Bankruptcy

▶ What These Words Mean

Credit: Financial trustworthiness; a person with good credit will be able to get loans in the future; a person with bad credit will not be able to get loans

Credit Reporting Agency: A company that tells people who are about to loan you money whether you have paid back loans in the past and whether you pay your bills on time

Creditor: The person to whom you owe a debt

Debt: The amount of money you owe to a creditor

Debtor: A person who declares bankruptcy

Discharge: A court order stating that debtors do not have to pay their dischargeable debts; a debt that is discharged in bankruptcy need not be paid

Equity: The amount that your property is worth over the amount you owe on it; for example, if your car is worth $5,000 and you owe the bank $3,000 on it, your equity in the car is $2,000

Exemptions: Property that a person keeps even though they have declared bankruptcy

File: To give a paper to the court

Lien: If a creditor has a lien on a piece of your property and you do not pay the loan off, the creditor can take the property from you

Plan: The payment plan that a debtor files in bankruptcy

Schedules: The debtor's list of property and income

Trustee: The person who handles your bankruptcy; the trustee sells your property in a Chapter 7 or collects payments from you and pays your creditors in a Chapter 13

▶ What is Bankruptcy?

In bankruptcy, a person may restructure or discharge debts. There are two basic types of bankruptcies. In one type, the debtor pays the debts off under a payment plan over time. In another type, some of the debtor's assets are sold, the money is paid to the creditors and the debts are discharged.

As soon as the debtor files bankruptcy, most creditors must stop trying to collect the money owed to them. An automatic stay goes into effect. They will collect their debts through the bankruptcy court.

A person is allowed to keep some property and still go through bankruptcy. A person is allowed to keep his or her "exemptions." In Missouri, the major exemptions are: $8,000 worth of equity in a house, $1,000 worth of equity per person in a car, $1,000 worth of equity per person in household goods and furnishings, the cash value in life insurance policies up to $150,000 per person, certain pension and retirement benefits, and tools of the trade.

There are four major forms of bankruptcy. Chapter 7 bankruptcy is a "liquidation." Non-exempt assets will be sold and debts will be discharged. Chapter 13 bankruptcy is a "wage earner payment plan." Debts will be paid off over time. Chapter 12 bankruptcy is a payment plan for farmers. Chapter 11 bankruptcy is a payment plan or liquidation for businesses.

It is sometimes possible to avoid bankruptcy through workout arrangements. Usually, both debtors and creditors want to avoid bankruptcy. Debtors and creditors can work together to avoid bankruptcy. Workout arrangements are often handled by groups providing debt counseling or your lawyer.

Bankruptcy will likely have a significant impact on your credit. This means you may not be able to get loans in the future. Credit reporting agencies usually list a Chapter 7 bankruptcy for 10 years and a Chapter 13 bankruptcy for seven years after the payment plan is finished. You have certain rights as to what information is included on your credit report.

▶ What is the Bankruptcy Court System?

The bankruptcy court handles bankruptcy cases. Certain bankruptcy cases also have a trustee. If you have a trustee, the trustee will supervise your case. Your lawyer will help you complete the paperwork and give you valuable advice in dealing with the court.

▶ What is Chapter 7 Bankruptcy?

Chapter 7 bankruptcy is designed to discharge debt. The trustee will collect all of the property that is not exempt and sell it to pay creditors. After this is done, the debtor will no longer owe the creditors any money. There is a fee to declare Chapter 7 bankruptcy.

Debtors usually keep their houses and cars in Chapter 7, but they must continue to pay the loans for this property as if they have not declared bankruptcy. This is called a reaffirmation. Debtors may also return property and not have to pay any more on the debt. Debtors may also pay what the property is now worth and keep the property. This is called redeeming.

Sometimes creditors take liens on furniture or household goods to make sure the debtor pays the debt on some other property. The debtor may have these liens removed in bankruptcy.

Some debts will not be discharged even in bankruptcy. These include debts involving fraud, accidents involving drunken driving, student loans, certain taxes, alimony and child support. Certain credit card transactions made within six months of bankruptcy may not be discharged. Also, a person who has enough money to pay back all or most of his debts may not declare Chapter 7 bankruptcy.

▶ What is Chapter 13 Bankruptcy?

Corporations or partnerships may not declare Chapter 13 bankruptcy. The debtor must have a job that provides regular income. A person with debts of more than $1 million may not file Chapter 13 bankruptcy. There is a fee to declare Chapter 13 bankruptcy.

In Chapter 13 bankruptcy, the debtor gives a payment plan for upt to 60 months to the court and his or her creditors. The plan must pay the debtor's creditors at least as much as the creditors would receive in a Chapter 7 bankruptcy. The debtor may not have to pay his or her debts in full.

The bankruptcy court must approve the debtor's payment plan. A trustee looks at the debtor's schedules and payment plan. If the court approves the plan, the trustee collects payments from the debtor and pays the creditors. In Chapter 13, the debtor keeps all of his or her property.

The debtor is not discharged from the debts until the payment plan is finished. More types of debt can be discharged in Chapter 13 than in Chapter 7, but debts for crimes, accidents involving drunken driving and student loans may not be discharged in Chapter 13.

▶ What is Chapter 12 Bankruptcy?

Chapter 12 bankruptcy is a special chapter for "family farmers" with regular income. A "family farmer" is a person or business that receives at least half of its income from farming. A family farmer may declare Chapter 12 bankruptcy if at least 80% of its debts are related to the farm and if the debts are not more than $1,500,000.

Under Chapter 12 bankruptcy, the debtor gives a payment plan to the court and its creditors that shows how it will pay its debts over time. The debtor must pay its creditors at least as much as they would receive in a Chapter 7 bankruptcy.

The payment plan must be approved by the bankruptcy court. A trustee reviews the debtor's schedules and payment plan. If the court approves the debtor's plan, the trustee collects payments from the debtor and pays the creditors. The debtor will be discharged from the debts when the plan is finished.

▶ What is Chapter 11 Bankruptcy?

Chapter 11 bankruptcy is available to any individual, husband and wife, partnership or corporation. There is a fee to declare Chapter 11 bankruptcy. The debtor is allowed to continue to operate his or her business while working on a plan to restructure debts or sell assets to pay creditors. A Chapter 11 debtor must pay its creditors more than they would receive under Chapter 7 bankruptcy.

A Chapter 11 plan must be approved by the Bankruptcy Court. The creditors will have a chance to vote on whether the court should approve the plan.

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