



Chapter 7 Bankruptcy: What You Need To Know

What is bankruptcy?

Bankruptcy is the legal process that “discharges” debts. This means you get a court order protecting you from the people you currently owe money to (“creditors”). Once the bankruptcy process starts, the creditors listed in the bankruptcy papers can no longer take any court action or other collection action against you without getting the court’s OK.

When should I file bankruptcy?

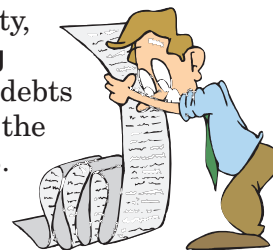
You should not always file bankruptcy just because you have many bills you cannot pay. You need a lawyer to tell you when bankruptcy will help you the most. In some cases, you should **not** file bankruptcy, even if you owe a lot of money.

Generally, you do **NOT** need to file bankruptcy if you live in Tennessee and can answer NO to all four questions that begin below. That’s because if you answer “no” to all four, the people you owe money to cannot make you pay.

1. Did you put up as collateral anything the creditor can take from you if you do not pay the debt?
2. Do you earn more than \$154.50 per week? (After subtracting Social Security and taxes only)
3. Do you own or are you buying a home or other real estate?
4. Do you have personal property (cars, furniture, cash, etc.) worth more than \$4,000?

What happens when I file bankruptcy?

1. You must **give your lawyer a list** of all your debts and all your property, including personal belongings. You must tell your lawyer **everything** about your money situation. Bankruptcy protects you **only** from the debts listed on the bankruptcy form. Your lawyer will talk with you about the two kinds of bankruptcy most often used, Chapter 7 and Chapter 13. *(See our other pamphlet on Chapter 13 Bankruptcy.)*
2. The lawyer **draws up your request** for bankruptcy (the petition) and other papers.



3. You read and **sign the bankruptcy papers**. You **pay the court filing fee**. The attorney will tell you how much that is. (You may not have to pay it all at once).
4. Your lawyer **files** the papers with the court.
5. The court **notifies everyone** listed in your papers that you have filed bankruptcy and that the creditors' meeting is set for a certain date.
6. You and your lawyer must go to the **creditors' meeting** on the date set by the court. There, the bankruptcy trustee will ask you questions to make sure your bankruptcy papers are complete and correct. Your creditors may also ask about your assets, debts and property.
7. Once your case is completed, the court will **discharge your debts** if:
 - *There are no legal problems with your bankruptcy papers **and;***
 - *Your debts are the kind that can be discharged.*

After your debts have been discharged, you will get a copy of the discharge order.

What debts cannot be discharged by bankruptcy?

You cannot use bankruptcy to discharge tax debts, alimony, child support, and debts gotten by illegal means. Also, you cannot discharge a student loan **unless** you can show the court that repaying the loan would cause "undue hardship." Also, you are not protected from repaying some debts you run up just before you file bankruptcy.



How often can I take bankruptcy?

Only once every six years; **no exceptions**.

Will I lose everything if I file bankruptcy?

No. Bankruptcy is set up to give you a fresh start, not to totally wipe you out. You can keep:



- \$5,000 equity* in your home (\$7,500, if a husband and wife own the home jointly and file joint bankruptcy);

**Equity means the value of the property today, minus what you still owe on it.*

- \$4,000 equity in personal property of your choosing (cars, furniture, bank accounts, cash, etc.); If a husband and wife file a joint bankruptcy, each of them can keep \$4,000 in personal property;
- Your clothes;
- Burial plot; and
- Other things your lawyer will tell you about.

Can I keep what I put up as collateral (security) on a loan?

Usually these things can be taken by the person who made the loan. To keep them, you will usually have to (1) make a new payment agreement with the lender, or (2) pay the lender the actual value of the property. In some cases, you may be able to keep **household goods** put up as collateral without having to pay for them or pay off the loan.

Can I be sued after filing bankruptcy?

Not for the debts listed in your bankruptcy papers and discharged by the court. The minute the bankruptcy papers are filed, creditors must stop all collection efforts. This includes lawsuits, garnishments, repossessions and foreclosures. Creditors must have the bankruptcy court's okay to take any action against you. This happens only in special cases. After the court discharges the debts, you are no longer legally responsible for paying them. Tell your lawyer if anyone later tries to collect those debts.



Can I list a debt in my bankruptcy papers even if I have never been sued on it?

Yes, all your debts, including court costs, must be listed in the bankruptcy papers. In most cases, you will be protected from paying them back.

Can I list only the debts I do not want to pay?

No. You must list **all** debts, including ones to relatives, debts not put in writing, and debts you plan to pay later. You must even list debts that cannot be discharged by

bankruptcy.

Should my husband or wife also file bankruptcy?

Not always. Your lawyer will advise you about this.

Will I be able to get credit after I file bankruptcy?

Maybe. Some creditors will say that you are a bad risk and will refuse to give you credit. Others will be glad to give you credit. They know you have to pay your bills because you cannot file bankruptcy again for six years. In most cases, however, bankruptcy is bad for your credit rating.

Is bankruptcy the best way to stop bill collectors from bothering me?

Not always. Just being bothered by bill collectors is not enough reason to file bankruptcy. There are other ways to stop collectors who bother you. (*Ask for our pamphlet on bill*

collectors.)

Are there other ways to handle debt problems?

Yes. Bankruptcy is not always the best way.

You may be able to set up a plan to pay your debts in regular small payments. (Consumer Credit Counseling Service may be able to help you set this up. Their number is 615-244-5184.)



A “Slow Pay Motion” can help if you have been sued over just one or two debts. This lets you make small payments through the court. (*Ask for our pamphlet on garnishment.*)

Another type of bankruptcy, a Chapter 13, may be better for you than a Chapter 7 if you are able to do it. In a Chapter 13 bankruptcy, you pay part or all of your debts through a court approved plan. You have on-going protection through bankruptcy court. (*Ask for our pamphlet on Chapter 13.*)

Your lawyer may tell you about other ways to handle your bill problems.

This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice.

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Tennessee Alliance for Legal Services

Legal Aid Society of Middle Tennessee

Nashville Office

211 Union Street, Suite 800
Nashville, TN 37201
(615) 244-6610

Clarksville Office

120 Franklin Street
Clarksville, TN 37040
(931) 552-6656

Gallatin Office

650 N. Water Avenue
Gallatin, TN 37066
(615) 451-1880

Murfreesboro Office

526 North Walnut Street
Murfreesboro, TN 37130
(615) 890-0905

Legal Services of South Central Tennessee

Columbia Office

104 West 7th Street
Columbia, TN 38402-1256
(931) 381-5533

Tullahoma Office

123 North Atlantic Street
PO Box 1293
Tullahoma, TN 37388
(931) 455-7000

West Tennessee Legal Services

Jackson Office

210 West Main Street
PO Box 2066
Jackson, TN 38302-2066
(901) 423-0616
FAX (901) 423-2600

Dyersburg Office

208 South Church Street
PO Box 366
Dyersburg, TN 38024
(901) 285-8181

Huntingdon Office

PO Box 287
Huntingdon, TN 38344
(901) 986-8975

Memphis Area Legal Services

Memphis Office

109 North Main Street, 2nd Floor
Memphis, TN 38103
(901) 523-8822

Covington Office

899-A Highway 51 South
Covington, TN 38019
(901) 476-1808

Knoxville Legal Aid Society

502 South Gay Street, Suite 404
Knoxville, TN 37902-1502
(423) 637-0484

Legal Services of Upper East Tennessee

Johnson City Office

311 West Walnut Street
PO Drawer 360
Johnson City, TN 37605-0360
(423) 928-8311 or 1-800-321-5561

Kingsport Office

150 Cherokee Street
Colonial Square
Kingsport, TN 37660
(423) 246-8734

Rural Legal Services

Oak Ridge Office

226 Broadway, Jackson Square
PO Box 5209
Oak Ridge, TN 37831-5209
(865) 483-8454
FAX (865) 483-8905

Cookeville Office

95 S Jefferson Avenue, Suite 102
Cookeville, TN 38501
(931) 528-7436

Southeast Tennessee Legal Services

Chattanooga Office

700 Chattanooga Bank Bldg.
737 Market Street
Chattanooga, TN 37402
(423) 756-4013

Cleveland Office

85 Central Ave., NW
Cleveland, TN 37311
(423) 479-8577

Mike Murphy

Legal Assistance for Elderly

9111 Cross Park Drive, Suite D100
Knoxville, TN 37923
(865) 691-2551 1-800-522-0127

Aging Services for the Upper Cumberland

1225 S. Willow Ave.
Cookeville, TN 38506-4194
(931) 432-4210