
Consumer Pro Se Debtor Guide

United States Bankruptcy Court Southern District of Alabama

201 St. Louis St.
Mobile, AL



March 2013

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PREFACE

Bankruptcy can be complicated. The staff of the Bankruptcy Court provides a variety of services. However, we cannot provide legal advice, nor are we permitted to assist debtors with the preparation of the voluntary petition, schedules, or other documents. Debtors are required to file the same basic set of forms, whether filing a chapter 7, 11, 12, or 13 case. While individuals may file a bankruptcy petition pro se (without an attorney), corporations and partnerships must be represented by an attorney.

The Administrative Office of U.S. Courts publication “[Bankruptcy Basics](#)” pamphlet provides basic information to debtors, creditors, court personnel, the media and the general public on different aspects of the Federal Bankruptcy laws. It also provides individuals who are considering filing bankruptcy with a basic explanation of the different chapters under which a bankruptcy case may be filed and answers some of the most commonly asked questions about the bankruptcy process.

We recommend that you become familiar with Bankruptcy Code [Section 521](#) of the Federal Rules of Bankruptcy Procedure (Debtor’s Duties and Benefits).

NOTICE TO INDIVIDUAL CONSUMER DEBTOR

In accordance with § 342(b) of the Bankruptcy Code, this notice: (1) Describes briefly the services available from credit counseling agencies; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may file; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case. Bankruptcy law is complicated and not easily described. You may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

Filing Fee Information is available at the courts web site www.alsb.uscourts.gov.

STATEMENT OF INFORMATION REQUIRED BY 11 U.S.C. §341

Introduction

Pursuant to Section 341 of the Bankruptcy Code, the Office of the United States Bankruptcy Administrator has prepared the following information sheet to help you understand some of the possible consequences of filing a bankruptcy petition under chapter 7 of the Bankruptcy Code. This information is intended to make you aware of -

- (1) the potential consequences of seeking a discharge of debts in bankruptcy, including the effects on credit history;
- (2) the effect of receiving a discharge;
- (3) the effect of reaffirming a debt; and
- (4) your ability to file a petition under a different chapter of the Bankruptcy Code.

There are many other provisions of the Bankruptcy Code that may affect your situation. This statement contains only general principle of law and is not a substitute for legal advice. If you have any questions or need further information as to how the bankruptcy laws apply to your specific case, you should consult with an attorney.

When You File Bankruptcy

You can choose the kind of bankruptcy that best meets your needs (provided you meet certain qualifications):

Chapter 7 – A trustee is appointed to take over your property. Any property of value will be sold or turned into money to pay your creditors. You may be able to keep some personal items and possibly real estate depending on the law of the State where you live and applicable federal laws.

Chapter 13 – You can usually keep your property, but you must earn wages or have some other source of regular income and you must agree to pay part of your income to your creditors. The court must approve your repayment plan and your budget. A trustee is appointed and will collect the payments from you, pay your creditors, and make sure you live up to the terms of your repayment plan.

Chapter 12 – Like chapter 13, but it is only for family farmers and family fishermen.

Chapter 11 – This is used mostly by businesses. In chapter 11, you may continue to operate your business, but your creditors and the court must approve a plan to repay your debts. There is no trustee unless the judge decides that one is necessary; if a trustee is appointed, the trustee takes control of your business and property.

If you have already filed bankruptcy under chapter 7, you may be able to change your case to another chapter.

Your bankruptcy may be reported on your credit record for as long as ten years. It can affect your ability to receive credit in the future.

What Is a Bankruptcy Discharge and How Does It Operate?

One of the reasons people file bankruptcy is to get a “discharge.” A discharge is a court order which states that you do not have to pay most of your debts. Some debts cannot be discharged. For example, you cannot discharge debts for—

- * most taxes;
- * child support;
- * alimony;
- * most student loans;
- * court fines and criminal restitution; and
- * personal injury caused by driving drunk or under the influence of drugs.

The discharge only applies to debts that arose before the date you filed. Also, if the judge finds that you received money or property by fraud, that debt may not be discharged.

It is important to list all your property and debts in your bankruptcy schedules. If you do not list a debt, for example, it is possible the debt will not be discharged. The judge can also deny your discharge if you do something dishonest in connection with your bankruptcy case, such as destroy or hide property, falsify records, or lie, or if you disobey a court order.

You can only receive a chapter 7 discharge once every eight years. Other rules may apply if you previously received a discharge in a chapter 13 case. No one can make you pay a debt that has been discharged, but you can voluntarily pay any debt you wish to pay. You do not have to sign a reaffirmation agreement (see below) or any other kind of document to do this.

Some creditors hold a secured claim (for example, the bank that holds the mortgage on your house or the loan company that has a lien on your car). You do not have to pay a secured claim if the debt is discharged, but the creditor can still take the property.

What Is a Reaffirmation Agreement?

Even if a debt can be discharged, you may have special reasons why you want to promise to pay it. For example, you may want to work out a plan with the bank to keep your car. To promise to pay that debt, you must sign and file a reaffirmation agreement with the court. Reaffirmation agreements are under special rules and are voluntary. They are not required by bankruptcy law or by any other law. Reaffirmation agreements—

- * must be voluntary;
- * must not place too heavy a burden on you or your family;
- * must be in your best interest; and
- * can be canceled anytime before the court issues your discharge or within 60 days after the agreement is filed with the court, whichever gives you the most time.

If you are an individual and you are not represented by an attorney, the court must hold a hearing to decide whether to approve the reaffirmation agreement. The agreement will not be legally binding until the court approves it.

If you reaffirm a debt and then fail to pay it, you owe the debt the same as though there was no bankruptcy. The debt will not be discharged and the creditor can take action to recover any property on which it has a lien or mortgage. The creditor can also take legal action to recover a judgment against you.

IF YOU WANT MORE INFORMATION OR HAVE ANY QUESTIONS ABOUT HOW THE BANKRUPTCY LAWS AFFECT YOU, YOU MAY NEED LEGAL ADVICE. THE TRUSTEE IN YOUR CASE IS NOT RESPONSIBLE FOR GIVING YOU LEGAL ADVICE.

AGAIN, PLEASE SEEK THE ADVICE OF AN ATTORNEY IF YOU NEED FURTHER INFORMATION OR EXPLANATION, INCLUDING HOW THE BANKRUPTCY LAWS RELATE TO YOUR SPECIFIC CASE.

FILING REQUIREMENTS IN THE SOUTHERN DISTRICT OF ALABAMA

Items Required to Commence a Bankruptcy Case

1. Voluntary Petition - [Form B1](#)
 - a. [Exhibit A](#) - Required if debtor must file periodic reports with the SEC and is requesting relief under Ch. 11 of the Bankruptcy Code.
 - b. [Exhibit C](#) - Required if debtor owns or has possession of any property that poses a threat of imminent and identifiable harm to public health or safety.
 - c. [Exhibit D](#) - Statement of compliance with Credit Counseling Requirements. Both debtor and joint debtor must complete and attach a separate Exhibit D.
 - d. Statement by a Debtor Who Resides as a Tenant of Residential Property - (page 2 of petition) - This section of the petition must be completed by a debtor whose landlord has a judgment for possession of the debtor's residence.¹
2. Filing Fee - The clerk's office can provide you with an updated [Fee Schedule](#). As of November, 2012, the following fees applied to commence a bankruptcy case:

| | | | |
|------------|----------|------------|------------|
| Chapter 7 | \$306.00 | Chapter 11 | \$1,213.00 |
| Chapter 13 | \$281.00 | Chapter 12 | \$ 246.00 |

 - a. Application to Pay Filing Fee in Installments (Optional) - [Form B3A](#)
 - i. Use this form if you are unable to pay the full fee at the time of filing. The fee must be paid in no more than four installments within 120 days of the filing of the case.
 - ii. It is not necessary to submit an order (page 2 of Form 3A) with the application.
 - b. Application for Waiver of Chapter 7 Filing Fee (Optional) - [Form B3B](#)
 - i. If you cannot afford to pay the fee either in full at the time of filing or in installments, then you may request a waiver of the filing fee by completing this application. A judge will decide whether you have to pay the fee. By law, the judge may waive the fee only if your income is less than 150 percent of the official poverty line applicable to your family size and you are unable to pay the fee in installments.
 - ii. The filing fee may only be waived in Chapter 7 cases.
3. List of Creditors (Mailing Matrix) - Mailing list of creditors with names and address.
4. Notice to Individual Consumer Debtor - [Form B201](#).
5. Statement of Social Security Number - [Form B21](#).
6. Credit Counseling Course - Must be filed with petition. The clerk's office can provide you with a list of [approved and credit counseling providers](#).
 - a. If credit counseling has not been obtained prior to filing, an automatic 30-day extension of time to obtain such counseling will be granted if a certificate of exigent circumstances is filed with the petition. The certificate should 1) describe exigent circumstances that merit waiver of the § 109(h)(1) credit counseling requirements and 2) state that the debtor requested counseling from an approved

¹ A deposit with the court of any rent becoming due within 30 days of the filing of the petition may be required to stay eviction efforts.

agency, but was unable to obtain services “...during the 5-day period beginning on the date on which the debtor made the request”.

- i. The debtor may also file a motion with the court for an additional extension up to 15 days. §109(h)(3).

- b. Per §109(h)(4), an individual debtor may also file a motion with the court for a complete exemption due to incapacity, disability, or active military duty in a military combat zone. § 109(h)(4).

Items Required at Commencement or Within 15 Days After the Initial Filing:

1. Summary of Schedules - [Form B6](#)
2. Declaration Concerning Debtor’s Schedules - [Form 6 \(Decl.\)](#)
3. Schedules:

| | |
|----------------------------------------------------------|-----------------------------------------------------------------------------|
| Schedule A: Real Property - Form B6A | Schedule F: Unsecured Claims - Form B6F |
| Schedule B: Personal Property - Form B6B | Schedule G: Executory Contracts/Unexpired Leases - Form B6G |
| Schedule C: Exemptions - Form B6C | Schedule H: Codebtors - Form B6H |
| Schedule D: Secured Claims - Form B6D | Schedule I: Current Income - Form B6I |
| Schedule E: Priority Claims - Form B6E | Schedule J: Current Expenditures - Form B6J |
4. Statement of Financial Affairs - [Form B7](#)
5. Payment Advices - Copies of payment advices (paycheck statements) or other evidence of payment received by the debtor from any employer must be filed with the trustee within 60 days before filing pursuant to §521(a).
 - a. Social Security numbers and account numbers should be redacted (hidden).
 - b. For instances in which payment advices required to be filed are not available, an affidavit indicating the reason why such documents are unavailable should be filed in lieu of payment records.
 - c. Chapter 13 Plan - [Local Form 1](#)
* Only required in Chapter 13 cases.
6. Statement of Current Monthly Income and Means Test Calculation
 - a. Chapter 7 - [Form B22A](#)
 - b. Chapter 13 - [Form B22C](#)
 - c. Chapter 11 - [Form B22B](#)

Other Required Forms and Deadlines

1. Chapter 7 Individual Debtor's Statement of Intention - [Form B8](#)
 - a. Only required in Chapter 7 cases.
 - b. Must be filed within 30 days after the initial filing and served on all creditors listed, the case trustee.
 - c. A copy of the statement of intention must be served (mailed) on the trustee and the creditors named in the statement on or before the filing of the statement. Fed. R. Bankr. P. 1007(b)(2). Thus, a certificate of service should be attached to the statement of intention.

2. Certificate of Completion of Personal Financial Management Course - In order to receive a discharge in an individual Ch. 7 or Ch. 13 case, the debtor(s) must complete a personal financial management course. The clerk's office can provide you with a list of [approved providers of personal financial management instructional courses](#).
 - a. Chapter 7 - A certificate indicating completion of an approved financial management course is due within 45 days after the §341 meeting of creditors.
 - b. Chapter 13 - A certificate indicating completion of an approved financial management course is due no later than the last payment made by the debtor as required by the plan or the filing of a motion for entry of a discharge under § 1328(b) in a chapter 13 case.

FREQUENTLY ASKED QUESTIONS

! Do I need an attorney to file bankruptcy?

While it is possible to file a bankruptcy case 'pro se,' that is, without the assistance of an attorney, it is extremely difficult to do so successfully. Hiring a competent attorney is highly recommended..

! What is the Automatic Stay?

The filing of a petition 'automatically stays' (stops) most actions against the debtor or the debtor's property.

! What is an ex parte matter and how do I file it?

An ex parte matter is a hearing or order granted on the request of and for the benefit of one party only. This is an exception to the basic rule of court procedure that both parties must be present at any argument before a judge, and to the otherwise strict rule that an attorney may not notify a judge without previously notifying the opposition. Ex parte matters are usually temporary orders (like a restraining order) pending a formal hearing or an emergency request for a continuance. An attempt should still be made to contact the other party's lawyer of the time and place of any ex parte hearing.

! How do I get certified copies?

You may purchase certified copies, or copies of papers at the Bankruptcy Court, or you may request certified copies by mail. Please contact the Court at 251-441-5391 to obtain your total cost prior to mailing your request because payment is required prior to issuance of the copies. The written request should include your name, address and daytime phone number as well as the case number, filing date and title of the document to be certified. We accept money orders or cashier's check as payment Do not send cash or check.

! If I file for bankruptcy, will it stop an eviction?

The Clerk's Office is prohibited by federal statute from providing legal advice. While there is no precise definition of legal advice, at a minimum it includes (1) acting on a person's behalf in presenting a claim or defense to a court, and (2) advising a person on the merits of a claim or defense and the state of the law applicable to it. Clerk's Office staff, therefore, will not provide information relating to:

- * The application of laws and rules to individual claims or defenses;
- * Whether jurisdiction is proper in a particular court;
- * Whether a complaint properly presents a claim;
- * What the "best" procedures are to accomplish a particular objective;
- * The interpretation of case law;

* Explain the result of taking or not taking action in a case;

* Explain who should receive proper notice or service.

! May I speak directly with a bankruptcy judge?

No. Federal law prohibits any contact with the Judge outside the Courtroom in order to preserve the impartiality of the Court and to prevent the appearance of any impropriety or allegations of preferential treatment of any party.

! How do I obtain bankruptcy forms?

You can obtain bankruptcy petition forms from any legal stationery store or law libraries. Bankruptcy petition and other official forms can also be downloaded from the court's local website www.alsb.uscourts.gov, or the Judiciary national website www.uscourts.gov.

! What are the consequences of filing for bankruptcy?

Depending on a debtor's financial situation and reasons for filing, the consequences of filing for bankruptcy protection may outweigh the benefits. Those considering bankruptcy should be aware of the following:

* Filing for bankruptcy protection is not free.

* Not all debts are dischargeable.

Example: Secured creditors retain some rights which may permit them to seize property, even after a discharge is granted. Spousal and child support obligations and most tax debts are not dischargeable.

* Within 15 days of the filing of a bankruptcy petition, schedules of the debtor's assets and liabilities must be filed. Failure to timely file the appropriate schedules may result in dismissal of the bankruptcy.

* If a case is not dismissed and a discharge is entered by the court, the debtor is prohibited from being granted another discharge in chapters 7 and 11 within eight years.

* Fraudulent information or acts by the debtor are grounds for denial of a discharge and may be punishable as a criminal offense.

! How do I retrieve documents from a case already in Archives?

To retrieve copies of documents from the National Archives and Records Administration, you must (1) the case number, (2) accession number, (3) location and (4) the box number from the clerks office.

! Who do I notify about a possible fraudulent filing?

You should notify the trustee in the case and call or write to the Bankruptcy Administrators Office or www.alsba.uscourts.gov

! Can creditors be added after the case is filed?

Yes, you may amend any list, schedule or statement as a matter of course at any time before the case is closed. You must also give notice to the trustee and to any entity affected by the amendment. A fee will also apply, so it is best to insure that all creditors are listed when the case is commenced.

! What is a 341 meeting?

The meeting of creditors is a hearing all debtors must attend in any bankruptcy proceeding. It is held outside of the presence of the judge and usually occurs between 20 and 50 days after the filing of the petition. The trustee assigned to the case typically conducts the meeting. In some instances, the Bankruptcy Administrator will conduct the meeting.

The meeting permits the trustee, creditors and other interested parties to review the debtor's petition and

schedules, and to ask questions regarding the estate. The debtor is required to answer questions under penalty of perjury (swearing or affirming to tell the truth) about the debtor's conduct, property, liabilities, financial condition, and any other matter that may affect the administration of the case or the debtor's right to discharge. In addition, the trustee or Bankruptcy Administrator will ask questions to ensure that the debtor understands the bankruptcy process.

The meeting is referred to as a "meeting of creditors" because creditors are notified that they may attend and ask the debtor questions pertaining to assets or any other matter pertinent to the administration of the case. It is also referred to as a "341 meeting" because it is mandated by Section 341 of the Bankruptcy Code. Creditors are not required to attend these meetings and do not waive any rights if they do not attend. The meeting usually lasts ten to fifteen minutes and may be continued if the trustee or Bankruptcy Administrator is not satisfied with the information presented.

If the debtor fails to appear and provide the information requested, the trustee or Bankruptcy Administrator may request that the case be dismissed, or seek other relief against the debtor for failure to cooperate.

! What is a Certificate of Service?

When you file a motion or pleading with the Court, you must file a written statement that you have mailed or delivered a copy of the motion to all interested parties. This is called a certificate of service. You must list the name and address of each person and attorney being served with the motion, and the name of the party each attorney represents, and you, your attorney, or an employee of your attorney must sign the certificate. It is very important to file a certificate of service with your pleadings. The Court may deny your relief if you do not file a certificate of service.

! What if my case is dismissed?

A dismissal order ends the case. The automatic stay is terminated, and, if a discharge has not been entered, creditors may take action to collect their debts.

! How do I know if a debt is secured, unsecured, priority so I can fill out my schedules correctly?

Secured Debt: A secured debt is a debt that is backed by a mortgage, pledge of collateral, or other lien, including a properly recorded judgment lien. It is a debt for which the creditor has the right to pursue specific pledged property upon default. Typically, property like a car or a house are used as collateral to secure consumer loans.

Unsecured Debt: If you have simply promised to pay someone a sum of money at a particular time and have not pledged any property, it is an unsecured debt. This may include a judgment that is not secured by a lien.

Priority Debt: Section 507 of the Bankruptcy Code lists certain debts that are entitled to be paid ahead of most other unsecured debts. These are called priority debts. Examples of priority debts are certain taxes, wage claims of employees, debts related to goods and services provided to a debtor's estate during the bankruptcy case, and alimony, maintenance, or support or a spouse, former spouse, or child.

Administrative Debt: An administrative debt is a type of priority debt and arises when someone provides goods or services to the bankruptcy estate during the case. In some cases, attorney's fees are an example of administrative debt, as are trustee's fees and costs.

! What are exemptions?

The Bankruptcy Code allows an individual debtor to retain certain property. Such property is called an exempt asset. In Alabama, a debtor may claim exemptions allowed by laws of the State of Alabama. Exempt assets are protected by law from distribution to creditors. In Alabama, a debtor may claim homestead exemptions up to \$5,000 and personal property exemptions up to \$3,000. Exemptions must be claimed on Schedule C. If exemptions are not claimed in scheduled property, the trustee will take possession of it.

Deciding which assets are exempt can be one of the more important and complex parts of your bankruptcy case often requiring legal judgment as to your particular circumstances. It is extremely important to consult an attorney if you have any questions. The failure to list all property in which an exemption may be claimed and to properly claim an exemption may result in the loss of the right to claim the exemption. It is extremely important to consult an attorney if you have any questions.

! How can I get a case reopened?

You may file a Motion to Reopen stating the grounds for reopening the case, and you must pay the appropriate filing fee in full. A filing fee is not required when the purpose of reopening the case is to enforce the discharge or to correct an administrative error. The Judge will determine whether to reopen the case and may hold a hearing.

! What if I can't afford an attorney?

If you cannot afford an attorney, contact Legal Services Alabama for assistance at 251-433-6560. Additionally, a Lawyer Referral line is available at 251-433-4032.

! What is a discharge?

A discharge order issued by the Court permanently prohibits creditors from taking action against a debtor personally to collect debts incurred before the filing of the bankruptcy petition. The discharge does not prevent secured creditors from seizing collateral if payments are not kept current. The discharge does not prevent collection of debts incurred after the filing of the bankruptcy. Some debts are not dischargeable, and some debts are not dischargeable under certain circumstances. If you have questions about your discharge, consult an attorney.

Some examples of debts that may not be discharged include: certain taxes and fines, debts not listed in your bankruptcy petition, alimony, child maintenance or support, debts caused by willful and malicious injury to another, debts created through fraudulent conduct or by providing false information to a creditor.

However, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case. Also, a debtor may voluntarily pay any debt that has been discharge

Debts That Are Discharged:

The chapter 7 Discharge Order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt existed on the date the bankruptcy case was filed. (If this case was begun under a different chapter of the Bankruptcy Code and converted to chapter 7 case, the discharge applies to debts owed when the bankruptcy case was converted.)

Debts That Are Not Discharged:

1. Debts for most taxes;
2. Debts that are in the nature of alimony, maintenance, or support;
3. Debts for most student loans ;(unless a hardship discharge is granted by the court)
4. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
5. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle while intoxicated;
6. Some debts which were not properly listed by the debtor;
7. Debts that the bankruptcy court specifically has decided or will decide in this bankruptcy case are not discharged;
8. Debts for which the debtor has given up the discharge protections by signing a reaffirmation agreement in compliance with the Bankruptcy Code requirements for reaffirmation of debts.

! What is a Reaffirmation Agreement?

A reaffirmation agreement is an agreement with a creditor in which a debtor becomes legally obligated to pay all or a portion of an otherwise dischargeable debt. Such an agreement must be filed within 60 days after the first date set for the meeting of creditors. A debtor who signs a reaffirmation agreement has 60 days after the agreement is filed, or until his discharge date, whichever occurs later, to change his mind. Debtors entering into a reaffirmation agreement without counsel representing them will be required to attend a hearing before a judge. Since a reaffirmation agreement takes away some of the effectiveness of your discharge, you are strongly advised to consult legal counsel before agreeing to reaffirm a debt.

! What is a Motion for Relief From Stay?

Under certain circumstances, a creditor or a party seeking to continue an action outside of the bankruptcy court will file a motion for relief from stay. Typically, the creditor is seeking to foreclose on property, sell it and apply the proceeds to the debt in cases where there is no value in the property for the bankruptcy trustee to administer in excess of valid liens and claims of exemption. If a motion for relief from stay is filed in your case, you should contact a bankruptcy attorney. If you want to object to a motion for relief from stay, you must do so in writing by filing your objection with the Court on or before the objection date listed in the notice sent to you. If a motion for relief from stay is filed in your case, you should contact a bankruptcy attorney.

! What if a creditor tries to collect money after I get a discharge?

The best thing to do will depend upon the specific facts of your case. If you have questions, contact an attorney. Make sure the creditor is aware that you received a discharge by mailing a copy of the discharge order to the creditor.

In general, if a creditor does not cease collection efforts after you have provided notice of the discharge, or if the creditor has commenced legal proceedings against you, you likely will need the assistance of an attorney to enforce the protection to which you are entitled once you have a bankruptcy discharge.

! What does it mean if a case is dismissed?

A dismissal order ends the case. Upon dismissal the "automatic stay" ends and creditors may start to collect debts, unless a discharge is entered before the dismissal and is not revoked. An order of dismissal is not a discharge of debts. Often, a case is dismissed when the debtor fails to do something he/she must do such as appear at the creditors' meeting, answer the trustee's questions honestly, produce books and records the trustee requests), or if it is in the best interests of the creditors. Unless the debtor appeals the order or seeks reconsideration of the order within ten (10) days after entry of the order, the Clerk will automatically close the case.

! What is a redemption?

Redemption allows an individual debtor (not a partnership or a corporation) to keep tangible, personal property intended primarily for personal, family, or household use by paying the holder of a lien on the property the amount of the allowed secured claim on the property, which typically means the value of the property. Otherwise, in order to retain the property, the debtor would have to pay the entire amount of the secured creditor's debt, do a reaffirmation agreement and become legally obligated on the debt again. The property redeemed must be claimed as exempt or abandoned.

Unless the creditor consents to periodic payments, redemption must generally be made in one lump sum payment to the creditor.

! What should I do if I cannot make my chapter 13 payment?

If the debtor cannot make a chapter 13 payment on time according to the terms of the confirmed plan, the debtor should notify the court in writing. Significant changes in the debtor's circumstances may require that the plan be formally modified. If the problem is permanent and the debtor is no longer able to make payments to the plan,

the trustee will request that the case be dismissed or converted to another chapter. The determination of whether to modify, dismiss or convert a case requires the same kind of analysis as is needed for the initial decision whether to file bankruptcy and under what chapter. Therefore, the debtor should seek counsel from a qualified bankruptcy attorney before attempting to make such a decision. If the debtor delays making a voluntary decision and cannot make the plan payments, the court may dismiss the case.

! My ex-spouse has filed bankruptcy and listed me as a co-signer on a scheduled debt. What can I do? Does my divorce decree protect me?

You should seek legal advice for a thorough explanation of your rights and obligations in this area as soon as you find out that your ex-spouse has filed a bankruptcy.

! What is an Adversary Proceeding?

An adversary proceeding is a lawsuit arising in or related to a particular bankruptcy case. It is commenced by filing a Complaint with the Court, and is given a separate case number.

An adversary proceeding is the bankruptcy court's version of a civil complaint to:

1. Recover money or property.
2. Determine the validity, priority, or extent of a lien or other interest in property.
3. Obtain approval pursuant to the sale of BOTH the interest of the estate AND of a co-owner in property.
4. Object to or revoke a discharge.
5. Revoke an order of confirmation of a chapter 11, chapter 12, or chapter 13 plan.
6. Determine the dischargeability of a debt.
7. Obtain an injunction or other equitable relief.
8. Subordinate any allowed claim or interest.
9. Obtain a declaratory judgment relating to any of the foregoing in 1 through 8.
10. Determine a claim or cause of action removed pursuant to removal of claims related to bankruptcy cases

! What can I do if a creditor keeps trying to collect money after I have filed bankruptcy?

A creditor that continues to attempt to collect a debt after the bankruptcy is filed is in violation of the automatic stay. You should immediately notify the creditor in writing that you have filed bankruptcy, and provide them with either the case number and filing date or a copy of the petition that shows it was filed. If the creditor still continues to try to collect, the debtor may be entitled to take legal action against the creditor to obtain a specific order from the court prohibiting the creditor from taking further collection action and, if the creditor is willfully violating the automatic stay, the court can hold the creditor in contempt of court and punish the creditor by fine or incarceration. Any such legal action brought against the creditor will be complex and will normally require representation by a qualified bankruptcy attorney.

THE FAIR CREDIT REPORTING ACT

The Fair Credit Reporting Act, 6 U.S.C. section 605, is the law that controls credit reporting agencies. The law states that credit reporting agencies may not report a bankruptcy case on a person's credit report after ten years from the date the bankruptcy case is filed. Other bad credit information is removed after seven years. The larger credit reporting agencies belong to an organization called the Associated Credit Bureaus. The policy of the Associated Credit Bureau is to remove Chapter 11 and Chapter 13 cases from the credit report after seven years to encourage debtors to file under these chapters.

You may want to contact the Federal Trade Commission, Bureau of Consumer Protection, Education Division, Washington, D.C. 20580, or telephone them at (202) 326-2222 and request the publications "How to Dispute Credit Reporting Errors" and "Fair Credit Reporting".

Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Bankruptcy Administrator, the Office of the United States Attorney, and other components and employees of the Department of Justice.