



Consumer Bankruptcy

Overview

- Bankruptcy is a process by which consumers can eliminate or repay some, or all, of their debts under the protection of the federal bankruptcy court.
- Generally, bankruptcy takes one of two forms-liquidation or reorganization.
- In the short term, bankruptcy prevents continued efforts by creditors to collect debts.
- In the long term, bankruptcy can eliminate repayment obligations or provide for a restricting of the debtor's obligations.

Alternatives to Bankruptcy

May include an out-of-court settlement with creditors, mortgage modifications or negotiating a reduction of payments to creditors. Seek legal advice to determine if you can utilize this alternative.

Bankruptcy May

- Eliminate the legal obligation to pay most or all debts. I.E. discharge, this is designed to give the debtor a fresh financial start
- Stop foreclosure on a home and allow you an opportunity to cure a default
- Prevent repossession of an automobile or other personal property
- Stop wage garnishment, debt collection harassment and other similar collection activities
- Prevent termination of utility service or restore service if it has already been terminated
- Lower monthly payments on some debts, including some secured debts such as mortgages or car loans

Bankruptcy CANNOT

- Modify certain rights of secured creditors
- Discharge certain types of debts singled out by the bankruptcy code
- Protect all co-signers on their debts
- Discharge debts that are incurred after bankruptcy has been filed

Types of Bankruptcy

- Chapter 7 Bankruptcy:
 - ◊ I.E. liquidation
 - ◊ Principle advantages of chapter 7 is that you emerge from bankruptcy without any future obligation on your discharged debts, obtaining a "fresh start"
- Chapter 13:
 - ◊ I.E. Reorganization
 - ◊ Purpose is to allow individuals who want to catch up on past-due mortgage or car loan, modify their mortgage payment through bankruptcy or otherwise attempt to keep their assets

Student Loans

- There are exceptions, but in most situations student loans will not be discharged in bankruptcy
- You must affirmatively seek such a determination and seek legal counsel to assist you

Other Considerations

- Under the Fair Credit Reporting Act, bankruptcy filings can be reported on your credit report for a period of 10 years after you file.
- Governmental and private employers may not discriminate or terminate employment based upon a bankruptcy filing or discharged debts.
- You should ensure that you make every effort to ensure that your filing is done in good faith.
- Property transferred or concealed to avoid its loss during bankruptcy proceedings is a criminal act which can result in your being denied a discharge of your debts and can even result in imprisonment.
- Potential impact on security clearance.

Additional Resources

Contact the Florida Bar Lawyer Referral service to locate a bankruptcy attorney at 1-800-342-8011

You may obtain the required forms at <https://www.uscourts.gov/forms/bankruptcy-forms>