



INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

The information included on this page is for educational and informational purposes only. Please consult an attorney regarding specific legal questions.

Is Consumer Bankruptcy the Right Choice for You?

There are times in every person's life when money is tight. Sometimes, you can be so short on funds that you get behind on your car payment, house payment, or even taxes. If you are in this situation, a good place to start is by contacting your lenders. Many lenders have programs designed to help you make your payments. If your lender has no such program, or if you cannot meet the requirements of the program, then bankruptcy may be an option worth exploring. Bankruptcy can help with your bills and force your creditors to work with you within the confines of the law.

Bankruptcy is a process under the law that allows individuals, families, some companies, and even cities to discharge (wipe away) or to reorganize (modify repayment terms) the debts they owe to their creditors. To the uninitiated, it can be a confusing and sometimes intimidating process. It is important to speak to an attorney familiar with bankruptcy law before considering filing a bankruptcy petition.

By filing bankruptcy, you are filing a federal court action that can shield you from collection efforts while you are allowed the opportunity to either liquidate non-exempt property to pay your creditors, or take steps to reorganize and propose a repayment plan to pay creditors over time. As bankruptcy can significantly affect your credit score for a period of up to 10 years, it should be viewed as a last resort.

There are five types, or chapters, of bankruptcy: Chapter 7, 9, 11, 12, and 13. Consumers typically file either Chapters 7 or 13. In either case, a trustee is appointed by the court to look out for the benefit of your creditors. In Chapter 7, the trustee mainly gathers and sells your non-exempt assets. In Chapter 13, the trustee mainly collects payments you make under a plan approved by the court, and then uses that money to pay off part of your debts.



Bankruptcy is designed to give you a fresh start, to allow you, as the debtor, to escape from debts that are no longer manageable so that you can again become a productive member of society. In many other countries, people who cannot pay their debts are simply thrown in jail. In this country, we have the bankruptcy system. There are some restrictions on filing bankruptcy. For example, certain types of debts cannot be discharged. These include back child support, many types of federal taxes, and debts owed as a result of fraud or wrongdoing. Another restriction is that a person typically cannot file bankruptcy more than once every eight years.

There are also some things which bankruptcy cannot do for you. Bankruptcy cannot increase the amount of money you earn each month. If you do not earn enough money each month to pay your basic living expenses, bankruptcy cannot change this. It can help you reduce some expenses in order to make ends meet, but it will not increase the size of your check each month. Bankruptcy also will not let you keep property for which you have

not already paid. For example, if you have a mortgage on your home you will either have to keep making the payments to your mortgage lender or give up your house. You cannot keep it and not pay for it. Otherwise, there are many helpful things bankruptcy allows you to do.

Bankruptcy is a very technical and complicated process. There are numerous disclosure requirements, official forms, and deadlines that have to be met. Failure to fulfill any of the requirements imposed by the rules can mean potentially serious consequences for you or your bankruptcy, including dismissal of your case with prejudice against refiling in the future. Accordingly, it is always best to hire an attorney experienced in handling bankruptcy matters to file your case for you. If you do not have money to hire an attorney, then, depending on your income level, there are organizations that may file a bankruptcy case for you at no charge. Among the providers of such free legal services are Lone Star Legal Aid (lonestarlegal.org) and Legal Aid of NorthWest Texas (www.lanwt.org). ☆

This article was adapted from the pamphlet *Consumer Bankruptcy*, which was published by the Texas Young Lawyers Association and the State Bar of Texas in 2010. To obtain a full copy of the brochure, visit texasbar.com.