assume your reputation will suffer. However, it is much more common than you think. It goes unnoticed because those who file keep it private. The only people who will know if you file bankruptcy are those that you tell and your creditors. The only place bankruptcy filings are published is on the bankruptcy court website where a person will have to pay to find any information.

Also, contrary to common belief, you will not lose all of your possessions and you will be able to own possessions in the future, too. Most people who file don't lose anything, especially under chapter 13. And in the future, you will be able to own what you can afford. Although it has acquired a bit of a bad reputation over the years, in large thanks to media, filing bankruptcy is a debt solution that aims to make your life easier and more comfortable so you can get your financial situation back on track.

There are two bankruptcy options available for individuals with mainly consumer debt (personal, family or household debt). Chapter 7 bankruptcy consists of selling your property in an effort to completely eliminate as many debts as possible. It on the other hand allows you to keep your property and enrolls you into a repayment plan you can afford. Which chapter you file will depend on your specific situation.

CHAPTER 7

Chapter 7 Bankruptcy is right for you if you have no assets to lose and, after paying basic monthly expenses, you have no money left to pay off debts. This approach to eliminating debt means you will have to liquidate your assets, or in other words, sell your valuable possessions. It gives you a fresh start by removing your liability for repaying debt. Primary priorities for Chapter 7 filers should be to keep exempt assets and be relieved of all liability for as many debts as possible.



LIQUIDATING YOUR ASSETS

During a Chapter 7, your case will be assigned a trustee who is responsible for administering your case and liquidating your nonexempt assets. Nonexempt assets could include your home, car, boat, four-wheeler, art, musical instruments, jewelry and any other expensive property you own that can be sold. The trustee will gather and sell your assets and use that money to pay creditors.

Exempt assets are those untouched during liquidation and they vary by state. You should consult a bankruptcy attorney in your state for a detailed list of all exempt assets specific to each state. Additionally, 401(K) accounts, Social Security income and individual retirement accounts are federally exempt assets.

It is very important to understand that when filing for Chapter 7 you may incur loss of property. This is why a Chapter 7 is ideal for those with no property to lose; these cases are called "no-asset cases."

QUALIFICATIONS & ELIGIBILITY

The size of your debt has nothing to do with your opportunity to file a Chapter 7 – it solely depends on your ability to pay your debt. Because your income directly affects your ability to pay off debt, there are specific income qualifications you must meet in order to file. Your average income over the past six months must be lower than your state's median income. If your average income doesn't fall below your state's median income you must complete a "means test."

The means test was designed to allow only those who truly can't pay their debts to file Chapter 7 bankruptcy. This test calculates your disposable monthly income by subtracting your "allowed" monthly expenses from your monthly income. (Allowed monthly expenses vary by state and often by city as well, but commonly include your basic necessities such as housing, transportation, food, etc.) To estimate your eligibility to file for Chapter 7 you can use an online calculator to determine your disposable income and allowed expenses based on your location. Albin Renauer, J.D., has created a very useful calculator you can access [here](#).

You fail the means test if your disposable monthly income is too high. Failing the means test prohibits you from filing Chapter 7. There are options though. You can plead with the judge to allow you to file if you have special circumstances (i.e. your house burnt down in an accidental fire) or you can convert to a Chapter 13 Bankruptcy.

Additionally you cannot file, if during the 180 days before you file:

- **A PRIOR BANKRUPTCY PETITION YOU FILED WAS DISMISSED**
- **YOU HAVEN'T RECEIVED CREDIT COUNSELING**

COSTS

There are some upfront fees associated with filing for bankruptcy. Because the court understands your financial situation is difficult at this point in time, there is some flexibility with payment. The first fee is a \$245 case filing fee, paid per petition (so if a couple files a joint petition, only one filing fee is incurred). Then there will be a \$45 administrative fee and a \$15 trustee surcharge.

If financially possible the fees must be paid upon filing. However, installments (maximum of 4) may be paid within 120 days of filing, with the court's permission. Failure to complete payment will result in a dismissal of your case.



FILING PROCESS

To initiate the bankruptcy process you must file a petition. Along with this petition you must file the following:

- **SCHEDULE OF ASSETS & LIABILITIES**
- **SCHEDULE OF CURRENT INCOME AND EXPENDITURES**
- **STATEMENT OF FINANCIAL AFFAIRS**
- **SCHEDULE OF EXECUTOR CONTRACTS AND UNEXPIRED LEASES**
- **COPY OF THE MOST RECENT TAX YEAR TAX RETURN OR TRANSCRIPT**
 - **PREVIOUS UNFILED TAX RETURNS**
 - **TAX RETURNS FILED DURING THE BANKRUPTCY CASE**
- **CERTIFICATE OF CREDIT COUNSELING (COPY OF DEBT REPAYMENT PLAN .. COMPLETED DURING CREDIT COUNSELING)**
- **EVIDENCE OF PAYMENT FROM EMPLOYERS RECEIVE 60 DAYS BEFORE FILING**
- **STATEMENT OF MONTHLY NET INCOME (PLUS ANY ANTICIPATED INCREASE IN INCOME OR EXPENSES AFTER FILING)**
- **RECORD OF ANY INTEREST IN FEDERAL OR STATE QUALIFIED EDUCATION OR TUITION ACCOUNTS**
- **SCHEDULE OF EXEMPT PROPERTY**

To complete the above bankruptcy forms you will need to gather the following information:

- 1. LIST OF ALL CREDITORS PLUS THE AMOUNT AND NATURE OF THEIR CLAIMS**
- 2. SOURCE, AMOUNT AND FREQUENCY OF YOUR INCOME**
- 3. LIST OF ALL YOUR PROPERTY**
- 4. DETAILED LIST OF MONTHLY LIVING EXPENSES**



If you are married, whether or not you are filing jointly, you must report your spouse's income and expenses. This allows the court to comprehend your household financials.

Upon completion of filing your petition, any collection actions by creditors must be stopped. This is known as the "automatic stay." The court will notify all the creditors you named in your petition who then need to stop attempting to collect on your debt through lawsuits, wage garnishments, telephone calls, etc.

CREDITORS MEETING

Twenty-one to 40 days after your petition is filed with the bankruptcy court, the trustee assigned to your case will hold a creditors meeting. You, your trustee, your creditors and your bankruptcy attorney, if you have one, will be present at this meeting. Your presence at this meeting is required while judges are prohibited from attending. You will be placed under oath and the trustee and creditors will ask you questions about your debt and your financial situation. If you have a bankruptcy attorney, he or she can prepare you for this meeting by exposing you to the questions that will be asked and the best way to answer them.

During the meeting of creditors, the trustee assigned to your case will present to you the outcomes of filing a Chapter 7 bankruptcy to ensure you are fully aware of the potential consequences. The topics covered include:

- **CREDIT HISTORY EFFECTS**
- **ALTERNATIVE FILING OPTIONS (CONVERTING TO ANOTHER CHAPTER)**
- **EFFECT OF RECEIVING A DISCHARGE**
- **EFFECT OF REAFFIRMING A DEBT**

CASE CLOSED

A discharge order – eliminating liability for repaying your debts and stopping any future creditors' collection actions on this debt – will be issued 2-3 months after your meeting with creditors. Chapter 7 bankruptcy is a fairly quick process if your petition is accepted. Apart from cases that are dismissed or converted, 99% of chapter 7 cases are discharged.

Please note, this applies to bankruptcy petitions that are complete, meet eligibility requirements and are accepted by the court. There are numerous exceptions, exemptions, non-dischargeable debts, special circumstances and so on that can affect your case.

Bankruptcy attorneys or other legal counsel should be obtained before filing for bankruptcy. They can streamline the process, apply best practices, offer advice and assist you in all elements of the process.

A bankruptcy attorney can also prevent your discharge from being denied by ensuring you perform all the necessary steps for filing effectively and in line with the court processes.

Reasons the court may deny your discharge include:

- 1. YOU FAILED TO KEEP OR PRODUCE ADEQUATE BOOKS OR FINANCIAL RECORDS**
- 2. YOU FAILED TO EXPLAIN SATISFACTORILY ANY LOSS OF ASSETS**
- 3. YOU COMMITTED A BANKRUPTCY CRIME (I.E. CONCEALING ASSETS, DESTROYING DOCUMENTATION, LYING UNDER OATH, WITHHOLDING INFORMATION, ETC.)**
- 4. YOU FAILED TO OBEY A LAWFUL ORDER OF THE BANKRUPTCY COURT**
- 5. YOU FRAUDULENTLY TRANSFERRED, CONCEALED OR DESTROYED PROPERTY THAT WOULD HAVE BECOME PROPERTY OF THE ESTATE**
- 6. YOU FAILED TO COMPLETE AN APPROVED INSTRUCTIONS COURSE CONCERNING FINANCIAL MANAGEMENT**



RETAIN PROPERTY (AND THEREFORE, DEBT)

Say, for example, your car is your only mode of transportation and you need it to continue getting your kids to school. In normal filings, your car would be sold by the trustee assigned to your case in order to pay your creditors. However, there is a way to keep this type of property when filing a Chapter 7 Bankruptcy. But by keeping it, you also keep the debt that goes along with it. This is called "reaffirmation."

In order to reaffirm your debt you will be responsible for making payments on the debt while your creditor agrees not to repossess your property. This is an agreement between you and your creditor that must be filed with the bankruptcy court before the debt is discharged. This reaffirmation agreement includes an extensive list of parameters and policies:

- **AMOUNT OF THE DEBT BEING REAFFIRMED AND HOW IT IS CALCULATED**
- **DEFINITION OF REAFFIRMATION, CLEARLY STATING THIS DEBT WILL NOT BE DISCHARGED**
- **YOUR CURRENT INCOME AND EXPENSE STATEMENTS SHOWING YOUR INCOME TO EXPENSE RATIO ALLOWS YOU TO PAY THE REAFFIRMED DEBT**
- **YOUR SIGNATURE**

DEBTS THAT WON'T BE DISCHARGED

Some debts will not be discharged by the bankruptcy court. If you petition for these debts to be discharged, your petition will need to be modified or your case will be dismissed. If you consult a bankruptcy attorney before filing a petition, he or she will inform you of acceptable debts you can include or offer alternative options based on your current financial situation.

Here is a brief list of some of the debts that will not be discharged:

- **ALIMONY AND CHILD SUPPORT**
- **CERTAIN TAXES**
- **CERTAIN AID GRANTED FOR EDUCATION PURPOSES**
- **WILLFUL AND MALICIOUS INJURY DONE BY YOU TO ANOTHER PERSON OR ANOTHER PERSON'S PROPERTY**
- **DEATH OR PERSONAL INJURY CAUSED BY YOUR INEBRIATED OPERATION OF A MOTOR VEHICLE**
- **CERTAIN CRIMINAL RESTITUTION ORDERS**



CHAPTER 13

Chapter 13 Bankruptcy is right for you if you are experiencing a temporary setback causing you to be unable to make your payments. This option provides time, allowing you to get back on schedule with your finances. You will continue to make payments though they will be reduced, interest-free and your life will be void of collection agency harassment. Chapter 13 protects your property, prevents foreclosures and repossessions and prohibits wage garnishments from continuing, if you file at the right time.

Chapter 13 is often referred to as the "wage-earner's plan." When filing a chapter 13 bankruptcy you need to create and submit a repayment plan that will span 3-5 years, with installments based on your income. If your monthly income is less than your state's median, 3 years is the typical repayment plan length. If higher, your repayment plan will span 5 years.

Essentially, chapter 13 acts like a consolidation loan by consolidating all of your debt and allowing you to make one payment. The added benefits include:

- **AFTER YOUR REPAYMENT PERIOD ENDS, ANY UNPAID DEBT IS ELIMINATED, TAX FREE.**
- **CREDITORS MUST COMPLY**
- **NO ROUTINE FEES TO PAY A CONSOLIDATION COMPANY**
- **PROTECTS CO-SIGNERS**
- **NO CREDIT COLLECTION ACTION CAN BE TAKEN AGAINST YOU DURING THE REPAYMENT PERIOD**



QUALIFICATIONS & ELIGIBILITY

However, not everyone is qualified to file for chapter 13. First, you will need to be able to make regular installments on your debt which in most cases mean you need to have an income. Additionally the amount of your debt plays a role in your eligibility. Your unsecured debt must be less than \$360,475 and your secured debt must be less than \$1,081,400. These numbers are adjusted periodically to align with the consumer price index.

Additional eligibility requirements preventing you from filing, which relate to previous debt actions within the previous 180 days, include:

- **YOUR PRIOR BANKRUPTCY PETITION WAS DISMISSED DUE TO YOUR INABILITY TO COMPLY WITH ORDERS OR APPEAR BEFORE THE COURT**
- **YOU VOLUNTARILY DISMISSED YOUR PETITION AFTER CREDITORS SOUGHT RELIEF FROM THE BANKRUPTCY COURT TO RECOVER PROPERTY UPON WHICH THEY HOLD LIENS**
- **YOU FAILED TO COMPLETE CREDIT COUNSELING**

COST

The court charges fees for filing for bankruptcy. The first fee is a \$235 case filing fee, paid per petition (so if a couple files a joint petition, only one filing fee is incurred). Then there will be a \$46 administrative fee. However, because the court understands you are resorting to bankruptcy due to a difficult financial situation, there can be some flexibility with payment with permission from the court.

If financially possible the fees must be paid upon filing. However, installments (maximum of 4) must be paid no later than 120 days of filing, with the court's permission. Failure to complete court fee payment will result in a dismissal of your case.

FILING PROCESS

Just like chapter 7, you begin a chapter 13 bankruptcy by filing a petition. Following the petition you must also file the following documents with the court:

- 1. SCHEDULES OF ASSETS AND LIABILITIES**
- 2. SCHEDULE OF CURRENT INCOME AND EXPENDITURES**
- 3. SCHEDULE OF EXECUTOR CONTRACTS AND UNEXPIRED LEASES**
- 4. STATEMENT OF FINANCIAL AFFAIRS**
- 5. CERTIFICATE OF CREDIT COUNSELING**
 - A. COPY OF ANY DEBT REPAYMENT PLAN CREATED DURING COUNSELING**
- 6. EVIDENCE OF PAYMENT FROM EMPLOYERS RECEIVED 60 DAYS BEFORE FILING**
- 7. STATEMENT OF MONTHLY NET INCOME AND ANY ANTICIPATED INCREASE IN INCOME OR EXPENSES**
- 8. RECORD OF ANY INTEREST IN FEDERAL OR STATE QUALIFIED EDUCATION OR TUITION ACCOUNTS**
- 9. COPY OF THE MOST RECENT TAX RETURN OR TRANSCRIPT**

These documents are not available from the court. They can be purchased from legal stationary stores or downloaded from the internet.

In order to complete the above forms you will need to compile a list of all creditors and the amounts and nature of their claims, the source, amount and frequency of your income, a list of all your property and a detailed list of all your monthly living expenses.

As soon as you file your petition a bankruptcy clerk will alert all creditors you listed requiring all collection actions to stop. This is known as an "automatic stay." Those collection actions include lawsuits, wage garnishments and harassing telephone calls. Not only does this protect you, but any co-debtors associated with your case will also be protected. So, for example if your parent has co-signed a loan for you, he or she will not be subject to any continuing collection actions.

However, you must file at the appropriate time in order to stall some collection actions. For example, if the foreclosure process is completed before you complete the filing process, bankruptcy cannot save you from losing your home. The key is not to wait until it is too late to file. If your financials seem to be taking a turn for the worse, you need to get the situation under control as early as possible to salvage what you have; seeking legal counsel early in the process will put you in the most desirable position available for this dire situation.

Your case will be assigned a trustee who is responsible for administering and evaluating your case. If your case is approved this trustee will also collect payments from you and turn around to pay your creditors for the length of your repayment period.

REPAYMENT PLAN

Additionally you will have to provide a repayment plan to the court when you file or within 14 days after you submit your petition. The plan must include fixed payment amounts you will provide the trustee assigned to your case and the schedule on which you will be making these payments (typically monthly or every 2 weeks). Your trustee will distribute the funds according to the plan you lay out, which may mean your creditors do not receive full payment.

Your repayment plan must include plans to pay priority claims in full, pay secured claims at minimum the value of the collateral and pay unsecured claims up to the amount creditors would receive if your assets were liquidated.

- A. Priority claims are those granted precedence by bankruptcy law which often include taxes and the costs of bankruptcy proceedings.
- B. Secured claims include those that allow creditors to repossess collateral if debt remains unpaid. If debt was incurred within a specific amount of time before filing, you must repay the total debt, not just the amount of the collateral (i.e. built up interest), if you want to keep your property.
- C. Unsecured claims mean the creditor has no special rights to collect. Your repayment plan doesn't have to repay these debts in full if you agree to allocate all "disposable income" over an "applicable commitment period", paying these creditors the amount they would receive if you would have sold all your property.
 - i. Disposable income under a chapter 13 goes only as high as 15% of your gross income subtracting your reasonably necessary monthly expenses from your monthly income.
 - ii. An applicable commitment period aligns with the length of your repayment plan, 3-5 years based on your income. This may only be shortened if your debt is paid in full during the repayment period.

The court will review your repayment plan and approve or deny the plan in the confirmation hearing.

Debts that will not be considered:

- CERTAIN LONG-TERM OBLIGATIONS (I.E. HOME MORTGAGE)
- ALIMONY AND CHILD SUPPORT
- CERTAIN TAXES
- MOST GOVERNMENT FUNDED OR GUARANTEED EDUCATIONAL LOANS OR BENEFIT OVERPAYMENTS (I.E. COLLEGE LOANS)
- PERSONAL INJURY OR DEATH COSTS CAUSED BY YOU DUE TO INTOXICATED DRIVING
- RESTITUTION OR CRIMINAL FINES





CREDITORS MEETING

As part of your trustee's administration duties, he or she will call a meeting of creditors 21-50 days after you file a chapter 13. You are required to be present at the meeting and will be placed under oath. Additional attendees include the trustee, your creditors and your bankruptcy lawyer, if you have one. The trustee and creditors will ask you questions regarding your debt, which you must answer to the best of your abilities. If you have a bankruptcy lawyer, he or she will prepare you for the types of questions that will be asked, giving you time to prepare your answers.

CONFIRMATION HEARING

Following the meeting of creditors, you will need to attend a confirmation hearing to determine the status of your repayment plan. This must be held within 45 days after the creditors meeting. Your creditors will have an opportunity to object the plan prior to the hearing. This usually only occurs if they won't receive the amount they would if your assets were liquidated or you don't commit all of your disposable income for the applicable commitment period.

During your confirmation hearing the bankruptcy judge will approve or deny your plan. If denied you may convert your case to a chapter 7 liquidation or modify your current plan.

CASE CLOSED

Regardless of the approval of your repayment plan and the progress of your case, you must start making payments according to your proposed plan 30 days after you file your petition. If any secured payments come due prior to your hearing, you must make protection payments. If your modified plan is denied or your case is dismissed entirely, the trustee may only keep enough funds to cover the court costs and needs to return the remaining amount to you.

If your plan is approved, you and your creditors are bound to it. You must make the payments on time and your creditors may not demand more or harass you. You can opt to pay through payroll deduction to ensure you make your payments on time. Not only does this increase your efficiency, it guarantees you have the funds to make payments and doesn't tempt you to spend the money before you make a payment. Also, you may not incur any new debt while in your repayment plan period.

Any unpaid debt will be eliminated and you will be able to start fresh, with a clean slate if:

- **YOU COMPLETE YOUR REPAYMENT PLAN**
- **YOU CONFIRM ALL DOMESTIC SUPPORT OBLIGATIONS HAVE BEEN KEPT AND PAID DURING YOUR REPAYMENT PERIOD**
- **YOU HAVEN'T RECEIVED A DISCHARGE IN A PRIOR CASE FILED WITHIN A CERTAIN TIME FRAME**
 - **2 YEARS FOR PRIOR CHAPTER 13'S**
 - **4 YEARS PRIOR FOR CHAPTER 7'S**
- **YOU COMPLETED AN APPROVED FINANCIAL MANAGEMENT COURSE**

FOLLOW-THROUGH FAILURE

If you fail to follow through with your plan, your case may be dismissed, converted to a chapter 7 or you may request a "hardship discharge". A hardship discharge is requested if circumstances arise after your plan has been approved that prevent you from being able to follow through. Only granted if:

- 1. CIRCUMSTANCES WERE BEYOND YOUR CONTROL AND WERE NO FAULT OF YOUR OWN**
- 2. CREDITORS HAVE RECEIVED AS MUCH PAYMENT AS THEY WOULD HAVE RECEIVED UNDER A CHAPTER 7 LIQUIDATION**
- 3. MODIFICATION OF THE PLAN IS IMPOSSIBLE**





CONCLUSION

CREDIT

Credit score implications often hold debtors back from filing bankruptcy. It is a common misconception that your credit score is diminished because you file for bankruptcy. The truth is, as soon as you miss payments you become a risky borrower in the minds of creditors, which reduces your credit score. Entering into a credit consolidation program can drastically lower your credit score, too. Generally, falling into debt hurts your credit score.

A notation that you filed bankruptcy will appear on your credit report. If you filed a chapter 7, this notation will remain on your report for 10 years. If a chapter 13 is filed, the credit report will reflect this notation for 7 years.

Yes, filing for bankruptcy is a negative credit event. But don't confuse the length the notation remains on your credit report with the impact on your credit score. Your credit score will likely drop, short-term. Your score will drop in accordance with how high it was prior to filing for bankruptcy and how many accounts you included when filing. The good news is that credit can be built back up fairly quickly. In fact, many debtors see a higher credit score one year after filing.

People who fall into debt are, rightly so, afraid of credit. It can be dangerous, especially if you have poor spending and money management habits. However, in order to build your score back up you need to responsibly take on new credit.

Filing for bankruptcy can affect your ability to get loans or mortgages due to your financial history. And if they are approved they will be given at high rates, once again due to the risk you present.

Think of debt like betrayal. If a close friend betrays you he or she will need to work hard to get back into your good graces. In your financial difficulty situation you are the friend who has done the betrayal, and your creditor is expecting you to work hard and prove your trustworthiness and financial responsibility before allowing you to reap the benefits of being in their company.

POOR CREDIT IMPLICATIONS

Having poor credit due to debt can cause further difficulties when it comes to borrowing money. This all stems back to your ability to pay your dues, and your past financial actions don't speak in your favor. However, many of these implications may prevent you from making the same mistakes and falling back into debt.

- **HIGH INTEREST RATES ON YOUR CREDIT CARDS AND LOANS**
- **CREDIT AND LOAN APPLICATIONS MAY NOT BE APPROVED**
- **DIFFICULTY GETTING APPROVED FOR AN APARTMENT**
- **SECURITY DEPOSITS ON UTILITIES**
- **CELL PHONE CONTRACT WON'T BE GRANTED**
- **TROUBLE FINDING EMPLOYMENT**
- **HIGHER INSURANCE PREMIUMS**
- **DIFFICULTY STARTING YOUR OWN BUSINESS**
- **DIFFICULTY PURCHASING A CAR**

Due to your past, companies loaning you money are going to be skeptical. You appear to be a bigger risk due to your past inability to maintain your debt. So, for the short term you have to play along with high interest rates, avoid some activities and work to prove your honor and commitment by making full payments on time.

FIXING THE UNDERLYING ISSUE

Any of the above solutions can assist in getting you out of debt, but it doesn't solve the underlying issues. If you don't live within your means, aren't protected if emergency or disaster strikes or are too generous with your cash you will fall right back into debt if you don't fix these poor financial habits. This is why, when filing bankruptcy you need to complete credit counseling and financial management courses. You need to learn to manage your debt in order to stay out of it.



| CLIENT SERVICE & PREPARATION PROCESS

When you hire an attorney to help you through a very personal situation, you don't expect to get the same customer service your cable company provides. Your attorney should be your rock – your constant, consistent source of support, advice and comfort.

At Kain & Scott, the attorney you first meet with is YOUR ATTORNEY throughout the entire case. When you call the firm with questions on your case, YOUR ATTORNEY is the one who you will talk to – we never send you to different people that you don't know, and who likely don't fully understand your case.

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COMPARE YOUR DEBT SOLUTION OPTIONS




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